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EUROPEAN SOCIAL CHARTER

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CONTENTS

Page

FIRST PART

DOCUMENTS OF THE CONSULTATIVE ASSEMBLY AND ITS COMMITTEES

<u>Section I</u> - Documents of the Committee on Economic Questions (January/February 1956)	9
Memorandum submitted by the Division of Economic Affairs in preparation of the meeting of the chairmen and rapporteurs of the Committees on Economic and Social Questions (13 January 1956) - AS/EC (7) 21	11
Draft minutes of the joint meeting of the Working Party of the Committee on Economic Questions with representatives of the Committee on Social Questions (23 January 1956) - AS/EC (7) 23	23
Draft minutes of the meeting held on 24th January 1956 - AS/EC (7) PV 11	33
European Social Charter and European Economic and Social Council - Draft report submitted by M. Kalbitzer, Rapporteur (28 February 1956) - AS/EC (7) 24	43
<u>Section II</u> - Documents of the Committee on General Affairs (July/August 1956)	125
Preparatory report relating to a draft recommendation for the establishment of a European convention on social and economic rights submitted by M. Tonicic, Rapporteur (11 July 1956) - AS/AG (8) 11	127
Amendment No. 1	153
Amendment No. 2	155
Amendment No. 3	157
Draft report examined by the Committee on General Affairs relating to a preliminary draft recommendation, submitted by M. Tonicic (6 August 1956) - AS/AG (8) 16	165
Amendment No. 1	241
Amendment No. 2	243
Draft minutes of the 5th meeting of the Committee on General Affairs (12-15 September 1956) - AS/AG (8) PV 5	245

	Page
<u>Section III</u> - Documents of the Committee on Social	
Questions (January/September 1956)	259
European Social Charter - Note by the Office of the Clerk of the Assembly (10 January 1956) - AS/Soc (7) 21	261
Draft minutes of the meeting of the Committee on Social Questions held on 24 January 1956 - AS/Soc (7) PV 8	291
Comments on the Clerk's note by the International Confederation of Christian Trade Unions (Doc. AS/Soc (7) 21) :	
Note of 20 January 1956 - AS/Soc (7) 26	297
Note of 10 February 1956 - AS/Soc (7) 27	301
Note of 24 February 1956 - AS/Soc (7) 28	329
Observations of M. Heyman, Rapporteur, on the revised draft of the European Social Charter submitted as an overall amendment to Doc. 403 by the Committee on Economic Questions (AS/EC (7) 24) (3 March 1956) - AS/Soc (7) 31	333
Excerpt of a comparative analysis of Part II of the draft European Social Charter in the light of the instruments of the International Labour Organisation (3 March 1956) - AS/Soc (7) 32	365
Draft minutes of the meetings held on 9 March 1956 - AS/Soc (7) PV 9	411
European Social Charter and European Economic and Social Council - Draft opinion of the Committee on Social Questions (30 August 1956) - AS/Soc (8) 6	425
Draft minutes of the meetings held on 5 and 6 September 1956 of the Committee on Social Questions - AS/Soc (8) PV 2	443
European Social Charter and European Economic and Social Council - Opinion of the Committee on Social Questions addressed to the Committee on General Affairs (6 September 1956) - AS/Soc (8) 9	455
<u>Section IV</u> - Documents of the Consultative Assembly	
(April/October 1956)	461
European Social Charter and European Economic Council - Note submitted by the International Federation of Christian Trade Unions (10 April 1956) - N° 70/56	463

	Page
Draft recommendation and reports presented on behalf of the Committee on Social Questions by MM. Heyman and Haekkerup, Rapporteurs (14 April 1956) - Doc. 488 . . .	465
Amendment No. 1 (19 April 1956)	495
Amendment to Amendment No. 1 (20 April 1956)	499
European Social Charter and European Economic and Social Conference - Debate on Doc. 488 (20 April 1956)	501
Directive 89 - Return of Doc. 488 to the Committee on General Affairs (20 April 1956)	531
Draft recommendation for the establishment of a European convention on social and economic rights - M. Toncic, Rapporteur (27 September 1956) - Doc. 536	533
Amendment No. 1 (20 October 1956)	569
Amendment No. 2 (23 October 1956)	571
Amendment No. 3 (24 October 1956)	573
European Social Charter and proposal for the creation of a social and economic chamber - Debate on Doc. 536 (24 October 1956)	575
Official report of the 25th sitting of the Consultative Assembly (24 October 1956)	589
European Social Charter and proposal for the instituting of a social and economic chamber - Debate and vote (26 October 1956)	639
Recommendation 104 (1956) concerning a European convention on social and economic rights (26 October 1956)	645

SECOND PART

DOCUMENTS OF THE SOCIAL COMMITTEE AND OF THE COMMITTEE OF MINISTERS

<u>Section I</u> - Documents of the Social Committee (January/November 1956)	665
Report prepared by the Social Division of the Research Directorate on the basis of the replies from governments to the questionnaire drawn up by the Social Committee (30 January 1956) - CE/Soc (56) 4	667
Note by the International Federation of Christian Trade Unions (13 March 1956) - CE/Soc (56) 6	727

	Page
Working paper submitted by the United Kingdom delegation (27 April 1956) - CE/Soc (56) 7	731
Report of the Social Committee - Conclusions (8 May 1956) - CM (56) 63	733
Draft summary of the discussion during the 3rd session of the Social Committee (29 August 1956) - CE/Soc (56) 12	757
Corrigendum to CE/Soc (56) 12	789
Comments by governments on articles of the draft Charter provisionally adopted by the Social Committee at its 3rd session (5 October 1956) - CE/Soc (56) 14	791
Addendum I to CE/Soc (56) 14	799
Addendum II to CE/Soc (56) 14	801
Summary of the political aspects of the problem (8 October 1956)	803
Working Party appointed to prepare the 6th session of the Social Committee - Letter from the Secretary General of the International Confederation of Free Trade Unions (25 October 1956) - CE/Soc/WP II (57) 3	817
Research Directorate - European Social Charter - Study of the nature, definition and legal scope of social and economic rights (26 October 1956) - CE/Soc (56) 15	823
<u>Section II</u> - Documents of the Committee of Ministers (November/December 1956)	875
European Social Charter - Explanatory note by the Secretariat General (29 November 1956) - Misc (56) 86	877
Resolution (56) 25 (15 December 1956)	883

FIRST PART

DOCUMENTS OF THE CONSULTATIVE ASSEMBLY AND ITS COMMITTEES

Section I

Documents of the Committee on Economic Questions

(January/February 1956)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 13th January, 1956

Restricted
AS/EC (7) 21
Or. Eng.

CONSULTATIVE ASSEMBLY

COMMITTEE ON ECONOMIC QUESTIONS

Fifth Meeting

EUROPEAN SOCIAL CHARTER

Memorandum submitted by the
Division of Economic Affairs

Memorandum
 submitted by the Division of Economic Affairs
 in preparation of
 the meeting of the Chairmen and Rapporteurs
 of the Committees on Economic and Social Questions.
 (23rd January 1956)

Introductory

The Assembly debate in October 1955 on Document 403 containing the draft European Social Charter and including provisions for the European Economic and Social Council revealed that there were numerous doubts concerning the form and contents of the draft Charter and particularly concerning the idea of establishing an Economic and Social Council. The views taken by the Economic Committee as such (as set out in its Chairman's letter to the President of the Assembly, Document 407) and of its individual members as expressed in Committee, in the Assembly's debate and in a joint meeting of the Committees on Economic and Social Questions conformed with this general attitude but were of course more particularly concerned with the economic implications of various clauses of the Charter and the proposed arrangements for establishing an Economic and Social Council.

As a result, the proposals contained in Document 403 were referred back to Committee for further study. In its instructions (Order 79) the Assembly stresses the importance of close contact between the Committees on Social and Economic Questions in re-examining the former's proposals, and a programme of work was accordingly agreed to by the two Committees.

The meeting between the Chairmen and Rapporteurs of the two Committees is the first step in this joint re-examination. In accordance with the wishes of the Committee on Economic Questions, as expressed at the joint session with the Committee on Social Questions, this meeting should be devoted, mainly, to a thorough re-examination of fundamentals: The nature and scope of a European Social Charter, and - as an aspect of the question of its implementation - the why and wherefore of an Economic and Social Council.

I. The evolution of the idea of the Social Charter

The nature and scope of the Charter must evidently be determined in relation to two factors: the purpose of the Charter and a realistic appraisal of the possibilities of realising this purpose.

The purpose of the Charter is best ascertained by reference to the existing texts.

As first presented in a Memorandum by the Secretariat-General (Doc. 140), transmitted by the Committee of Ministers to the Assembly in 1953 for an Opinion, the Charter is envisaged as "A Declaration of the aims and principles of European social policy, and of the obligations which the Member States are willing to undertake in the social field (which) would inspire confidence in the Council of Europe and further a progressive social development". (para. 14).

The political element is stressed in para. 16 where it is said that "It should be a European Document" and "It should emphasise the importance of collaboration and greater unity among Member States".

It should be noted that the Secretariat speaks of a Declaration, clarifying, in para. 30, that "with regard to each of these points (principles whose inclusion in the Charter might be considered) the Charter should lay down general principles the limitations of which should be clearly defined ..."

Doc. 140 adds (para. 15) that the precise nature and form of the Charter "can only be decided on the basis of careful consideration by competent representatives of Member Governments".

In its Opinion No. 5 on the Secretariat memorandum, adopted in September 1955, the Assembly accepted the principle of the elaboration of a European Social Charter, stating that it 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 the pendant to the Convention on Human Rights and Fundamental Freedoms ..." (para. 2).

Subsequently, in its Special Message (Doc. 238) of May 1954, transmitting the Programme of Work of the Council to the Assembly, the Committee of Ministers expressed its decision to :

"endeavour to elaborate a European Social Charter which would define the social objectives aimed at by Members and would give 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.

The preparation of the Charter would be entrusted to the Social Committee, which would decide on the form and content of the document and, in particular, consider whether, in addition to general principles, it should contain more definite provisions binding upon the signatories."

Although the Special Message made no mention of the rôle of the Assembly in this connection, the Standing Committee on behalf of the Assembly in July 1954 instructed the Committee on Social Questions to begin to prepare a draft Social Charter for submission to the Committee of Ministers and to submit a preliminary report on this question. (Order No. 58).

In the Preliminary Report and draft Opinion (Doc. 312), prepared in accordance herewith and presented to the Assembly in September 1954, the Committee on Social Questions exposed its views on "the nature of the Charter limited to certain general and basic ideas which may serve as a guide for future work" (para. 4). Since these general principles were implicitly endorsed by the Assembly which referred Doc. 312 back to Committee (Reference No. 63) they seem to merit closer scrutiny. :

The purpose of the Charter, as described in the draft Opinion (Doc. 312), is threefold:

1. to stress the principles which characterise and unite Western democracies in the social field - "The Charter would thus be a guide not only for social policy in general or for national social policy, but in particular for a common European social policy" (end of para. 5);

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2. to establish social principles that correspond to individual rights and lay down the aims of European social policy in these specific fields - "The aims of European social policy ... should be high and would probably go beyond what is actually carried out in most of the Member countries" (para. 6);
3. to establish binding provisions which would guarantee certain minimum standards in vital social fields.

It will be seen that the principles elaborated in Doc. 312 constitute an attempt to lay the foundation of a document which would be in part (points 1 and 2) a Charter or declaration of intentions and in part (point 3) a real pendant to the Convention of Human Rights in the form of a social convention. As a general statement of the principles which a Social Charter might contain, Doc. 312 represents a progressive but simultaneously realistic approach.

There are two interesting and highly significant things to note at this juncture.

The first is that the record shows very clearly that there was no debate whatsoever on this question - in point of fact there was only one other speaker besides the Rapporteur, and the theme of her intervention was to deplore the poor attendance.

The second is that the draft Opinion embodying the general principles outlined above was not submitted to the Committee of Ministers as originally envisaged by the Assembly (Opinion No. 5, para. 2) and as intended also by the Committee on Social Questions (Doc. 312, draft Opinion, paras. 3 and 5). Instead, the President of the Assembly referred Doc. 312 back to the Committee on Social Questions instructing it to present a final Report for the first part of the Seventh Session. There were no objections, and this decision was subsequently confirmed by Reference 63.

At this point one may sum up the question of the Social Charter as follows:

1. The need or usefulness of a Social Charter is not under discussion. The Assembly and the Committee of Ministers have both separately approved the idea and the October debate of the Assembly indicated that it still commands overwhelming support.

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2. The Assembly's views on the purpose of the Charter are found in Opinion No. 5 and, by implication, in the draft Opinion contained in Doc. 312.

3. The general principles laid down in the latter document - which constitutes a realistic elaboration of the Assembly's fundamental ideas - were never debated.

4. The Assembly's original plan of submitting to the Committee of Ministers a document elaborating its general ideas on the nature and form of the Social Charter was abandoned in favour of the preparation of a final Report which took the form of a full-fledged draft Social Charter.

If to this is added the general tenor of the October debate in the Assembly, there would appear to be ample justification for an attempt to discuss and clarify the fundamental issues involved in the project for the establishment of a European Social Charter.

II. Basic considerations

A. The Scope of the Charter

The Assembly's view on this matter is expressed in the attribute "European" and in the second sentence of paragraph 2 of Opinion No. 5 which reads: "Such a Charter should define the social aims of the Member States and serve as a guide for all the future activities of the Council in the social field."

The views of the Committee of Ministers, as enunciated in the Special Message, are couched in very nearly the same terms.

It is obvious from the outset that both organs of the Council have envisaged the Social Charter as a document of very broad scope. In attempting to clarify this question, it may be practical to proceed by steps, distinguishing the several elements.

1. The attribute "European" might realistically be taken to imply two things: first, that the social aims set forth in the Charter should manifest an intention of solidarity on the part of Member countries in striving to realise their social objectives.

The political importance of this element, the European character of the Charter, is evident and appears to be recognised by both organs of the Council.

In practical terms it would seem to involve recognition on the part of governments of the usefulness of consulting with each other before taking important decisions in the social field and an undertaking to endeavour to harmonise their social legislations at the highest possible level and progressively eliminate discrimination on ground of nationality in the enjoyment of social benefits so as to promote the free movement of persons across frontiers.

2. The definition of social objectives would tend to fall into two parts.

First, general objectives setting out the ultimate aims of social policy in the light of present-day thinking in Western Europe, such as to ensure the well-being of the people, the raising of living standards, the equitable sharing of resources and burdens, the principle of non-discrimination, etc.

In recognition of the fact that social considerations are today no longer confined to certain narrowly circumscribed fields of public intervention, but rather may be said to pervade the whole fabric of Government action, although in varying degrees, it would in this connection appear natural to stress the economic basis of social policy and to establish the principle of the subordination of economic policies (as means) to social ends.

Second, objectives in specific fields of social policy: employment, social security, health, education. Although these objectives would have to be stated in fairly broad terms in order to allow for differences in social structure as between Member countries, every effort should be made to define them as clearly as possible.

3. In terms of real social progress, the potentialities of the Charter would be decisively affected by the final decision as to whether or not it shall contain "provisions binding upon the signatories". This idea, it will be recalled, was introduced by the Committee of Ministers in its Special Message, for consideration by the Social Committee. Although it has not been debated in the Assembly, the probability is that, in principle, it would receive strong support if put to a vote.

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The principal merit of the idea is obvious: binding provisions would constitute a more effective mechanism for harmonising social legislation in Member countries on a high level than a mere declaration of intentions. Unquestionably, a solemn declaration of principles and objectives may exercise considerable influence on public opinion and, hence, on social policy, but there can hardly be any doubt that the formal commitment of Governments to act - be it by legislative or administrative measures - in order to attain certain social aims represents a more concrete and solid achievement.

However, if the final decision be to include in the Charter provisions binding upon the signatories, a number of important considerations impose themselves.

In the first place, although the Charter should obviously be conceived as a forward-looking instrument going beyond present achievements, the imperative need for political realism is nowhere more evident than in regard to binding provisions. Thus, it will not do to stipulate provisions which are clearly out-of-step with present-day trends of political thinking and action in a majority of Member countries; provisions concerning profit-sharing and a legal retirement age of 65 are cases in point. Also, it will be unwise to attempt to make Governments commit themselves formally to secure aims which - while each of them may be highly desirable - are difficult, if not impossible to realise simultaneously within the framework of modern Western democracy; the undertaking to maintain full employment and monetary stability (constant purchasing power of currency) at the same time is an outstanding illustration of this.

In the second place, when formulating any binding provisions it would appear essential to avoid any unnecessary specification of the social measures to be taken by Governments owing to the wide divergencies among countries which are in many cases accentuated by considerable differences in economic and social development.

Moreover, a warning must be sounded against attempting to lay down provisions - binding or declaratory - which specify the economic policies to be pursued by Governments in order to attain the social objectives set forth in the Charter. It is in the nature of economic policies to be the subject of political controversy and it would not seem to lie within the purview of the Charter to express a preference in such matters. Partly, these controversies are rooted

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in divergent philosophies which should be left to assert themselves by ordinary democratic processes, partly they stem from the fact that economic and social theory itself is subject to interpretation and is in constant evolution. Further, and particularly, it should be remembered that the state of advancement of the economies and of the political institutions of the countries to which the Charter would apply vary considerably and are also in constant flux; not only are the starting points different and the problems dissimilar, but the range of possible economic measures and political action also will vary from country to country and from time to time.

4. In connection with the binding provisions the problem of the nature of the social "rights" set forth in the Charter assumes major importance, since it is only when a government formally undertakes an obligation that a legal right for the individual may arise. In Doc. 403, 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 recognised as such, and continuing with an enumeration of the objective conditions required to ensure the exercise of such right. Rights are thus defined in terms of the ways and means of attaining them. Conversely, obligations are expressed in terms of precise policies.

As a result, there is considerable confusion with respect to the rights proclaimed in Doc. 403, some of which are derived from recognised and enforceable obligations already undertaken by the State or imposed by the State on individuals or groups of individuals, while others are strictly speaking not rights at all, in the accepted legal sense of the term, but are intended to become such rights by virtue of the ratification of the Charter. Among these latter, one finds social desiderata which might be said to be ripe for legislation but also many which are decidedly not ripe, and again others which are simply not of a nature such that they can be made an object of legislation. It is therefore necessary to use this term with great circumspection, and to proceed by a case-to-case study on the basis of a critical examination of any given proposals.

B. The Form of the Charter

The only indication of the views of the Assembly and the Committee of Ministers on the legal form of the Charter is that both organs have, in Opinion No. 5 and the Special Message respectively, characterised the Charter as being "a pendant to" or "complementary to" the European Convention on Human Rights and Fundamental Freedoms. Unfortunately, the two terms have been interchanged in French and English texts, thus rendering the intention obscure. (1) ./.

(1) The Special Message employs the term "complementary to" in its English version and the term "pendant to" in the French; in the case of Opinion No. 5 the position is just the reverse.

If the term "pendant to" used by both organs is given precedence this would indicate that a convention is envisaged. If, on the other hand, the term "complementary to" is authoritative, this would not seem to indicate any clear preference for this form of instrument or another. However, if the question of including "definite provisions binding upon the signatories" is answered in the affirmative by the Social Committee, this would seem to imply giving the Charter or, at any rate, some part of it the legal status of a convention.

Although the Social Committee has not yet given a final answer to this question, it is interesting to note that several Governments in their answers to a questionnaire on the rights relating to employment and working conditions have indicated their willingness to recognise concrete but limited obligations in certain definite fields.

The alternative to the form of a convention would be that of a declaration. On the other hand, if binding obligations are to be covered by the Charter, a pure declaration would clearly be ruled out. However, it could be argued that only those provisions which set out legally binding obligations create "rights" proper and that consequently only these clauses would require the form of a convention. The "general objectives" and also the "objectives in specific fields of social policy" might be adequately covered by a declaration.

Before the Assembly finalises its views on the form of the Charter, it would in any case appear desirable to solicit the views of the Committee on Legal and Administrative Questions.

C. The Structure of the Charter

On the strength of the above considerations, the structure of the Charter might be envisaged somewhat on the following lines :

1. It would contain in one part a solemn statement of the general social objectives of the Member Countries. This part would be declaratory in character. It would not create any rights - individual or collective - but would signify the will of Governments to use their best endeavours to secure certain social objectives, such as full employment, progressive raising of living standards, social security, a high standard of health, non-discrimination, etc.

2. In a second part, the Charter would lay down objectives in specific fields of social policy, such as working conditions, protection of women and young persons in employment, social security, public health, education, etc.
3. The third and perhaps most important element of the Charter would be a set of precise undertakings in specific fields, which would be binding upon the signatories and constitute a codification of legal minimum standards in vital social matters.

A problem arises in connection with the place to be attributed to this element of the Charter, partly - as indicated above - on account of its legal nature, partly for practical reasons.

One solution would be to enumerate these obligations under the "objectives in specific fields of social policy" set out in the second part of the Charter. A different solution - and one which would make allowance for the difficulties which will invariably arise in defining common minimum standards - would be to envisage two sets of standards. One of them, to form part of the Charter proper, would codify the highest level which could be accepted by all and thus constitute the European standard; whereas the other, in the form of an additional protocol, would allow other countries able to do so to codify a higher standard. This would be in harmony with the principle of Resolution 13 (1954) of the Committee of Ministers which provides for a European Code of Social Security and envisages an additional Protocol stipulating higher standards.

A further argument in favour of this second solution would seem to be that it might facilitate the periodic revision of the legally binding clauses of the Charter which is envisaged as a basic principle of its implementation.

D. Procedure

On the question of the best procedure for the Assembly to follow, one could well argue whether it would not be motivated to revert to the original plan of transmitting only a statement of general principles to the Committee of Ministers, leaving the task of working out the form and detailed contents of the Charter to the experts. As a matter of fact several speakers took this view during the Assembly debate and at the joint meeting of the Committees on

Social and Economic Questions. In the words of the Norwegian Minister for Social Affairs: "...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".

For a valuable approach in the case that a statement of general principles is finally preferred, reference may be made to the above-mentioned Preliminary Report and Draft Opinion submitted unanimously by the Committee on Social Questions to the Assembly in September 1954 (Doc. 312).

However, at the present juncture, there are also obvious psychological reasons for not following this course and instead trying to present a radically amended draft Charter text to the Committee of Ministers as a preliminary exemplification of the thinking of the Assembly.

If this course is adopted - i.e. if it is decided to present a detailed text - the problem would consist in improving the structure and substance of Doc. 403 along the lines suggested above. In such a case, it would probably be necessary to have a second reading in the Assembly first, on the basis of a new draft.

III. Implementation

The implementation of the Charter has not been thoroughly discussed at any time. The solution suggested by the Committee on Social Questions which proposes the setting up of an Economic and Social Council primarily for the purpose was introduced only at a late stage.

The incorporation of provisions relating to the Economic and Social Council in the Social Charter was in fact proposed by the Working Party set up by the Committee on Social Questions to draft the Social Charter and subsequently approved (June 1955) at a joint meeting of the Working Party with the joint Sub-Committee on the Economic and Social Council.

The majority of the speakers who intervened in the Assembly debate in October 1955 and the Committee on Economic Questions as such virtually rejected the idea of establishing an Economic and Social Council in order to implement the Social Charter. The arguments against this method of implementation are numerous and based on several different considerations.

Paris, 23rd January 1956

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CONSULTATIVE ASSEMBLY

COMMITTEE ON ECONOMIC QUESTIONS
fifth Meeting

EUROPEAN SOCIAL CHARTER

DRAFT MINUTES

of the joint meeting of the Working Party
of the Committee on Economic Questions with
representatives of the Committee on Social
questions, held at 10 a. m on Monday
23 rd January, 1956, at 55, Avenue Kléber
Paris , 16ème.

The first and most general observation is that an Economic and Social Council would appear to be an altogether too cumbersome machinery for this purpose. It is felt that the implementation of the Charter can be secured without creating any new machinery at all. Along this same line of thought, it is argued that an Economic and Social Council would duplicate the functions presently exercised by the I.L.O. and the Council of Europe itself.

A different line of argument is that the Economic and Social Council such as its composition and powers are envisaged - would introduce an undesirable element of syndicalism and corporatism in European politics. In this connection it is arguable that the important problem of associating the non-governmental organisations with the Council of Europe is a quite distinct problem to which a solution should and could be found independent of the question of the Social Charter. Needless to say, one of the important questions on which the opinion of these organisations should be sought - whatever the institutional framework decided upon - would be the progressive extension of the social programmes of the Member countries.

When considering what organs should be required to assure the implementation of the Social Charter, it would appear natural, first of all to enquire what the principles of an effective implementation should be.

In this connection, it might be suggested that the three main principles should be the following:

1. Some form of parliamentary control of the progress made towards the fullest possible implementation of the Charter, with the assistance of experts in the social field. It would appear natural to follow the precedent of the draft Covenant on Social, Economic and Cultural Rights of the United Nations and base this control on annual reports submitted by Governments and reviewing progress made in fulfilling the objectives and undertakings set out in the Charter.
2. Since it is in the nature of things that these social objectives and undertakings cannot be realised at one stroke, it would be useful to envisage a series of implementation programmes. This would obviously require the services of qualified experts but should also be submitted to parliamentary review in order to provide the necessary drive and ensure that progress remains in step with political thinking.

3. A third principle might be to foresee the periodic revision of the Charter at intervals of 5 years or so. Although this would not seem to require any special organs beyond those entrusted with the functions outlined under 1 and 2 above, it might be envisaged to call consultative ad hoc conferences for this purpose in order to secure the broadest possible co-operation of interested organisations and the widest possible publicity.

The principle of implementation programmes as well as that of a periodic revision are required to ensure a steady progress in social legislation and to ensure sufficient flexibility to the system in order to take advantage of favourable economic conditions and - inversely - to allow for general or local difficulties. However, this element of flexibility should in no way undermine the principle that the standards set out in the Charter are irreversible.

If these principles are accepted as adequate for an effective implementation of the Social Charter, it would appear not unreasonable to express confidence that the organs of the Council of Europe - the Assembly, the Committee of Ministers, the Social Committee - will prove fully capable of rendering the services required.

It should be recalled also, that the existing agreement between the Council of Europe and the I.L.O. affords an opportunity of enlisting the technical co-operation of the latter and of the holding of regional meetings of a tripartite character

DRAFT MINUTES OF THE JOINT MEETING OF THE WORKING
PARTY OF THE COMMITTEE ON ECONOMIC QUESTIONS WITH
REPRESENTATIVES OF THE COMMITTEE ON SOCIAL QUESTIONS
HELD AT 10 a.m. ON MONDAY, 23rd JANUARY, 1956, AT
55 AVENUE KLEBER, PARIS 16ème

There were present:

M. HEYMAN	CHAIRMAN	of the Committee on Social Questions
Mr. FEDERSPIEL	CHAIRMAN	of the Committee on Economic Questions
Miss BURTON	VICE-CHAIRMAN	of the Committee on Social Questions
M. MUTTER	"	" " " "
M. DEHOUSSE	RAPPORTEUR	" " "
M. KALBITZER	RAPPORTEUR	of the Committee on Economic Questions
M. CERULLI IRELLI	Member	of the Committee on Economic Questions

M. HEYMAN invited Mr. Robertson, Counsellor of the Office of the Clerk of the Assembly, to make a statement.

Mr. ROBERTSON said that Doc. AS/Soc (7) 21, drafted on the instructions of the Chairmen of the two Committees, was being put forward very tentatively as an attempt to help the two Committees reach a compromise. There were three points to which he should particularly draw attention:

- (a) In view of the difficulty of giving a precise legal meaning to the "rights to ..." contained in Doc. 403, but in view of the general desirability of retaining mention of these general rights, the "rights to ..." had been retained as headings for the different articles of the draft Charter contained in Doc. AS/Soc (7) 21 and the articles then set out the obligations relating to each "right".

(b) Doc. AS/Soc (7) 21 drew a distinction between the declaration that the governments intended to pursue certain aims and policies on the one hand and the assumption by governments of immediate legal obligations on the other.

(c) AS/Soc (7) 21 separated the question of the Economic and Social Council from that of the Social Charter in order to allow the whole question of the association of employers, workers and other groups with the Council of Europe to be explored, in accordance with the wishes expressed in the Assembly last October (1). Whatever decision was reached on the subject of the Economic and Social Council could, of course, be put before the Assembly either as part of the Social Charter or in a separate document.

M. DEHOUSSE, raising a preliminary question of order, expressed his extreme astonishment at Doc. AS/Soc (7) 21, which went completely beyond the competence of the Secretariat-General and the Office of the Clerk of the Assembly. Not even the Committees of the Assembly could call in question a Recommendation or Order which the Assembly itself has adopted. The document represented an attempt at compromise by the simple method of eliminating one of the opposing views. He could not therefore enter into any debate on the substance of that document.

Only the Assembly could separate the two questions of the Economic and Social Council and the Social Charter; nor would their separation expedite matters, since in such a case the question of the Economic and Social Council was bound to be raised in the Assembly by the tabling of amendments to the Social Charter.

The present meeting could discuss amendments to the details of the Charter but in no case could it suppress the Economic and Social Council.

Mr. FEDERSPIEL defended the rôle of the Secretariat in the production of AS/Soc (7) 21 as a working document to help the two Committees.

He said there was a certain obscurity about the origins

(1) Mr. Robertson drew the attention of the joint meeting to AS/Soc (7) 24, which made a preliminary survey of this question.

of the Social Charter in the form in which it was put before the Assembly. The Assembly had in fact never decided to join the two issues and where the nature of the Social Charter was concerned, it had never decided whether this was meant to define aims of policy or to represent a draft Convention.

A Convention did not need a special body to supervise it and the Economic and Social Council was in any case to have been given much wider functions than that. The two questions should thus logically remain distinct.

On the nature of the report to be presented on the question of a Social Charter, he believed that it should begin by setting out norms of social policy, while it might as an Appendix contain a draft Convention to be a working document for discussion with the governmental experts; for this Appendix, Doc. AS/Soc (7) 21 might serve as a basis. Any such draft Convention should presumably also be submitted to the Legal Committee.

He had the gravest doubts of the political wisdom of drafting any document that stood only a poor chance of being adopted by the Ministers as well as by the Assembly.

M. MUTTER said that the Assembly had taken two clear decisions: in Opinion No. 5 of September 1953 it accepted the principle of the elaboration of a European Social Charter and in Resolution 26 of January 1953 it decided to set up an Economic and Social Council.

The two Committees could not now go before the Assembly with only one half of this double mandate executed. Order No. 79 of October 1955 was explicit in its instructions and in its retention of the draft Social Charter and the proposals for the creation of an Economic and Social Council on the Agenda with a view to the adoption of a Recommendation during the Eighth Session. Unless the two questions remained linked, M. Mutter felt unable to continue the discussion.

M. DEHOUSSE emphasised that the Assembly had dealt with these two questions together and that no one in the Assembly had suggested divorcing one from the other. The paper by the Office of the Clerk was therefore incomplete. Moreover, it would lead in a completely different direction, and one which was in violation of the Order of the Assembly.

It was in any case understood that the present type of meeting was not competent to take a vote of any kind.

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Mr. FEDERSPIEL quoted the Assembly's Reply to the Supplementary Report of the Committee of Ministers, which stated that:

"The Assembly has already undertaken a preliminary study of the question of the Social Charter and will submit to the Committee of Ministers an opinion in broad general terms on the nature of the Social Charter, with the preparation of which the Social Committee has been charged". (1)

He himself was in favour of mapping out lines of social progress rather than fixing standards which might in 20 years' time be out of date.

The Assembly had never taken a decision to join the two questions of the Social Charter and the Economic and Social Council. The Assembly's debate in October 1955 had been clearly unfavourable to the idea of an Economic and Social Council as an organ of implementation of the Social Charter and the Committee on Economic Questions would certainly reject it as such. Since it was extremely doubtful whether the Assembly would ever accept the creation of an Economic and Social Council which would remove a number of economic and social questions from its own direct competence, he felt it undesirable to prejudice the chances of the Charter by making the Economic and Social Council an integral part of the Charter.

Miss BURTON asked that the meeting should pass to the substance of the question. Both Committee Chairmen had asked the Secretariat to prepare a paper based on the debate in October and she did not for her part recall a single speech made during that debate in favour of the inclusion of the proposal for the Economic and Social Council in the Social Charter.

The Committee on Social Questions itself had not yet decided whether the Social Charter should take the form of a statement of general principles or a precise Convention, and she herself was in favour of the former solution.

M. DEHOUSSE said that four members of the Assembly spoke in favour of the setting up of an Economic and Social Council during the debate in October. The International Federation of Christian Trade Unions had now taken up a firm position in support of the Council and Socialist trade unions would shortly be doing the same. Only the Assembly could decide whether or not it intended to go back upon the position it

(1) p. 47 of Texts Adopted, September 1954.

had already adopted with regard to an Economic and Social Council and until then the two Committees were bound to act under its instructions; this did not allow them to drop any part of the project.

M. HEYMAN confirmed that the joint meeting had no competence to take a vote nor was it intended to draw up any agreed text. The three further meetings to be held on Monday afternoon and on Tuesday would perhaps clarify the question and give further opportunity for points of view to be adjusted to each other.

As far as the Committee on Social Questions was concerned, its function under Order No. 79 was to examine such amendments as the Committee on Economic Questions might propose and any other amendments submitted by e.g. the Committee on Legal and Administrative Questions. It might be a suitable method of procedure to examine AS/Soc (7) 21 as a source of suggestions for possible amendments to Doc. 403, which remained the basic document of the Committee.

M. DEHOUSSE accepted this suggestion on condition that it was clearly understood that Doc. 403 remained the basic text and that none other should serve as a basis of discussion.

Miss BURTON reminded the meeting that the Committee on Social Questions had spent eight hours discussing the objections to various paragraphs of Doc. 403 and these objections had been supported in the Assembly in October. If Doc. 403 was taken as a basis of discussion in the Committee on Social Questions on Monday afternoon, this performance would only be repeated.

As far as the question of the ~~Economic and Social Council~~ ^{Charter} was concerned she therefore proposed that AS/Soc (7) 21 should be taken as the basis of discussion.

M. DEHOUSSE observed that if this view were adopted the meeting might as well adjourn, there was no need for any meetings this afternoon or tomorrow and the whole dossier should be sent to the Assembly.

M. HEYMAN said that after the three further meetings to take place on Monday and Tuesday, the points of view involved would be clarified and the dossier should not in any case be sent back to the Assembly until these meetings had taken place.

M. MUTTER reminded the joint meeting that under Order 79 the two Committees were bound to send representatives to discuss the

question with the Social Committee of the Committee of Ministers. He for one would refuse to take part in such a delegation if the question of the Economic and Social Council were not discussed in conjunction with the Charter. He asked Mr. Federspiel why the Committee on Economic Questions did not discuss the question of the Economic and Social Council.

Mr. FEDERSPIEL replied that the Committee on Economic Questions had no objection to discussing the Economic and Social Council. The Committee on Economic Questions had already made its comments both in his own letter to the President of the Assembly and during the Assembly debate. The Committee would be perfectly willing to discuss the matter with the Social Experts of the Committee of Ministers, but it did not wish to assist in putting forward a project with no chance of implementation; Doc. 403 was such a project.

M. DEHOUSSE said that Mr. Federspiel's statement had called in question again the compromise arrangement that Doc. 403 should remain as the basis of discussion with amendments to be considered in the light inter alia of AS/Soc (7) 21. It was undesirable to put any text before governmental experts until after their adoption by the Assembly. It was impossible to say today that the Economic and Social Council would be rejected by the Assembly and if it were the political effects on the trade unions which were already impatient of the Council of Europe's inertia would be considerable.

He asked that detailed minutes of the present meeting should be submitted to the two Committees and to the Assembly, so that the views of both sides should be fully understood. He reiterated, in conclusion, that the Social Charter could not be divorced from the question of the Economic and Social Council, and that both must be treated on an equal footing.

M. MUTTER said that, since it would be undesirable to have two representatives of different Committees going before ministerial experts with completely different views, it would be best to send the whole question back to the Assembly.

M. HEYMAN, emphasising that Doc. 403 would remain the basis of the discussion at the meeting of the Committee on Social Questions on Monday afternoon, said that it was open to anyone to propose any amendments they thought fit. He also suggested that the two Committees should meet again, perhaps on the day before the opening of the Eighth Session of the Assembly.

Mr. FEDERSPIEL, reminded the joint meeting of paragraph 3 of Order 79 which instructs the two Committees to appoint representatives to undertake an exchange of views with the governmental Social Committee and asked whether it was M. Dehousse's intention to ignore this part of the Order. He said that the meeting with the governmental experts should take place before the second debate in the Assembly, and that representatives of the Committee on Economic Questions would certainly be willing to discuss with the governmental Social Committee any questions that may arise, including that of the Economic and Social Council.

M. DEHOUSSE insisted on the fact that under paragraph 4 of Order 79 a draft Recommendation must be submitted to the Assembly in the course of the Eighth Session. While he did not wish to ignore paragraph 3 of that Order, it clearly presupposed a measure of agreement between the two Committees which had simply not been reached. Paragraph 3 was thus extremely difficult to implement and he desired it to be placed on record that this was not the fault of the Committee on Social Questions, but equally that of the Committee on Economic Questions, since both had maintained their original position.

Mr. ROBERTSON, Counsellor in the Office of the Clerk of the Assembly, said that the governmental Social Committee would be meeting during the same week beginning on 16th April which had been reserved for the first part of the Eighth Session. A joint meeting with the governmental Social Committee could thus be easily arranged if it were desired.

Mr. FEDERSPIEL expressed surprise at M. Dehousse's statement, since no part of the Social Charter had been discussed and no disagreement on its detailed provisions could therefore have come to light. The only disagreement was over the question of the Economic and Social Council as a means of implementing the Social Charter. He was willing to discuss the question of the Economic and Social Council at any time, but he knew what fate that Council would have.

M. DEHOUSSE said that here precisely lay the crux of the matter.

M. REYMAN concluded the meeting at 12.50 by saying that further decisions must obviously await the three meetings which were about to take place and that on Tuesday evening the position should at least be clearer. The two Committee Chairmen would maintain contact in the meantime.

Paris, 24th January 1956

Restricted
AS/EC (7) PV 11

Or. Eng.

CONSULTATIVE ASSEMBLY

COMMITTEE ON ECONOMIC QUESTIONS

Fifth Session

DRAFT MINUTES

of the meeting, held at 3 p.m. on Tuesday 24th January 1956
in the offices of the Council of Europe
at 55, Avenue Kléber, Paris, 16ème

There were present:

MM. FEDERSPIEL - Chairman	Denmark
BADINI CONFALONIERI	Italy
BENVENUTI	Italy
CELIKBAS	Turkey
ERGIN	Turkey
KALBITZER	Fed. Rep. of Germany
MacBRIDE	Ireland
SMITHERS	United Kingdom
von SPRETI	Fed. Rep. of Germany

Substitutes:

MM. CERULLI-IRELLI (for M. CINGOLANI)	Italy
de GEER (for M. CHLIN)	Sweden
HELLWIG (for M. LEVERKUEHN)	Fed. Rep. of Germany

Apologised for absence:

MM. ANTONIOU	Greece
Sir Robert BOOTHBY	United Kingdom
MM. DROULIA	Greece
EDWARDS	United Kingdom
JOHANNESSEN	Iceland
KAPTEIJN	Netherlands
van KAUWENBERGH	Luxembourg
KORTHALS	Netherlands
KRIEGER	France
KURTZ	Saar
LEMAIRE	France
MOE	Norway
MOTZ	Belgium
REYNAUD	France
SUNDSTROM	Sweden
VAN CAUWELAERT	Belgium

There was also present as representative of the Committee on Social Questions:

Miss BURTON	United Kingdom
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Observers:

MM. CZERNETZ	Austria
TONGIO (for M. STURGIH)	Austria

There were also present as Observers:

MM. FANO
GROS
KULAKOWSKI
SCHEVENELS

I.L.C.
U.N.O.
I.F.C.T.U.
I.C.P.T.U.

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The meeting opened at 5.20 p.m. with Mr. Federspiel in the Chair.

1. ADOPTION OF THE DRAFT AGENDA

The draft Agenda was unanimously adopted.

[Ref: AS/EC (7) OJ 9]

2. APPROVAL OF THE DRAFT MINUTES OF THE PREVIOUS MEETING OF THE COMMITTEE

The draft Minutes of the previous meeting of the Committee were unanimously adopted.

[Ref: AS/EC (7) PV 10]

3. EUROPEAN SOCIAL CHARTER

The Chairman reported on the joint meeting of the Working Party of the Committee on Economic Questions with representatives of the Committee on Social Questions held on 28th January [cf. AS/EC (7) 23] and on the meeting of the Committee on Social Questions attended by the Working Party that morning.

He suggested that AS/Soc (7) 21 be taken as the basis of the discussion in the Committee on Economic Questions and drew attention to the amendments which he had suggested to that document [Ref: AS/Soc (7) 21, Amendments].

He proposed that the question of the Economic and Social Council be treated separately [cf. AS/Soc (7) 24].

It was agreed to deal with the question of the Draft Social Charter on the basis of Appendix II of document AS/Soc (7) 21.

The Committee adopted Part I of this text, with the following amendments:

Para. 2, line 3

Delete: "are defined in terms of"

Substitute: "in turn reflect"

Para. 9, line 2

Insert: "respective" before "metropolitan"

Para. 10, line 2

Insert: "respective" before "dependent"

Para. 11, line 1

Delete: "consider"

Substitute: "reaffirm the principle"

Para. 12, line 10

Insert: "their economic policies and" before
"their social legislation"

Para. 12, page 11

Delete: Last sentence

Substitute: "It shall be the aim of the High Contracting Parties to establish European standards superior to those applied on a wider international basis"

Mr. Federspiel's amendment to para. 13 [Ref: AS/Soc. (7) 21. Amendments] was withdrawn.

The Committee adopted Part II of the text, with the following amendments:

Article 1

Para. 1

Delete: "in the exercise of this right"
 Insert: "is entitled to and" before "should be enabled"

Para. 2

Delete: "With a view to ensuring the exercise of this right, they will"
 Substitute: "With this in view they will"

Para 2 (b)

Delete: "endeavour to the extent possible and desirable to"

M. Hellwig observed that the deletion of the reference to the "right to work" must not be construed as any refusal on the part of the Committee to recognise such a right.

M. Benvenuti observed that differences of economic structure between Member States would naturally lead to differences of interpretation of Article 1.

Article 2

Para 1, line 7

Delete: "endeavour to assure the progressive realisation of"

Substitute: "take appropriate steps to secure"

Mr. Federspiel's amendment to lines 9 and 10 of para. 1
 [Ref: AS/Soc (7) 21, Amendments] was withdrawn.

Para. 2 (c)

Delete: "in all cases"

Article 3Para. 1, line 1

Delete: "With a view to ensuring the exercise
of this right"

line 2

Delete: "endeavour to"

Article 4

To read as follows: "The High Contracting Parties will
recognise the right to strike and
will maintain the necessary
procedures for the solution of
labour disputes"

Article 5Line 1

Delete: "With a view to ensuring the enjoy-
ment of this right,"

Line 3

Delete: "or"
Substitute: "and/or"

Article 6

To stand as in AS/Soc (7) 21

Article 7

Lines 1 and 2 to read as follows:

"The High Contracting Parties will:"

(a) to read as
follows:

"promote the conditions in which
adequate supplies of basic
necessities will be made available
at prices within the reach of all"

(b) Delete: "to"

M. Kalbitzer's proposal to delete Article 7 was withdrawn.

Article 8

Para. 1, line 1

Delete: "In order to ensure the full enjoyment of this right,"

Para 3 to read as follows:

"The High Contracting Parties will take the necessary steps to safeguard social security benefits against the effects of depreciation of their currencies"

Article 9

Line 1

Delete: "In order to ensure the enjoyment of this right"

(d) to read as follows:

"to organise services and facilities so that all may be assured of effective medical attention in the event of sickness."

Article 10

Para 1 to read as follows:

"With a view to ensuring the economic and social protection of family-life, the High Contracting Parties will foster and protect the family as a unit of society."

Para. 2

Mr. Federspiel's amendment was withdrawn; para. 2 to stand as in AS/Sec (7) 21.

Article 11

Para 1, line 1

Delete: "endeavour to"

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Article 12

To read as follows:

"1. The High Contracting Parties will directly or in collaboration with local authorities and appropriate voluntary organisations, establish or maintain social welfare services for aid and guidance to the individual in industrialised society.

2. They undertake to assure free legal advice and assistance to those who need it."

Article 13

Para. 1 to read as follows:

"The High Contracting Parties undertake to make primary education for children compulsory and free".

Para 2. line 1

Delete: "will endeavour to"

Substitute: "will"

Para. 2 (a)

Insert: "at least" before "up to the age of 18".

Para 2 (c) line 2

Delete: "who are capable of benefiting by it."

The Committee adopted Parts III and IV as in AS/Soc (7) 21 without amendment, M. Badini Confalonieri stating that silence in the Committee on technical matters contained in the Charter did not necessarily signify agreement.

The Committee heard the observations of M. Schevenels, M. Kulakowski, M. Gros and Mr. Fano.

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The Committee decided to adopt Appendix II of AS/Sec (7) 21 in its revised form as a block amendment to Doc. 403 and charged Mr. Kalbitzer, as Rapporteur, to draw up an Explanatory Memorandum on the subject.

The Committee also appointed Mr. Federspiel, Chairman, Mr. Kalbitzer, Rapporteur, and M. Cerulli-Irelli, to act as its representatives in the discussion of this question at the forthcoming meeting of the C.E.E.C./ Council of Europe Liaison Committees and at any discussion of the issue with the governmental Social Committee.

Strasbourg, 28th February 1956

Restricted
AC/EC (7) 24

Or. Eng.

CONSULTATIVE ASSEMBLY

COMMITTEE ON ECONOMIC QUESTIONS

European Social Charter
and European Economic and Social Council

Draft report

by

M. KALBITZER, Rapporteur

TABLE OF CONTENTS

	<u>Page</u>
Part I	
Explanatory Memorandum	1
Part II	
Draft Recommendation for a European Social Charter	16
Draft Recommendation for convening an Economic and Social Conference	18
Part III	
Revised draft Social Charter submitted as bloc amendment to the draft Social Charter contained in Doc. 403	21
Part IV	
Comparison of the draft Social Charter (Doc. 403) and the bloc amendment	

20th February, 1956.

PART I

Explanatory Memorandum

Procedural History

On 19th September 1955 the Committee on Economic Questions, meeting in Paris, received from the Committee on Social Questions the draft European Social Charter and European Economic and Social Council for opinion on Parts III and IV concerning the creation of a European Economic and Social Council.

In view of the fact that the proposed Economic and Social Council had been linked with the draft Social Charter, the Chairman of the Committee asked that the Committee's mandate be extended also to Parts I and II of the draft, concerning the Social Charter proper, and a decision to this effect was taken by the Standing Committee at its meeting on 26th September.

Following a discussion in Committee on the draft European Social Charter and European Economic and Social Council (Doc. 403) which took place in Strasbourg on 14th October, the Chairman, in a letter to the President of the Assembly (Doc. 407), asked for a postponement of the scheduled Assembly debate on this matter until the following session. The debate nevertheless took place as scheduled, but on the understanding that it was to be considered a debate on first reading. There was thus no vote

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on Doc. 403 at the Second Part of the Seventh Session of the Assembly in October 1955. Instead, the Assembly, by Order No. 79, referred both proposals back to committee instructing the Committees on Economic Questions and on Social Questions to re-examine the latter's proposals in consultation with each other and to appoint representatives to undertake an exchange of views with the governmental Social Committee together with representatives of other competent committees, with a view to the adoption by the Assembly of a recommendation in the course of the Eighth Session.

A preliminary timetable for these future contacts between the two Committees was agreed to at a joint meeting on 26th October, when the Chairmen of the Committees also suggested that the Secretariat might prepare a text in the light of the Assembly debate which might help the two Committees to reach a compromise.

The Secretariat thus prepared a revised draft of the Social Charter, taking into account the views expressed during the second part of the Seventh Session. This document (AS/Soc (7) 21) was submitted to the two Committees as a working paper for their meetings in Paris in January 1956. It takes the form of a revised Charter, but omits any proposal for creating an Economic and Social Council.

The Social Charter was considered by the Committee on Economic Questions at its meeting in Paris on 24th January, which members of the Committee on Social Questions were invited to attend.

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Reporting on the meeting held in the morning of the previous day between the Committee's Working Party on the Social Charter and members of the Committee on Social Questions, and on the meeting of the Committee on Social Questions in the afternoon of the previous day, which had been attended by the Committee's Working Party, the Chairman drew the Committee's attention to the decision taken by the Committee on Social Questions (by a vote of 10 to 7) to retain Doc. 403 as its basic working document. This implied retaining the proposal to create a European Economic and Social Council.

The Committee on Economic Questions had at its previous meeting expressed its preference for drafting a statement of the principles which the Assembly would wish to see incorporated in a draft convention with the intention of leaving the actual drafting of the convention to the governmental Social Committee. The Committee as a whole was still in favour of this procedure. In this respect reference is made to the exposition of the procedural history of the Social Charter contained in Doc. AS/EC (7) 21 prepared by the Secretariat at the request of the Chairman and Rapporteur of the Committee with a view to setting out the general considerations which might guide the work of the Committee on the subject under discussion. However, in view of the determination of the Committee on Social Questions to present a draft Charter to the Assembly and of the fact that a detailed draft had already

been presented to and discussed by the Assembly, the Committee decided to consider the revised draft Social Charter contained in Doc. AS/Soc. (7) 21 as a useful basis for its further deliberations. This implied a decision to omit any reference to the Economic and Social Council.

The Committee accordingly considered the revised draft Charter prepared by the Secretariat article by article, making a number of amendments thereto, and finally decided to adopt it and submit it, as amended, to the Committee on Social Questions as a bloc amendment to Doc. 403 (1). The Committee also decided to endorse the Draft Recommendation contained in Doc. AS/Soc (7) 21, and to forward it to the Committee on Social Questions in its own name. The Draft Recommendation is found in Part II of the present Report.

The text of the Committee's bloc amendment to Doc. 403 will be found in Part III of the present Report. A more detailed analysis of the modifications which the Committee's bloc amendment brings to Doc. 403 is given in Part IV of the present Report. The following paragraphs aim to set out the most important changes of a general nature and the Committee's reasons for advocating them.

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(1) For details concerning the amendments to Doc. AS/Soc (7) 21 adopted by the Committee, reference is made to Doc. AS/Soc (7) 21, Amendments, and AS/EC (7) PV 11.

The Social Charter

In general terms, the aim of the Committee on Economic Questions has been to enhance the prospects of the Social Charter becoming that important instrument of European social progress which the Assembly intends it to be by eliminating from the previous draft that which was found fundamentally incompatible with general principles of economic policy prevailing within the orbit of the O.E.E.C. In so doing the Committee has been guided by the debate on first reading in the Assembly, the tenor of which was unmistakably critical of the earlier draft. The constructive criticism of the two Government representatives, the Ministers of Social Affairs of Ireland and Norway, should not, it is felt, be lightly dismissed, since it is in the last resort Government action which must give life and breath to the Charter. The fact that the criticism voiced against Doc. 403 came from all quarters of the Assembly must also be considered a clear warning that a Social Charter on the lines proposed by the Committee on Social Questions would not command the support in national parliaments necessary for its ratification. The criticism of the Assembly was particularly strong and widespread with respect to the proposal to create an Economic and Social Council as an instrument for implementing the Charter.

Broadly speaking, the main changes brought to Doc. 403 by the bloc amendment submitted by the Committee on Economic Questions relate to:-

- (i) the method of presentation of the rights embodied in the Social Charter;
- (ii) the scope of the binding obligations;
- (iii) the recommendations concerning specific economic policies as a means of attaining this or that objective of social policy, and
- (iv) the system of implementation.

The central pivot around which the whole Social Charter revolves is that of the "rights" it lays down: on the scope of those "rights" and on their economic and political implications will it be judged, both as a manifestation of social aspirations and as a practical body of government doctrine in the social field. It is therefore not surprising that much of the Assembly's criticism centred upon the concept of the social rights which pervades the whole fabric of Doc. 403.

A critical examination reveals that there is considerable confusion with respect to the "rights" proclaimed in Doc. 403 some of which are derived from recognised and enforceable obligations already undertaken by the State, while others are strictly speaking not rights at all in the accepted legal sense. Among these latter one finds social desiderata which might be said to be ripe for legislation but also many others which are decidedly out of step with present day political thinking, and again others which are simply not of a nature that they can be made the object of legislation.

In Doc. 403, the structure of all the articles setting forth "rights" is the same, each beginning with a declaration relating to the subjective aspects of a "right", and continuing with an enumeration of the objective conditions required to ensure the exercise of such a right. Rights are thus defined in terms of the ways and means of attaining them. Conversely, obligations are expressed in terms of precise policies. Both in the selection of the "rights" and in defining the means of attaining them, it is obviously necessary to proceed with considerable circumspection. Generally speaking, it is felt that it would raise vain hopes - and result in disappointment - to proclaim as "rights" things that are by nature ideals and cannot reasonably be expressed otherwise than in declaratory form.

On the other hand, it would appear to be essential to define as clearly as possible those social desiderata which can realistically be formulated as binding obligations on the part of the signatory Governments. The Committee on Economic Questions thus not only wishes to retain this obligatory element in the Charter but has in fact tried to strengthen it, in the conviction that this is the essential element of the Charter in terms of real social progress. In this spirit, it decided systematically to amend the revised draft Social Charter submitted to it by substituting positive legal obligations for the more cautiously worded phrase "will endeavour to" wherever it occurred.

The structure of the operative articles of the Charter adopted by the Committee as being the most appropriate can thus schematically be described as follows.

The term "right" is used in the heading of each article and here only. This use expresses the solemn character of the following provisions without extending their legal character beyond what is explicitly set out in the text of the article. The first part of the text of an article states the recognition by the signatories of a principle or objective of social policy relating to the right in question. This in turn is followed by a description of what the signatory Governments undertake to do to ensure the implementation of the relevant principle or objective of social policy. In this part of the article pains have been taken to define obligations in terms of precise social measures and to avoid reference to general or specific economic policies as being conducive to or necessary for the realisation of any given social policy.

The dangers inherent in the method practised in Doc. 403 of recommending or binding Governments to specific economic policies as means for attaining given social objectives were exposed in Doc. 407 and reiterated in Doc. AS/EC (7) 21. Briefly, the reason for avoiding this procedure is that it lies in the nature of economic policies to be the subject of continually fluctuating political controversy, and it would not seem to lie within the purview of the Charter, which is
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intended to be a lasting framework of European social policy, to express in such matters a preference which may soon be outmoded. Partly, these controversies are rooted in divergent political philosophies which should be left to assert themselves by ordinary democratic processes. At the present stage of European collaboration in matters of social policy, it would appear indispensable to avoid too doctrinaire an approach if a majority of Member countries are to ratify the Charter. Partly, the controversies stem from the fact that economic theory itself is subject to interpretation and is in constant evolution. Further, the state of advancement of the economies and of the political institutions of the countries to which the Charter would apply vary considerably and are also in constant flux; not only are the starting points different, but the range of possible economic measures also will vary from country to country and from time to time.

Important as these modifications of the fundamental principles of the Charter may be, the Committee's revised draft must essentially be judged on the material changes it brings to the original proposals of the Committee on Social Questions.

In this respect the endeavour of the Committee has been to modify the proposals of the Committee on Social Questions in such a way as to make the Charter acceptable to national parliaments while preserving its progressive character. This has involved a certain amount of re-drafting of the Preamble of Doc. 403,

renamed: "Principles and Objectives of Social Policy" in the present revised draft, and weeding out such controversial or premature provisions as those relating to profit sharing and a legal retirement age of 65 years. A more detailed comparison of the two texts from this point of view is presented in Part IV of the present Report. The Committee has not considered itself competent to enter into the details of social policy except in so far as economic consequences were involved.

The Economic and Social Council

It has been recalled above that a large majority of the members of the Assembly who took part in the debate on first reading of Doc. 403 were united in rejecting the idea of establishing a European Economic and Social Council as an instrument for implementing the Charter. The Committee on Economic Questions on its part has gone on record on two occasions as unanimously upholding this view and it consequently proposes that the question of the Economic and Social Council be dissociated from that of the Social Charter.

The Committee's standpoint is essentially motivated by two arguments, one positive and one negative. Positively, the Committee feels that it must necessarily be the Governments that implement the Charter and that the supervision of its implementation should on a matter of principle be kept strictly within the framework of the existing organs of the

Council of Europe. Negatively, it has not been convinced of the need of an Economic and Social Council either for the purpose of implementing the Charter or for that of assuring a closer association with the work of the Council of Europe, of employers', workers' and other non-governmental organisations. In fact it has the most serious misgivings about instituting an Economic and Social Council along the lines suggested in Doc. 403 on account of the corporative character of its structure. The Committee's views with regard to this aspect of the question have been presented in detail in the Chairman's above-mentioned letter to the President of the Assembly (Doc. 407) and need therefore not be developed further at the present stage.

The Committee's main argument for rejecting the Economic and Social Council as an instrument for implementing the Social Charter is thus that it would in practice mean a surrender of the Assembly's competence in the social field to an organ over which, by the very nature of its composition, it would have very little influence.

The Committee firmly believes that the Council of Europe is the best forum for pressing on towards higher standards of social welfare and closer social integration in Europe, and that it would derive considerable prestige by shouldering itself the responsibility of supervising the implementation of the European Social Charter. A decision to the contrary would so the Committee believes, seriously jeopardise the Council of Europe's

standing in public opinion. In particular, it would divest the Assembly of an important means of rallying the interest and support of the working classes in its activities. Further, the Committee is convinced that the existing organs of the Council of Europe - the Consultative Assembly and the Committee of Ministers, assisted by its Social Committee - could quite adequately cope with the new function of supervising the implementation of the Charter.

Accordingly, the Committee welcomed and unanimously endorsed the principles of implementation set forth in the draft submitted to it, whereby the Governments would submit annual reports to the Council of Europe which would be examined by the Social Committee and the Assembly. The Committee, therefore, submits these proposals unamended as its own in substitution for Parts III and IV of Doc. 403.

The Committee's critical views with regard to the proposed Economic and Social Council should not be taken to imply any refusal to discuss the issues involved.

In this connection it should be observed that the Assembly itself has never discussed the question of joining the draft Social Charter and the proposal for an Economic and Social Council. Nor, in fact, was it thoroughly discussed in Committee. The incorporation of provisions relating to the Economic and Social Council in the Social Charter was proposed by the Working Party set up by the Committee on Social Questions to draft the

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Social Charter and subsequently approved - as late as in June 1955 - at a joint meeting of the Working Party with the Joint Sub-Committee on the Economic and Social Council. Although the Committee on Social Questions later approved the idea of joining the two proposals and still maintains this standpoint, the Committee on Economic Questions did not agree. The subsequent debate in the Assembly revealed beyond any reasonable doubt that the Assembly as a whole was not in favour of the proposal for creating an Economic and Social Council either as an instrument for implementing the Charter - which is what matters here - or for the other purposes envisaged.

The Committee further wishes to call attention to the fact that when the Assembly, in 1952, took a decision in principle to set up an Economic and Social Council, this organ was intended to form one of the links between the Council of Europe and a European Political Community (cf. Resolution 26, 1953). In view of the subsequent setback suffered by this project, it would appear necessary that the Assembly should now reconsider the matter in the light of present circumstances.

Association of Employers', Workers' and other non-governmental Organisations

The Committee wishes to place on record its full agreement with the view expressed by M. Dehousse in his explanatory memorandum contained in Doc. 403 that an effort should be made to associate these organisations more closely with the work of the

Council of Europe. Indeed, it considers that this very important question deserves to be thoroughly examined by the Consultative Assembly and the Committee of Ministers. Considering the urgency it attaches to this question and that it has de facto been linked with the question of the Social Charter via the proposal for creating an Economic and Social Council, the Committee intends to propose that it be discussed by the Assembly at the same time as the Social Charter. Accordingly, during the first part of the Eighth Session of the Assembly the Committee will propose that an Economic and Social Conference comprising both national and international organisations representing employers, workers, consumers and other professional groups should be held regularly in order to discuss European economic and social problems. This would, in the opinion of the Committee, meet the fundamental purpose of the Committee on Social Questions without giving rise to the difficulties of an institutional character mentioned above. The Committee's preliminary views on this question are set forth in a separate draft Recommendation, the text of which appears in Part II of the present Report.

Final procedural remarks

Finally, the Committee wishes to stress that the draft Charter which will emerge from the continued collaboration between the Committees on Economic Questions and Social Questions and, in the last instance, from the debate and vote in the Assembly, should in its view be transmitted to the

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Committee of Ministers and its Social Committee as a full and detailed statement of the views of the Assembly. After any revision by the Committee of Ministers and its Social Committee the final text should in due course be referred back to the Assembly for its opinion.

The Committee also wishes to express its hope that an exchange of views on the Social Charter should take place at the earliest opportunity and in all circumstances before the next debate on this question in the Assembly between representatives of the competent Committees of the Assembly and the Social Committee of the Committee of Ministers in accordance with paragraph 3 of Order 79. The Committee has appointed Messrs. Federspiel, Cerulli-Irelli and Kalbitzer to represent it at such a meeting with the Social Committee.

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PART II

DRAFT RECOMMENDATION
for a European Social Charter

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948,

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration,

Having regard to the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations,

Recalling its Opinion No. 5 (1953) in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field,

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee,

Having considered the report of its Committee on Social Questions,

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APPROVES the draft Social Charter appended hereto, and

RECOMMENDS that the Committee of Ministers should:

1. transmit this draft to the governmental Social Committee with instructions to be guided by the statement of the Assembly's wishes contained therein;
2. submit in due course the draft Social Charter elaborated by the Social Committee to the Assembly for its opinion;
3. invite the International Labour Organisation thereafter to convene a European Tripartite Conference consisting of delegates from the Member States of the Council of Europe for the purpose of considering the draft Social Charter elaborated by the Social Committee and the Assembly's opinion relating thereto, and of reporting thereon to the Council of Europe.

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DRAFT RECOMMENDATION
for convening an Economic and Social Conference

The Assembly,

Considering that it is desirable to associate more closely with the work of the Council of Europe the national and international organisations which represent employers, workers and other sections of the community,

Considering that the Council would be assisted in the discharge of its functions by receiving the advice of the said organisations on proposals of an economic and social character which may be submitted for consideration by either of its organs,

Recommends that the Committee of Ministers should instruct the Secretary-General to convene, and should vote the necessary funds for, an Economic and Social Conference to be organised on the following lines:

1. The Conference shall be convened by, and meet annually on the premises of, the Council of Europe.
2. Either the Committee of Ministers or the Assembly may submit to the Conference for discussion projects of an economic or social character under examination by the Council. The Conference shall give its opinion on such projects, which shall be communicated to the Committee of Ministers and to the Assembly.

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3. (a) The national organisations shall be represented by 93 members, one-third of whom shall represent the employers, one-third the workers, and one-third other sections of the community

(b) The 31 seats allotted to each of the three groups mentioned 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

(c) The representatives of employers and workers shall be appointed 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.

(d) Members representing the other sections of the community shall be appointed by their respective Governments in such a manner as the Governments shall determine. They shall be selected from among governmental experts, representatives of consumers, of independent economic occupations and of social and cultural activities.

4. In addition, there shall be invited to the Conference such international non-governmental organisations competent in the economic and social field as may be determined by the Committee of Ministers and the Bureau of the Assembly.

5. The first session of the Conference shall be convened to meet between the first and second parts of the Ninth Ordinary Session of the Assembly in 1957.

(5)

PART III

Revised draft Social Charter

submitted as bloc amendment to the draft Social Charter
contained in Document 403

Part I: PRINCIPLES AND OBJECTIVES OF SOCIAL POLICY

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, in order to ensure the dignity of man affirmed in the European Convention on Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, a high and stable level of employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which in turn reflect the moral and spiritual values inherent in the common heritage of the European peoples. ./.

3. In carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity. 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.
4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.
5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.
6. 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 population.

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

8. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Charter are extended to all groups and sectors of the population.

9. The High Contracting Parties consider themselves responsible for the economic expansion of their respective metropolitan underdeveloped areas, and bound to develop them by all means within their power.

10. The High Contracting Parties recognise their responsibility for the economic and social development of their respective dependent territories, in collaboration with the local population and with any international organisations concerned.

11. The High Contracting Parties reaffirm the principle that social policy should be formulated and implemented with the free participation of the people concerned and within the framework of their local communities and voluntary organisations including employers', workers' and consumers' organisations.

12. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or

local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Charter applicable in the territory of each for the nationals of all. It shall be the aim of the High Contracting Parties to establish European standards superior to those applied on a wider international basis.

13. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Charter depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

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Part II : ECONOMIC AND SOCIAL RIGHTS

Article 1

The right to work (1)

1. The High Contracting Parties recognise that everyone is entitled to and should be enabled to earn his living in a freely accepted occupation.
2. With this in view they will :
 - (a) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work ;
 - (b) fix national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation.
3. The High Contracting Parties undertake to :
 - (a) establish or maintain the freedom from any restrictions on the right to work, with the exception of those

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(1) See Article 1 of Doc. 403
See Article 6 of the Draft Covenant of the U.N. Commission on Human Rights.

imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations ;

(b) protect effectively the right of the wage earner freely to choose any available occupation ;

(c) establish or maintain both general and specialised free employment services ;

(d) promote vocational guidance and training.

Article 2

The right to fair and stable conditions of work⁽¹⁾

1. The High Contracting Parties recognise that conditions of work should be such as to enable workers to find satisfaction in their work, develop their human personality, protect their health, and provide themselves and their families with an independent and decent livelihood. Within the limits of their constitutional and national procedures, they will take appropriate steps to secure such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum wage and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure.

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(1) See Article 2 of Doc. 403;
See Article 7 of the Draft Covenant of the U.N. Commission on Human Rights.

2. They undertake to secure for every worker:
- (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
 - (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
 - (c) reasonable notice of dismissal;
 - (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
 - (e) equal pay for equal work, particularly as between men and women;
 - (f) a reasonable working week, to be progressively reduced to a 40-hour-week, subject to essential adjustments for certain professions, with special rates for overtime;
 - (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods.

Article 3

The right of children, adolescents and women to
special measures of protection in
their employment⁽¹⁾

1. The High Contracting Parties will take all appropriate steps to protect children, adolescents and women against the

(1) See Articles 3 and 14 (c) of Dec. 403;
See Article 10 of the Draft Covenant of the U.N. Commission on Human Rights. ./.

physical and moral hazards of their work and to enable women to carry out their maternal duties.

2. 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 and women in work which is physically or morally injurious shall be punishable by law ;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education ;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training ;

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay ;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least twelve weeks.

Article 4

The right to strike⁽¹⁾

The High Contracting Parties will recognise the right

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(1) See Article 6 of Dec. 403.

to strike and will maintain the necessary procedures for the solution of labour disputes.

Article 5

The right of workers to be consulted on the management of the enterprise by which they are employed (1)

The High Contracting Parties undertake to encourage the establishment or maintenance of organs of joint consultation and/or to take other appropriate measures, to ensure that workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

Article 6

The right to form and join Trade Unions (2)

The High Contracting Parties recognise the right of workers to form trade unions, whether local, national or international, and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights.

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(1) See Article 4 of Dec. 403.

(2) See Article 7 of Dec. 403.

See Article 8 of the Draft Covenant of the U.N. Commission on Human Rights.

Article 7

The right to a decent living, including
adequate food, clothing and housing (1)

The High Contracting Parties will :

- (a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;

- (b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

Article 8

The right to social security (2)

1. The High Contracting Parties undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services :
 medical care, benefits relating to sickness, unemployment, old-age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

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(1) See Article 10 of Dec. 403;
 See Articles 11 and 12 of the Draft Covenant of the U.N. Commission on Human Rights.

(2) See Article 11 of Dec. 403;
 See Article 9 of the Draft Covenant of the U.N. Commission on Human Rights.

2. The High Contracting Parties recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.

3. The High Contracting Parties will take the necessary steps to safeguard social security benefits against the effects of depreciation of their currencies (1).

Article 9

The right to a high standard of health⁽²⁾

The High Contracting Parties will take all appropriate measures:

- (a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child ;
- (b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors ;
- (c) to prevent epidemic, endemic and other diseases ;
- (d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

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(1) See Article 13 of Doc. 403.

(2) See Article 12 of Doc. 403; See Article 13 of the Draft Covenant of the U.N. Commission on Human Rights.

Article 10Rights of the Family (1)

1. With a view to ensuring the economic and social protection of family life, the High Contracting Parties will foster and protect the family as a unit of society.

2. They undertake to secure or to make available the following facilities and advantages:
 - (a) measures to educate young persons for marriage;
 - (b) cheap loans for the founding of homes;
 - (c) preferential allocations of housing to families and persons wanting to marry, and rent reductions for low income families with many children;
 - (d) allowances to families whose breadwinners are subject to military services;
 - (e) tax reductions related to the size of the family;
 - (f) organisation of home help services.

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(1) See Article 14 of Doc. 403;
See Article 10 (3) of the Draft Covenant of the U.N.
Commission on Human Rights.

Article 11

(1)

Rights of Mothers and Children

1. The High Contracting Parties will take all necessary measures for the effective protection of mothers and children, including the establishment or maintenance of appropriate institutions for the purpose.
2. They undertake, for the protection of mothers:
 - (a) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;
 - (b) to provide, directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.
3. They undertake, for the protection of children:
 - (a) to establish or maintain specialised organs with powers to prevent the neglect of children;
 - (b) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;
 - (c) to provide special services for homeless children and children and young persons who are physically or mentally handicapped, as well as juvenile delinquents.

(1) See Articles 14 and 15 of Doc. 403.
See Article 10 of the Draft Covenant of the U.N. Commission on Human Rights.

Article 12Social services

1. The High Contracting Parties will directly or in collaboration with local authorities and appropriate voluntary organisations, establish or maintain social welfare services for aid and guidance to the individual in industrialised society.
2. They undertake to assure free legal advice and assistance to those who need it.

Article 13

(1)

The right to education

1. The High Contracting Parties undertake to make primary education for children compulsory and free to all.
2. They will introduce progressive measures in order:
 - (a) to make facilities for secondary education, in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;

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(1) See Article 17 of Doc. 403
See Article 14 of the Draft Covenant of the U.N.
Commission on Human Rights.

(b) to ensure a basic education for those persons who have not received or have not completed their primary education;

(c) to make university and other higher education accessible to all.

Part III: IMPLEMENTATION OF THE CHARTER (1)

Article 14

1. The High Contracting Parties agree that a programme of implementation should be drawn up in order to secure the progressive implementation of this Charter and the extension of its benefits to all groups and sectors of the population.
2. This programme shall be drawn up by the Social Committee of the Council of Europe and submitted to the Consultative Assembly for its opinion.
3. On the basis of the proposals of the Social Committee and the opinion of the Consultative Assembly, the Committee of Ministers shall approve the programme of implementation and forward it to the High Contracting Parties for action. At the same time, it shall be communicated to the Consultative Assembly for information.

Article 15

1. The High Contracting Parties undertake to forward to the Secretary General of the Council of Europe annual reports

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(1) See Part IV of Doc. 403. See Articles 17 - 24 of the Draft Covenant of the U.N. Commission on Human Rights.

showing by what means and to what extent the programme of implementation is being realised in their respective territories, provided however that in cases where reports on the implementation of certain rights are sent to other international organisations, the Secretary General shall arrange to obtain the information required from the latter.

2. The reports and information referred to in the preceding paragraph shall be submitted by the Secretary-General to the Social Committee of the Council of Europe, which shall then make its own report, indicating whether satisfactory progress is being made in the implementation of the Charter and, in appropriate cases, making recommendations for its more effective implementation.

Article 16

The reports and information referred to in paragraph 1 and the reports of the Social Committees referred to in paragraph 2 of the preceding Article shall be referred to the Consultative Assembly for its opinion. The Assembly shall examine them in accordance with such procedure as it shall itself determine and may make recommendations to the Committee of Ministers relating to the Implementation of the Charter.

Article 17

1. The reports of the Social Committee referred to in paragraph 2 of Article 15, and any recommendations made by the Consultative Assembly in accordance with the provisions of Article 16, shall be considered by the Committee of Ministers, which shall decide what action to take thereon.
2. The decisions of the Committee of Ministers shall be communicated to the Consultative Assembly.

Part IV:FINAL PROVISIONSArticle 18 (1)

Nothing in this Charter shall be construed as limiting or derogating from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 19 (2)

1. In the event of war or 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.

2. 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.

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(1) See Article 44 of Doc. 403 and Article 60 of the Convention on Human Rights.

(2) See Article 45 of Doc. 403.

Article 20

Any High Contracting Party may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

Article 21⁽¹⁾

1. 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.

2. 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

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(1) See Article 16 of Doc. 105.

period of five years, whereupon it may denounce the Charter on the expiry of each successive five year period.

3. 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 22⁽¹⁾

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

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

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

4. The Secretary-General of the Council of Europe shall notify all the Members of the Council 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 23⁽²⁾

The French and English texts of this Charter shall be equally authoritative.

(1) See Article 47 of Doc. 403.

(2) See Article 48 of Doc. 403.

PART IV

Comparison of the draft Social Charter (Doc. 403)
and the bloc amendment presented by the Committee
on Economic Questions

The following comparison of the Charter text proposed by the Committee on Social Questions and the bloc amendment proposed by the Committee on Economic Questions takes the former text (Doc. 403) as its starting point. In view of the analysis given above, in Part I of the present Report, of the major modifications of principle, the comments made in the following will be strictly limited to material changes of substance or content. Formal alterations will be signalled without comment.

DRAFT EUROPEAN SOCIAL CHARTER
(Doc. 403)

REVISED DRAFT SOCIAL CHARTER
SUBMITTED AS BLOC AMENDMENT TO THE
DRAFT SOCIAL CHARTER CONTAINED IN
DOCUMENT 403

COMMENTS

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 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.

Part I: Principles and Objectives of Social Policy.

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, in order to ensure the dignity of man affirmed in the European Convention on Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, a high and stable level of employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.

The introductory paragraph of the revised draft reproduces the text of Article 1 of Doc. 403 with one minor formal change: the words: "and thus to ensure" have been substituted by the words: "in order to ensure".

A second sentence has been added in order to set the following Articles of Part I in perspective as moral obligations on the part of Governments.

Part I of the revised draft represents a re-drafting and contraction of Article 2 of Doc. 403 intended to ensure clarity and conciseness without cutting significantly into its substance.

The words "and particularly on the sum of resources available" have been deleted as redundant.

The words "to achieve adequate levels of ...", being ambiguous, have been replaced by the words "to promote the steady expansion of ..."

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.

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

The middle term has been dropped in the enumeration "production, investment and trade" as being out of character in its new context.

The words "They will pursue an economic, monetary and fiscal policy designed to" have been deleted as out of place in a statement of objectives of social policy.

The expression "stability of their economies" has been preferred to "the stability of the purchasing power of money" as being a more comprehensive and adequate term. Also, the expression "high and stable level of employment" has been preferred to the popular and more controversial term "full employment".

Identical, except for a formal alteration; the words "which are defined in terms of" have been deleted because they did not appear to convey any clear meaning and substituted by "which in turn reflect."

2. 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.

3. In carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity. 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.

4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

Paragraph 3 of the revised draft represents a contraction of Article 4 of Doc. 403. Reference to the family has been omitted here since it was thought better to devote a separate paragraph to this theme (see para. 4 below of the revised draft.)

Further, the reference to the duties of the individual has been extracted from Article 4 of Doc. 403 and somewhat elaborated in a separate final paragraph (see below para. 13 of the revised draft) where it is articulated as a general principle complementary to the action of public authorities.

Paragraph 4 of the revised draft elaborates more fully than Article 4 of Doc. 403 the general objectives of Governments with regard to the family. Particularly, it should be noted that Governments will endeavour to assist the individual and the family to adjust themselves to modern social and economic conditions. This is considered an important extension of the scope of the Charter in recognition of the serious problems arising out of the rapid changes occurring in society owing to technological and organisational changes in methods of production and distribution.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

13. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Charter depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

11. The High Contracting Parties reaffirm the principle that social policy should be formulated and implemented with the free participation of the people concerned and within the framework of their local communities and voluntary organisations including employers', workers' and consumers' organisations.

Paragraph 5 of the revised draft lays down the principle of equal treatment of children regardless of the family circumstances (taken from Part II Art. 16 of Doc. 403) and introduces that of the protection of motherhood regardless of marital status.

(See comments above opposite paragraph 3 of the revised draft.)

The gist of Article 5 of Doc. 403 has been preserved in paragraph 11 of the revised draft. A formal alteration has been made in the first line. The end of the sentence "whose activities the State is bound to promote, co-ordinate and supplement" has been deleted as being both too sweeping and too precise to describe the complex, extremely varied and often historical character of these relationships.

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 should 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.

The expression "professional groups" changed to "voluntary organisations" has been supplemented with the words "including employers', workers' and consumers' organisations" for the sake of clarity as well as for that of stressing the importance of the latter.

The Article has been transplanted nearer the end of Part I as its proper place was thought to be among the final provisions dealing with such general themes as collaboration between Governments, etc.

These two Articles have been deleted as they appeared out of character with the other Articles in this Part of the Charter being directly concerned with a "right". The right in question, that to work, is dealt with together with other rights in Part II of the revised draft where it naturally ranks first.

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

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

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.

6. 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.

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

10. The High Contracting Parties recognise their responsibility for the economic and social development of their respective dependent territories, in collaboration with the local population and with any international organisations concerned.

Identical.

Identical except that the word "nationality" has been inserted after the word "property."

The first sentence of Article 10 of Doc. 403 has been deleted as being superfluous in the context.

The word "respective" has been inserted before "dependent territories" in the revised draft in order to make it clear that there is no question of collective responsibility. The term "dependent territories" has been preferred to "territories under their jurisdiction" and "local populations" to "native populations". Further, a minor formal alteration has been made in the last part of the second sentence of Article 10 of Doc. 403 concerning 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.

9. The High Contracting Parties consider themselves responsible for the economic expansion of their respective metropolitan under-developed areas, and bound to develop them by all means within their power.

Article 11 of Doc. 403 established a collective responsibility. This has been thought to interfere too radically with sovereign rights of Governments. By introducing the word "respective" it has been made clear that no such interference is contemplated.

It should be observed that an element of collective European responsibility, but in more general terms and looking into the future, has been introduced in Part I, Article 12, of the revised draft.

The order of the Articles 10 and 11 of Doc. 403 has been reversed as it was thought more natural to mention metropolitan territories first.

Partly the substance of Article 12 of Doc. 403 has been amalgamated with that of Article 5 of Doc. 403 in paragraph 11 of the revised draft. The idea that organisations representing workers, employers and consumers "should" be created has been dropped. This amendment is due to the feeling that there would appear to be conflicting views as to the desirability of placing Governments under obligation to create such institutions.

It should be observed that paragraph 11 of the revised draft extends the competence of the organisations concerned to the "implementation" and not only the "formulation" of social policy.

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.

12. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Charter applicable in the territory of each for the nationals of all. It shall be the aim of the High Contracting Parties to establish European standards (of social welfare) superior to those applied on a wider international basis.

Articles 13 and 14 of Doc. 403 have been amalgamated in a way involving substantial changes.

The first sentence of paragraph 12 of the revised draft is new. By clearly stating the fundamental idea of interdependence, it sets the key on collaboration. The second sentence of paragraph 12 embodies the substance of Article 13 of Doc. 403 considerably condensed.

The third and fourth sentences of paragraph 12 of the revised draft reproduce the substance of Article 14 of Doc. 403 in a clearer and more concrete form.

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.

8. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Charter are extended to all groups and sectors of the population.

Article 15 of Doc. 403 has been deleted.

The first sentence gave expression to a concept of the social "rights" which the Committee on Economic Questions could not accept. The reasons hereof have been explained at length in Part I of the present Memorandum.

The second sentence referred to the European Economic and Social Council which the Committee proposes to drop altogether as an instrument for implementing the Charter. For the Committee's reasons see the Explanatory Memorandum in Part I of the present Report.

Paragraph 8 of the revised draft has no counterpart in Doc. 403. It introduces the principle of non-discrimination as between different groups and sectors of the population, which it appeared important to state as a fundamental principle of policy in social affairs.

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 resettlement of unemployed workers.

Part II: Economic and Social Rights

Article 1.

The right to work

1. The High Contracting Parties recognise that everyone is entitled to and should be enabled to earn his living in a freely accepted occupation.

2. With this in view they will:
(a) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work;
(b) fix national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation.

The first alinea of Article 1 of Doc. 403 has been redrafted (para. 1 of the revised draft) without materially altering its contents albeit restricting the use of the term "right" to the heading.

Para. 2 (a) of the revised draft preserves the obligation to maintain a high and stable level of employment (considered a better term than that of "full employment" but omits the reference to investment policies as giving an oversimplified picture of the means required to realise a high and stable level of employment.

Para. 2 (b) of the revised draft introduces precise obligations concerning employment targets, manpower, benefits, long-term planning and public works as measures to control and influence the employment situation. These obligations would appear to cover - in more precise terms - the undertaking in the second alinea of Article 1 of Doc. 403 "to assist, stimulate or create new economic activities" without going so far as "to replace those (economic activities) which are obsolescent", which might involve far-reaching and detailed measures of central planning and governmental intervention.

The provision in Article 1 of Doc. 403 to "provide for the rehabilitation and resettlement of unemployed workers" has been omitted.

Paragraph 3 of the revised draft introduces more precision in elaborating the obligations relating to: (a) the freedom from restrictions on the right to work which constitutes a new element in the revised draft, (b) the right to freely choose any available occupation, (c) employment services, again a new element in the revised draft, and (d) vocational guidance and training taken from Article 2 (f) of Doc. 403.

3. The High Contracting Parties undertake to:

- (a) establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;
- (b) protect effectively the right of the wage earner freely to choose any available occupation;
- (c) establish or maintain both general and specialised free employment services;
- (d) promote vocational guidance and training.

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:

Article 2

The right to fair and stable conditions of work

1. The High Contracting Parties recognise that conditions of work should be such as to enable workers to find satisfaction in their work, develop their human personality, protect their health, and provide themselves and their families with an

The heading of Article 2 of the revised draft corresponds to the first alinea of Article 2 of Doc. 403.

Paragraph 1 of the revised draft contains first a general recognition of the main purposes of government

- (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;

independent and decent livelihood. Within the limits of their constitutional and national procedures, they will take appropriate steps to secure such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum wage and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure.

2. They undertake to secure for every worker:

- (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
- (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
- (c) reasonable notice of dismissal;
- (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;

policies relating to working conditions, and second an undertaking to secure such conditions by appropriate steps "within the limits of their constitutional and national procedures".

Paragraph 2 of the revised draft lays down the precise obligations of Governments relating to working conditions. These cover all those enumerated in Article 2 of Doc. 403 (several of them reworded in order to make them more precise) with the following exceptions:

The first provision in paragraph (b) of Article 2 of Doc. 403: a wage - "commensurate with the nature of ... work and with ... professional capacities" has been omitted as introducing elements of evaluation that are extremely difficult to apply;

The last provision of the same paragraph: -"the periodical adjustment of the wage by reference to the cost of living and the economic situation" has also been dropped as being not only far-reaching but a subject of controversy with both parties on the labour market.

Paragraph (b) of Article 2 of Doc. 403 :- the provision concerning the possibility of

- 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.

- (e) equal pay for equal work, particularly as between men and women;
- (f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for overtime;
- (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods.

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

retirement at 65 has also been omitted mainly for the two following reasons: it has seemed unwise to establish any figure at all because in this matter policies are apt to vary greatly from one country to another for a number of reasons; further, present trends of thinking would appear to be favourable to a higher age limit.

It should be observed that the provision relating to "a decent existence" in paragraph (b) of Article 2 of Doc. 403 and paragraph (g) of the same Article relating to "prospects of promotion" have been incorporated in paragraph 1 of Article 2 of the revised draft. Paragraph (f) of Article 2 of Doc. 403 relating to "vocational guidance and training" has been transferred to Article 1, paragraph 3 (d) of the revised draft.

Finally, the emphasis has been altered concerning progressive reduction to a 40-hour week by insisting, for the present, on a "reasonable working week", since it is believed to be premature to attempt to set in motion a general campaign towards a common standard in this respect in Europe.

The last sentence of Article 2 of Doc. 403 has been deleted as involving an undesirable degree of government intervention in the labour market.

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;

c) persons of under 16 years of age may not be employed for more than 6 hours a day;

Article 3

The right of children, adolescents and women to special measures of protection in their employment.

1. The High Contracting Parties will take all appropriate steps to protect children, adolescents and women against the physical and moral hazards of their work and to enable women to carry out their maternal duties.

2. 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 and women in work which is physically or morally injurious shall be punishable by law;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;

The only important modification of substance is that the provisions of Article 3 of Doc. 403 have been made to apply to women as well as to children and adolescents.

Paragraph 1 of Article 3 of the revised draft lays down the general objective to protect against moral and physical hazards in work and to enable women to carry out their maternal duties.

The binding obligations enumerated in paragraph 2 of Article 3 of the revised draft reproduce those set out in paragraphs (a) - (d) of Article 3 of Doc. 403 with minor modifications:

Paragraph (a) and sub-paragraph 2 (a) are identical.

In sub-paragraph 2 (b) the reference to persons of more than 16 years of age who are still subject to compulsory education has been deleted.

In sub-paragraph 2 (c), the daily working time limit of 6 hours for children under 16 has been deleted in favour of a more general wording.

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay.

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

Paragraph (d) and sub-paragraph 2 (d) are identical.

Sub-paragraph 2 (e) has been transferred from Article 14 (c) of Doc. 403 and modified in order to allow for greater flexibility in application.

The very far-reaching provisions in Article 4 of Doc. 403 have been modified to an undertaking to ensure that workers may be consulted about the general management of the enterprise by which they are employed. The Committee's views on the provisions suggested by the Committee on Social Questions have been elaborated in Doc. 407 and AS/EC (7) 21.

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 right of workers to be consulted on the management of the enterprise by which they are employed

The High Contracting Parties undertake to encourage the establishment or maintenance of organs of joint consultation and/or to take other appropriate measures, to ensure that workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

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 4

The right to strike

The High Contracting Parties will recognise the right to strike and will maintain the necessary procedures for the solution of labour disputes.

The provision to introduce Joint Labour Inspectorates and Tribunals to supervise the implementation of Articles 2, 3 and 4 does not figure as a separate article in the revised draft, as provisions to that effect have been introduced in connection with various obligations, wherever this form of supervision appeared to be appropriate (see e.g. Article 2, para. 2 (a) of the revised draft).

The gist of Article 6 of Doc. 403 has been preserved while the phrasing has been considerably condensed.

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 terms of Article 11, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1).

Article 6

The right to form and join Trade Unions

The High Contracting Parties recognise the right of workers to form trade unions, whether local, national or international, and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights.

The gist of Article 7 of Doc. 403 has been preserved in the form of a recognition by Governments.

(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, 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 to:

Article 7

The right to a decent living, including adequate food, clothing and housing

The High Contracting Parties will:

This article has been deleted in the feeling that the measures proposed there would not be accepted by Governments in the form of obligations. Considered as a principle of social policy, the protection and encouragement of savings would flow from the declarations made by Governments in Part I, particularly those set forth in Articles 1 and 2 of the revised draft.

This article has been deleted for the reason that it did not appear to fit into the Social Charter. The right mentioned here is protected by other conventions and forms a very complicated subject.

This right, as all other rights, is consigned in the heading.

The second alinea of Article 10 of Doc. 403, which makes reference to other articles, has been deleted.

(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.

(a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;

(b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

Paragraph (a) of Article 10 of Doc. 403 has been re-phrased so as to avoid reference to any direct intervention by Governments in the market mechanism.

Paragraph (b) of Article 10 of Doc. 403 has been retained unchanged.

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.

Article 8

The right to social security

1. The High Contracting Parties undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old-age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

Article 11 of Doc. 403 has been considerably re-phrased, without very materially changing the scope of the Social Security benefits.

Article 8 of the revised draft does not contain any provisions relating Government programmes to the action of individuals, local communities, etc. Further, the standards of the European Code of Social Security are referred to as being in force, since it can be safely expected that it will have been ratified before the Social Charter enters into force.

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 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.

2. The High Contracting Parties recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.

Article 9

The right to a high standard of health

The High Contracting Parties will take all appropriate measures:

The revised draft lays down the principle whereby social security benefits shall be made available on the territory of each Party to the nationals of other Parties.

Article 9 of the revised draft does not reproduce the reference made in the second alinea of Article 12 of Doc. 403 to resources and initiative of individuals or communities.

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.

(a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;

(b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;

(c) to prevent epidemic, endemic and other diseases;

(d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

The second part of paragraph (a) of Article 12 of Doc. 403 has been deleted because it appeared to become redundant when the word "mental" was inserted between "physical" and "moral" in the first part of the same paragraph, which is thus reproduced with this single addition. Further, the revised draft provides special services for homeless and handicapped children under Article 11, 3 (c).

As for paragraph (b) of the revised draft, "sanitation" and "health education" have been added to the enumeration of environmental health factors.

In paragraph (c) of the revised draft, the terms "treatment" and "controls" have been deleted as being covered by sub-paragraph (c) below.

Paragraph (d) of the revised draft has been slightly re-drafted and paragraph (e) of Art. 12 of Doc. 403 has been deleted, this provision being covered, in the opinion of the Committee, by Article 8 (1) of the revised draft.

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.

Article 8

3. The High Contracting Parties will take the necessary steps to safeguard social security benefits against the effects of depreciation of their currencies.

Paragraph 3 of Article 8 of the revised draft incorporates part of the substance of Article 13 of Doc. 403 i.e. the protection of social security benefits against the effects of depreciation, dropping the idea of protecting savings against depreciation as being unrealistic in terms of practical policies.

Article 10

Rights of the Family

1. With a view to ensuring the economic and social protection of family life, the High Contracting Parties will foster and protect the family as a unit of society.

2. They undertake to secure or to make available the following facilities and advantages:

- (a) measures to educate young persons for marriage;
- (b) cheap loans for the founding of homes;
- (c) preferential allocations of housing to families and persons wanting to marry, and rent reductions for low income families with many children;

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) supplementary allowance to enable the mother to remain in the home;

Article 14 of Doc. 403 has undergone considerable modifications. Thus the right to found a family set forth in the first alinea has been omitted for the reason that it is covered by the European Convention on Human Rights.

The second alinea of Article 14 of Doc. 403 has been strengthened in paragraph 1 of Article 10 of the revised draft where the obligation of Governments "to foster and protect" the family "as a unit of society" is set out.

Paragraph (a) of Article 14 of Doc. 403 is not reproduced in Article 10, but its substance is covered by the reference to family benefits in Article 9 paragraph 1 and by the provision concerning tax reductions related to the size of the family in paragraph 2 (e) of Article 10 of the revised draft.

(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.

(d) allowances to families whose breadwinners are subject to military services;

(e) tax reductions related to the size of the family;

(f) organisation of home help services.

Similarly the provisions relating to the "social protection" accorded to mothers in connection with childbirth set forth in paragraph (c) of Article 14 of Doc. 403 have been transferred to Article 3, 2 (e) of the revised draft as regards the maternity leave period since this appeared to belong more naturally under the "Rights ... to special measures of protection in employment"; to Article 2, 2 (b) of the revised draft as regards the protection against arbitrary dismissal on account of maternity, which was thought to belong under the "Rights to fair and stable conditions of work", and to Article 11, 2 (a) of the revised draft as regards economic and other assistance to be provided to mothers or expectant women, which was thought to belong under "Rights of Mothers and Children".

Paragraph (b) of Article 14 of Doc. 403 has been deleted as being the expression of a particular policy with regard to female labour and not suited to be laid down as a general rule for all countries and all times. Further, special protection of women in their employment to enable them to carry out their maternal duties is provided under Article 3 (1) of the revised draft.

It should be observed that the enumeration in paragraph 2 of Article 10 of the revised draft of the measures which Governments agree to undertake for the fostering and protection of family life introduces several types of social action that do not figure in the draft Charter of the Committee on Social Questions.

Article 15 of Dec. 403 which mainly refers back to other provisions in Part II of Dec. 403 has no direct counterpart in the revised draft.

Article 11

Rights of Mothers and Children

1. The High Contracting Parties will take all necessary measures for the effective protection of mothers and children, including the establishment or maintenance of appropriate institutions for the purpose.

2. They undertake, for the protection of mothers:

(a) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;

(b) to provide, directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.

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 the employment, in accordance with Article 3 of this Part of the Charter.

As indicated above in the comments to Article 10 of the revised draft, this partly new article provides for economic and other assistance to mothers and expectant women and infant welfare centres (para. 2 (a) and (b)) and in paragraph 3 lays down obligations relating to the protection of children which are more precise and more extensive than those referred to in Dec. 403.

3. They undertake, for the protection of children:

(a) to establish or maintain specialised organs with powers to prevent the neglect of children;

(b) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

(c) to provide special services for homeless children and children and young persons who are physically or mentally handicapped, as well as juvenile delinquents.

This principle is laid down in paragraph 5 of Part I of the revised draft.

11

Article 16

The High Contracting Parties will undertake the necessary measures 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.

Article 12

Social Services

1. The High Contracting Parties will directly or in collaboration with local authorities and appropriate voluntary organisations, establish or maintain social welfare services for aid and guidance to the individual in industrialised society.

2. They undertake to assure free legal advice and assistance to those who need it.

This article which has no counterpart in the earlier draft concerns welfare services and free legal advice and assistance for those in need thereof.

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 measures 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 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 13

The right to education

1. The High Contracting Parties undertake to make primary education for children compulsory and free.

2. They will introduce progressive measures in order:

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

Article 13 of the revised draft reproduces the substance of Article 17 of Doc. 403 with some slight modifications in the operative paras. (a) - (d) and deleting the two first alineas.

Paragraph 1 of Article 13 thus corresponds to paragraph (a) of Article 17 of Doc. 403, retaining compulsory and free primary education as an undertaking.

The provisions contained in paras. (b) - (d) of Article 17 of Doc. 403 which are reproduced in paras. 2 (a), 2 (b) and 2 (c) of Article 13 of the revised draft have been qualified, as undertakings, by the governing principle that they shall be introduced progressively.

In paragraph 2 (a) of Article 13 of the revised draft, which corresponds to (b) of Article 17 of Doc. 403, the words "at least" have been inserted, making the age limit of 18 years a minimum.

Paragraph 2 (b) of Article 13 of the revised draft is in substance identical with para. (c) of Article 17 of Doc. 403.

In paragraph 2 (c) of Article 13 of the revised draft, which corresponds to (d) of Article 17 of Doc. 403,

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).

(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."

the qualification "who are capable of benefiting by it" has been deleted as being restrictive and unnecessary.

This Article has been deleted as it was found that its content is substantially covered by the European Convention on Human Rights.

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.

This Article has also been
deleted as being out of place in
a Social Charter.

Part III: European Economic and
Social Council

(Articles 20 to 33 inclusive)

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 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 observations of the rights and fulfilment of the obligations recognised in this Charter;

No comparison is possible, as the idea of ensuring the implementation of the Charter by means of an Economic and Social Council has been abandoned by the Committee.

The Committee's reasons for abandoning this idea in favour of supervising the implementation by a system of periodic review of Government progress reports by the organs of the Council of Europe are set out in the Explanatory Memorandum in Part I of the present Report.

Part III: Implementation of
the Charter
Article 14

1. The High Contracting Parties agree that a programme of implementation should be drawn up in order to secure the progressive implementation of this Charter and the extension of its benefits to all groups and sectors of the population.
2. This programme shall be drawn up by the Social Com-

Part IV of Doc. 403 and Part III of the revised draft, both dealing with the implementation of the Charter have been set out here side by side in order to facilitate comparison.

Owing to the wide divergencies between the two systems, a comparison of detail has appeared fruitless.

(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 according 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 send 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.

mittee of the Council of Europe and submitted to the Consultative Assembly for its opinion.

3. On the basis of the proposals of the Social Committee and the opinion of the Consultative Assembly, the Committee of Ministers shall approve the programme of implementation and forward it to the High Contracting Parties for action. At the same time, it shall be communicated to the Consultative Assembly for information.

Article 15

1. The High Contracting Parties undertake to forward to the Secretary-General of the Council of Europe annual reports showing by what means and to what extent the programme of implementation is being realised in their respective territories. provided however that in cases where reports on the implementation of certain rights are sent to other international organisations, the Secretary-General shall arrange to obtain the information required from the latter.

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.

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.

2. The reports and information referred to in the preceding paragraph shall be submitted by the Secretary-General to the Social Committee of the Council of Europe, which shall then make its own report, indicating whether satisfactory progress is being made in the implementation of the Charter and, in appropriate cases, making recommendations for its more effective implementation.

Article 16

The reports and information referred to in paragraph 1 and the reports of the Social Committees referred to in paragraph 2 of the preceding Article shall be referred to the Consultative Assembly for its opinion. The Assembly shall examine them in accordance with such procedure as it shall itself determine and may make recommendations to the Committee of Ministers relating to the Implementation of the Charter.

Article 17

1. The reports of the Social Committee referred to in paragraph 2 of Article 15, and any recommendations made by the Consultative Assembly in accordance with the provisions of Article 16, shall be considered by the Committee of Ministers, which shall decide what action to take thereon.

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 recognize 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.

2. The decisions of the Committee of Ministers shall be communicated to the Consultative Assembly.

Part IV: Final provisions

Part IV: Final provisions

This Article which is contingent upon the existence of the Economic and Social Council has no counterpart in the revised draft.

Deleted

Article 42 has not been reproduced, since it was considered sufficient and more appropriate to lay down the principle of non-discrimination in Part I (see para. 7 of the revised draft).

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 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 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.

Article 18

Nothing in this Charter shall be construed as limiting or derogating from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 19

1. In the event of war or 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.

Deleted

Redrafted without materially affecting the substance.

Identical wording, paragraphs numbered 1 and 2.

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.

2. 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 20

Any High Contracting Party may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

This Article which has no counterpart in Doc. 403 deals with amendments to the Charter.

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.

Article 21

1. 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. 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.

2. 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.

3. 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 22

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

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

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

Paragraph 1 of Article 22 of the revised draft corresponding to first paragraph of Article 47 of Doc. 403 contains only a minor formal change.

Paragraph 2 of Article 22 of the revised draft, otherwise identical with second paragraph of Article 47 of Doc. 403, reduces the required number of ratifications from ten to five.

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.

4. The Secretary-General of the Council of Europe shall notify all the Members of the Council 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.

Paragraph 3 of Article 22 of the revised draft is identical with our third paragraph of Article 47 of Doc. 403.

Article 48

The French and English texts of this Charter shall be equally authoritative.

Article 23

The French and English texts of this Charter shall be equally authoritative.

Identical

Section II

Documents of the Committee on General Affairs

(July/August 1956)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 11th July 1956.

Restricted
AS/AG (8) 11
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fourth meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Preparatory Report

relating to a draft recommendation for the
establishment of a
European Convention on Social and Economic Rights,
submitted by
M. L. TONCIC, Rapporteur.

A. EXPLANATORY MEMORANDUM

1. The Rapporteur submits to the Committee the following study and proposals, in accordance with Order No. 89, adopted on 20th April, 1956, and worded as follows:

"The Assembly refers the Draft Social Charter (Doc. 488), together with the amendment proposed by M. Bichet, to the Committee on General Affairs, in consultation with the Committee on Social Questions and the Committee on Economic Questions, for re-examination, with particular reference to the implementation of the Charter and proposed creation of a European Economic and Social Council."

2. The purpose of this report is not, therefore, to debate the principle of the European Social Charter.

(a) On 23rd September, 1953, the Assembly adopted Opinion No. 5 in the second paragraph of which it approves the principle of drawing up a European Social Charter, which "should define the social aims of the Member States of the Council of Europe and serve as a guide for all future activities of the Council in the social field."

(b) In May, 1954, the Committee of Ministers stated that it would try to elaborate such a Charter.

3. In October, 1955, the Committee on Social Questions submitted to the Assembly a draft European Social Charter, including proposals for a European Economic and Social Council (Doc. 403). The recognition of rights and institutional aspects are embodied in the text of the Convention.

The Assembly referred the question to the Committee on Social Questions for study in consultation with the Committee on Economic Questions.

4. In April, 1955, the Committee on Social Questions again submitted to the Assembly a draft European Social Charter and proposed that a European Social and Economic Conference be convened (Doc. 488). The convening of this Conference was not proposed in the text of the Convention but in a Recommendation of the Consultative Assembly to the Committee of Ministers.

Taking into account an amendment tabled by M. Bichet (Doc. 488, Amendment No. 1), the Assembly referred the matter to the Committee on General Affairs for study in consultation with the Committee on Social Questions and the Committee on Economic Questions.

5. The Committee may therefore now choose between Doc. 488 and M. Bichet's Amendment. To this alternative, the Rapporteur adds a third proposal.

6. The draft which the Rapporteur now presents to the Committee calls for the following general remarks:

(a) It has become both urgent and necessary to reach agreement on the problem of the Social Charter, since the procrastination displayed by the Assembly is harmful to it.

(b) The enclosed draft presents the question in a new way and takes account of the experience acquired in the course of the work undertaken by the competent committees. This renders it unnecessary for the Committee to rediscuss innumerable points which have already been dealt with and to confine itself to the main question.

(c) It will be the first time that the Assembly has implemented its Resolution 88 on European commissioners.

(d) Throughout his report the Rapporteur has made an effort to be clear, concise and brief.

7. With regard to Part II, the Rapporteur suggests to the Committee that, as a first step, an agreement should be reached on the most difficult articles, viz: Nos. 1, 2, 4, 5, 6. The other articles could be studied subsequently.

8. The presentation of Part II of Doc. 488, on "Economic and social rights" has been amended. Bearing in mind the last paragraph of Part I which defines the legal scope of the obligations assumed by the Contracting Parties, as well as paragraph 1 of Article 2 of the draft Covenant on social, economic and cultural rights adopted by the United Nations Commission on Human Rights, the Rapporteur has opened Part II with a new paragraph automatically implying recognition of the rights set forth in the succeeding articles, followed by a statement of the measures which the Contracting Parties undertake to introduce to ensure the exercise of those rights.

The heading of each article and consequently each right, is embodied in the opening paragraph of Part II.

Once a right has been recognised and therefore exists, there is no need for it to be redefined; the rights are, indeed, already defined in several connections in national legislation of the Contracting Parties. The measures which the Contracting Parties undertake to introduce moreover reflect the essential features of the particular rights to which they relate.

9. Apart from formal changes entailed by the new presentation, only the following amendments to Doc. 488 need be pointed out.

(a) With regard to Article 4, the Rapporteur leaves it to the Committee to choose between the wording based on Doc. 403 and that based on Doc. 488. The Rapporteur deems it advisable to point out this difference, while refraining from giving his own views until the Committee requests him to do so.

(b) The same applies to Article 5.

10. (a) With regard to the institutional aspects (Part III) the Rapporteur proposes a new text providing for the appointment of:

(i) a European Commissioner for social and economic affairs, as an authority to impart drive;

(ii) a European economic and social Chamber, being a consultative body of 60 members (1) to assist not only the Assembly but also the Commissioner in the fulfilment of his task. The possibility which the Chamber has of expressing its views on the work of the Commissioner by a two-thirds majority is necessary to ensure that it has complete freedom of judgement.

(b) Part III ("Implementation") of Doc. 488 has been redrafted in such a way as to give effect to a large extent to M. Bichet's Amendment, which it embodies almost in its entirety.

11. It is intended that the proposed system shall work as follows: the Committee of Ministers would be asked to consider the recommendations put forward by the Commissioner together with the opinion given to him by the Chamber. The Commissioner and the Chamber would therefore together constitute the machinery instituted by the Assembly to promote the social and economic programmes of the Council of Europe and ensure their implementation and the close association to this end of all sectors of the community, as well as parliamentary and governmental circles.

1. The Rapporteur has deemed it preferable to propose a smaller membership than that previously envisaged for the Economic and Social Council or the Economic and Social Conference.

12. The Rapporteur has considered it advisable to suggest (cf. Article 38) that the entry into force of Parts III and IV shall be subject to special procedure requiring the deposit of five declarations of acceptance. He has done this with a view to leaving the Contracting Parties greater freedom of action, bearing in mind the precedent adopted for the European Convention on Human Rights.

13. Lastly, the Rapporteur considers it necessary that the Committee of Ministers proceed forthwith to appoint an authority who might be known as a Special Representative and whose main duty it would be to make special and continuous efforts to bring about the rapid conclusion of the European Convention on Social and Economic Rights (cf. draft introductory recommendation).

B. DRAFT RECOMMENDATION CONCERNING
A EUROPEAN CONVENTION ON SOCIAL AND ECONOMIC RIGHTS

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, and in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953), in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

Having taken note of the request of the Committee of Ministers that a joint meeting should be held to discuss the European Convention on Social and Economic Rights between the governmental Social Committee and the competent committees of the Assembly;

Expressing the hope that such a meeting can be held in the near future;

After study by its competent committees;

APPROVES the draft European Convention on Social and Economic Rights appended hereto and

RECOMMENDS that the Committee of Ministers:

1. approve the draft European Convention on Social and Economic Rights;
2. undertake, pending the entry into force of the Convention, continuous co-ordination between Member Governments, on the one hand, and the international organisations concerned, on the other, through a special representative to be appointed without delay by the Committee of Ministers.

C. DRAFT EUROPEAN CONVENTION ON SOCIAL AND ECONOMIC RIGHTS

The Governments signatory hereto, being members of the Council of Europe,
Considering that...,
Have agreed as follows:

PART I

Principles and objectives of social policy

The object of this Convention 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, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which in turn reflect the moral and spiritual values inherent in the common heritage of the European peoples.
3. 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.
4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

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 management and 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 organise assistance for 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, nationality, national or social origin, or political or other opinions.

10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Convention are extended to all groups and sectors of the population.

11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan under-developed areas, and bound to develop them by all means within their power.

12. 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 local populations and, where appropriate, with qualified international organisations.

13. 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.

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Convention applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

PART II

Social and economic rights

The High Contracting Parties recognise the rights set forth in the following articles and undertake to strive, both jointly and severally, progressively to ensure the full exercise of these rights by adopting or promoting the measures defined in the following articles in connection with each of these rights:

Article 1: The right to work

1. With a view to ensuring the exercise of this right, the High Contracting Parties

(a) recognise that everyone should have an opportunity to earn his living in a freely accepted occupation;

(b) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work;

(c) fix national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation;

(d) undertake to

(i) establish or maintain the freedom from any restrictions on the right to work¹, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;

(ii) protect effectively the right of the wage-earner freely to choose any available occupation;

1. It will be for the governmental Social Committee to consider whether this text excludes the "closed shop".

(iii) establish or maintain both general and specialised free employment services;

(iv) promote vocational guidance and training.

Article 2: The right to fair and stable conditions of work

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to secure for every worker:
 - (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
 - (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
 - (c) reasonable notice of dismissal;
 - (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
 - (e) equal pay for equal work, particularly as between men and women, subject to any adjustments that may be necessary on account of variations in the cost of living in different areas;
 - (f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;

- (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods;
- (h) the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates and tribunals.

Article 3: The right of children, adolescents and women to special measures of protection in their employment

1. With a view to ensuring the exercise of this right, 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 and women in work which is physically or morally injurious shall be punishable by law;
- (b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;
- (c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;
- (d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;
- (e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above in particular by the introduction of joint labour inspectorates.

Article 4: The right of workers to be consulted on the management of the enterprise by which they are employed

With a view to ensuring the exercise of this right, the High Contracting Parties:

Undertake to establish or maintain organs of joint management and/or to take other measures enabling workers to share in the life and general management of the enterprise by which they are employed.

Alternative:

Undertake to encourage the establishment or maintenance of organs of joint consultation and/or to take other appropriate measures to ensure that the workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

Article 5: The right to strike

With a view to ensuring the exercise of this right the High Contracting Parties:

Undertake to introduce all necessary legislative measures to regulate the conditions of that right and, in particular, to institute 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.

Alternative:

Undertake to maintain the necessary procedures for the solution of labour disputes

Article 6: The right to form and join trade unions

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to grant to workers every opportunity to form local, national or international trade unions and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights and Fundamental Freedoms¹.

Article 7: The right to a decent living

With a view to ensuring or promoting the exercise of this right, the High Contracting Parties undertake to:

- (a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;
- (b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

Article 8: The right to social security

With a view to ensuring the exercise of this right, the High Contracting Parties

1. undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

1. Paragraph 2 of Article 11 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".

2. recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.
3. will take the necessary steps to safeguard social security benefits against the effects of depreciation of their currencies.

Article 9: The right to a high standard of health

With a view to ensuring the exercise of this right, the High Contracting Parties will take all appropriate measures:

- (a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;
- (b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;
- (c) to prevent epidemic, endemic and other diseases;
- (d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

Article 10: The right of the family to social and economic protection

With a view to ensuring the exercise of this (these) right(s) the High Contracting Parties undertake to

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- (a) foster and protect the family as a fundamental unit of society;
- (b) make available or encourage the provision of the following facilities and advantages:
 - (i) the grant of allowances in proportion to the number of children;
 - (ii) measures to educate young persons for marriage;
 - (iii) cheap loans for the founding of homes;
 - (iv) preferential allocation of housing to families and persons wishing to marry, and rent reductions for low income families with many children;
 - (v) allowances to families whose breadwinners are subject to military service;
 - (vi) tax reductions related in the size of the family;
 - (vii) organisation of home help services.

Article 11: The right of mothers and children to social and economic protection

With a view to ensuring the exercising of this right, the High Contracting Parties undertake

- (a) for the protection of mothers:
 - (i) to provide the necessary economic and other assistance during a reasonable period before and after child-birth, in all cases not covered by social security or otherwise;
 - (ii) to provide directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.
- (b) for the protection of children:
 - (i) to establish or maintain specialised organs with powers to prevent the neglect of children;

(ii) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

(iii) to provide special services for homeless children, for children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

Article 12: The right to social and cultural aid and guidance

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to

- (a) promote or maintain, directly or in collaboration with local authorities and appropriate voluntary organisations, social welfare services for aid and guidance to the individual in industrialised society;
- (b) assure free legal advice and assistance to those who need it.

Article 13: The right to education

With a view to ensuring the exercise of this right, the High Contracting Parties

1. Undertake to make primary education compulsory and free;
2. Will progressively introduce measures
 - (a) to make facilities for secondary education, in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;
 - (b) to ensure a basic education for those persons who have not received or have not completed their primary education;
 - (c) to make university and other higher education accessible to all.
3. Will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

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PART III

A European Commissioner and Chamber

Article 14

A European Commissioner for social and economic affairs shall be appointed and a European Social and Economic Chamber set up within the framework of the Council of Europe. They will be responsible for promoting the fulfilment of the social and economic programmes of the Council of Europe and, in particular, the implementation of the European Convention on Social and Economic Rights.

Article 15

The Commissioner shall be proposed by the Consultative Assembly and appointed by the Committee of Ministers, after consultation with the Chamber.

Article 16

The Commissioner shall be appointed for a period of 3 years.

Article 17

Within the limits of his competence as defined in Article 14 above, the Commissioner shall submit Recommendations to the Committee of Ministers together with the opinion given to him by the Chamber.

Article 18

(a) The Commissioner may deal with any question falling within his competence.

(b) The Commissioner shall receive from the High Contracting Parties reports and any necessary assistance relating to questions falling within his competence.

Article 19

The Chamber shall consist of 60 members, one third of whom will represent the employers, one third the workers and one third the other sectors of the community.

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Article 20

The 20 seats allotted to each category shall be allocated according to nationality as follows:

- Iceland, Luxembourg, the Saar (1), Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey: 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom: 2 seats

Article 21

(a) The representatives of the employers and workers respectively shall be appointed by their respective governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organisations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed..

(b) The representatives of the other sectors of the community shall be appointed by their respective governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities.

Article 22

(a) The members of the Chamber shall be appointed every three years.

(b) The Chamber shall meet at least once a year.

Article 23

The members of the Chamber shall not be bound by any mandate or instruction.

Article 24

(a) The Chamber shall be a deliberative body acting in a consultative capacity; it shall assist the Commissioner.

(b) The Chamber shall have the right to make proposals to the Commissioner and shall comply with any request by him for an opinion.

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(1) This provision is based on the present Saar Statute within the Council of Europe.

(c) The Chamber shall express its views on the work of the Commissioner by a two-thirds majority. It shall make recommendations to the Commissioner by an absolute majority of its members (31).

Article 25

(a) The work of the Chamber and the Commissioner shall be supervised by the Consultative Assembly, to which they shall submit periodical reports.

(b) The Consultative Assembly may request the Chamber to give its opinion on any question falling within its competence.

Article 26

(a) The Commissioner and the Chamber shall be assisted by the Secretariat-General of the Council of Europe.

(b) Expenditure relating to the Chamber shall be borne by the Council of Europe.

PART IV

Implementation of the Convention

Article 27

(a) The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Convention by stages.

(b) This programme shall be drawn up by the European Commissioner for Social and Economic Affairs, after consultation with the Social and Economic Chamber, and decided on by the Committee of Ministers of the Council of Europe, after the opinion of the Consultative Assembly has been obtained.

Article 28

The High Contracting Parties undertake to submit to the Commissioner and the Chamber annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall indicate any difficulties or other factors which may have prevented the States concerned from carrying out their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

Article 29

(a) The Commissioner may, upon his own initiative or at the request of the Chamber, deal with any question connected with the observance of the rights and the fulfilment of the obligations recognised in the Convention, unless such question has already been the subject of a complaint lodged with the International Labour Office in accordance with Article 26 of the Constitution of the International Labour Organisation.

(b) The Commissioner may, upon his own initiative or at the request of the Chamber, invite the government or governments directly concerned to submit such comments as may be thought necessary.

(c) The Commissioner may, upon his own initiative or at the request of the Chamber, ask the opinion of any European or international organisation competent in economic, social or cultural matters.

Article 30

Bearing in mind the reports referred to in Article 28, the Commissioner may, upon the advice of the Chamber, make recommendations to the Committee of Ministers and, if necessary, intended for a government directly concerned, in order to secure from that government the fulfilment of its obligations under the Convention.

Article 31

The Commissioner shall periodically submit to the Consultative Assembly a full report on the progress made in implementing this Convention.

Article 32

Agreements shall be concluded with European and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to enable the Commissioner to perform the tasks incumbent upon him in connection with the Convention and to benefit from such technical assistance as these organisations may be able to afford him.

PART V

Final Provisions

Article 33

Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 34

(a) 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 Convention, 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.

(b) 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 35

Any High Contracting Party may propose amendments to this Convention in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

Article 36

(a) A High Contracting Party may denounce the present Convention as far as it is concerned 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.

(b) A High Contracting Party which shall have ratified the present Convention and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Convention as far as it is concerned on the expiry of each successive five years period.

(c) Any High Contracting Party which shall cease to be a Member of the Council of Europe shall cease to be a Party to this Convention.

Article 37

(a) This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

(b) The present Convention shall enter into force after the deposit of eight instruments of ratification.

(c) As regards any signatory ratifying subsequently, the Convention shall come into force on the date of the deposit of its instrument of ratification.

(d) The Secretary-General of the Council of Europe shall notify all the Members of the Council of the entry into force of the Convention, 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 38

(a) Parts III and IV of this Convention shall only be binding on those High Contracting Parties which have made a declaration expressing their acceptance thereof, and when at least five such declarations have been made.

(b) The declarations referred to in paragraph 1 of this Article may be made at any time and shall be deposited with the Secretariat-General of the Council of Europe, who shall inform the other High Contracting Parties thereof.

(o) Those High Contracting Parties which do not make such declarations shall nevertheless submit to the Council of Europe reports stating by what means and to what extent the provisions of Part II of this Convention have been put into effect in their respective territories. These reports shall be considered by the Committee of Ministers and the Consultative Assembly of the Council of Europe in accordance with their respective procedures and in such way as they shall severally determine.

Article 39

The French and English texts of this Convention shall be equally authoritative.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Paris, 20th July 1956.

Restricted
AS/AG (8) 11
Amendment No. 1

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fourth meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Amendment
proposed by
M. TONCIC, Rapporteur.

Page 5 (Text of the Recommendation)

Paragraph 2 should read:

"2. To appoint, without delay a Special Representative of the Council of Europe with a view to the preparation of the proposed Convention. To this end, the Representative would be responsible for continuous coordination between Member Governments, on the one hand, and international organisations, on the other."

UNCIL OF EUROPE
CONSEIL DE L'EUROPE

Paris, 20th July 1956.

Restricted
AS/AG (5) 11
Amendment No. 2

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fourth meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Amendment
proposed by
M. TUNCIC, Rapporteur.

Page 19, Article 29, paragraph (c) should read:

"(c) In the case of reciprocal consultation with the European or international organisations competent in economic, social and cultural matters, namely I.L.O. and O.E.E.C., the Commissioner may ask the opinion of these organisations."

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Paris, 21st July 1956.

Restricted
AS/AG (8) 11
Amendment No. 3.

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fourth meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

New wording of Part III

proposed by

M. TONCIC, Rapporteur

PART III

A European Commissioner and Chamber

Article 2(1)

A European Commissioner for social affairs shall be appointed, and a European Social Chamber set up, within the framework of the Council of Europe.

Article 3

(a) The Commissioner will be responsible for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the present European Convention on Social and Economic Rights;

(b) The Commissioner shall be proposed by the Consultative Assembly and appointed by the Committee of Ministers;

(c) The Commissioner shall be appointed for a period of three years;

Article 4

(a) The Commissioner may deal with any question falling within his competence.

(b) The Commissioner shall receive from the High Contracting Parties any assistance he may require in the discharge of his duties.

Article 5

The Commissioner shall submit to the Consultative Assembly, for its opinion, the draft recommendations he forwards to the Committee of Ministers.

(1) On the proposal of the Rapporteur, accepted by the Committee, Part II forms a single Article (Article 1).

Article 6

- (a) The Chamber will be responsible, on a consultative basis, for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the application of the present European Convention on Social and Economic Rights;
- (b) The Chamber shall consist of sixty members, one-third of whom will represent the employers, one-third the workers and one-third the other sectors of the community;
- (c) The Chamber shall be convened by the Consultative Assembly at least once a year.

Article 7

The 20 seats allotted to each category shall be allocated according to nationality as follows:

- Iceland, Luxembourg, the Saar⁽¹⁾, Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey : 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom: 2 seats

Article 8

- (a) The representatives of the employers and workers respectively shall be appointed by their respective governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organisations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed;
- (b) The representatives of the other sectors of the community shall be appointed by their respective governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities;
- (c) The members of the Chamber shall be appointed every three years;
- (d) The members of the Chamber shall not be bound by any mandate or instruction.

(1) This application is envisaged just in the present state of the Sarre Status within the Council of Europe.

Article 9

(a) The Chamber shall be a technical deliberative body, acting in a consultative capacity;

(b) The Chamber shall be at the disposal of the Consultative Assembly.

Article 10

(a) The Consultative Assembly shall ask the opinion of the Chamber on all questions falling within the latter's competence, in particular draft recommendations to the Committee of Ministers submitted to it by the Commissioner;

(b) On these questions, the Chamber shall express opinions adopted by a simple majority.

Article 11

(a) The Chamber may, on its own initiative, submit Resolutions to the Consultative Assembly informing it of the political, social, economic and cultural consequences of the questions before both organs;

(b) It may also, by an absolute majority, propose to the Consultative Assembly the adoption of draft recommendations to the Committee of Ministers.

Article 12

(a) The Commissioner may directly consult the Chamber on the technical aspects of his work;

(b) The Chamber may, on its own initiative, ask the Commissioner for explanations on the technical aspects of the latter's work.

Article 13

The work of the Commissioner and the Chamber shall be supervised by the Consultative Assembly, to which they shall submit annual reports.

Article 14

(a) The Commissioner and the Chamber shall be assisted by the Secretariat-General of the Council of Europe;

(b) Expenditure relating to the Chamber shall be borne by the Council of Europe.

6. SOCIAL CHARTER

M. Tomic, Rapporteur, introduced his preparatory report relating to a preliminary draft recommendation for the establishment of a European Convention on Social and Economic Rights.

Reference: AS/AG (8) 11

The Committee held a general discussion.

The Committee decided that, after first consideration of the report, it should consult the Committees on Economic and Social Questions respectively on the subject, after which the Committee would discuss it further, finally adopting the report at its next meeting in September, in the light of the comments made by the two Committees consulted.

The Committee considered the report chapter by chapter.

Draft Introductory Recommendation:

The Rapporteur submitted an amendment to paragraph 2.

Reference: AS/AG (8) 11, Amendment No. 1

Part I:

The Committee decided to propose to the two Committees consulted that Part I entitled "Principles and objectives of social policy" should be presented in the form of a preamble.

Part II

The Committee decided to request the Committees consulted further to consider the wording of the articles relating to economic and social rights, so as to ensure that each could in fact be enforced by member countries. It instructed the Rapporteur:

- (i) to give a few examples of articles which he thought did not fulfil this condition;
- (ii) to draw the attention of the two Committees consulted to the danger of reducing the prospect of ratification by too great a precision on points of secondary importance in the articles.

Part III

After consideration of the text proposed by the Rapporteur, the Committee requested him to submit a new draft to meet the objections raised.

The Rapporteur submitted a new version of Part III.

/Reference: AS/AG (8) 11, amendment No.3/

After amendment of certain articles, the Committee drew up a new version of Part III.

Part IV

The Rapporteur introduced an amendment to Article 29.

/Reference: AS/AG (8) 11, Amendment No.2/

After amendment of certain articles to bring them into line with the new version of Part III, the Committee drew up a new version of Part IV.

The Committee decided to request the two Committees consulted to reconsider very carefully the relations to be established between the proposed institutions and the International Labour Office.

Part V

The Rapporteur proposed to add a new Article to Part V, based on Article 63 of the Convention for the Protection of Human Rights.

After amending certain articles, the Committee established a new version of Part V.

The Committee decided, at the conclusion of its first consideration of the report, to forward the report thus amended to the two Committees consulted, requesting them to transmit their comments before its meeting to be held from 13th to 16th September, the date which had been arranged for further consideration of the draft and its final adoption.

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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 6th August, 1956

Restricted
AS/AS (3) 16
Cr. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fifth meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Draft Report

examined by the Committee on General Affairs, relating
to a preliminary draft recommendation
for the establishment of a
European Convention on Social and Economic Rights,

submitted by

M. L. FOLCIG, Rapporteur.

I N T R O D U C T I O N

1. On 20th and 21st July, 1956, the Committee on General Affairs drew up the following text based on M. Tanciel's report. The question had been referred to the Committee by Order No. 89 of 20th April, 1956:

"The Assembly refers the Draft Social Charter (Doc. 168), together with the amendment proposed by M. Eichen, to the Committee on General Affairs, in consultation with the Committee on Social Questions and the Committee on Economic Questions, for re-examination, with particular reference to the implementation of the Charter and proposed creation of a European Economic and Social Council."

2. The purpose of this report is not, therefore, to debate the principle of the European Social Charter.

(a) On 23rd September, 1955, the Assembly adopted Opinion No. 5 in the second paragraph of which it approves the principle of drawing up a European Social Charter, which "should define the social aims of the Member States of the Council of Europe and serve as a guide for all future activities of the Council in the social field."

In May, 1956, the Committee of Ministers stated that it would try to elaborate such a Charter (Doc. 238, para. 45).

(b) The institution of an Economic and Social Council had been proposed by the Assembly in its Resolution 26 of 17th January, 1953, concerning the projected Political Community: "An Economic and Social Council shall be set up with consultative functions representing the fifteen Member States of the Council of Europe." This institution was to constitute a link between the Europe of Fifteen and the proposed Political Community of Six. Apart from this link, the Committee on Social Questions expressed the opinion in April 1955 (Doc. 105, para. 2, p. 18) that "the preparation of a European Social Charter necessarily implied the establishment of a social and economic body."

From the political standpoint, the Committee on General Affairs, in July, 1955 (See Doc. 362, para. 25), also declared itself in favour of the establishment of an Economic and Social Council, on the view that this "would be of great value in promoting economic and social unification".

3. The principal developments in this question since that time have been as follows:

(a) In October, 1955, the Committee on Social Questions submitted to the Assembly a draft European Social Charter, including proposals for a European Economic and Social Council (Doc. 403). The statute of this body is embodied in the text of the Convention.

(b) The question having been referred to Committee, the Committee on Social Questions, in consultation with the Committee on Economic Questions again submitted to the Assembly in April, 1956, a draft European Social Charter and proposed that a European Social and Economic Conference be convened (Doc. 498). The convening of this Conference was not proposed in the text of the Convention but in a Recommendation of the Consultative Assembly to the Committee of Ministers. The object of the Conference was to bring employers and trade union and other non-governmental organisations into closer association with the work of the Council of Europe, but it was not suggested that they should play a part in the implementation of the Social Charter.

(c) The Assembly withheld its approval of this proposal after the tabling by M. Eichel and colleagues of an amendment (See Doc. 498, Amendment No. 1) calling for a fresh consideration of the establishment of an Economic and Social Council. It referred the whole question to the Committee on General Affairs (See Order No. 69 above).

4. In view of the differing conceptions put forward in Docs. 403 and 498, the Committee on General Affairs, on the proposal of its Rapporteur, has felt the need for a solution which could command the support of a substantial majority in the Assembly.

5. The draft which follows calls for the following general remarks:

(a) It has become both urgent and necessary to reach agreement on the text of the Social Charter, since it

procrastination displayed by the Assembly is harmful to it.

(b) The enclosed draft presents the question in a new way and takes account of the experience acquired in the course of the work undertaken by the competent committees. This makes it unnecessary for the Committee to reopen discussion on innumerable points already dealt with and permit it to confine itself to the main question.

(c) It will be the first time that the Assembly has implemented its Resolution 88 on European commissioners.

(d) Throughout its report the Committee has made an effort to be clear, concise and brief.

6. The Committee decided to postpone voting on the report until it had heard the views of the Committees on Social Questions and on Economic Questions. Its object in examining the report was to afford these committees general political guidance in formulating their detailed comments and suggestions.

7. Accordingly, after this first examination of M. Tomic's preparatory report relating to a draft recommendation for the establishment of a European Convention in Social and Economic Rights, the Committee on General Affairs decided, after making certain amendments, to refer it to the Committees named in Order No. 89, with the request that they should let the Committee have their opinion before 13th September so that it might re-consider the report and reach a final decision at its next meeting.

A. DRAFT RECOMMENDATION
CONCERNING A EUROPEAN CONVENTION ON SOCIAL
AND ECONOMIC RIGHTS

Remarks:

The preamble to this Recommendation follows the text of Doc. 488 with slight modifications. It has also been considered necessary that the Committee of Ministers appoint forthwith an authority who might be known as a Special Representative and whose main duty would be to make special and unremitting efforts to bring about the early conclusion of the European Convention on Social and Economic Rights.

The Special Representative's duties will bring him into contact with the I.L.O. He should take steps to secure every possible and desirable form of co-operation with that organisation in order to promote the early entry into force of the Convention. /

A. DRAFT RECOMMENDATION CONCERNING A EUROPEAN
CONVENTION ON SOCIAL AND ECONOMIC RIGHTS

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, and in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953), in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

Having taken note of the request of the Committee of Ministers that a joint meeting should be held to discuss the European Convention on Social and Economic Rights between the governmental Social Committee and the competent committees of the Assembly;

Expressing the hope that such a meeting can be held in the near future;

After study by its competent committees;

APPROVES the draft European Convention on Social and Economic Rights appended hereto and

RECOMMENDS that the Committee of Ministers:

1. approve the draft European Convention on Social and Economic Rights;

2. appoint without delay a Special Representative of the Council of Europe with a view to the preparation of the proposed Convention. To this end, the Representative would be responsible for continuous co-ordination between Member Governments, on the one hand, and international organisations, on the other.

B. DRAFT EUROPEAN CONVENTION ON SOCIAL AND
ECONOMIC RIGHTS

The Governments signatory hereto, being members of
the Council of Europe,

Considering that

Have agreed as follows:

.....

PREAMBLE.PRINCIPLES AND OBJECTIVES OF SOCIAL POLICYRemarks:

1. This text, which follows word for word Part I of Doc. 488, should in the Committee's opinion appear as a preamble to the Convention rather than stand as part of the substantive text. The intention of this section is not quite certain. Are these clauses binding commitments or simply a declaration of principles? If the former, the parties may decline to adopt the text; if the latter, the purpose is to express the underlying idea, for which a preamble would be more appropriate.

Even if a signatory country has a high standard of living and an advanced social organisation, this multi-lateral Convention is of real political importance for the social organisation of United Europe.

2. The Committee has only the following comments to make on this section:

(a) opening paragraph: The title preferred is "Convention on Social and Economic Rights", for the following reasons:

(i) It is a normal term for a text which is subject to ratification by several countries.

(ii) It indicates clearly the connection between this draft and the Convention for the Protection of Human Rights and Fundamental Freedoms.

In order not to lose the appeal which the term "Social Charter" has made to public opinion, the Committee suggests that the words "or Social Charter" be inserted after the word "Convention" where first used in the text. This would also satisfy organised labour which keenly desires to have its "Charter".

(b) Point 1: It would be useful to add at the end of this paragraph the words "and currencies". Measures against inflation have a direct bearing on the standard of living.

In this connection (1) it would be as well to stress the need for protecting savings. ✓

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(1) See Part I Article 1, N. 3.

PREAMBLEPRINCIPLES AND OBJECTIVES OF SOCIAL POLICY

The object of this Convention or Social 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, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which in turn reflect the moral and spiritual values inherent in the common heritage of the European peoples.
3. 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.
4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

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 management and 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 organise assistance for 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, nationality, national or social origin, or political or other opinions.

10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Convention are extended to all groups and sectors of the population.

11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan underdeveloped areas, and bound to develop them by all means within their power.

12. 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 local populations and, where appropriate, with qualified international organisations.

13. 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.

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Convention applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

PART I

SOCIAL AND ECONOMIC RIGHTS

PART ISOCIAL AND ECONOMIC RIGHTSGeneral remarks

1. The Committee suggests that these provisions need carefully reviewing to make them more capable of implementation. A notable example is Article 1, A, (a). It should also be made clear that this Convention is in the nature of a framework and will be brought into operation by successive stages (see Part III, Article 13).
2. The Committee also feels that the text should avoid making too stringent provisions concerning measures to be taken in regard to each right, as for example in Article 1 - A, 1 (b), (E), and 1 - C.
3. The Committee has studied the draft from the political standpoint; it did not consider itself competent to modify a text taken almost verbatim from Doc. 485.
4. Having made Part I of Doc. 485 the Preamble to the present text, the Committee took as Part I the content of Part II of Doc. 485: "Economic and social rights", interchanging the words "economic" and "social" as it considered this corresponds more closely with the scope of a Social Charter.

ARTICLE 1Remarks:

The Committee has adopted a new lay-out. This part now forms a single Article (Article 1); the description of each right (A, B, C, etc.), having a reference to the introductory paragraph. In this the Committee took as a pattern paragraph 15 of the Preamble (as in Doc. 403), which concerns the legal aspect of the commitments undertaken by the Contracting Parties, and also Article 2 para. 1, of the Draft Pact concerning Social, Economic and Cultural rights adopted by the Human Rights Commission of the United Nations.

With this re-arrangement the text automatically implies recognition of the rights set forth below, in each case followed by a statement of the measures by which the Contracting Parties undertake to ensure the exercise of these rights.

The Committee agrees with the Rapporteur that it is unnecessary to define each of the rights set forth. They are recognised because they exist. Furthermore, they are defined in various connections in national legislations and even constitutions; and it is on these definitions that we must rely for the moment. It has been found by experience that attempts to arrive at a common definition are foredoomed to failure. In any case, the measures to be taken by the Contracting Parties serve in themselves to constitute the rights in question.

The provisions of Article 5 in Doc. 488 have been placed under the headings with which they were concerned, so as not to disturb the order in which the rights are listed under Article 1 - A, B, C, D, etc.

ARTICLE 1

The High Contracting Parties recognise the following rights and undertake to strive, both jointly and severally, ~~progressively~~ to ensure the full exercise of these rights, in particular by adopting or promoting the measures defined in connection with each of these rights:

A : THE RIGHT TO WORK

Remarks: para. (c):

The text needs revising and redrafting in a less categorical form. To take the political view, it seems to impose more far reaching obligations than the Parties are likely to accept.

A : THE RIGHT TO WORK

1. With a view to ensuring the exercise of this right, the High Contracting Parties
 - (a) recognise that everyone should have an opportunity to earn his living in a freely accepted occupation;
 - (b) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work;
 - (c) fix national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation;
 - (d) undertake to:
 - (i) establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;
 - (ii) protect effectively the right of the wage-earner freely to choose any available occupation;
 - (iii) establish or maintain both general and specialised free employment services;
 - (iv) promote vocational guidance and training.

B. - THE RIGHT TO FAIR AND STABLE CONDITIONS
OF WORK

Remarks:

The following sub-paragraphs need revision:

1 (b) - should be recast in more moderate terms; furthermore there are dismissals on other grounds than those referred to in the text.

1 (d) - though the aim is an essential one, the obligations involved appear excessive. More flexible terms are needed.

(e) - it would be more judicious to omit explicit reference to wage differences in various areas, as these are economic features it is hoped to attenuate. The reservation could be expressed in some other way.

B. - THE RIGHT TO FAIR AND STABLE CONDITIONS OF WORK

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to secure for every worker:

- (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
- (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
- (c) reasonable notice of dismissal;
- (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
- (e) equal pay for equal work, particularly as between men and women, subject to any adjustments that may be necessary on account of variations in the cost of living in different areas;
- (f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;
- (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods;
- (h) the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates and tribunals.

C. - THE RIGHT OF CHILDREN, ADOLESCENTS AND WOMEN TO
SPECIAL MEASURES OF PROTECTION IN THEIR EMPLOYMENT

Remarks:

The Committee doubts the advisability of such detailed stipulations as 14 years, 16 years, 5 weeks, 12 weeks. The validity of these standards is not disputed, but the main thing is to present to the Contracting Parties a text they are likely to accept and ratify. Hard and fast provisions of this kind may compromise the final aim.

C. : THE RIGHT OF CHILDREN, ADOLESCENTS AND WOMEN TO
SPECIAL MEASURES OF PROTECTION IN THEIR EMPLOYMENT

1. With a view to ensuring the exercise of this right, 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 and women in work which is physically or morally injurious shall be punishable by law;
- (b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;
- (c) the working day of persons under 16 years of age shall be in accordance with the needs of their development, and particularly with their need for vocational training;
- (d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;
- (e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates.

D. : THE RIGHT OF WORKERS TO BE CONSULTED ON THE MANAGEMENT OF THE ENTERPRISE BY WHICH THEY ARE EMPLOYED

Remarks:

The Rapporteur had offered the Committee two alternatives: either provisions based on those of Article 4 in Doc. 403, or the provisions of Article 4 in Doc. 458. The Committee preferred to revert to the proposals of Doc. 403, while suggesting a more flexible form of words. Co-management should not be insisted upon in States where the system does not exist; furthermore, other States should not be committed to take measures which go further than their existing arrangements. The Committee's preference was also prompted by its concern to take the highest existing standards as an example. /

D. : THE RIGHT OF WORKERS TO BE CONSULTED ON THE MANAGEMENT OF THE ENTERPRISE BY WHICH THEY ARE EMPLOYED

With a view to ensuring the exercise of this right, the High Contracting Parties:

Undertake to establish or maintain organs of joint management and/or to take other measures enabling workers to share in the life and general management of the enterprise by which they are employed.

E. : THE RIGHT TO STRIKERemarks:

Here again the choice lay between two texts: based respectively on Article 6 in Doc. 403 and Article 6 in Doc. 488. The second text seems in any case to fall short of the provisions in force in certain countries. The Committee points out firstly: that it is not within its province to declare itself in favour of or opposed to voluntary or obligatory arbitration, and secondly: that there are workers such as civil servants who have not the right to strike. The Committee prefers, therefore, to take no decision for the time being, and submits for the consideration of the Committees consulted the somewhat flexible texts given opposite, embodying respectively the ideas of Doc. 403 and Doc. 488. The Committees consulted are asked to make their choice and propose a single text.

E. : THE RIGHT TO STRIKE

Alternative 1:

With a view to ensuring the exercise of this right the High Contracting Parties:

undertake where necessary to introduce measures to regulate the conditions of this right, in particular by providing means, if the parties so desire, for seeking settlements of labour disputes.

Alternative 2:

The High Contracting Parties:

undertake to encourage the use of machinery for the settlement of labour disputes.

F. THE RIGHT TO FORM AND JOIN
TRADE UNIONS

F. THE RIGHT TO FORM AND JOIN TRADE UNIONS

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to grant workers every opportunity to form local, national or international trade unions and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights and Fundamental Freedoms (1).

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(1) Paragraph 2 of Article 11 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".

G. THE RIGHT TO A DECENT LIVING

Remarks:

1. The Committee considers that the text needs redrafting; the expression "a decent living" is somewhat vague; what is meant is a proper standard of living.
2. The Committee also considers that this is more a declaration of policy than an actual right and would therefore be better placed in the Preamble. In that case the text would need to be drafted more forcefully in order to bring out the essential point, which is the need for adequate remuneration. /

G. THE RIGHT TO A DECENT LIVING

With a view to ensuring or promoting the exercise of this right, the High Contracting Parties undertake to:

- (a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;
- (b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

H. THE RIGHT TO SOCIAL SECURITY

Remarks:

The Committee suggests the addition to para. 3 of the words:

"and also to protect savings".

H. THE RIGHT TO SOCIAL SECURITY

With a view to ensuring the exercise of this right, the High Contracting Parties:

1. undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits;
2. recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance;
3. will take steps to safeguard social security benefits against currency depreciation.

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- I. THE RIGHT TO A HIGH STANDARD OF HEALTH
- J. THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION
- K. THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

General remarks:

The idea underlying all three texts is collective responsibility for health and welfare. But, as worded, these provisions reserve all activity in these matters to the State.

The Committee would like to see these Articles redrafted in order to place the emphasis on private organisations, on the view that the rôle of the State should be to help and encourage such organisations and intervene only if they are absent or inadequate. But it should also be borne in mind that persons who are unwilling to apply to private organisations must be able to have recourse to State organisations.

I THE RIGHT TO A HIGH STANDARD OF HEALTH

Remark:

The Committee fears that there may be difficulties over the meaning of the French version of the term "environmental health factors".

- I. THE RIGHT TO A HIGH STANDARD OF HEALTH
- J. THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION
- K. THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

I. THE RIGHT TO A HIGH STANDARD OF HEALTH

With a view to ensuring the exercise of this right, the High Contracting Parties will take all appropriate measures:

- (a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;
- (b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;
- (c) to prevent epidemic, endemic and other diseases;
- (d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

J. THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION

Remarks:

(b) (i) : As there are various systems of family allowances, the wording should be "allowances based on the number of children" rather than "allowances in proportion to the number of children".

(b) (ii) : The Committee wonders whether this is a suitable task for governments. Moreover the wording might be amended so as to avoid any undesirable interpretation.

(b) (vi) : The wording of the French text is too rigid and takes no account of the different national systems. The phrase should read, instead of "abattements fiscaux proportionnels à l'importance de la famille", "abattements fiscaux relatifs à l'importance de la famille"; the English text should read "... related to the size of the family".

J. THE RIGHT OF THE FAMILY TO SOCIAL AND
ECONOMIC PROTECTION

With a view to ensuring the exercise of this (these) right(s) the High Contracting Parties undertake to :

- (a) foster and protect the family as a fundamental unit of society;
- (b) make available or encourage the provision of the following facilities and advantages:
 - (i) the grant of allowances based on the number of children;
 - (ii) measures to educate young persons for marriage;
 - (iii) cheap loans for the founding of homes;
 - (iv) preferential allocation of housing to families and persons wishing to marry, and rent reductions for low income families with many children;
 - (v) allowances to families whose breadwinners are subject to military service;
 - (vi) tax reductions related to the size of the family;
 - (vii) organisation of home help services.

K. THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL
AND ECONOMIC PROTECTION

Remarks:

(a) (i) : The Committee wonders whether special provisions should not be added to cover such difficult cases as unmarried mothers in order to eliminate conditions which lead them to have recourse to abortion;

(a) (ii) : allowance should be made for the differences between existing systems in the United Kingdom and on the Continent./

K. THE RIGHT OF MOTHERS AND CHILDREN TO
SOCIAL AND ECONOMIC PROTECTION

With a view to ensuring the exercising of this right,
the High Contracting Parties undertake

(a) for the protection of mothers:

- (i) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;
- (ii) to provide directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.

(b) for the protection of children:

- (i) to establish or maintain specialised organs with powers to prevent the neglect of children;
- (ii) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;
- (iii) to provide special services for homeless children, for children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

L. THE RIGHT TO SOCIAL AND CULTURAL AID AND
GUIDANCE

Remarks:

If the expression in (a): "guidance to the individual in industrialised society" concerns vocational guidance (which is covered by A (iv)) considered in the educational sense, this provision should appear under N: the right to education. If not, some other form of words should be adopted to avoid confusion.

L. THE RIGHT TO SOCIAL AND CULTURAL AID
AND GUIDANCE

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to :

- (a) promote or maintain, directly or in collaboration with local authorities and appropriate voluntary organisations, social welfare services for aid and guidance to the individual in industrialised society;
- (b) assure free legal advice and assistance to those who need it.

M. THE RIGHT TO EDUCATION

Remarks:

See under L above.]

M. THE RIGHT TO EDUCATION

With a view to ensuring the exercise of this right, the High Contracting Parties

1. Undertake to make primary education compulsory and free;
2. Will progressively introduce measures
 - (a) to make facilities for secondary education, in its different forms including technical and professional training available to everyone at least up to the age of 18 years and to make it increasingly free;
 - (b) to ensure a basic education for those persons who have not received or have not completed their primary education;
 - (c) to make university and other higher education accessible to all.
3. Will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

PART II

A EUROPEAN COMMISSIONER AND CHAMBER

General remarks:

With regard to the institutional aspects, the Committee proposes:

- (i) to appoint a European Commissioner for the promotion of social policy, who will be responsible to the Committee of Ministers;
- (ii) to set up a European Social Chamber, a consultative body of 60 members at the disposal of the Assembly.

PART II

A EUROPEAN COMMISSIONER AND CHAMBER

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ARTICLE 2Remarks:

1. With a view to defining more clearly the Commissioner's sphere of competence, the title "European Commissioner for Social Affairs" has been preferred to "European Commissioner for Social and Economic Affairs". Logically therefore, we should speak of setting up a "European Social Chamber", and not a "European Social and Economic Chamber". The Committee would be interested to know the opinion of the competent Committees on this latter point.

The Commissioner is appointed in response to:

- (a) the desire expressed by the Consultative Assembly in Resolution 88, proposing the appointment of "European Commissioners" who should "give a continuous stimulus of a political nature to European unification";
- (b) the suggestion of the Committee on Social Questions in Doc. AS/Soc (8) 1: that a European Commissioner could help usefully to overcome difficulties encountered by Governments in the implementation of the Social Charter;
- (c) to the argument that Governments who will have to implement the Charter, will be unwilling to allow power of supervision to someone who is not responsible to themselves.

A Chamber constituted on the lines proposed:

- (a) meets the need, recognised by both Committees consulted, of an organ through which employers' and trade union associations and non-governmental organisations can be associated with the work of the Council of Europe;
- (b) accords with the desire of the Committee on Social Questions for an organ to help "prepare, guide and facilitate ... measures of integration or co-operation" in the European social and economic fields (Doc. 403, Art. 21).

ARTICLE 2

A European Commissioner for Social Affairs shall be appointed and a European Social Chamber set up within the framework of the Council of Europe.

(c) is designed to allay the fears expressed that an organ of this kind may encroach upon the prerogatives of the Assembly;

4. The Committee has chosen the name "Chamber":

(a) because it is a new name in the Council and does not invite comparison with other organs existing or contemplated;

(b) because it is an apt description for a specialised consultative organ;

(c) because it is eminently suitable for a body whose function is to study, observe and supervise European social policy. /

ARTICLES 3, 4Remarks:

From the political point of view the Commissioner must, in the interests of efficiency, have all possible freedom of action in order to carry out his task in regard to the Committee of Ministers representing the governments. These provisions are fully in accord with those set forth in Resolution 88 and take account of the experience gained by M. Pierre Schneider, Council of Europe Special Representative for National Refugees and Over-Population.

ARTICLE 3

- (a) The Commissioner shall be responsible for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the European Convention on Social and Economic Rights.
- (b) The Commissioner shall be proposed by the Consultative Assembly and appointed by the Committee of Ministers.
- (c) The Commissioner shall be appointed for a period of three years.

ARTICLE 4

- (a) The Commissioner may deal with any question falling within his competence.
 - (b) The Commissioner shall receive from the High Contracting Parties any necessary assistance relating to questions falling within his competence.
- ./.

ARTICLE 5Remarks:

- (a) As well as entering into relations with the Committee of Ministers, the Commissioner may seek the support of the Assembly. To this end he may for example submit to the Assembly draft recommendations, in the same way as the Committees, and when adopted these will become Recommendations of the Assembly to the Committee of Ministers. This will place him in a stronger position in putting his views before the Ministers.]

ARTICLE 5

- (a) The Commissioner may submit to the Consultative Assembly draft recommendations.
 - (b) He shall be entitled to address the Consultative Assembly at his own request.
 - (c) He shall give the Consultative Assembly an account of his activities whenever the Assembly so desires.
- ./.

ARTICLE 6Remarks:

1. The Chamber has the same competence as the Commission except that it acts in a consultative capacity.

2. The membership of the Chamber is smaller than that proposed for the European Economic and Social Council and the European Economic and Social Conference. It is thought unwise to place side by side with the Consultative Assembly a deliberative body with as many as 99 members.

3. The Chamber is convened by the Assembly at least once a year for its statutory session; it may also meet at other times if it so desires.

ARTICLE 6

- (a) The Chamber shall be responsible, acting in a consultative capacity, for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the present Convention on Social and Economic Rights.
 - (b) It shall consist of 60 members, one third representing the employers, one third the workers and one third the other sectors of the community.
 - (c) It shall be convened by the Consultative Assembly at least once a year and may also meet whenever convened by its President.
- ./.

ARTICLES 7, 8, 9General remarks:

1. The Chamber will be in a position to afford the Assembly its special assistance in regard to the fulfilment of the social policy of the Council of Europe.

The Consultative Assembly will preserve intact its prerogatives as a parliamentary organ without derogation in favour of the Chamber.

2. The Assembly will in its own interests apply to the Chamber for its special assistance and advice. Among other matters, the Assembly will refer to it the Commissioner's draft recommendations and the reports transmitted by the Member States both to him and to the Assembly (see Art. 14).

3. The Chamber must be able on its own initiative at any time to refer questions within its competence to the Assembly. Similarly, it may present to the Assembly draft recommendations in the same way as Assembly Committee.

4. The Chamber will thus be at the disposal of the Assembly and have special competence in matters dealt with by the Commissioner. The two organs will of necessity work in close conjunction with each other, as for example by the Chamber inviting the Commissioner to appear before it.

Although the Committee on General Affairs agrees as to the usefulness of co-operation between the Chamber and the Commissioner, it is against providing for direct relations between these two organs for the treatment of specific questions. It prefers not to make statutory provisions in these matters but to leave the two parties free to make arrangements ad hoc.

ARTICLE 7

The Chamber shall be a deliberative body at the disposal of the Consultative Assembly.

ARTICLE 8

- (a) The Consultative Assembly may request the opinion of the Chamber on any question within the competence of the Chamber, in particular concerning draft recommendations submitted to the Assembly by the Commissioner.
- (b) The Chamber shall reply to these requests by opinions adopted by simple majority.

ARTICLE 9

- (a) The Chamber may on its own initiative adopt resolutions to the Consultative Assembly drawing attention to the political, social, economic and cultural implications of questions within its competence.
 - (b) Acting by absolute majority, it may also submit for adoption by the Consultative Assembly draft recommendations to the Committee of Ministers.
- ./.

ARTICLES 10, 11General remarks:

Apart from modification of membership and the matter of Austrian representation, the provisions are those found in Doc. 403 (Articles 23 - 27).7

ARTICLE 10

The 20 seats allotted to each category shall be allocated according to nationality as follows:

- Iceland, Luxembourg, the Saar (1), Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey: 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom: 2 seats

ARTICLE 11

- (a) The representatives of the employers and workers respectively shall be appointed by their respective governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organizations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed.
- (b) The representatives of the other sectors of the community shall be appointed by their respective governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities.
- (c) The members of the Chamber shall be appointed every three years.
- (d) The members of the Chamber shall not be bound by any mandate or instruction.

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(1) This provision is based on the present Saar Statute within the Council of Europe.

ARTICLE 12

- (a) The Commissioner shall be assisted by the Secretariat-General of the Council of Europe.
 - (b) The Chamber shall be assisted by the Office of the Clerk of the Consultative Assembly.
 - (c) Expenditure relating to the Commissioner and to the Chamber shall be borne by the Council of Europe.
- /.

PART IIIIMPLEMENTATION OF THE CONVENTIONARTICLES 13, 14, 15 and 16Remarks:

1. Responsibility for implementing the Convention lies with the Governments. The experience of the Council of Europe (see Doc. LCH, draft Resolution on the appointment of European Commissioners) tends to show that supervision of the implementation of a convention of this kind cannot be effectively carried out by intergovernmental organs. Being independent of individual governments, the Commissioner fills this necessary rôle.

The governments will have less misgivings in entrusting supervisory functions to a Commissioner responsible to the Committee of Ministers than to an Economic and Social Council.

2. The Commissioner's methods must not be precisely stipulated in advance. He should be free to use his discretion and create the working implements he may require.

3. It is understood that the Consultative Assembly will act in all respects according to its statutory rôle. The Chamber will share its functions in the manner prescribed in Part II.

It has been considered necessary to indicate specific matters in which the Assembly will intervene: programmes drawn up by the Commissioner to be put into effect stage by stage, reports of the High Contracting Parties, Commissioner's report to the Assembly.

4. This Part corresponds almost entirely with M. Bichet's amendment. 7

PART IIIIMPLEMENTATION OF THE CONVENTIONARTICLES 13, 14, 15 and 16ARTICLE 13

(a) The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Convention by stages.

(b) This programme shall be drawn up by the European Commissioner for Social Affairs and decided on by the Committee of Ministers of the Council of Europe after the opinion of the Consultative Assembly has been obtained.

ARTICLE 14

The High Contracting Parties undertake to submit to the Commissioner and the Consultative Assembly annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall also indicate any difficulties or other factors which may have prevented the States concerned from carrying out their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

ARTICLE 15

Bearing in mind the reports referred to in Article 14, the Commissioner may make recommendations to the Committee of Ministers and, if necessary, intended for a government directly concerned, in order to secure from that government the fulfilment of its obligations under the Convention.

ARTICLE 16.

The Commissioner shall periodically submit to the Consultative Assembly a full report on the progress made in implementing this Convention.

ARTICLES 17 and 18Remarks:

These Articles deal with the question of relations with the competent international organisations. The Committee stresses the importance of relations with the I.L.O.; though it does not wish to lay binding obligations on the Commissioner - following here the principle adopted in Part II and Part III - it would like to guide his activities in certain specific directions. Para. (c) attempts to meet this preoccupation by laying down as a basic principle mutual consultation on the initiative of either side. The Commissioner hopes the Committees consulted will draft a more precise text - if they agree that it is desirable - which should not, however, commit the Commissioner and the I.L.O. in advance by setting up new organs. 7

ARTICLE 17

- (a) The Commissioner may deal with any question connected with the observance of the rights and the fulfilment of the obligations recognised in the Convention, unless such question has already been the subject of a complaint lodged with the International Labour Office in accordance with Article 26 of the Constitution of the International Labour Organisation.
- (b) The Commissioner may invite the government or governments directly concerned to submit such comments as may be thought necessary.
- (c) Under arrangements for mutual consultation with European or international organisations competent in social, economic or cultural matters, namely the I.L.O. and the O.E.E.C., the Commissioner may ask the opinion of these organisations.

ARTICLE 18

Agreements shall be concluded by the Council of Europe with European and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to enable the Commissioner to perform the tasks incumbent upon him in connection with the Convention and to benefit from such technical assistance as these organisations may be able to afford him.

./.

PART IVFINAL PROVISIONSRemarks:

The text follows that of Doc. 488 except where otherwise indicated.

PART IVFINAL PROVISIONSARTICLE 19

Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

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ARTICLE 20Remarks:

Note clause added to (b): "the Secretary-General shall then inform the High Contracting Parties".

ARTICLE 20

(a) 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 Convention, 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.

(b) 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. The Secretary-General shall in turn inform the High Contracting Parties.

ARTICLE 21Remarks:

• The second sentence has been amended so that the Assembly may be in a position to take decisions regarding amendments to the Convention. /

ARTICLE 21

Any High Contracting Party may propose amendments to this Convention in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Committee of Ministers and submitted to the Consultative Assembly. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

ARTICLE 22Remarks:

Para. (3) of the corresponding Article in Dec. 488 (Art. 23) has been dropped in view of the new provision made under para. (d) of Article 22 /

ARTICLE. 22.

(a) A High Contracting Party may denounce the present Convention as far as it is concerned 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.

(b) A High Contracting Party which shall have ratified the present Convention and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Convention as far as it is concerned on the expiry of each successive five years period.

ARTICLE 23Remarks:

1. In accordance with the precedent established by certain Council of Europe Conventions, the Committee has introduced a new clause (d) enabling European non-member States to accede to the Convention.

The Committee feels that the Convention should not appear to be restricted to certain States as under the terms of Article 23 (para (3)) in Doc. 455).

2. New accessions should be approved not only by the Assembly but also by the Chamber, since it is a question of the latter opening its doors to representatives of other countries.

3. The Committee is not in favour of the Rapporteur's suggestion that the entry into force of Parts II and III should be subject to a special procedure of acceptance. It takes the view that the organs proposed should be acceptable to all member States. ✓

ARTICLE 23

- (a) This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.
- (b) The present Convention shall enter into force after the deposit of eight instruments of ratification.
- (c) As regards any signatory ratifying subsequently, the Convention shall come into force on the date of the deposit of its instrument of ratification.
- (d) Any country not a member of the Council of Europe may accede to this Convention under conditions laid down by the Committee of Ministers and approved by the Consultative Assembly.
- (e) The Secretary-General of the Council of Europe shall notify all the Members of the Council of the entry into force of the Convention, 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 24Remarks:

This provision is identical with Article 63 of the Convention for the Protection of Human Rights and Fundamental Freedoms. /

ARTICLE 24

(a) Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.

(b) The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe.

(c) The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

ARTICLE 25

The French and English texts of this Convention shall be equally authoritative.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Vienna, 13th September 1956.

Restricted

AS/AG (S) 16

Amendment No. 1.
Cr. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE OF GENERAL AFFAIRS

Fifth Meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Amendments proposed by
The World Union of Catholic Women's Organisations
on the Draft European Social Charter

PART I - PREAMBLE, Article 5.

In the opinion of the World Union, Article 5 does not make sufficiently clear (particularly as regards the expression "regardless of the marital status of the mother") that motherhood should be protected whether the mother is legally married or not.

The World Union accordingly recommends that Article 5 should be worded as follows:

"The High Contracting Parties will encourage the fullest discharge of individual and family obligations towards children, while accepting as a secondary responsibility that of taking measures to protect the health and welfare of all children

and young persons and assure their education, regardless of family circumstances. They recognise that motherhood should be protected whether the mother is legally married or not".

PART II - Economic and Social Rights

The World Union regrets that in the list of social rights no mention has been made of the following:

- The right of the widow to financial assistance;
- The right of disabled persons to professional retraining;
- The right of persons obliged to change their profession as a result of industrial and economic developments, to professional training.

With regard to the last of these rights the Union recommends the insertion of the following clause in Article 1, para. 3(d) of Part II:

"to promote professional guidance and training in general, and in particular for persons obliged to change their profession as a result of industrial and economic developments."

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Vienna, 13th September 1956.

Restricted
AS/AG (8) 16
Amendment No. 2

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Fifth Meeting

SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

New Draft Recommendation

submitted by

M. L. TONCIC, Rapporteur

AS/AG (8) 16
Amendment No. 2

DRAFT RECOMMENDATION CONCERNING A EUROPEAN CONVENTION ON
SOCIAL AND ECONOMIC RIGHTS

(cf. AS/AG (8) 16, page 5)

The Assembly,

Considering

.....

After study by its competent committees, keeps under consideration the draft European Convention on Social and Economic Rights prepared by its competent committees and

Recommends that the Committee of Ministers:

1. Work out a Convention on social and economic rights on the basis of this draft;
2. And for this purpose
 - (a) work in close cooperation with the international trade unions and employers' organisations according to their consultative status;
 - (b) appoint without delay a special Representative of the Council of Europe who shall participate in the preparation of the Convention. To this end, the Representative would in particular be responsible for continuous coordination between Member Governments on the one hand and international organisations on the other.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 21st September 1956.

Reproduced
AS/AG (5) PV 5

CONSULTATIVE ASSEMBLY

COMMITTEE ON GENERAL AFFAIRS

Sixth Meeting

DRAFT MINUTES

of the fifth meeting of the Committee
held on 12th, 13th, 14th and 15th September 1956
in the Austrian Parliament, Vienna.

Members present:

MM. DE MENTHON	(Chairman)	France
EDWARDS	(Vice-Chairman)	United Kingdom
ALBRECHT		Saar
BETTIOL		Italy
BOYUM		Norway
Lord CHESHAM		United Kingdom
MM. ELMGREN		Sweden
DE FELICE		France
VAN DER GOES VAN NATERS		Netherlands
Mlle KLOMPE		Netherlands
MM. KARIS		Greece
KOMMER		Fed. Rep. of Germany
PITTERMANN		Austria
SANTERO		Italy
STEFANSSON		Iceland
SPURCKE		Austria
WISTRAND		Sweden

Alternates present:

MM. AKTAS	(for M. Mandalinos)	Turkey
BENVENUTI	(for M. Badini Confalonieri)	Italy
Fürst VON BISMARCK	(for V. Kiesinger)	Fed. Rep. of Germany

Alternates present: (Continued)

MM. DEVINAT	(for M. Jaquet)	France
DE LA VALLEE	POUSSIN (for M. Struye)	Belgium
ERGIN	(for M. Kirikoglu)	Turkey
LOIZIDES	(for M. Kallias)	Greece
MACBRIDE	(for Mr. Corish)	Ireland

Also present:

MM. COURANT,	Vice-Chairman of the Committee on Social Questions	France
DROULIA	(Alternate for M. Maris)	Greece
GOEDHART	(Alternate for M. van der Goes van Naters)	Netherlands
STRASSER	(Alternate for M. Pitterman)	Austria
TONCIC	(Alternate for M. Stürgh)	Austria

Apologised for absence:

MM. AMERY	United Kingdom
BECKER	Fed. Rep. of Germany
BOHY	Belgium
JAKOBSEN	Denmark
MARGUE	Luxembourg

Observers (for the discussion of the Social Charter)

MM. FANO (International Labour Office)
KULAKOWSKI (International Federation of Christian Trade Unions)
KIENZL (International Confederation of Free Trade Unions)
Mlle. des GACHONS (World Union of Catholic Women's Organisations)
Dr. WOLF

I. Wednesday afternoon, 12th September 1956.

JOINT MEETING WITH THE COMMITTEE ON ECONOMIC QUESTIONS

Members of the Committee on Economic Questions present:

MM. FEDERSPIEL	(Chairman)	Denmark
KAPTEIJN	(Vice-Chairman)	Netherlands
CZERNETZ		Austria
DROULIA		Greece
ERGIN		Turkey
ERKMEN		Turkey
JENKINS		United Kingdom
JOSEFSSON		Iceland
MACBRIDE		Ireland
SUNDSTROM		Sweden

Alternates present:

MM. CERULLI-IRELLI	(for M. Cingolani)	Italy
DE GEER	(for M. Ohlin)	Sweden
LE HODEY	(for M. van Cauwelaert)	Belgium
SELVIK	(for M. Moe)	Norway

The Chair was taken by M. de Menthon, Chairman of the Committee on General Affairs.

3. Social Charter

M. Federspiel, Chairman of the Committee on Economic Questions, set out as follows the opinion of this Committee on the Report on which it had been consulted by the Committee on General Affairs:

/Reference: AS/AG (8) 16/

- (i) The contents of Doc. 488, being the result of a unanimous compromise between the Committees on Social Questions and Economic Questions, should be re-established;
- (ii) no need existed to create special institutions in order to implement a Convention which governments, by their signature, engaged themselves to put into effect. Furthermore, according to the views of the Committee on Economic Questions
 - a European Commissioner should only be appointed in very exceptional circumstances, which did not prevail in this case;
 - as social policy could not be separated from economic policy, a Chamber with only social competence was useless.

M. Federspiel therefore suggested that the Assembly should only be issued with the text of the economic and social rights as drafted in Doc. 488, the discussion on the problem of implementation being suspended.

M. Courant, Vice-Chairman of the Committee on Social Questions (attending in the place of this Committee's Chairman) explained as follows the opinion of his Committee on the Report on which it had been consulted by the Committee on General Affairs:

/References: AS/AG (8) 16
AS/Sec (8) 9/

- (i) The Committee on Social Questions had agreed to the new draft of Part I containing the economic and social rights, under the reserve of certain amendments contained in its written Opinion;
- (ii) In view of the limited time at its disposal, the Committee did not feel able to give an opinion on Parts II and III of the Report.

The Chairman thanked the Chairmen of the two Committees which had been consulted for their opinion and stated that the Committee on General Affairs would take a decision during its forthcoming meeting.

II. Thursday, 16th September 1956

4. SOCIAL CHARTER

M. Tomic, Rapporteur, introduced the Report containing a Preliminary Draft Recommendation for the establishment of a European Convention on Social and Economic Rights.

Reference: AS/AG (8) 157

The Committee proceeded to a general discussion of this Report.

The Committee proceeded to an examination of the Preliminary Draft Recommendation preceding the draft European Convention.

The Chairman proposed to replace the words "approve the draft European Convention" by the words "accepts the principles contained in the draft European Convention", thereby stressing that the Assembly would not approve every word of the draft Convention drawn up, but only its general outlines, leaving it to the Committee of Ministers to establish a final text on the basis of the Assembly's draft.

M. Kulakowski suggested that the Committee of Ministers be recommended to leave the task of establishing the final text to the European Commissioner and to the Social Chamber, which should for this reason be created right away.

Mlle. Klompé objected to any dissociation between the text of the Convention and the institutions to be created. The task of establishing the text on both these parts would have to be left to the Committee of Ministers and its expert committees, who should consult international trade unions and employers' organisations.

M. Devinat proposed to replace the words "approves the draft European Convention" by the words "keeps under its consideration".

The Committee deliberated.

Resolved

To invite M. Toncic, Rapporteur, to put before it a new Preliminary Draft Recommendation.

M. Toncic, Rapporteur, introduced the revised paragraphs of the Draft Recommendation.

Reference: AS/AG (8) 16 Amendment No. 27

The Chairman proposed the replacement in paragraph 1 of the words "work out a Convention" by the words "establish a Convention" and in paragraph 2 (a) the words "work in close co-operation with the international trade unions and employers' organisations according to their consultative status" by the words "work in close co-operation with competent intergovernmental organisations, trade unions and employers' organisations and all other competent organisations enjoying consultative status", and in paragraph 2 (b) the replacement of the words "who shall participate in the preparation" by the words "who shall press for the establishment".

The Committee deliberated.

Resolved

To invite the Rapporteur to put before it a Preliminary Draft Recommendation revised in the light of these amendments.

The Committee proceeded to an examination of the draft European Convention, of the Opinion of the Committee on Social Questions and of the Opinion earlier given by the Committee on Economic Questions.

References: AS/AG (8) 16
AS/Soc (8) 27

PREAMBLE

Mlle. des Gachons introduced the amendment presented by the World Union of Catholic Women's Organisations to paragraph 5, stating that she would be ready to drop the first part of the amendment if only the words "regardless of the marital status of the mother" at the end of the paragraph be replaced by the words "whether the mother is legally married or not".

Reference: AS/AG (8) 16
Amendment No. 17

M. Devinat proposed the words "that motherhood be protected in any case".

The Committee deliberated.

The amendment of the World Union was adopted.

M. Tomic drew attention to the decision of the Committee on Social Questions to leave the question of the protection of savings to the Committee on General Affairs.

Reference: AS/Soc (8) 9, para. 3 (c)7

The Committee decided not to include the question of the protection of savings in the Preamble.

PART I - ECONOMIC AND SOCIAL RIGHTS

Article 1

The Committee agreed with the Opinion of the Committee on Social Questions that the word "progressively" should be retained in the first paragraph of Article 1, but should be repressed where it appears in the various sub-divisions of the Article.

Reference: AS/Soc (8) 9, para. 57

Sub-Division A

The Committee adopted the amendment proposed by the Committee on Social Questions redrafting sub-paragraphs (b) and (c) as a new sub-paragraph (b), the former sub-paragraph (d) becoming the new (c).

Reference: AS/Soc (8) 9, para. 67

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Mlle des Gachons introduced the amendment of the World Union of Catholic Women's Organisations, expressing her willingness to drop the first part of the amendment, but proposing to add at the end of the former paragraph (d) (iv) the words "and rehabilitation".

Amendment adopted.

Sub-Division E

M. Toncic introduced the amendments of the Committee on Social Questions to paragraph 1, sub-paragraphs (b), (c), (e) and (h).

Reference: AS/Soc (8) 9, para. 7

Amendments adopted.

Sub-Divisions B, C and D.

M. Toncic introduced the amendment of the Committee on Social Questions adding to sub-divisions B, C and D the words "insofar as these measures are not put into effect by means of collective agreements or in any other way."

Reference: AS/Soc (8) 9, paras. 7, 8, 9

Amendment adopted.

Sub-Division D

Amendment of the Committee on Social Questions to the French text adopted.

Reference: AS/Soc (8) 9, para. 9

Sub-Division E

M. Toncic introduced the amendment of the Committee on Social Questions.

Reference: AS/Soc (8) 9, para. 10

The Chairman suggested that this paragraph should read as follows "the High Contracting Parties: recognise the right to strike. They undertake to encourage the use of agreed machinery for the settlement of labour disputes."

Amendment of the Chairman adopted.

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Sub-Division G

The Committee adopted the following title for this sub-division: "The Right to a Proper Standard of Living" in accordance with the opinion expressed by the Committee on Social Questions.

/Reference: AS/Soc (8) 9, para. 117

M. Kulakowski proposed to include in this sub-division as sub-paragraph (c) the words "to protect savings" originally intended to go under sub-division H.

M. Mommer suggested the following wording "to protect small savings".

The Committee adopted this wording to go in as a new sub-paragraph (c) in sub-division G.

Sub-Division H

M. Tomic suggested the addition to paragraph 1 in the French text of the words "unemployment and old age benefits" which had been missed out in accordance with the wishes expressed by the Committee on Social Questions.

/Reference: AS/Soc (8) 9, para. 127

Amendment adopted.

M. de Félice suggested the following wording for paragraph 3: "will take steps for the adjustment of social security benefits to meet any currency depreciation."

Amendment adopted.

Sub-Divisions I, J and K.

The Committee adopted the amendment of the Committee on Social Questions rewording the first phrase of sub-divisions I, J and K.

/Reference: AS/Soc (8) 9, para. 137

Sub-Division I

The Committee adopted the amendment of the Committee on Social Questions to sub-paragraph (b).

/Reference: AS/Soc (8) 9, para. 147

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Sub-Division J

The Committee adopted the amendment of the Committee on Social Questions suppressing sub-paragraph (b) (ii).

Reference: AS/Soc (3) 9, para. 157

Sub-Division K

Mlle des Gachons suggested the addition of a sub-paragraph (a) (iii) "to extend particular protection to widows supporting children."

M. de la Vallée Poussin suggested the following wording "to single women supporting children".

Amendment of the World Union adopted.

PARTS II and III

M. Mommer, referring to the fact that the Committee on Social Questions had not submitted any amendments to these Parts, which reflect the opinion adopted by the Committee at its July meeting, proposed to consider this text as accepted without further discussion.

M. Fano introduced the following amendments to Articles 17 and 18:

Article 17 (a): to replace the end of the phrase as from "unless such question" by

"except

- (i) where this question is the subject of a complaint before the International Labour Office, when the procedure provided for in Articles 24 and 26 of the I.L.O. Constitution is applicable;
- (ii) in cases governed by the provisions put into force by the I.L.O. concerning the freedom of trade unions."

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Paragraph (b) to remain. Paragraph (c) to be suppressed.

Article 18 to read as follows:

"1. Agreements shall be concluded with international or European organisations competent in economic, social and cultural matters, in particular with the I.L.O. and O.E.E.C., to enable the Commissioner to perform the tasks incumbent upon him at the time of putting the Convention into effect, so that, in order to avoid any duplication in this connection, these tasks may be the subject of appropriate co-operation, especially in connection with the submission of the annual reports referred to in the last paragraph of Article 14, and their examination.

2. The Commissioner shall, within the framework of these agreements, ensure the participation of the organisations in question with the implementation of the Convention."

M. Mommer proposed to word Article 18 as follows:

"Agreements shall be concluded by the Council of Europe with European and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to ensure close co-operation with these organisations in the implementation of the present Convention".

Amendment proposed by M. Fano for Article 17 adopted.

Amendment proposed by M. Mommer for Article 18 adopted.

The Chairman, referring to M. Mommer's earlier statement, asked the Committee to agree to Parts II and III in their present form.

It was thus decided.

M. Toncic, Rapporteur, introduced the revised Preliminary draft Recommendation.

/Reference: AS/AG (8) 287

M. Kulakowski explained the attitude of the International Confederation of Christian Trade Unions as follows:

The Organisation is conscious of the fact that the text is weaker than the previous one contained in Doc. 403. As, on the other hand, it is more positive than the text of Doc. 488 which had been considered unacceptable by his Organisation, it could be accepted by the Confederation as a working basis. M. Kulakowski could not give the agreement of his Organisation to the Preliminary Draft Recommendation before the Executive Bureau had considered it. He personally thought it acceptable apart from two reservations; that his Organisation would want to present in a Memorandum their views on the European Commissioner and the Social Chamber, and that it would want to seize the Committee of Ministers with a Memorandum on the association of trade unions in the establishment of the final Convention by governmental experts.

M. Böytüm expressed his agreement with the provisions of the Charter, but rejected the proposed creation of a Social Chamber and the nomination of a European Commissioner. He would prefer to ask the Committee of Ministers to discuss Doc. 488. Under these circumstances he would abstain from voting on the Draft Recommendation.

M. Mommer declared that he would vote for the Draft Recommendation with the reserve that, in his view, the European Commissioner should only be appointed and the Social Chamber created if the trade unions and employers' organisations so wished.

M. Elmgren declared that he would abstain from voting on the Draft Recommendation.

M. Aktas expressed his agreement with the text of the Draft Recommendation and the Draft Convention, which is already being examined by the Labour Ministry of his Government.

The Committee proceeded to a vote by roll-call on the Preliminary Draft Recommendation.

In favour:

MM. AKTAS (for M. Mandolini)
BERTHOE
de FELICE
DEVINAT (for M. Jaquet)
GOEDHART (for M. van der Goes van Naters)
Mlle. KLOMPE
MM. LOIZIDES (for M. Kallias)
de MENTHON
MOMMER
SANTERO
STURCKE
TOMATI (for M. Fittermann)

Against:

None.

Abstentions:

M. ALBRECHT
Fürst von BISMARCK (for M. Kiesinger)
M. BOYUM
Lord CHESHAM
M. ELMGREN

The Preliminary Draft Recommendation was adopted by
13 votes to 0 with 5 abstentions.

Section III

Documents of the Committee on Social Questions

(January/September 1956)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 10th January, 1956.

Restricted
AS/Soc (7) 21

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

EUROPEAN SOCIAL CHARTER

Note by the Office of the Clerk of the Assembly

EUROPEAN SOCIAL CHARTERNote by the Office of the Clerk of the Assembly

In the course of the discussion of the draft Social Charter (Doc. 403) during the second part of the Seventh Session of the Assembly, the question was raised whether the document which the Assembly would in due course submit to the Committee of Ministers should take the form of a draft convention or merely of a statement of the principles which the Assembly would wish to see incorporated in a convention. In order to assist in the elucidation of this question, it may be helpful to recapitulate briefly (a) the present procedural position, and (b) the precedents.

A. The Present Procedural Position

1. On 9th July, 1954 the Standing Committee adopted Order No. 58 in which it instructed the Committee on Social Questions to "begin to prepare a draft Social Charter for submission to the Committee of Ministers and submit a preliminary report on this question at the second part of the Sixth Ordinary Session." This action of the Standing Committee was subsequently reported to, and approved by, the Assembly. (cf. Minutes of Proceedings of 13th September, 1954, para 8).
2. The preliminary report was duly presented to the Assembly on 22nd September, 1954 (Doc. 312).

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3. The Assembly referred the Report back to the Committee on Social Questions with an instruction to present a draft Social Charter at the first part of the Seventh Session (cf. Minutes of Proceedings, 23rd September, 1954, para. 5) (1).

4. The Committee on Social Questions presented a draft Social Charter in October, 1955 (Doc. 403).

5. The Assembly then adopted Order No. 79, referring the draft Charter back to the Committee on Economic Questions and the Committee on Social Questions for consideration of any amendments which might be proposed.

B. The Precedents.

During the last five years the Council of Europe has produced eleven separate conventions and agreements. The majority have been proposed by the Assembly and either drafted or redrafted by governmental experts.

In eight cases, the drafting has been left to the experts. These were :

- The two Interim Agreements on Social Security,
- The Convention on Social and Medical Assistance,
- The two Conventions on Patents,
- The two cultural Conventions,
- The Convention on war cripples.

In two cases the Assembly itself prepared a detailed

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(1) The Official Report of the Debate does not exactly corroborate the Minutes of Proceedings. Nor does the Reply of the Assembly to the Supplementary Report of the Committee of Ministers, adopted on 24 September 1954.

draft, which was subsequently revised by the Experts. These were:

- The Convention on Human Rights (Rec. 38 (1949))
- The Convention on Establishment (Rec. 1 (1951)).

In one case the experts prepared a draft which was subsequently revised by the Assembly. This was the Protocol to the Convention on Human Rights (Rec. 15 (1951)).

There are two other conventions now in an advanced stage of preparation. In one case (Peaceful Settlement of Disputes) the drafting has been done by the experts and amendments proposed by the Assembly (Rec. 79 (1955)); in the other case (Extradition) the Assembly proposed a detailed text (Rec. 66 (1954)) which is now being revised by the Experts.

It would appear from these precedents that there is no reason of principle to determine the question whether the Assembly should itself prepare draft conventions or limit itself to statements of principle. It is rather a question of opportunity, depending on whether the Assembly wishes to put forward statements of its views in general terms or in detail. In the latter case, the form of a draft convention may be found more convenient.

In either case, it is clear that the recommendations of the Assembly must be subject to the drafting or redrafting of the governmental experts who will prepare the final texts for signature by the Governments.

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REVISED DRAFT SOCIAL CHARTER

In case it is decided that the text to be adopted by the Assembly for transmission to the Committee of Ministers should take the form of a detailed draft convention, the Secretariat has prepared a revised draft recommendation and a revised draft of the Social Charter, in the hope that these may assist the committees concerned in their work of trying to find an acceptable solution. These drafts take into account, as far as possible, the views expressed during the second part of the Seventh Session.

These drafts are appended hereto. (See Appendix I and Appendix II).

It will be observed that they omit proposals for the creation of an Economic and Social Council.

Suggestions as to possible ways of associating non-governmental organisations with the work of the Council of Europe, are contained in a separate document. This has been done because:

- (1) In this way the difference of opinion about the desirability of creating an Economic and Social Council need not prevent agreement being reached on the draft Social Charter itself; and
- (2) If it is decided to recommend the convocation of an Economic and Social Conference or of a Conference of non-governmental organisations this can be done by decision of the Assembly and the Committee of Ministers, without the necessity of ratification by the national parliaments which will be necessary (at least in most countries) before the Social Charter can come into force.

Whatever revised text is approved by the two committees should, in accordance with para. 3 of Order No. 79, form the subject of an exchange of views with the governmental Social Committee, before being submitted to the Assembly for its approval.

APPENDIX IDRAFT RECOMMENDATION

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948,

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration,

Having regard to the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations,

Recalling its Opinion No. 5 (1953) in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field,

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee,

Having considered the report of its Committee on Social Questions,

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APPROVES the draft Social Charter appended hereto, and
RECOMMENDS that the Committee of Ministers should:

1. transmit this draft to the governmental Social Committee with instructions to be guided by the statement of the Assembly's wishes contained therein;
2. submit in due course the draft Social Charter elaborated by the Social Committee to the Assembly for its opinion;
3. invite the International Labour Organisation thereafter to convene a European Tripartite Conference consisting of delegates from the Member States of the Council of Europe for the purpose of considering the draft Social Charter elaborated by the Social Committee and the Assembly's opinion relating thereto, and of reporting thereon to the Council of Europe.

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APPENDIX IIDRAFT SOCIAL CHARTERPART IPRINCIPLES AND OBJECTIVES OF SOCIAL POLICY

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, in order to ensure the dignity of man affirmed in the European Convention on Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, a high and stable level of employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. 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.

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3. In carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity. 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.

4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

6. 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 population.

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7. The High Contracting Parties are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, nationality, national or social origin, or political or other opinions.
8. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Charter are extended to all groups and sectors of the population.
9. The High Contracting Parties consider themselves responsible for the economic expansion of their metropolitan underdeveloped areas, and bound to develop them by all means within their power.
10. The High Contracting Parties recognise their responsibility for the economic and social development of their dependent territories, in collaboration with the local population and with any international organisations concerned.
11. The High Contracting Parties consider that social policy should be formulated and implemented with the free participation of the people concerned and within the framework of their local communities and voluntary organisations including employers', workers' and consumers' organisations.
12. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or

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local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour by means of joint consultation, to harmonise by stages their social legislation and practice, and to make the social and economic rights set forth in this Charter applicable in the territory of each for the nationals of all. Where possible, they will conclude special conventions for the establishment of European standards superior to those in force on a wider international basis.

13. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Charter depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

P A R T I IECONOMIC AND SOCIAL RIGHTSArticle 1The right to work⁽¹⁾

1. The High Contracting Parties recognise that in the exercise of this right everyone should be enabled to earn his living in a freely accepted occupation.
2. With a view to ensuring the exercise of this right, they will :
 - (a) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work ;
 - (b) endeavour, to the extent possible and desirable, to fix national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation.
3. The High Contracting Parties undertake to :
 - (a) establish or maintain the freedom from any restrictions on the right to work, with the exception of those

(1) See Article 1 of Doc. 403; ./.
 See Article 6 of the Draft Covenant of the U.N. Commission on Human Rights.

imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations ;

- (b) protect effectively the right of the wage earner freely to choose any available occupation ;
- (c) establish or maintain both general and specialised free employment services ;
- (d) promote vocational guidance and training.

Article 2

The right to fair and stable conditions of work⁽¹⁾

1. The High Contracting Parties recognise that conditions of work should be such as to enable workers to find satisfaction in their work, develop their human personality, protect their health, and provide themselves and their families with an independent and decent livelihood. Within the limits of their constitutional and national procedures, they will endeavour to assure the progressive realisation of such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum wage and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure.

(1) See Article 2 of Doc. 403;
See Article 7 of the Draft Covenant of the U.N. Commission on Human Rights.

2. They undertake to secure for every worker:
 - (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
 - (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
 - (c) reasonable notice of dismissal in all cases;
 - (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
 - (e) equal pay for equal work, particularly as between men and women;
 - (f) a reasonable working week, to be progressively reduced to a 40-hour-week, subject to essential adjustments for certain professions, with special rates for overtime;
 - (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods.

Article 5The right of children, adolescents and women to special measures of protection in their employment⁽¹⁾

1. With a view to ensuring the exercise of this right, the High Contracting Parties will endeavour to take all appropriate steps to protect children, adolescents and women against the physical and moral hazards of their work and to enable women to carry out their maternal duties.

2. 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 and women in work which is physically or morally injurious shall be punishable by law ;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education ;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training ;

(1) See Articles 3 and 14 (c) of Doc. L03;
See Article 10 of the Draft Covenant of the U.N. Commission on Human Rights.

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay ;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least twelve weeks.

Article 4

The right to strike⁽¹⁾

With a view to securing this right, the High Contracting Parties will introduce or maintain the legislative measures necessary to regulate its exercise ; they will, in particular, establish or maintain conciliation and arbitration procedures with a view to avoiding labour disputes and finding rapid solutions to those which do take place.

Article 5

The right of workers to be consulted on the management of the enterprise by which they are employed⁽²⁾

With a view to ensuring the enjoyment of this right, the High Contracting Parties undertake to encourage the establishment or maintenance of organs of joint consultation, or to take other appropriate measures, to ensure that workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

(1) See Article 6 of Doc. 403.

(2) See Article 4 of Doc. 403.

Article 6The right to form and join Trade Unions⁽¹⁾

The High Contracting Parties recognise the right of workers to form trade unions, whether local, national or international, and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights.

Article 7The right to a decent living, including adequate food, clothing and housing⁽²⁾

With a view to ensuring the enjoyment of this right, the High Contracting Parties will endeavour particularly :

(a) to promote the conditions in which the market will be adequately supplied with basic necessities at prices within the reach of all;

(b) to promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

1) See Article 7 of Dec. 105;
See Article 8 of the Draft Covenant of the U.N. Commission on Human Rights.

2) See Article 10 of Dec. 105;
See Articles 11 and 12 of the Draft Covenant of the U.N. Commission on Human Rights.

Article 8The right to social security⁽¹⁾

1. In order to ensure the full enjoyment of this right, the High Contracting Parties undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services : medical care, benefits relating to sickness, unemployment, old-age, employment injury and diseases • resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.
2. The High Contracting Parties recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.
3. The High Contracting Parties will endeavour to safeguard social security benefits against fluctuations in the value of money.⁽²⁾

(1) See Article 11 of Doc. 403;
See Article 9 of the Draft Covenant of the U.N. Commission on Human Rights.

(2) See Article 13 of Doc. 403.

showing by what means and to what extent the programme of implementation is being realised in their respective territories, provided however that in cases where reports on the implementation of certain rights are sent to other international organisations, the Secretary General shall arrange to obtain the information required from the latter.

2. The reports and information referred to in the preceding paragraph shall be submitted by the Secretary-General to the Social Committee of the Council of Europe, which shall then make its own report, indicating whether satisfactory progress is being made in the implementation of the Charter and, in appropriate cases, making recommendations for its more effective implementation.

Article 16

The reports and information referred to in paragraph 1 and the reports of the Social Committees referred to in paragraph 2 of the preceding Article shall be referred to the Consultative Assembly for its opinion. The Assembly shall examine them in accordance with such procedure as it shall itself determine and may make recommendations to the Committee of Ministers relating to the Implementation of the Charter.

Article 17

1. The reports of the Social Committee referred to in paragraph 2 of Article 15, and any recommendations made by the Consultative Assembly in accordance with the provisions of Article 16, shall be considered by the Committee of Ministers, which shall decide what action to take thereon.

Article 9The right to a high standard of health⁽¹⁾

In order to ensure the enjoyment of this right, the High Contracting Parties will take all appropriate measures :

- (a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child ;
- (b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors ;
- (c) to prevent epidemic, endemic and other diseases ;
- (d) to organise services and facilities so that all may receive effective medical attention in the event of sickness, irrespective of their economic circumstances.

Article 10Rights of the Family⁽²⁾

1. With a view to ensuring the economic and social protection of family life, the High Contracting Parties will endeavour to introduce progressively or to maintain measures to facilitate the founding of houses, to lighten the economic burden borne by families with children and to develop organs of general family guidance.

(1) See Article 12 of Doc. 403; See Article 13 of the Draft Covenant of the U.N. Commission on Human Rights.

(2) See Article 11 of Doc. 403 ;
See Article 10 (3) of the Draft Covenant of the U.N. Commission on Human Rights.

2. They undertake to secure or to make available the following facilities and advantages :

- (a) measures to educate young persons for marriage ;
- (b) cheap loans for the founding of homes ;
- (c) preferential allocations of housing to families and persons wanting to marry, and rent reductions for low income families with many children ;
- (d) allowances to families whose breadwinners are subject to military services ;
- (e) tax reductions related to the size of the family ;
- (f) organisation of home help services.

Article 11

(1)

Rights of Mothers and Children

1. The High Contracting Parties will endeavour to take all necessary measures for the effective protection of mothers and children, including the establishment or maintenance of appropriate institutions for the purpose.

2. They undertake, for the protection of mothers:

- (a) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;

(1) See Articles 14 and 15 of Doc. 403.
See Article 10 of the Draft Covenant of the U.N. Commission on Human Rights.

(b) to provide, directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.

3. They undertake, for the protection of children:

(a) to establish or maintain specialised organs with powers to prevent the neglect of children;

(b) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

(c) to provide special services for homeless children and children and young persons who are physically or mentally handicapped, as well as juvenile delinquents.

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Article 12

Social services

1. The High Contracting Parties will endeavour, directly or in collaboration with local authorities and appropriate voluntary organisations, to establish or maintain social welfare services adjusted to the need for aid and guidance arising out of the changed situation of the individual in modern industrialised society.

2. They undertake to provide facilities for free legal advice and assistance to those who need it.

Article 13

(1)

The right to education

1. With a view to ensuring the enjoyment of this right, the High Contracting Parties undertake to do everything necessary to make primary education for children compulsory and free to all.

2. They will endeavour to introduce progressive measures in order:

(a) to make facilities for 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;

(b) to ensure a basic education for those persons who have not received or have not completed their primary education;

(c) to make university and other higher education accessible to all who are capable of benefiting by it.

(1) See Article 17 of Doc. 403
See Article 14 of the Draft Covenant of the U.N.
Commission on Human Rights.

P A R T IIIIMPLEMENTATION OF THE CHARTER (1)Article 14

1. The High Contracting Parties agree that a programme of implementation should be drawn up in order to secure the progressive implementation of this Charter and the extension of its benefits to all groups and sectors of the population.
2. This programme shall be drawn up by the Social Committee of the Council of Europe and submitted to the Consultative Assembly for its opinion.
3. On the basis of the proposals of the Social Committee and the opinion of the Consultative Assembly, the Committee of Ministers shall approve the programme of implementation and forward it to the High Contracting Parties for action. At the same time, it shall be communicated to the Consultative Assembly for information.

Article 15

1. The High Contracting Parties undertake to forward to the Secretary General of the Council of Europe annual reports

(1) See Part IV of Doc. 403. See Articles 17 - 24 of the Draft Covenant of the U.N. Commission on Human Rights.

2. The decisions of the Committee of Ministers shall be communicated to the Consultative Assembly.

P A R T IVFINAL PROVISIONSArticle 18 (1)

Nothing in this Charter shall be construed as limiting or derogating from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 19 (2)

1. In the event of war or 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.

2. 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.

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(1) See Article 14 of Dec. 105 and Article 50 of the Convention on Human Rights.

(2) See Article 15 of Dec. 105.

Article 20

Any High Contracting Party may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

Article 21⁽¹⁾

1. 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.

2. 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

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(1) See Article 15 of Dec. 1953.

period of five years, whereupon it may denounce the Charter on the expiry of each successive five year period.

3. 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 22⁽¹⁾

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

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

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

4. The Secretary-General of the Council of Europe shall notify all the Members of the Council 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 23⁽²⁾

The French and English texts of this Charter shall be equally authoritative. ./.

(1) See Article 17 of Doc. 403.

(2) See Article 18 of Doc. 403.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 23rd February, 1956.

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CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

DRAFT MINUTES

of the meeting held at 10 a.m. on Tuesday,
24th January 1956, at the Paris Office of the
Council of Europe, 55 Avenue Kléber

There were present:

Members:

M. HEYMAN, Chairman	(Belgium)
Miss BURTON, Vice-Chairman	(United Kingdom)
MM. MUTTER, Vice-Chairman	(France)
DEHOUSSE, Rapporteur	(Belgium)
ANDERSSON	(Sweden)
BENGTSSON	(Sweden)
BONDEVIK	(Norway)
Mrs. CROWLEY	(Ireland)
MM. HAEKKERUP	(Denmark)
MONTINI	(Italy)
RADIUS	(France)
Mme. SCHROEDER	(Fed. Rep. of Germany)
MM. TUNERKAN	(Turkey)
VIXSEBOYSE	(Netherlands)
Mme. WEBER	(Fed. Rep. of Germany)

Substitutes:

MM. COTTONE (for M. CADEVARI)	(Italy)
HOFLER (for M. SVEN)	(Fed. Rep. of Germany)
NICOLSON (for Miss PITT)	(United Kingdom)
STORCHI (for M. LUCIFERO)	(Italy)

Observers:

MM. LUGMAYER	(Austria)
STRASSER	(Austria)

Apologised for Absence:

MM. FENS	(Netherlands)
VAN KAUVENBERGH	(Luxembourg)
KIRN	(Saar)
MANOUSSIS	(Greece)
MELLISH	(United Kingdom)
MOUTET	(France)
SAVOPOULOS	(Greece)
STEFANSSON	(Iceland)
Mme. TLABAR	(Turkey)

Representatives of the Committee on Economic Questions:

MM. FEDERSPIEL, Chairman	(Denmark)
BADINI CONFALONIERI	(Italy)
CERULLI-IRELLI (for M. CINGOLANI)	(Italy)
HELLWIG (for M. LEVERKUEHN)	(Fed. Rep. of Germany)
KALBITZER	(Fed. Rep. of Germany)
MacBRIDE	(Ireland)
von SPRETI	(Fed. Rep. of Germany)

Observers:

MM. FANO	International Labour Organisation
GROS	United Nations Organisation
JACCHIA	Western European Union
KULAKOWSKI	International Federation of Christian Trade Unions
SCHEVENELS	International Confederation of Free Trade Unions
DAVIDSON	World Veterans Federation
ZUNIC	World Veterans Federation
Mlles. des GACHONS	World Union of Catholic Women's Organisations
SWAGENAKERS	World Union of Catholic Women's Organisations.

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The Meeting was opened at 10 a.m. with M. HEYMAN, Chairman, in the Chair.

2. EUROPEAN SOCIAL CHARTER AND EUROPEAN ECONOMIC AND SOCIAL COUNCIL (Contd.) (see AS/Soc (7) 21 revised)

The Chairman informed the Chairman and members of the Committee on Economic Questions of the decisions taken by the Committee on Social Questions on the previous day.

At the proposal of the Chairman, the meeting proceeded to discuss Part II of Doc. 403 article by article, in the light of Doc. AS/Soc (7) 21.

Mr. Robertson, representing the Office of the Clerk, explained the structure of Doc. AS/Soc (7) 21.

Miss Burton agreed to the revised wording of Article 1 and proposed that it be adopted as an amendment to Article 1 of Doc. 403.

Mme. Weber supported Miss Burton's proposal.

M. Federspiel made the general comment that he had no objection to the system of "headings" adopted in AS/Soc (7) 21, since he thought it was very doubtful whether social rights could be defined. There being no definition of the right covered by Article 1 of this document, he considered, therefore, that the words "in the exercise of this right" should be deleted from paragraph 1 and proposed a sub-amendment to this effect.

M. Mutter said he was opposed to the system followed in Doc. AS/Soc (7) 21, since it amounted to a major change of structure. He preferred the system of Doc. 403 (Part. II) which consisted in a definition and an affirmation of each social right.

M. Montini agreed with M. Mutter.

Mr. Nicolson was opposed to the system adopted in Doc. 403. Moreover, he questioned the possibility of exercising the rights in question. Subject to certain reservations, concerning such matters as the possibility of finding headings for every Article, he approved the version appearing in Doc. AS/Soc (7) 21.

At the proposal of the Chairman, a vote was taken on the question whether the system of definitions followed in Doc. 403 should be replaced by the system adopted in Doc. AS/Soc (7) 21 in respect of Article 1.

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The new system was approved by 8 votes to 6.

M. Mutter pointed out to the Chairman that, as a result of this vote, all idea of proclaiming social rights had been abandoned so that there could no longer be any question of exercising such rights.

The Chairman replied that the vote only affected Doc. AS/Soc (7) 21 insofar as it was an amendment to Doc. 403. He moved that sub-amendments (particularly that of M. Federspiel) be held over to the next meeting, since members had not yet received written texts.

After a discussion on procedure, in which Miss Burton, MM. Nicolson, Haekkerup, MacBride, Dehousse, Mutter and Radius took part, a vote was taken, at the proposal of Miss Burton, to determine whether sub-amendments would be included in the examination of Doc. 403 (amended).

Seven members were in favour of this procedure.

M. Dehousse pointed out to the Chairman that no count had been taken of votes against the motion.

After further discussion concerning the usefulness of voting at this stage of the proceedings, in which MM. Mutter, Dehousse, Radius, Nicolson, MacBride, Haekkerup and Miss Burton took part, the Chairman moved that all voting be deferred to the next meeting and that the present meeting be confined to a general discussion of Docs. 403 and AS/Soc (7) 21.

The Chairman's motion was adopted by 9 votes to 8.

M. Schevenels, speaking on behalf of the International Confederation of Free Trade Unions, said that his organisation was strongly opposed to the wording of Article 1 embodied in Doc. AS/Soc (7) 21.

Mr. MacBride thought it would be useful if the experts could first be consulted as to whether the Governments were prepared to accept the proposed version. This suggestion was seconded by Miss Burton.

The Chairman, in reply to Mr. MacBride, pointed out that a procedure must be established for the exchange of views with the Social Committee. The question at issue was whether the Assembly should not reach a decision before this exchange of views took place.

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M. Federspiel believed it would be necessary to appoint a sub-committee. He explained the general purpose of his sub-amendments:

1. It was essential to distinguish clearly between "definitions" and "pledges". Only the latter were vital, for definition was a matter for the theorist.
2. In the new text all provisions not containing a definite pledge should be deleted.
3. Agreement must be reached on the text to be submitted to the experts, and here the text of Article 1 of Doc. AS/Sec (7) 21 would be useful.
4. The Committee on Economic Questions was unanimously hostile to the proposed Economic and Social Council as an organ for implementing the Charter. Moreover, there had never been a decision by the Assembly connecting the Economic and Social Council with the Social Charter. On the other hand, the idea of an Economic and Social Council might be incorporated in a separate proposal and submitted in its turn to the experts. In this connection, an idea worth retaining would be to deal with the questions simultaneously while at the same time preserving the strict identity of each.

M. Montini agreed with M. Federspiel that there must be a distinction between a "definition of rights" and "pledges", but claimed that this was precisely what Doc. 403 achieved. It seemed to him that there was justification for asking M. Federspiel to draft a text of his own which would make this distinction clear. This applied, moreover, to an alternative text for the Economic and Social Council, since the Committee on Economic Questions had failed to submit one, despite the fact that the Assembly had clearly requested the creation of such a Council in its Resolution 26.

M. Federspiel drew attention to point 3 of Order No. 79, concerning the exchange of views with the Social Committee. If the Committee on Social Questions did not wish to participate in this exchange of views, the Committee on Economic Questions might feel justified in doing so alone.

M. Hulakowski, speaking on behalf of the International Federation of Christian Trade Unions, informed members that, as a result of a decision by its Committee on European Questions, the International Federation had taken a firm stand against Doc. AS/Sec (7) 21, for the reasons explained in Doc. AS/Sec (7) 21 which had been placed before the Committee.

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4. DATE AND PLACE OF THE NEXT MEETING

After a discussion, in which M. Dehousse, the Chairman, Mme. Schröder and M. Federspiel took part, the Chairman moved that the Committee meet again in Paris on 6th, 9th and 10th March, 1956.

This was agreed.

The meeting was closed at 12.30 p.m.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 20th January, 1956

Restricted
AS/Soc (7) 26
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

European Social Charter

Comments on the note by the Clerk of the
Assembly (Doc. AS(7) 21), submitted by
the International Federation of Christian Trade Unions.

Information document

INTERNATIONAL FEDERATION OF CHRISTIAN TRADE UNIONS

148, rue de la Loi,
BRUSSELS - BELGIUM

Note concerning the European Social
Charter, commenting on the note by the Clerk
of the Consultative Assembly of the Council of Europe
(Doc. AS/Soc (7) 21)

Although it has not had the opportunity of carrying out a detailed analysis of document AS/Soc (7) 21, which reached it late, the I.F.C.T.U. has the following preliminary comments to make on this document:

1. This document cannot possibly be regarded as being a compromise solution and it is even questionable whether it is fully in accordance with Order No. 79 of the Assembly and this for the two following reasons:

- (a) it seems to accept fully all the objections made in the course of the debate of October last, without having discussed them or put them to a vote, although some of them were clearly based on an erroneous interpretation of the text;
- (b) nearly half of the draft drawn up by the Committee on Social Questions of the Assembly has been purely and simply cut out by mentioning, in a somewhat arbitrary fashion, only the unfavourable references to the draft and by disregarding the other comments approving it as a whole, either without any reservations or with only a few criticisms of detail.

2. The new draft in which both the preamble and the definition of rights have been severely curtailed may no longer, in its new form, be of any interest to the workers of the countries concerned.

3. Despite the elimination of all the provisions which have been criticised, it is intended to implement this Charter in a gradual manner. But both this implementation and its control

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are exclusively entrusted to the Committee on Social Questions, in other words to the Government officials. Thus there is a risk that, of all the existing inter-governmental organisations, the Council of Europe may seem the one least desirous of securing the participation in its work, on a consultative basis, of the trade and professional and social organisations of the various countries, even in the sectors with which they are most directly concerned.

4. Thus the main criticism that may be levelled at the new draft is that it is manifestly technocratic and will undoubtedly not be regarded as acceptable by the professional and social organisations, in particular by the Trade Unions.

5. Moreover, in view of the working schedule of the Social Committee of Governmental Experts there are grounds for fearing that this progressive implementation will be extremely slow.

6. We trust that, in accordance with Order No. 79 of the Assembly, the competent Committees will amend the draft discussed in October 1955 and refrain from cutting out several of the most important parts of this draft which would completely alter its character. The I.P.C.T.U. has accordingly drawn up a detailed reply to the objections made, in order to help to improve the draft, having due regard to any really justified criticisms to which it has been subjected.

7. Without being opposed in principle to the holding of a tripartite conference to consider the draft European Social Charter, we would point out that if such a Conference is held under the aegis of the International Labour Organisation, it would be attended by a governmental delegation in addition to workers' and employers' delegations. Such a composition calls for the following two comments:

- (a) the governmental delegates would almost certainly play a decisive part in the decisions taken by the Conference on a document drawn up by the governments concerned;
- (b) many social categories due to benefit from the application of the Charter and to which, therefore, its contents are of the highest importance would not be represented at such a Conference.

8. By virtue of Order No. 79, we therefore suggest that Doc. No. 403, as amended after an exchange of views with the Committee on Social Questions, be submitted anew to the consultative Assembly during its Eighth Session for consideration and a vote.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 10th February, 1956.

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CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

EUROPEAN SOCIAL CHARTER AND ECONOMIC AND SOCIAL COUNCIL

Memorandum by the International Federation of
Christian Trade Unions

Information Document

REPLY TO OBJECTIONS TO THE DRAFT RECOMMENDATION
FOR A EUROPEAN SOCIAL CHARTER AND ECONOMIC AND
SOCIAL COUNCIL (Doc. 403 of the Council of Europe)

Having given a brief account of the background to the document under consideration and of the positions previously adopted by the I.F.C.T.U., the Secretariat of the I.F.C.T.U. now proposes to discuss the main objections to the draft, in the light of what has been said in Part I above.

A number of objections, some serious and some slight, were raised by members of the Consultative Assembly during its debate on the draft on 18th October 1955, and we shall do our utmost in the following pages to answer these objections objectively.

In the interests of clarity, our replies have been grouped under three heads:

- A. Objections to the preamble to the Charter and to the definitions of the rights concerned (Parts I and II of the draft);
- B. Objections bearing upon the Economic and Social Council (Part III of the draft);
- C. Objections bearing upon the implementation of the Charter (Parts IV and V of the draft).

A. OBJECTIONS TO THE PREAMBLE AND TO THE DEFINITIONS OF THE RIGHTS CONCERNED

Here, we distinguish between general objections and objections relating to specific provisions of the draft, which are discussed in that order.

(a) General Objections

- (i) The Charter can only record what is already effective in all the countries concerned.

This important and fundamental objection was most clearly formulated by two British Representatives: Miss Pitt and Mr. Nicolson.

Miss Pitt drew attention to Soviet Russia where, in theory, there are innumerable stringent regulations for the benefit of the worker, whereas, in practice, these are generally ignored. She also wondered whether over-hasty action might not undermine the confidence of the workers in the Member States of the Council of Europe.

Mr. Nicolson thought that a Charter containing provisions which some - if not all - Member States had no prospect of applying at once would be an unrealistic document. In his view, the only realistic approach would be to restrict the Charter to a statement of the position now obtaining in all the countries concerned. Mlle. Klompcé also stressed how essential it was not to arouse false hopes.

It seems to us that one should consider objectively what practical purpose would be served by an international convention, amounting to a statement by the Governments that they did not intend to deprive the workers of their existing social benefits. Indeed, it is by no means certain that the adoption of such a "Social Charter" would not be more of a handicap than an advantage, particularly from the point of view of working class interest in the cause of European unity.

It is an unfortunate fact that at present the confidence of the workers in the Council of Europe does not go very deep, and the adoption of a Social Charter is the very thing which might overcome the relative indifference of the workers to the idea of a united Europe.

However, it is no use expecting this result if the Charter proves to be a mere catalogue of existing national legislation. What would seem to us unrealistic would be a failure to understand the power of attraction which Soviet totalitarian ideology exerts upon a substantial section of working class opinion. The only possibility of halting and eventually reducing this unfortunate influence - based on an illusory, though deeply-rooted hope - is to provide an alternative prospect of improved conditions and social progress through freedom.

If the weight of this argument is recognised, it follows that the European Social Charter must not only proclaim certain rights, but also define a series of objectives which look beyond the present situation, and which the States propose to attain on the clear understanding that it shall be by progressive stages.

(ii) The implications of the commitments undertaken by the States are too vague

This point was raised by such speakers as: Mr. Corish, Irish Minister for Foreign Affairs, who thought that there was uncertainty as to the scope of certain rights mentioned in the draft Charter; Mlle. Klompé, who made the same comment, particularly with regard to the Preamble, Miss Pitt, who considered the wording of Part II to be too rigid, and Lord Lorton who demanded categorically whether, in its present form, the draft would imply sacrifices of sovereignty.

No part of the draft Charter should be analysed without reference to the others. Thus, when determining how far the States will be committed by proclaiming their subjects' rights under Part II of the draft, it is clear that one must refer to other provisions of the Charter, for instance to Part IV which deals with its implementation. Article 34 seems to be particularly explicit in this connection, since its penultimate paragraph reads as follows:

"The reports referred to in sub-paragraph (b) above ... " (these being the annual reports in which the States will announce progress made towards fulfilling their obligations under the Charter) "... shall be submitted from time to time according 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..."

The implications of this text are clear:

(a) The measures whereby each country which has ratified the Charter will honour the rights recognised therein will be introduced on a progressive basis, the stages being determined by a programme to be prepared by the Economic and Social Council;

(b) The details of this programme for the progressive implementation of the Charter cannot be settled in the last analysis, unless there is agreement between the Governments of all the States ratifying the Charter. Since the adoption of this programme requires the approval of the Committee of Ministers and since decisions of the Committee of Ministers are subject to the unanimity rule, it is clear that any provision which a Party feels unable to accept will have to be withdrawn from the programme.

If any uncertainty still subsists on this score, Article 40 (Part V) adds a further clarification, for it states:

"The measures which the High Contracting Parties have undertaken to adopt under Part II of this Charter may be introduced by states in accordance with the programme drawn up by the Economic and Social Council ..."

Thus, there can be no question of the draft Social Charter implying loss of sovereignty, since, so far as its implementation is concerned, the states will only be committed to the extent which their Governments feel able to accept.

- (iii) The State is given excessive powers and state control is too pronounced.

This objection was raised more or less explicitly by Mr. Corish, Miss Burton and Miss Pitt, who particularly feared that there might be government interference in fields which, in some countries, are left to collective bargaining, M. Birkelbach, whose main fear was that the public authorities might interfere with the right to strike, Mlle. Klompé, who particularly mentioned the over-exclusiveness of such institutions as the labour inspectorate or a bi-partite labour tribunal, and, finally, M. Federspiel, who reserved his main criticism for the state control aspects of Part II of the draft.

It is unfortunately clear that, if the public authorities in the various countries do not take it upon themselves to ensure the observation of certain minimum social standards, the social conditions enjoyed by many workers will leave much to be desired. Doubtless, certain clauses of the preamble or Part II would benefit from a clearer statement that methods of implementation are equally acceptable - and perhaps even preferable - if they are based on collective agreements between employers' and workers' organisations rather than on legislation. Even so, two further comments should be made:

(a) Even in countries where a relatively high proportion of the wage-earners are covered by collective contracts, there are still many who are not so covered, which justifies the incorporation of minimum social standards in state legislation;

(b) It would be a mistake to think that the social rights set forth in the Charter should relate to wage-earners alone. A substantial proportion of non-wage-earning employees can effectively enjoy minimum social safeguards only if there is

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legislation providing for such safeguards, since they enjoy no protection under collective agreements.

From a broader standpoint, it may be pointed out that the idea of a Social Charter ratified by the States has no practical value unless it is recognised that the public authorities are under an obligation to ensure the pursuit of justice and to promote social progress. It would seem, therefore, that a certain measure of "state control" in social matters is essential to the very idea of a European Social Charter. Conversely, outright opposition to the idea of State intervention in social matters is tantamount to a denial of the usefulness of a European Social Charter. Such a political stand would have serious consequences, as we shall have reason to mention later.

(iv) The economic implications of the Social Charter are of paramount importance

Two Representatives drew particular attention to this point: Mr. Nicolson, who stressed that the determining factor in social progress was the degree of economic prosperity achieved, and M. Federspiel, who, in a letter to the President of the Consultative Assembly (Doc. 407) criticised, among other things, the provisions relating to full employment and to the means of securing or maintaining it (volume of investment, re-training and resettlement of workers, etc.). Mr. Federspiel also emphasised that "many economic policies are highly controversial", that we have but "faulty knowledge of the complex working of the economic mechanism" and that "the principle of full employment and that of the stability of the purchasing power of money 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."

All these remarks are, of course, based on incontrovertible facts, but they also relate to economic trends, which might - as in the past - have most unfortunate social consequences. We therefore regard it as essential not to overlook them in a European Social Charter.

This would seem an appropriate place to mention that the International Labour Convention on the "Employment Service", (Convention No. 88 - 31st Session of the Conference, San Francisco, 1948) has already been ratified by 22 states, about 10 of which are members of the Council of Europe (including the Federal Republic of Germany, France, Italy and the United Kingdom). Now this Convention contains the following provisions:

"Each Member of the International Labour Organisation for which this Convention is in force shall maintain or ensure the maintenance of a free public employment service.

The essential duty of the employment service shall be to ensure, in co-operation where necessary with other public and private bodies concerned, the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment, and the development and use of productive resources."

The Convention is particularly clear concerning the aim in view but makes no reference to the means of attaining it, because the International Labour Organisation is forbidden by its constitution to deal with questions of political economy proper. Such would not, however, be the case with the European Social Charter.

We take the liberty of stressing once more the care shown by the authors of the draft in handling the implementation of those measures whereby the States are to fulfil their obligations. The programme of implementation by stages will be prepared with due regard to the complex economic implications of certain provisions of the Charter. This will be done after careful discussion first by the Economic and Social Council, then by the competent committees of the Consultative Assembly and the Assembly itself and finally by the Committee of Ministers assisted by its committees of experts.

- (v) To standardise the legislation of the various countries might impede social and economic progress

This objection was put forward mainly by M. Federspiel, who feared that the Charter might disturb the traditions of the various countries and stressed that, since the economic and social situation is in a constant state of evolution, what seems to be revolutionary today may be outmoded tomorrow.

Several answers to previous objections apply equally here.

In the first place, since the programme of implementation must be approved by the Committee of Ministers, it is obvious that any provisions likely to disturb the traditions of a Party (and this could only result from faulty wording) could only be included as long-term targets.

Secondly, there may well be different methods of determining whether minimum social standards are being applied in the various countries. Moreover, the provisions of Part II of the draft could hardly be described as revolutionary in relation to the de facto if not the de jure situation now existing throughout the countries concerned. Finally, as we have just mentioned in a specific context and shall have reason to repeat in subsequent pages, a significant number of these provisions already have their place in International Labour Conventions, many of which have been ratified by the majority of the Member States of the Council of Europe.

Nevertheless, the wording of certain clauses of the preamble and Part II of the draft could doubtless be touched up, so as to make them more acceptable to the States in general, whatever the nature of their own social legislation. We shall point this out when appropriate in the following section, where we consider objections to specific provisions of the draft.

(b) Objections to certain rights defined in the draft(i) Participation in the profits of the undertaking
(paragraph 7 of the Preamble).

This paragraph, which aroused some opposition, particularly with regard to the concluding lines, might be reworded to meet objections.

Whereas the workers should be entitled to a share in the fruits of their labours - and there seems to be no opposition to this principle - it might be wiser to delete the last part of this sentence which refers to participation in the profits of the undertaking, this being only one of many measures whereby workers may have a share in the fruits of their labours. Should this part of the sentence be retained, it will be necessary to specify how such participation shall take place. At all events, account must be taken of objections raised on grounds of special national situations and particular economic and social concepts.

(ii) Overseas territories and under-developed areas
(paragraphs 10 and 11 of the Preamble)

The I.F.O.T.U. attaches great importance to these two provisions. With regard to the objections raised by M. Federspiel it should be pointed out that, being placed in the Preamble, these provisions entail no strict political and economic obligation, but only a highly important moral obligation. Moreover, even from the economic point of view, any policy other than that recommended in these paragraphs would be short-sighted and fraught with long-term risks for the signatory States have to co-exist with other powerful economic systems, like that of the United States and the Communist blocs. In the long run, therefore, economic interest would here appear to coincide with moral duty.

- (iii) Participation of workers, employers and consumers in the formulation of European economic policy (paragraph 12 of the Preamble).

Here the I.F.C.T.U. would urge the need for a precise definition of the term "consumers", for the term should not only cover industrial consumers but also small or, in other words, individual consumers.

Since the contents of this paragraph are not only "an embodiment of the principles of democracy", but also an expression of social reality, the I.F.C.T.U. proposes that a statement to this effect be inserted.

Paragraph 12 would therefore read as follows: "... regard it as an embodiment of the principles of democracy and as an expression of social reality ..." Moreover, instead of merely referring to economic policy, it might be better to use the term "economic and social policy".

- (iv) Lowering of barriers to free circulation (paragraph 13 of the Preamble).

This principle is by now seldom challenged in Europe, but it is being progressively realised on a regional scale (E.C.S.C., Northern Council, the common market recommended by the Messina Conference).

- (v) Full employment (Article I of the draft Charter).

Referring to "the maintenance of the volume of investments needed for full employment", M. Federspiel points out that there are cases where this may not be the best system. However, it would hardly be realistic on the part of Governments to try to practice a policy of establishing or maintaining full employment without keeping a close watch on the overall volume of public and private investment. It can be assumed that this factor is not in itself sufficient to guarantee success. However, it should be pointed out that the second paragraph of this same Article, devoted explicitly to "the right to work", begins with the words

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"The High Contracting Parties undertake, inter alia, to ensure the maintenance of the volume of investments ...". We underline the phrase "inter alia", for it shows clearly that the attention which the Governments will pay to the maintenance of the volume of investments is not intended to rule out a series of other measures necessary to the establishment or maintenance of full employment.

(vi) Adjustment of wages to the cost of living (Article 2 (b))

M. Birkelbach suggested that wages should be adjusted to the trend of the national income rather than to the cost of living.

The insertion of this idea would genuinely improve the text, since it is less relative than the term "economic situation". However, it would also seem advisable to retain the reference to an adjustment to the cost of living, so that the Governments may have an incentive for ensuring stability in this matter.

The final paragraph of Article 2 (b) could thus comprise three factors: the trend of the national income, the economic situation and the rising cost of living.

(vii) Progressive reduction of work to a 40-hour week - retirement at the age of 65 (Article 2 (d) and (h))

These two provisions are linked together in deference to M. Federspiel, who thought that the combination of these two "rights" might "defeat a third economic objective, for instance the duty placed on Governments to supply consumer goods and housing at moderate prices", which in his view was "potentially the most far-reaching economic provision of the Charter."

M. Harlem thought that the provision specifying retirement at the age of 65 was too rigid and might harm the interests of the workers or hamper the economic policy of certain States. Mme. Gloerfelt-Taro and Miss Pitt took the same view, whereas Mlle. Klompé considered the paragraph dealing with the working week to be too sweeping.

These points call for the following remarks:

(a) The progressive nature of the proposed measures must not be overlooked;

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(b) The reduction of the working week and the postponement of the retiring age, far from being mutually inconsistent, are perfectly in harmony with a sound productivity policy and the prospect of new productive methods through the progressive introduction of automation and the peaceful use of atomic energy;

(c) There is specific provision for a working week of over 40 hours in return for increased rates of pay for overtime;

(d) There is a reservation covering "essential adjustments for certain professions", which seems to give the text the necessary elasticity;

(e) In view of the foregoing, the proposed measures in no way frustrate the aim of providing consumer goods and housing at moderate prices, given of course a policy of high wages based in its turn on a sound policy of productivity and the introduction of automation and atomic energy for peaceful purposes. The example of the United States provides convincing proof of this contention;

(f) Paragraph (h) could, no doubt, be amended to begin with the words "the possibility of retirement at the age of 65, with the certainty at that age of a pension". This would show that workers had the alternative possibility of remaining at work beyond the age of 65, if they so desired.

- (viii) A maximum working day of six hours for persons under 16 years of age (Article 3 (c)).

We disagree with certain objections which have been raised, consider this provision to be fair and urge its retention.

- (ix) Participation of workers in the management and profits of an undertaking (Article 4)

With regard to this Article, the I.F.O.T.U. wishes to return to the suggestions put forward in its Memorandum of 8th June 1955 (Doc. AS/Sec (6) 32), which tally with our comments on paragraph 7 of the Preamble and, to a certain extent, with M. Federspiel's criticisms. Our suggestion is that paragraph 1 of this Article be confined to a statement that "everyone has the right to share in the management of his work and in the fruits of his labours", thus omitting unnecessary conditions and implications. In paragraph 2, the reference to a share in the profits might be deleted, since it invites criticism as to ways and means. Instead, there could be a reference to the participation of the workers in the administration of the national and international economy. The second part of this paragraph would thus read as follows: "... the establishment of organs of joint management whereby the workers may have a share in the life and management of the undertaking and in the administration of the national and international economy".

- (x) The right to strike (Article 6)

M. Federspiel criticised this provision on the grounds that it might jeopardise other legitimate rights.

It seems to us that the very wording of the second paragraph of this Article should allay any such fear, for it states that the High Contracting Parties undertake to introduce the necessary legislative measures "to regulate the conditions and exercise of that right". It goes without saying that the measures for regulating the conditions of the right to strike will include all precautions needed to safeguard other legitimate rights which might be endangered by the right to strike if there were no regulations.

Moreover, the I.F.C.T.U. would repeat its previous suggestion that the words "or other" be inserted between the words "legislative" and "measures", since there are countries where the right to strike operates smoothly without legal regulations and without prejudicing other rights, and since the state intervention should be restricted to absolute essentials.

(xi) Freedom of association (Article 7)

Miss Burton was doubtful about this provision, since she felt it might lead to an unnecessary proliferation of trade unions.

We would point out that International Labour Convention No. 87 on Freedom of Association and Protection of the Right to Organise (31st Session of the International Labour Organisation, San Francisco, 1948) has already been ratified by about ten Member States of the Council of Europe, and particularly by Great Britain. This Convention includes the following provisions:

"Art. 2. Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

"Art. 11. Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise."

Similarly, Convention No. 98 on the Right to Organise and Collective Bargaining (32nd Session of the Conference, Geneva, 1949), which has been ratified by ten Member States of the Council of Europe (including the United Kingdom, Sweden, Norway and Denmark), contains a provision to this effect:

"Art. 1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment."

Article 7 of the draft Charter could hardly be interpreted as going further than these established International Conventions.

- (xii) Family allowances: allowances enabling the mother to remain in the home. (Article 14 (a) and (b))

Miss Pitt expressed a reservation concerning the grant of allowances in proportion to the number of children, pointing out that this was a matter for social insurance.

Mme. Gloerfelt-Taro and Miss Pitt disagreed with the grant of allowances to enable the mother to remain in the home. Miss Pitt, for instance, regarded this idea as somewhat old-fashioned, thought that it would be a mistake to force women to waste their time at home and feared the provision might give the impression that the Consultative Assembly wished to keep women in the home.

With regard to the first point, it may be pointed out that nothing in the wording of Article 14 prevents the grant of family allowances under a general system of social security. This approach has already been adopted by at least one Member of the Council of Europe, namely France, where family allowances have reached the highest scale yet known.

As for the "supplementary allowance to enable the mother to remain in the home", the wording of the text, at any rate in French, rules out any idea of an obligation upon mothers to remain in the home. Its purpose, on the contrary, is to offer this opportunity to a great number of mothers in modest circumstances who are now obliged to supplement the inadequate earnings of their husbands by seeking outside work, whereas they would prefer to look after their homes and bring up their children.

- (xiii) The grant of leave before and after childbirth (Article 14 (c)).

The wording of this Article was considered to be too rigid and led to interventions by: Mme. Gloerfelt-Taro, Miss Burton, Miss Pitt and M. Tumerkan. Mme. Gloerfelt-Taro, in particular, suggested that the duration of maternity leave might be made dependent on the health of the individual and requested that maternity protection costs be borne by the State, so that employers should not be tempted to refuse female labour.

Here we should refer to two International Labour Conventions on Maternity Protection: Convention No. 3 (1st Session of the Conference, Washington, 1919) and the revised Convention No. 103 (35th Session, Geneva, 1952). The latter Convention, being very recent, has so far been ratified by very few States, but Convention No. 3 has been ratified by several Member States of the Council of Europe, including the Federal Republic of Germany, France, Greece, Italy and Luxembourg.

The essential provisions of this Convention are as follows:

Every woman employed in industry or commerce has the right to leave her work six weeks before the probable date of her confinement and is not permitted to work for a period of six weeks following her confinement. The allowances to which she is entitled during these two periods must be sufficient for the full and healthy maintenance of herself and her child and must be provided either out of public funds or by means of a system of insurance.

The revised Convention of 1952 has slightly amended the above provisions with regard to maternity leave entitlement and now stipulates that the duration of such leave shall be at least twelve weeks, six of which must compulsorily be taken after confinement.

Thus, the text of Article 14, paragraph (c) of the draft Charter could no doubt be made somewhat more elastic. On the other hand, one could hardly insert in a European Charter drawn up in 1955 or 1956 provisions which are not at least as generous as those of the 1919 World Convention, which has since been ratified by 16 States.

- (xiv) Availability of secondary education and technical or vocational training to all persons up to the age of 18 years (Article 17 (b)).

Miss Pitt observed that this provision might cause serious dislocation in the member countries.

It seems impossible to interpret the wording of this paragraph as an extension of the compulsory school-leaving age to 18 years. It would seem to imply the acceptance by the States of a series of measures designed to make either secondary education, or technical or vocational training of an equivalent standard available to everyone up to the age of 18 years.

Despite our previous remark concerning the implementation of the Charter "by stages", it might be advisable to reword this paragraph slightly, in order to bring out more clearly that it is not only the aim of free education which is to be achieved by stages (this is already clear), but also the availability of education to all persons up to the age of 18 years. The paragraph might be reworded as follows:

"(b) To make secondary education, in its different forms, including technical and professional training, increasingly available up to the age of 18 years and increasingly free."

(xv) The education of children (Article 18).

MM. Jacuet and Silvandre have tabled an amendment to this Article calling for the deletion of the principle whereby parents are free to provide their children with an education in conformity with their own religious and philosophical convictions.

The I.F.C.T.U. would recall that the wording of this Article is based on the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

This basic parental right, which is also a basic right for the children, must be endorsed by the Charter. This amendment therefore seems to us unacceptable.

B. OBJECTIONS TO THE ECONOMIC AND SOCIAL COUNCIL

Here again, we shall reply in turn to fundamental objections and to those relating to specific points.

(a) Fundamental objections

(i) It is doubtful whether it is desirable to co-ordinate the viewpoints of non-governmental organisations within an Economic and Social Council.

M. Federspiel developed this argument, admitting, however, that "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."

The first thing we feel obliged to point out is that, according to the provisions of Part III of the draft Charter, and particularly Article 25, it is not the international organisations which are to propose candidates for membership of the Economic and Social Council, but the national organisations. Clearly, the international organisations must be associated with the work of the Council, but that can only come about by the appointment of observers.

In view of this, we regard it as most important that arguments for or against specific measures for European economic and social co-operation should be expressed publicly and in the presence of highly qualified representatives from all the professional groups of the various countries. We base this belief on two considerations:

- In every country, pressures upon the Government in connection with the improvement of European economic co-operation are brought to bear more frequently by professional groups which rightly or wrongly believe that they will be unfavourably affected by the measure in question, than by groups which expect to benefit thereby. If the political authorities, which alone have the power to reach a decision, are to form a strictly objective judgment, they must gain a clear idea of the relative strength of the arguments on both sides; and the very best method of obtaining such information is to hold a public exchange of views between favourable and hostile groups. It is always more difficult for spokesmen of professional groups to raise flimsy objections in the presence of other professional representatives than in discussions with government officials or experts, whatever the knowledge and standing of the latter.

- In the second place, workers' organisations in most countries feel that employers' groups more easily gain a hearing in governmental and political circles than they themselves do. They therefore believe that certain economic or social decisions of the political authorities may be swayed by covert arguments to which they have no opportunity of replying. Even though this belief may be largely unjustified, it would be worth while destroying its foundations by setting up an institution like the Economic and Social Council.

At all events, the main function of the Economic and Social Council will be to permit exchanges of views rather than to co-ordinate them. Only in exceptional cases will exchanges of views on a given question lead to such a measure of agreement that the various groups will be able to express a unanimous or almost unanimous opinion. There are grounds for expecting that debates on most problems will end with a statement of divergent points of view. We shall have more to say on this point.

- (11) The Economic and Social Council might encroach upon the prerogatives of the political authorities.

M. Harlem, Mr. Nicolson, Lord Layton and Mlle. Klompé expressed anxiety on this score. M. Federspiel thought that such an institution might endanger the supremacy of the national Parliaments and even saw a possibility that the Economic and Social Council might by-pass the Committee of Ministers, thus acquiring a status not even enjoyed by the Consultative Assembly.

Perhaps the wording of certain Articles of the draft should be made more explicit in order to avoid all possible misinterpretation. However, on the basis of the present text, we do not see how one can read into the Economic and Social Council more than it is intended to be, namely:

(a) a consultative body attached to the political organs of the Council of Europe (Committee of Ministers and Consultative Assembly) and designed " ... to 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 sectors of European social and economic life" (Art. 21).

The consultative rôle of the Economic and Social Council in this field stems directly from paragraph (b) of the above Article, which lays down that recommendations

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prepared by the Council must have the concurrence of the Consultative Assembly of the Council of Europe.

(b) An institution for research and, possibly, investigation and enquiry attached to and acting on behalf of the European Consultative Assembly in connection with the implementation and supervision of the application of the Social Charter.

This second function of the Economic and Social Council stems in particular from Article 34, which lays down that the programme of implementation by stages shall be prepared by the Council: "...after consultation with the Governments of the High Contracting Parties and with the approval of the Committee of Ministers";; from Article 38 whereby recommendations of the Economic and Social Council concerning the implementation of the Social Charter may only be transmitted "... with the concurrence of the Consultative Assembly"; and lastly from Article 39 which states that: "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".

The effect of these provisions is to make the Economic and Social Council an appendage of the Consultative Assembly having powers to formulate its own decisions and suggestions in the economic and social field and explain to the Assembly the respective attitudes to these decisions both of the major professional and social organisations and of the experts sitting in its midst.

The most that can be said is that there is some uncertainty concerning the preparation of the programme for implementing the Social Charter. It is, indeed, laid down in the second paragraph of Article 34 that this programme must be approved by the Committee of Ministers, but there is no explicit reference to the need for the concurrence of the Consultative Assembly. This requirement would appear consistent with the general spirit of the text, bearing in mind the various passages already quoted, but there is nothing to prevent a formal directive to this effect.

(iii) A European Economic and Social Council would duplicate the work of existing organisations.

This objection was raised by the two Ministers, MM. Harlem and Corish, and by MM. Federspiel, Birkelbach, Nicolson and Fezet. It had previously been answered most

explicitly by M. Jacques Tessier, in a note dated June 1955. Moreover, this note was discussed at the time by M. Fernand Dehousse at the working party composed of members of the two competent Assembly Committees and was then placed in the files. We feel justified in pointing out that no attempt has since been made to refute the arguments of this document, the crux of which may be stated as follows:

(a) No other international organisation sets itself such ambitious aims as those of the Council of Europe, whose Members are required by the Statute to take "common action in economic, social, cultural, scientific, legal and administrative matters ...". Hence the need for a consultative organ operating within the framework of the Council of Europe which can ascertain the views and suggestions of all the professional and social groups of the member countries with regard to such "common action". There is obviously no other international institution which can fulfil this function.

(b) The International Labour Organisation, which is frequently mentioned by those who fear duplication, cannot fulfil the prospective functions of the Economic and Social Council:

- because its Statute allows it no scope for promoting the adoption of a common economic and social policy by its Member States, its "raison d'être" being the world-wide establishment of minimum standards in the field of international social legislation;
- because, as its Statute now stands, the regional conferences convened by the I.L.O. are unable to prepare regional conventions and, because the main result of the first European regional labour conference, which met in January 1955, was to show the great difficulty of finding useful bases for social discussion between the countries of Western and Eastern Europe;
- because the I.L.O. is prevented by its structure from inviting to its conferences all the major professional and social groups which are in some way directly interested in the progress of social and economic policy. (See Appendix 4 to this Memorandum: speech by the Secretary-General of the I.F.C.T.U. at the 130th Session of the Governing Body of the I.L.O.).

(c) The Organisation for European Economic Co-operation is an institution of the inter-governmental type, which means that the many committees, sub-committees and working parties which meet under its auspices entirely consist of Ministers or governmental and international officials. These are therefore organs of a decidedly technocratic nature, which are not primarily concerned with the views of the various professional and social groups interested in the problems under review. Organisations (even when they enjoy "consultative" status) are but rarely consulted and the decision to do so is left to the discretion of the committees concerned. The only exception - which concerns a very particular field - is the European Productivity Agency with its Consultative Council of 16 members.

(d) The United Nations Economic Commission for Europe is also an institution of the intergovernmental type, comprising European members of the United Nations belonging to the Eastern and Western blocs and possessing a great number of committees and sub-committees. Consultation of professional and social organisations is somewhat less defective here than in C.E.E.C., but it is nevertheless infrequent and strictly limited to the few international organisations which have been granted consultative status "Category A".

Considering the matter objectively, we cannot see how the prospective European Economic and Social Council is likely to duplicate any existing institution. The foregoing remarks do not apply to the tripartite Consultative Committee of the European Coal and Steel Community, the value of which is readily acknowledged by members of the High Authority. However, the competence of this Committee is confined to the six member countries of the E.C.S.C. and to the few economic sectors covered by the common market.

We hasten to add that the European Economic and Social Council must, of course, act in close co-operation with the other specialised world and European institutions, in all technical matters within its province. Nor has this need been overlooked by the authors of the draft, as may be seen from Articles, 21, 35, 36, 37 and 38 of the draft.

Thus, the final paragraph of Article 21 reads as follows: "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 European and a world scale, particularly those pursued within the framework of intergovernmental organisations".

As for Articles 35, 36, 37 and 38, we shall discuss them in section (c) below.

(b) Objections relating to particular points.

(i) The proposed composition of the Economic and Social Council may invalidate its decisions.

MM. Nicolson and Federspiel criticised the composition of the Economic and Social Council as proposed in Part III, and particularly in Articles 23 to 26 of the draft. The former said that inadequate representation was given to the experts, who in his view were the only persons competent, whereas the latter argued that the number of members allocated to the various groups of interests would inevitably be arbitrary and that there would be a scramble by the employers' and workers' groups for the largest possible share of the third group represented in the Council.

These objections may be answered as follows:

(a) The proper function of the Economic and Social Council is not to take decisions, but to formulate opinions or proposals for the political organs (Consultative Assembly and Committee of Ministers) which alone have the right to take decisions. Thus, the "majority" or "minority" for or against the final text adopted at a session will have no significance in themselves. On the other hand, the grounds on which the various groups base their support or opposition will be of the utmost importance, since they will be one of the factors determining the decision of the responsible political body.

(b) Bearing in mind what has just been said, it is natural that the experts should not be more fully represented in the Council than is now proposed. Most of the organisations invited to nominate representatives to the Economic and Social Council have their own experts, on whose specialised knowledge members of the Council will certainly rely. Moreover, when a proposal from the Economic and Social Council has been studied and approved by the Consultative Assembly, it will be transmitted to the Committee of Ministers, at which stage government experts will be called in, wherever necessary, to make immediate preparations for the decision of the Ministers.

- (ii) The creation of a European Economic and Social Council might weigh too heavily on the budget.

This argument, so far as we know, has only been put forward by Mr. Corish, and in passing by M. Birkelbach.

We do not propose to dwell on this point, for it seems to us to be unrelated to the substance of the question : some will doubtless regard the creation of an Economic and Social Council as a superfluous and even harmful measure, but theirs would be a poor case if it rested on financial grounds alone. Conversely, if the establishment of the Council is acknowledged to be both useful and essential from the economic, social and political standpoints, then budgetary considerations cannot be regarded as an insuperable obstacle, any more than they were when other international organisations were created.

To proceed on other assumptions would be to risk unfavourable psychological reactions, particularly in working class circles, which are keenly aware of the high level of national expenditure on armaments, even when they accept it as inevitable.

- (iii) The rejection of the E.D.C. deprived the proposed Economic and Social Council of its political foundations.

This objection was put most explicitly by M. Federspiel, and we shall try to make our reply equally explicit.

Is it really true that the only political basis for the creation of an Economic and Social Council under the auspices of the Council of Europe is the establishment or non-establishment of a Political Community of the Six, and a decision by that body to set up a Council? This would mean that States unwilling to join this political community saw no value in creating an Economic and Social Council of the Fifteen for other purposes than to gain a clearer insight into the affairs of the Community. For our part, we see no reason for accepting this interpretation.

It follows that the political basis of the plan to create an Economic and Social Council must lie in the answer to this question: is it or is it not expedient and desirable to associate the major professional, social and agricultural organisations, within the limits of their competence, with attempts to achieve European unity? That, in our view, is the real political issue, and, whatever may be the answer, it is bound to have far-reaching consequences.

- (c) Objections relating to the implementation of the Charter
- (i) The progressive implementation of the Charter might cause difficulty.

Mr. Nicolson argued that a programme could be carried out by stages, but not principles. M. Federspiel also expressed reservations concerning the system of implementation by stages and said that it was impossible to distinguish between the moral and legal obligations arising from the Charter.

It seems clear to us that, insofar as the Charter sets forth a number of principles, as for instance in Part I which takes the form of a Preamble, any State ratifying it thereby acknowledges its acceptance of these principles not on a progressive basis, but unreservedly.

On the other hand, the concept of a progressive programme of implementation becomes operative where the Charter goes further than a mere statement of intentions and records the determination of the Signatories to carry out various measures arising from these principles.

It is difficult to see how this progressive system could cause difficulty, since the procedure is very clearly described in Article 34, paragraph 2, and Article 40 of the draft.

There can be no doubt that some at least of the concrete measures mentioned in Part II of the draft could forthwith be put into effect by all the States ratifying the Charter, since - fortunately - they reflect the present state of affairs. This applies (this is not an exhaustive list) to the provisions relating to social security, health, vocational training, opportunities for professional promotion, the ban on the employment of persons under 14 years of age, freedom of association, etc.

Moreover, however much criticism there may have been of specific measures of Part II of the draft, many of the proposed measures gave rise to no objection, which tends to suggest that it is assumed that these, at least, could easily be applied in the various States.

Since, moreover, the details of each subsequent stage towards full implementation of the Charter will be clarified in a programme which - as we have already emphasised - must be approved by the Committee of Ministers, that is to say by all the Member Governments of the Council of Europe, the States ratifying the Charter would seem to be secure from any surprises regarding the pace of implementation. They

will never find themselves committed beyond a point freely accepted in advance.

Nevertheless, it might be advisable to state more definitely that the programme of implementation may itself be revised from time to time. In this case, the following sentence could be inserted after the first sentence of Article 34, paragraph 2:

"This programme shall be revised every five years, in accordance with the same procedure."

(ii) Other countries than the Member States of the Council of Europe should be able to accede to the Charter.

This comment, made by Mlle. Klompé, certainly deserves consideration, for we are bound to agree with such sentiments.

However, owing to the methods of implementation laid down in the Charter, whereby a decisive rôle will be assigned to various organs of the Council of Europe (Consultative Assembly, Committee of Ministers, European Commission of Human Rights), we cannot see how States not represented at Strasbourg could accede to the Charter.

(iii) The implementation of the Charter might be supervised by the Committee on Social Questions of the Consultative Assembly.

Both Mr. Corish and Mr. Nicolson put forward this suggestion, which seems to be based on two premises: that there is no valid reason for associating the competent professional and social organisations with the preparation of the programme determining by what stages the Charter shall be implemented; and that it is neither essential nor particularly advantageous to associate these organisations with the process of European economic and social co-operation.

(iv) Co-operation with international organisations

The I.F.C.T.U. attaches particular importance to Articles 35, 36, 37 and 38 which set up a system of co-ordination and consultation with the competent international organisations. Needless to say, the International Labour Organisation is the foremost of such bodies, and it would doubtless be useful to make special provision in these articles for particularly close, not to mention organic, co-operation between the Economic and Social Council and the I.L.C.

The interpretation placed by the I.F.C.T.U. on the expression "European or international organisations" in Articles 35 and 37 is that it covers both intergovernmental and non-governmental organisations, including the international trade union organisations.

With regard to Article 38, the I.F.C.T.U. would recall that, in its view, international non-governmental organisations are excluded from the Conferences mentioned in paragraph (b) on the assumption that they will have received satisfactory consultative status with the Economic and Social Council itself. The I.F.C.T.U. agrees to the present wording of Article 38, subject to this interpretation.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 24th February, 1956

Restricted
AS/Soc (7) 28

Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

EUROPEAN SOCIAL CHARTER

AND EUROPEAN ECONOMIC AND SOCIAL COUNCIL

Supplementary Memorandum by the International
Federation of Christian Trade Unions concerning
Document AS/Soc (7) 21 of the Council of Europe

Information Document

- I. In its Document 14/56, the I.F.C.T.U. briefly indicated the reasons for which it was obliged to reject Doc. AS/Soc (7) 21 as a new draft European Social Charter to replace the draft contained in Doc. 403. At the end of the Memorandum the I.F.C.T.U. stated that it would continue to consider Doc. 403 as a basic text, which, in accordance with the Assembly's Order No. 79, is to be re-submitted to the Consultative Assembly after amendment. The Memorandum by the I.F.C.T.U. has been added to the relevant documents of the Committee on Social Questions as Doc. AS/Soc (7) 26.

- II. In order to show everything that is contained and assumed in the draft embodied in Doc. AS/Soc (7) 21, it would be necessary to submit that draft to detailed examination, article by article. Such an analysis will no doubt prove to be essential at the next meeting of the Committee on Social Questions, having regard to the Committee's decision to consider the document in question as an amendment to Doc. 403. While rejecting the new draft Charter as a whole, the I.F.C.T.U. would nevertheless like to give its views on some of the proposed amendments, considered separately and apart from the general context of Doc. AS/Soc (7) 21.
- III. In any event the I.F.C.T.U. feels obliged to point out forthwith that it cannot agree to the two main features of the document in question, namely:
- (A) the proposal to adapt the provisions of the Charter to social legislation at present in force in the Member States of the Council of Europe by deleting a large number of concrete provisions from Doc. 403, such as those relating to the right to work, full employment and co-management, to mention only the most important; in many respects these changes would make of the Charter an instrument which sanctioned the social inertia in Europe, whereas it was originally intended to promote social progress; it was, indeed, for this reason that the draft Charter received the support of trade union organisations;
 - (B) the outright discarding of the proposal for a European Economic and Social Council, whereas the I.F.C.T.U. attaches prime importance to such a council, both as an institution for putting the Charter into effect and as an instrument for promoting a European policy in the economic and social fields.
- IV. Lastly, in the light of the recent work of the Committee on Social Questions and the Committee on Economic Questions of the Council of Europe, the I.F.C.T.U. wishes to submit the following comments:
- (A) the fact that the draft Charter contained in Doc. 403 is to be considered as the basic text in no way implies that it is perfect; it is

therefore essential that it be amended. The I.F.C.T.U. does not reject out of hand compromise proposals, that is to say, proposals which take account of conflicting views. Doc. AS/Soc (7) 21 cannot be considered as a proposal, since it is almost exclusively concerned with one of the two conflicting views.

- (B) The United Nations draft Covenant relating to economic, social and cultural rights recognises a whole series of subjective rights, which the draft contained in Doc. AS/Soc (7) 21 expressly fails to recognise. This is particularly the case with regard to the right to work (Article 6 of the draft Covenant), the right to just and favourable conditions of work (Article 7), the right to social security (Article 9), the right to an adequate standard of living (Article 12), the right to education (Article 14), etc. Mentioning these rights only in the titles of the Articles of the Charter cannot be considered as explicit recognition of them and would make the Charter more restrictive than the draft Covenant of the United Nations.
- (C) As is apparent from all its documents relating to this question, the I.F.C.T.U. does not in any way propose to ignore the economic repercussions of the provisions of the Charter, but wishes merely to place them in their true perspective.
- (D) The contention that the Charter must embody provisions acceptable to the Governments of all Member States of the Council of Europe cannot be considered as valid, since this would lead to a policy dictated by Governments and be contrary to the principle of the parliamentary system. Governments and, in the last analysis, national parliaments must take their responsibilities in this connection.
- (E) The drafting and implementation of the Charter cannot be entrusted only to governmental authorities. Parliamentarians and economic and social authorities must take part in this work, if technocratic and arbitrary conditions are not ultimately to prevail in Europe. It is for this reason that the first three methods of association of employers' and workers' trade union organisations and other non-governmental institutions in the activities of the Council of Europe, set forth in Doc. AS/Soc (7) 24, are quite

inadequate. Only the fourth method, namely that of setting up a Social and Economic Council can give satisfaction.

- V. The I.F.C.T.U. hopes that work on the European Social Charter and a European Economic and Social Council will be continued in accordance with the terms of the Assembly's Order No. 79. It, however, shares the view of those members of the Committee on Social Questions who consider that the absence of any agreement between that Committee and the Committee on Economic Questions will automatically preclude the implementation of Point 3 of the Order. As a result, the I.F.C.T.U. requests that the Consultative Assembly of the Council of Europe be called upon, at its Eighth Session, to give its views on the substance of the draft European Social Charter and European Economic and Social Council.

OUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 3rd March 1956.

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CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fifth Session

EUROPEAN SOCIAL CHARTER

Observations of M. Heyman, Rapporteur,
on the revised draft of the European Social
Charter submitted as an overall amendment to Doc. 403
by the Committee on Economic Questions (AS/EC (7) 24)

(Synoptic table comparing the draft Social Charter (Doc. 403)
with the overall amendment (Doc. AS/EC (7) 24).

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.

8. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Charter are extended to all groups and sectors of the population.

The paragraph in question is deleted in the amended version. The Committee's decision on the question will partly depend on the decisions it takes about setting up a European Social and Economic Council, and on the method of defining and recognising social, economic and cultural rights.

It seems essential for the Committee to state its views on this subject before beginning to examine Part II of the draft.

formulation of economic policy
at all stages and in all sectors.

3. 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.

4. 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.

12. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Charter applicable in the territory of each for the nationals of all. It shall be the aim of the High Contracting Parties to establish European standards (of social welfare) superior to those applied on a wider international basis.

member countries where organs with equal representation have been founded, the Rapporteur ventures to draw the Committee's attention to the importance of the proposed amendment.

Its authors seem to disregard the fact that the former paragraph 12 is only the expression of an opinion and implies no obligation on the part of the signatory States. In brief, there seems no valid reason for amending the text so radically.

The Rapporteur approves of the wording of para. 12 of the amendment, which embodies the former paragraphs 13 and 14, and would become paragraph 13

They will not derive profit from exploitation of the living conditions of the peoples politically or economically dependent on them. They recognize 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 organizations.

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

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' organizations to participate in the

10. The High Contracting Parties recognize their responsibility for the economic and social development of their respective dependent territories in collaboration with the local population and with any international organizations concerned.

9. The High Contracting Parties consider themselves responsible for the economic expansion of their respective metropolitan underdeveloped areas, and bound to develop them by all means within their power.

While agreeing that the order of the two paragraphs 10 and 11 be changed as suggested, the Rapporteur feels that he must oppose the deletion of the term "collectively" in former paragraph 11, as the Assembly had in mind the idea of collective responsibility in this connection.

The amended version of paragraph 10 (original text) calls for no comment from the Rapporteur.

The amended text (para. 11) substitutes the text of paragraph 5 for that of paragraph 12, with some changes. In view of the fact that para. 12 is concerned with the development of the idea of economic and social democracy, which has already become a reality in several

The first essential is to ensure exercise of the right to work. maintenance of full employment all European countries must be constant preoccupation of the Contracting Parties.

Nevertheless, work is not an end 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 labour, particularly by participation in the profits of the undertaking by which they are employed.

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.

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.

6. 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.

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

But the Rapporteur is opposed to the complete deletion of paragraphs 6 and 7, which should be retained in an amended form, to accord with the new lay-out of Part I.

With regard to the retention of the term "right to work", it is advisable to wait for the decision to be taken on this subject when Article 1 of Part II of the Charter is examined (see below, Part II, Article 1).

The Rapporteur suggests that the last part of the sentence at the end of paragraph 7 be deleted, beginning with "particularly".

The Rapporteur proposes that the numbering of paragraphs should remain as in the original version.

At a previous discussion the Committee thought that the expression "organiser l'aide" was preferable to "venir en aide". (In the English text the term is "assist" in both versions so that the question of amendment does not arise.)

This paragraph could include the term "nationality" as in the amended text.

10. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

13. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Charter depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

11. The High Contracting Parties reaffirm the principle that social policy should be formulated and implemented with the free participation of the people concerned and within the framework of their local communities and voluntary organisations including employers', workers' and consumers' organisations.

This policy can therefore be carried into effect only with the active participation of the people concerned, and within the framework of their local communities and professional groups, whose activities the State should promote, coordinate and supplement.

Although two different ideas are involved, the Rapporteur has no objection to the transfer of former paragraph 5 to the end of the text, where it would be combined with former paragraph 12 (see below under paragraph 12).

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

In particular, in carrying out their economic and social policy, Governments will adopt no measures incompatible with human dignity and the integrity of the family. The main 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 to his duty to other individuals and to the community in which he lives.

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

3. In carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity. 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.

4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

The Rapporteur prefers the present wording, especially at the end of the sentence.

The Rapporteur has no objection to the transfer of the end of paragraph 4 (paragraph 3 of amended text), after the words "to the full", to the end of Part I, to form a separate paragraph, as in the amendment (see § 13 of the amended text).

On the other hand, the words "integrity of the family" could be retained.

The Rapporteur agrees to the new paragraphs 4 and 5 which could be inserted after paragraph 4.

10

PREAMBLE

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.

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 levels of production, investment and employment. 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.

DOC. AS/EC (7) 24

PART I

PRINCIPLES AND OBJECTIVES OF SOCIAL POLICY

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, in order to ensure the dignity of man affirmed in the European Convention on Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, a high and stable level of employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.

Observations by M. HEYMAN

The word "Preamble" has been deleted from the heading of the amended text, but might well be kept as the heading for an introduction, to appear right at the beginning of the present text of the Charter and be drafted at a later stage. The Rapporteur has no objection to the second paragraph, nor to the numbering adopted in the amended text.

Paragraph 2 thus becomes paragraph 1.

The Rapporteur does not consider the amended version of paragraph 2 an improvement on the present text. In any case, it seems to him that there is no imperative reason for deleting the term "full employment", which is one of the aims already declared, not only in the Assembly's recommendations, but also in International Labour Organisation documents, including the Philadelphia Declaration. (Art. III (a)).

PART II
ECONOMIC AND SOCIAL RIGHTS

General observations

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

Article 1

The right to work

1. The High Contracting Parties recognise that everyone is entitled to and should be enabled to earn his living in a freely accepted occupation.

2. With this in view they will:
(a) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work;
(b) fix national employment targets, prepare national manpower

1. Before examining each of the Articles of Part II the Committee should decide in what form the social, economic and cultural rights there dealt with are to be defined and recognised, and should choose between the two methods applied to the two texts it will have to examine.
2. It is clearly understood that the Rapporteur's acceptance of certain Articles in the amended text does not imply any prejudice on his part with regard to this preliminary question.

It should be noted that the right to work is also referred to in para. 6 of Part I of Doc. 403. The Rapporteur is opposed to there being no mention of this right in the text of Article 1, because it is a right recognised in several existing declarations, and, in particular, in the draft Covenant on Economic, Social and Cultural rights prepared by the Human Rights Commission of the United Nations. In addition, the explicit recognition of the right to strike in Article 4 of the amended text should, to be

rehabilitation and resettlement
of unemployed workers.

budgets, and establish long-term
development programmes, including
the planning of public works,
which may be adapted to the
changing employment situation.

3. The High Contracting Parties
undertake to:

- (a) establish or maintain the
freedom from any restrictions
on the right to work, with the
exception of those imposed by the
need to assure the technical
qualifications required in cer-
tain professions and those aim-
ing solely at the protection of
children, adolescents and women
against the risks inherent in
certain prescribed occupations;
- (b) protect effectively the right
of the wage earner freely to
choose any available occupation;
- (c) establish or maintain both
general and specialised free
employment services;
- (d) promote vocational guidance
and training.

logical, include the right
to work. The Rapporteur
wonders why the expression
"full employment" is
deleted in the amended text
(on this subject see above
Part I, para. 2.). More-
over, the text of para. 2
((a) and (b)) of the
amended text does not seem
to be an improvement on the
present text.

↓
With regard to para. 3
of the amendment, the Rap-
porteur is inclined to
accept the additional clauses
in the new text. It will be
noted that the provisions of
para. 3 (d) already appear
under para (f) of Article 2
(present text). It would
seem advisable to transfer
them to Article 1.

Article 2

The right to fair and stable conditions of work

1. The High Contracting Parties recognise that conditions of work should be such as to enable workers to find satisfaction in their work, develop their human personality, protect their health, and provide themselves and their families with an independent and decent livelihood. Within the limits of their constitutional and national procedures, they will take appropriate steps to secure such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum wage and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure.

2. They undertake to secure for every worker:

- (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
- (b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;
- (c) reasonable notice of dismissal;

For a definition of the right in question, reference should be made to the preceding observations (see above, end of Part I and Part II "General observations")

The Rapporteur accepts the first sentence of para. 1 of the amendment. With regard to the second sentence of the same paragraph, the French wording of which appears faulty, he wonders why the system adopted in the former text has not been followed, particularly with regard to para. (b) of that text, which is completely consistent with the texts drafted on this subject by I.L.O.

Para. 2 (b) in the amendment, which does not appear in the former text, is approved by the Rapporteur, but he wonders why the amendment does not include a provision regarding retirement, like that appearing at para. (h) in the former text, particularly as this question forms the subject of several texts drafted by I.L.O.

Finally, with regard to the last paragraph of former Article 2 which has been deleted in the amended text, it seems that this

Article 2

Everyone has the right to 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 professional capacities,
- which provides equal pay for equal work,
- which ensures for himself and his family a decent existence guaranteed more particularly the introduction of a minimum wage, the fixing of wages in relation to this minimum, periodical adjustment of wage by reference to the cost of living and the economic situation;

- e) reasonable notice on termination of employment;
- f) progressive reduction of work to a 40-hour week, subject to essential adjustments for certain professions, with special rates for overtime;
- g) a minimum of two weeks' annual holiday with pay;
- h) vocational guidance and training;
- i) prospects of professional promotion;
- j) the possibility of retirement at the age of 65 at the latest, with 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.

- (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
- (e) equal pay for equal work, particularly as between men and women;
- (f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for overtime;
- (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods.

might be retained after being amended by substituting the words "encourage the adoption of" for the words "ensure that" and deleting "are implemented".

Article 3

The right of children, adolescents and women to special measures of protection in their employment

1. The High Contracting Parties will take all appropriate steps to protect children, adolescents and women against the physical and moral hazards of their work and to enable women to carry out their maternal duties.

The Rapporteur accepts the amended text, as this deals not only with the welfare of children and adolescents but also with that of women workers.

Para. 2(e) of the amended text does in fact seem more suitably placed under the heading "Rights in employment" than under "Rights pertaining to the family", where it appears in the former text (Art. 14).

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

the employment of child labour under 14 years of age, and the employment of adolescents in work which is physically or morally injurious, shall be punishable by law;

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.

persons of under 16 years of age may not be employed for more than 6 hours a day;

adolescents shall be entitled to not less than three weeks' annual holiday with pay.

2. 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 and women in work which is physically or morally injurious shall be punishable by law;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

Article 4

Everyone employed in an undertaking has the right to participate in the management according to his abilities and in the distribution of profits according to the contribution he makes.

The steps to be taken by the Contracting Parties to exercise of this right shall include the establishment of organs of joint management whereby workers may have a share in the management and profits of the undertaking.

Article 5

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

Article 6

Every worker has the right to

Article 5

The right of workers to be consulted on the management of the enterprise by which they are employed

The High Contracting Parties undertake to encourage the establishment or maintenance of organs of joint consultation and/or to take other appropriate measures, to ensure that workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

The Rapporteur approves the amended text.

The Rapporteur is opposed to the deletion of this Article. It is true that labour inspection is already mentioned in Article 2 (a) of the amended text, but it should be noted that such inspection is not only concerned with safe and healthy working conditions.

376

Article 4

The right to strike

The High Contracting Parties will recognise the right to strike and will maintain the necessary procedures for the solution of labour disputes.

The amended text does not seem to be an improvement, but the Rapporteur is prepared to accept it on condition that the word "assure" be substituted for "maintain".

The High Contracting Parties
take to introduce the necessary
legislative measures to regulate
the conditions and exercise of
that right and, in particular,
establish conciliation procedure
and the disposal of the parties
procedure of arbitration to
settle labour disputes or find a
solution to them.

Article 1

Everyone has the right to form
unions whether local,
national or international and to
join trade unions of their
choice.

The High Contracting Parties
undertake to ensure the
recognition of this right on a
basis of free choice, having
regard to the terms of Article
11, paragraph 2 of the Euro-
pean Convention for the Pro-
tection of Human Rights and
Fundamental Freedoms. (1)

Article 8

In order that workers may
effectively become the owners
of their material and personal property,

Article 6

The right to form and join Trade
Unions

The High Contracting Parties
recognise the right of workers to
form trade unions, whether local,
national or international, and to
join trade unions of their choice,
for the protection of their econo-
mic and social interests, subject
only to the limitations set out in
paragraph 2 of Article 11 of the
European Convention on Human Rights.

The Rapporteur accepts the
amended text.

Article 11, paragraph 2, is worded as follows:
"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."

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 to:

Article 7

The right to a decent living, including adequate food, clothing and housing

The High Contracting Parties will:

- (a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;
- (b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings

Until he hears the reasons for deleting this text the Rapporteur proposes it should be retained.

The Rapporteur has no strong objection to the deletion of this Article, as the subject in question is already dealt with by other Conventions, in particular the Berne and UNESCO Conventions.

The Rapporteur has no objection to the text of Article 10 being changed in accordance with the amendment.

(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 making 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.

complying with satisfactory standards of comfort and hygiene.

Article 8 (1)

The right to social security

1. The High Contracting Parties undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

2. The High Contracting Parties recognise the principle

(1) For alinea 3, see Article 13 of Doc. 403 below.

The Rapporteur accepts the amendment as it does in fact seem an improvement on the former text.

Such measures shall in particular guarantee the benefits relating to medical, surgical, obstetrical 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 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

whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.

Article 9

The right to a high standard of health

The High Contracting Parties will take all appropriate measures:

(a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;

(b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;

(c) to prevent epidemic, endemic and other diseases;

(d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

Although preferring the former text, the Rapporteur has no strong objection to the amendment.

If the former wording is retained, the following changes should be made in it:

- (1) At the end of the second paragraph of the English text: substitute the words "tend to ensure" for "include".
- (2) In paragraph (c) delete the word "treatment".

er environmental health fac-
s;

the prevention, treatment
control of epidemic, en-
ic and other diseases;

the organisation of services
facilities to ensure for all
ective medical attention in
event of sickness;

free basic medical care and
atment.

Article 13

The High Contracting Parties
entake to protect savings and
ial benefits and allowances
inst the consequences of fluc-
tions in the value of money.

Article 8

3. The High Contracting Parties will
take the necessary steps to safeguard
social security benefits against the
effects of depreciation of their
currencies.

The Rapporteur approves
the deletion of this Article,
provided that the part dealing
with social benefits is trans-
ferred to Article 11 in accor-
dance with the amended text of
this Article.

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) 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 10

Rights of the Family

1. With a view to ensuring the economic and social protection of family life, the High Contracting Parties will foster and protect the family as a unit of society.

2. They undertake to secure or to make available the following facilities and advantages:
- (a) measures to educate young persons for marriage;
 - (b) cheap loans for the founding of homes;
 - (c) preferential allocations of housing to families and persons wanting to marry, and rent reductions for low income families with many children;
 - (d) allowances to families whose bread-winners are subject to military services;
 - (e) tax reductions related to the size of the family;
 - (f) organisation of home help services.

The Rapporteur accepts the amended text (Articles 10 and 11 of the new text) on condition that a clause be added regarding the grant of allowances in proportion to the number of children (cf. paragraph (a) in the former text).

It will be noted that the idea contained in para. (b) of Article 14 to some extent appears at the end of the first paragraph of Article 3 of the amended text. With regard to para. (c) of the former Article, the Rapporteur refers to his observation above under former Article 3.

Lastly, with regard to Article 10 of the amended text, it would be advisable to precede the words "unit of society" by the word "fundamental" at the end of the first paragraph, so that it conforms with para. 4 of the amended text of Part I of the draft Charter.

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 the employment, in accordance with Article 3 of this Part of the Charter.

Article 11

Rights of Mothers and Children

1. The High Contracting Parties will take all necessary measures for the effective protection of mothers and children, including the establishment or maintenance of appropriate institutions for the purpose.

2. They undertake, for the protection of mothers:

- (a) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;
- (b) to provide, directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.

3. They undertake, for the protection of children:

- (a) to establish or maintain specialised organs with powers to prevent the neglect of children;
- (b) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

The Rapporteur agrees that Article 15 should be deleted.

(c) to provide special services for homeless children and children and young persons who are physically or mentally handicapped, as well as juvenile delinquents.

Article 16

The High Contracting Parties will undertake the necessary measures 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.

The Rapporteur does not object to the deletion of Article 16, as the idea contained in it is already expressed at the end of para. 5 of the amended text of Part I of the draft Charter.

Article 12

Social Services

1. The High Contracting Parties will directly or in collaboration with local authorities and appropriate voluntary organisations, establish or maintain social welfare services for aid and guidance to the individual in industrialised society.

2. They undertake to assure free legal advice and assistance to those who need it.

The Rapporteur accepts this new Article.

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 measures 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 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

Article 13

The right to education

1. The High Contracting Parties undertake to make primary education for children compulsory and free.

2. They will introduce progressive measures in order:
- (a) to make facilities for secondary education, in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;
 - (b) to ensure a basic education for those persons who have not received or have not completed their primary education;
 - (c) to make university and other higher education accessible to all.

The Rapporteur agrees with the wording proposed in the amendment, so long as the former Article 18 is retained

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).

in the text, since this Article by its very terms forms the essential basis for the exercise of the rights recognised in Article 17.

(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."

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.

The Rapporteur has no objection to the deletion of Article 19.

PART III
EUROPEAN ECONOMIC AND SOCIAL
COUNCIL

(Articles 20 to 33 inclusive)

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 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 observations 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 according 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

PART III
Implementation of the Charter
Article 14

1. The High Contracting Parties agree that a programme of implementation should be drawn up in order to secure the progressive implementation of this Charter and the extension of its benefits to all groups and sectors of the population.
2. This programme shall be drawn up by the Social Committee of the Council of Europe and submitted to the Consultative Assembly for its opinion.
3. On the basis of the proposals of the Social Committee and the opinion of the Consultative Assembly, the Committee of Ministers shall approve the programme of implementation and forward it to the High Contracting Parties for action. At the same time, it shall be communicated to the Consultative Assembly for information.

concerned from carrying out their full obligations under this Charter.

The Clerk of the Council shall send 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.

Article 15

1. The High Contracting Parties undertake to forward to the Secretary-General of the Council of Europe annual reports showing by what means and to what extent the programme of implementation is being realised in their respective territories, provided however that in cases where reports on the implementation of certain rights are sent to other international organisations, the Secretary-General shall arrange to obtain the information required from the latter.

2. The reports and information referred to in the preceding paragraph shall be submitted by the Secretary-General to the Social Committee of the Council of Europe, which shall then make its own report, indicating whether satisfactory progress is being made in the implementation of the Charter and, in appropriate cases, making recommendations for its more effective implementation.

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.

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 adapted 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 intergovernmental organisations competent in social, economic or cultural matters shall participate.

Article 16

The reports and information referred to in paragraph 1 and the reports of the Social Committees referred to in paragraph 2 of the preceding Article shall be referred to the Consultative Assembly for its opinion. The Assembly shall examine them in accordance with such procedure as it shall itself determine and may make recommendations to the Committee of Ministers relating to the Implementation of the Charter.

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.

Article 17

1. The reports of the Social Committee referred to in paragraph 2 of Article 15, and any recommendations made by the Consultative Assembly in accordance with the provisions of Article 16, shall be considered by the Committee of Ministers, which shall decide what action to take thereon.

2. The decisions of the Committee of Ministers shall be communicated to the Consultative Assembly.

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.

Article 43

Nothing in this Charter may be interpreted as giving a State,

PART IV
Final provisions

Since Article 40 constitutes an important factor in the implementation of the Charter, the decision to delete it should be considered when the question of implementation is being examined.

362 .

The Rapporteur has no objection to the deletion of Articles 41, 42 and 43.

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 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 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

Article 18

Nothing in this Charter shall be construed as limiting or derogating from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 19

Identical.

The Rapporteur agrees that the amended text should appear as Article 18.

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

Article 20

Any High Contracting Party may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

The Rapporteur accepts the text of the new Article 20.

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.

Article 21

Identical.

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 5th March, 1956.

Restricted
AS/Soc (7) 32

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fifth Session

EXCERPT OF

A COMPARATIVE ANALYSIS OF

PART II OF THE DRAFT EUROPEAN SOCIAL CHARTER

IN THE LIGHT OF THE INSTRUMENTS

OF THE INTERNATIONAL LABOUR ORGANISATION

Information Document

DRAFT SOCIAL CHARTERI. L. O. INSTRUMENTSArticle 1

Everyone has the right to work.

There is no express recognition of a right to work in I.L.O. Conventions and Recommendations, but the Declaration of Philadelphia (1944) III (a) recognises the obligation of the I.L.O. to further programmes for the achievement of "full employment".

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

The Declaration of Philadelphia (1944) recognises the obligation of the I.L.O. to further programmes for "the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common wellbeing".

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 those which are obsolescent; and to provide for the rehabilitation and resettlement of unemployed workers.

Preamble to I.L.O. Constitution :
One of the objectives of the I.L.O. is the "prevention of unemployment".

Declaration of Philadelphia III(a): Obligation of I.L.O. to further programmes which will achieve full employment.

./.

¹ Compare also II(c): all national and international policies and measures, in particular those of an economic and financial character, should be accepted only in so far as they promote the achievement inter alia of economic security for all human beings in the pursuit of their material wellbeing; and also IV, which refers to "measures to expand production and consumption (and) to avoid severe economic fluctuations".

Article 1

Unemployment Convention
1919 (No. 2) Article 2:
 Obligation to establish a system of free public employment agencies under the control of a central authority.

Employment Service Convention 1948 (No. 58): Obligation to ensure maintenance of free public employment service, as an integral part of the national programme for achievement and maintenance of full employment, organised on the lines set out in the Convention (which, inter alia, lays down certain principles for ensuring effective recruitment and placement, including appropriate measures to facilitate manpower mobility and provides for the collection and analysis of employment market information and for assistance in social and economic planning).

Employment Service Recommendation 1946 (No. 53) concerning, inter alia, the organisation of employment services, employment market information, referral of workers, and mobility of labour.

Employment Service Recommendation 1944 (No. 72) concerning, inter alia, the functions of an employment service.

Public Works (National Planning) Recommendation 1944 (No. 73) concerning general principles for national planning of public works (including need for a long-term development programme adaptable to fluctuations in the employment situation).

Article 1

In addition, reference might be made to certain Resolutions embodying standards of economic policy, adopted by the International Labour Conference. For example:

Resolution concerning the Maintenance of Full Employment during the Period of Industrial Rehabilitation and Reconversion (1945).

Resolution concerning Action against Unemployment (1950).

Finally, it will be noted that the last clause of Article 1 refers to the rehabilitation and resettlement of unemployed workers. In this connection reference might be made to the

Vocational Rehabilitation (Disabled) Recommendation 1955 (No. 99) concerning principles and methods for enabling disabled persons to prepare for, and have reasonable prospects of recovering and retaining, suitable employment.

Article 2

Everyone has the right to fair and stable conditions of work.

Preamble to I.L.O. Constitution includes general statement of need for humane and improved conditions of labour.

Declaration of Philadelphia II(a) and (b): central aims of national and international policy must be attainment for all of right to pursue material wellbeing in conditions of freedom, dignity, economic security and equal opportunity.

Article 2

The High Contracting Parties undertake to encourage the adoption of measures which will ensure progressively for everyone:

- (a) Safe and healthy working conditions.

This paragraph states that the measures set out in Article 2 are progressively to benefit everyone. In this connection it may be observed that certain I.L.O. instruments affirm the principle of equality of treatment between nationals and foreign workers in regard to employment conditions in general.

Preamble to I.L.O. Constitution:
need to protect worker against sickness, disease and injury arising out of his employment.

Declaration of Philadelphia III(g): I.L.O. bound to work for adequate protection of workers' life and health in all occupations.

Labour Inspection Convention 1947 (No. 81): Provisions for establishment of a system of labour inspection in industrial workplaces, whose functions shall include ensuring enforcement of legal provisions concerning, inter alia, safety and health of workers [see especially Article 13 concerning powers of labour inspectors]. This Convention is supplemented by Recommendation 81 of the same year and title.

- (b) a wage

which is commensurate with the nature of his work and with his professional capacities.

This general principle is implicit not only in the Preamble to the I.L.O. Constitution and in sections of the Declaration of Philadelphia but also in many of the I.L.O.

Article 2

which ensures for himself and his family a decent existence.

instruments concerning remuneration which are referred to below.¹

The I.L.O. Constitution (Preamble) recognises the need to provide "an adequate living wage".

¹ For example, the Déclaration of Philadelphia (III. (3)) expressly recognises that wages and earnings should ensure a just share of the fruits of progress to all. The Minimum Wage-Fixing Machinery Convention 1928 (No. 26) requires the creation of minimum wage machinery and Recommendation No. 30 of the same year and title states that the wage-fixing body should take account, inter alia, of wages paid for similar work in trades where workers are adequately organised and have concluded collective agreements. Again, Article 18 (i) of the Social Policy (Non-Metropolitan Territories) Convention 1947 (No. 62) states that an aim of policy shall be the abolition of discrimination among workers on grounds of race, colour, sex, etc. in respect inter alia of wages, and paragraph 25 of the Vocational Rehabilitation (Disabled) Recommendation 1956 (No. 99) states that disabled persons should not as a result of their disability be discriminated against in respect of (inter alia) wages if their work is equal to that of non-disabled persons.

Article 2

This principle is also implicit in the various I.L.O. instruments referred to below concerning matters such as the existence of a minimum wage and the standards whereby it is fixed.¹

Minimum Wage-Fixing Machinery Convention 1928 (No. 26): Obligation to create and maintain machinery for fixing minimum wage in certain trades (or parts thereof) without arrangements for effective wage regulation and in which wages are exceptionally low. Also provisions for consultation of employers and workers and their association with machinery's operation, supervision of minimum wage application, and workers' right of recovery if paid less than minimum wage.

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¹ For example, the Minimum Wage-Fixing Machinery Recommendation 1928 (No. 30) notes *inter alia* that the wage-fixing body should in any case take account of the necessity of enabling workers to maintain a "suitable standard of living". A similar provision is contained in Article 1 of the Minimum Wage-Fixing Machinery (Agriculture) Recommendation 1951 (No. 39), Article 2 of which includes among the relevant factors in fixing a minimum wage "the cost of living" and the general level of wages for work of similar skill in other industries in the area where the workers are sufficiently organised.

Article 2.

This Convention is supplemented by Recommendation No. 30 of the same year and title, concerning the structure and operation of wage-fixing machinery, measures to ensure payment of the minimum wage, certain factors to be considered in its assessment, and its review.

Labour Clauses (Public Contracts) Convention 1949 (No. 91) Article 5 (2) which requires that appropriate measures be taken by the with-holding of payments under the contract or otherwise, for the purpose of enabling the workers concerned to obtain the wages to which they are entitled.

Protection of Wages Convention 1949 (No. 92) concerning matters such as the payment, attaching, assignment and limiting of wages. This Convention is supplemented by Recommendation No. 35 of the same year and title.¹

(c) reasonable notice on termination of employment.

Apart from certain provisions in the Seaman's Articles of Agreement Convention 1926 (No. 22) concerning termination of the agreement, the existing I.L.O.

¹ With regard to the statistics of wages, reference might be made to the Convention concerning Statistics of Wages and Hours of Work 1958 (No. 63) containing proposals with regard to the compilation of statistics of wages /and hours of work/ in the principal mining and manufacturing industries, including building and construction, and in agriculture.

Article 2

Conventions and Recommendations do not contain specific provisions relating to termination of employment. However, at its 53rd Session, Geneva, 1950, the International Labour Conference requested the Office to prepare, with a view to including the question in the agenda of a future session, a study on the law and practice regarding the termination of individual contracts of employment.

(d) progressive reduction of work to a 40-hour week, subject to essential adjustments for certain professions, with special rates for overtime.

The Preamble to the I.L.O. Constitution recognises the need for "the regulation of the hours of work, including the establishment of a maximum working day and week".

Forty-Hour Week Convention 1935 (No. 47): States ratifying this Convention declare their approval of the 40-hour week principle and of measures to secure it, and undertake to apply this principle in accordance with the detailed provisions of such separate Conventions as are ratified by them.

This general Convention was preceded and has been followed by a number of I.L.O. Conventions laying down maximum working weeks for particular kinds of employment. These Conventions generally recognise the need for certain exceptions in special circumstances, and for the payment of overtime rates (usually specified at not less than 1 1/4 times the regular rate).

Article 2

Unemployment (Young Persons)
Recommendation 1955 (No. 45) Ar-
Article 43: "Present attempts to
 promote re-employment by a reduc-
 tion in ordinary hours of work
 should be pursued with special
 vigour in respect of employment in
 which young persons engage".

(a) a minimum of two
 weeks' annual holiday
 with pay.

The Declaration of Philadelphia
 recognises the I.L.O.'s obligation
 to work for the provision of ade-
 quate facilities for recreation
 and culture (III(i)).

The most recent I.L.O. instru-
 ment adopted in connection with
 paid annual holidays is the

Holidays with Pay Recommendation
1954 (No. 95) which recommends a
 minimum paid annual holiday of two
 working weeks for 12 months' ser-
 vice (with a longer period for
 workers under 18). It also, inter
alia, suggests ways of giving
 effect to the Recommendation (which
 applies to all employed persons
 except seafarers, agricultural
 workers and persons employed in
 establishments limited to members
 of the employer's family ¹).

This Recommendation was preceded
 by the adoption of a number of
 other I.L.O. instruments concern-
 ing paid annual holidays.

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¹ The annual holidays of sea-
 farers and agricultural workers
 are dealt with in special ins-
 truments referred to below.

Article 2

(f) vocational training and guidance.

Preamble to I.L.O. Constitution:
need to organise "vocational and technical education and other measures".

Declaration of Philadelphia:
Obligation of I.L.O. to provide, inter alia, facilities for training so as to ensure employment of workers in occupations in which they can give fullest measure of their skill and attainments (III (c)) and to promote "the assurance of equality of educational and vocational opportunity" (III (j)).

In the implementation of these general aims the I.L.O. has adopted a number of instruments, some of which are concerned with vocational guidance and others with vocational training. In addition there are certain instruments which refer to both guidance and training.

(g) prospects of professional promotion.

The Declaration of Philadelphia III (j) recognises the obligation of the I.L.O. to work for "the assurance of equality of [educational and] vocational opportunity". Compare also III (b): I.L.O.'s obligation to work for employment of workers in the occupations in which they can give the fullest measure of their skill and attainments.

Article 2

Steps taken by the I.L.O. to implement these aims are reflected in the instruments concerning particular questions such as the provision of vocational training facilities, and also in aspects of I.L.O. action for the prevention of discrimination in employment and occupation (a question which is to be included in the agenda for the 1957 Conference).

(h) the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living.

I.L.O. Constitution (Preamble):
need for "provision for old age".

Declaration of Philadelphia III (f): Obligation of I.L.O. to work for "extension of social security measures to provide a basic income to all in need of such protection".

Old Age Insurance (Industry etc.) Convention 1955 (No. 55):
Obligation to provide old age insurance schemes for those covered by the Convention on the basis of provisions at least equivalent to those the Convention lays down. Pensions thus provided are to be available at an age not exceeding 65. Convention also covers such matters as assessment, suspension and forfeiture of pensions, exemption from contribution, and the administration of the insurance scheme.

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Article 2

Social Security (Minimum Standards) Convention 1952 (No. 102) Members for whom Part V is in force undertake to provide an old age benefit, in accordance with the Convention's requirements, at an age not exceeding 65 or at a higher age fixed with regard to the working ability of elderly persons in the country concerned. The Convention contains a section especially concerned with the standards to be complied with by periodical payments.

Invalidity, Old Age and Survivors' Insurance Recommendation 1933 (No. 13) concerning general principles for promoting, inter alia, old age insurance. Pensionable age should, as far as possible, be reduced to 60. Pensions should be sufficient to cover essential needs and should be fixed with due regard to cost of living.

Income Security Recommendation 1944 (No. 67) concerning general guiding principles for developing income security schemes. The minimum age at which old age benefit may be claimed should be fixed at not more than 65 for men and 60 for women. A lower age may be fixed for persons working many years in arduous or unhealthy occupations (Annex, paragraph 12).

Resolution concerning the Age of Retirement, adopted at the First European Regional Conference of the I.L.O. (Geneva, January-February 1955). This Resolution suggests a number of guiding principles including the following:

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Article 2.

- (a) at completion of a full working life every worker should be able to retire and rest with an adequate pension;
- (b) the amount of pensions should follow same trend as general level of cost of living;
- (c) minimum pensionable age as a general rule should be between 60 and 65 (with five years less for women than men, and lower ages for arduous or unhealthy occupations).

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

I.L.O. Conventions and Recommendations contain no general provisions regarding individual contracts of employment.

Many of the I.L.O. instruments referred to above in connection with Article 2 of the Draft European Social Charter contain provisions for implementation, but in such cases the matter is always left to be dealt with by national laws or regulations, collective agreements, or some other means. For example, Article 2 of the Equal Remuneration Convention 1951 (No. 100) requires each member to ensure the application to all workers of the equal pay principle, and adds that this principle may be applied by means of national laws or regulations, legally established or recognised machinery for wage determination, collective agreements between employers and workers, or a combination of these means. Similarly, the Holidays

Article 2

with Day Recommendation 1954
(No. 98) lays down various methods for the application of its provisions, suggesting public or voluntary action through legislation, statutory wage-fixing machinery, collective agreements, arbitration awards, or any other methods consistent with national practice as may be appropriate under national conditions ¹.

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¹ The Labour Clauses (Public Contracts) Convention 1949 (No. 94) is not concerned with the type of employment contract to which Article 2 of the Draft Social Charter refers, but it may be noted that this Convention requires, inter alia, the inclusion, in public contracts falling within the instrument's scope, of clauses ensuring the workers concerned wages, hours of work and other conditions of labour no less favourable than those established by the methods referred to in the Convention.

Furthermore, many of the conclusions of the Industrial and other similar Committees are designed for implementation through collective agreements or individual contracts of employment.

Article 3

In the field of employment children and adolescents have the right to special measures of protection.

Preamble to I.L.O. Constitution:
Need to improve labour conditions by, inter alia, ensuring "the protection of children and young persons".

Declaration of Philadelphia
III (h): Obligation of I.L.O. to further programmes for "provision for child welfare".

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 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.

The matters with which Articles 3 (a) and (b) of the Social Charter are concerned (i.e. minimum age of employment, protection from dangerous work, and the protection of schooling) are dealt with in various I.L.O. instruments.

Minimum Age of Employment

Minimum Age (Industry) Convention 1919 (No. 5), Revised 1957 (No. 39): Children under 15 not to be employed or work in industrial undertakings (except purely family concerns).¹
A higher age to be fixed if employment dangerous to life, health or morals.

Unemployment (Young Persons) Recommendation 1955 (No. 15): Minimum age for leaving school and for admission to employment should be fixed at not less than 15.

¹ The age in the original 1919 Convention was 14.

Article 3

The Resolution concerning the Protection of Children and Young Workers, adopted in 1945 by the International Labour Conference. This Resolution, inter alia, urges member States to aim at the gradual raising to 16 of the minimum age for admission to employment and sets out principles for its regulation (including the principles that employment should not interfere with schooling, and should allow full opportunity for study, recreation and rest). It also proposes a number of measures for the protection of children and young persons against special hazards, and makes certain recommendations concerning the prohibition of night work.¹

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¹ This Resolution is a detailed text which covers, inter alia, the general social protection of children and young persons (maintenance, health and social protection); educational opportunities (general education and vocational guidance, technical and vocational training, economic assistance, apprenticeship and in-plant training); admission to employment (regulation of minimum age, authorisation for employment or work, juvenile placement, liability to social insurance or social security schemes); protection of young workers (hours of work, night work, rest periods and holidays, industrial safety and hygiene, moving of loads, wages, board and lodging, methods of supervision, right of association); and the administration of protective policies.

Article 3

(e) Persons of under 16 years of age may not be employed for more than six hours a day.

There are no provisions in the existing I.L.O. Conventions and Recommendations which specifically prescribe a maximum working day for all young persons, although the I.L.O. instruments concerning matters such as the minimum age for admission to employment and night work for young persons are connected with this question. However, the Minimum Age (Non-Industrial Employment) Convention Revised, 1957 (No. 60), Article 3 (2) does state that no child under 14 shall be employed for more than two hours daily on light work in non-industrial employment or spend at school and on light work more than seven hours a day; and Article 3 (3) requires national laws to fix the number of hours a day during which children over 14 may be employed on light work in non-industrial employment. Furthermore, the Resolution on the Protection of Children and Young Workers (adopted in 1945 by the International Labour Conference) states that there should be strict regulation of the daily and weekly working hours of children and young persons (with due regard for their varying needs at different ages), and efforts to reduce, in so far as may be practicable, - the working week of young persons and children not attending school, to not more than 40 hours.

Holidays with Pay Recommendation 1954 (No. 98): workers under 16 should receive a minimum paid annual holiday after a year of service of more than two working weeks.

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.

I.L.O. Conventions and Recommendations contain no provisions acknowledging "a right to share in management according to ability" or "to share in profits according to the work contributed", nor do they deal with the establishment of organs of joint management.

However, the I.L.O. has been concerned (particularly since the end of the last war) with the general question of co-operation between employers and workers within the undertaking, or with the various aspects of this subject, and in this connection reference might be made to:

(1) The Declaration of Philadelphia which refers to the I.L.O.'s obligation to promote recognition of labour-management co-operation in improving productive efficiency and collaboration of employers and workers in preparing and applying economic and social measures III (c), and its obligations to further policies in regard to wages, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all III (d).

(2) Co-operation at the Level of the Undertaking Recommendation 1952 (No. 41), which recommends steps (including the establishment of bodies) for consultation and co-operation between employers and workers on matters of mutual concern not within the scope of collective bargaining machinery and not normally dealt with by other machinery concerned with

Article 4

terms and conditions of employment.

(3) Resolution concerning Consultation and Co-operation between Employers and Workers at the Level of the Undertaking, accepted at the 35th Session of the International Labour Conference (June 1952).

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.

LABOUR INSPECTORATES:(a) Labour Inspection in General

Labour Inspection Convention 1947 (No. 81): Obligation to maintain labour inspection systems in industrial workplaces and (unless the ratifying member formally declares otherwise) in commercial workplaces. The Convention, inter alia, outlines functions of system and powers of labour inspectors.¹

Labour Inspection Recommendation 1925 (No. 20) concerning general principles for maintenance of labour inspection system (sphere of inspection, functions and powers of inspectors, organisation of inspection, and inspectors' reports).

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¹ This Convention permits a State to exempt mining and transport undertakings from its provisions. Hence the Labour Inspection (Mining and Transport) Recommendation 1947 (No. 82) recommending application of appropriate inspection systems for mining and transport.

Labour Inspection Recommendation 1947 (No. 81) /supplementing Convention No. 81 and Recommendation No. 20 of the same title/concerning, inter alia, preventive duties of labour inspectorates, annual inspection reports, employer-worker collaboration in regard to safety and health.

Article 5(b) Inspection in Special Contexts

In addition to the I.L.O. instruments mentioned above, there are various provisions dealing with inspection in relation to a large number of special contexts.

LABOUR TRIBUNALS:

There are no I.L.O. Conventions and Recommendations concerning labour tribunals.

The 25th (1939) Session of the International Labour Conference adopted a Resolution requesting the Governing Body to include in the agenda of a future session a question concerning special courts for the enforcement of labour legislation and the functioning of such courts in a speedy and adequate manner.

Article 6

Every worker has the right to strike.

The existing I.L.O. Conventions and Recommendations contain no recognition of a right to strike.

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Article 6

Part III of the Voluntary Conciliation and Arbitration Recommendation 1951 (No. 92) states that "no provision of this Recommendation may be interpreted as limiting, in any way whatsoever, the right to strike". However, this provision was adopted "to emphasise the purely voluntary character of the procedure advocated" in the Recommendation. ¹

The I.L.O. Governing Body's Committee on Freedom of Association has reached conclusions on several occasions in which complaints have been referred to it alleging the infringement of trade union rights by virtue of restrictions on the right to strike. The Committee, while recognising that it was not required to consider to what extent the right to strike in general should be regarded as a trade union right, nevertheless pointed out that the right to strike is generally accorded to workers and their organisations as an integral part of their right to defend their collective occupational interests. In other cases in which strikes have been forbidden in essential services, the Committee recommended the Governing Body to draw the attention of the governments concerned to the importance which it attached, in cases in which strikes were prohibited in essential services; to ensuring adequate guarantees to safeguard fully the interests of the workers thus deprived of an essential means of defending occupational interests.

¹ See The Record of Proceedings (34th Session of the International Labour Conference) p. 507.

Article 6

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 a 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.

(1) Voluntary Conciliation and Arbitration Recommendation 1951 (No. 92) concerning, inter alia, provision and organisation of voluntary conciliation machinery and effect of agreements reached thereby. During progress of conciliation or arbitration procedures conducted with consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts.

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 terms of Article 11, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.¹

(1) Preamble to I.L.O. Constitution: need for "recognition of the principle of freedom of association".

(2) Declaration of Philadelphia, I(b): "Freedom of expression and of association are essential to sustained progress". Also III(e): Obligation of I.L.O. to further programmes for, inter alia, "the effective recognition of the right of collective bargaining".

1 Article 11, para. 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.

(3) Freedom of Association and Protection of the Right to Organise - Convention 1948 (No. 87): Obligation to give effect to provisions of Convention, which include, inter alia, the right of all workers to establish and join organisations of their own choosing without previous authorisation; the right of these organisations to draw up their constitutions and rules, elect representatives, organise administration and activities, and formulate programmes; and the right of these organisations to establish and join federations and confederations, and affiliate with international organisations of workers and employers.

In addition, Article 4 states that workers' and employers' organisations shall not be liable to dissolution or suspension by administrative authority, and Article 11 obliges ratifying States to ensure that workers and employers may exercise freely the right to organise.

(4) Right to Organise and Collective Bargaining Convention 1949 (No. 98) concerning adequate protection of workers against acts of anti-union discrimination in respect of their employment, and of workers' and employers' organisations against acts of interference by each other. The Convention also requires the establishment of appropriate machinery for ensuring respect for the right to organise as defined in the Convention, and the taking of appropriate measures for full development and utilisation of machinery for voluntary negotiation between workers and employers, with a view to the drawing up of collective agreements regulating conditions of employment.

Article 7

(5) Right of Association (Agriculture) Convention 1921 (No. 11):
 Obligation to secure for those engaged in agriculture "the same rights of association and combination as to industrial workers".

(6) Collective Agreements Recommendation 1951 (No. 91) recommending establishment of appropriate collective bargaining machinery in each country. The Recommendation also contains provisions concerning the definition, effects, extension and interpretation of collective agreements, and the supervision of their application.

NOTE: With regard to the footnote to Article 7 of the Draft Social Charter it may be observed that

(1) Article 9(1) of the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) declares that the extent to which the guarantees provided for in the Convention shall apply to the armed forces and the police shall be determined by national laws or regulations; ./.

Article 7

(ii) Article 5 of the Right to Organise and Collective Bargaining Convention 1949 (No. 98) contains a similar provision to Article 9(1) of Convention 87, and Article 6 of the Convention declares that it does not deal with the position of public servants engaged in the administration of the State nor shall it be construed as prejudicing their rights or status in any way.

Article 8

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

There are no I.L.O. Conventions and Recommendations which deal with the subject matter of Article 8 as such. However, the Unemployment (Agriculture) Recommendation 1921 (No. 11) includes among possible measures for combating unemployment amongst agricultural workers the taking of steps to encourage the creation of agricultural workers' co-operative societies for the working and purchase or renting of land, and to this end steps to increase agricultural credit. Furthermore, Article 17 of the Social Policy (Non-Metropolitan Territories) Convention 1947 (No. 82) concerns the encouragement of voluntary forms of thrift, and the taking of measures for the protection of wage earners and independent producers against usury, in particular by action to reduce rates of interest on loans, by the control of the operations of money lenders, and by the encouragement of facilities for borrowing money through co-operative credit organisations or institutions controlled by the competent authority. A similar provision is contained in paragraph 49 of the Protection of Migrant Workers (Underdeveloped

Article 8Countries) Recommendation 1955
(No. 100).¹

With regard to the ownership by workers of real and personal property, especially their houses, reference might be made to a number of Resolutions adopted by I.L.O. Conferences and Meetings. For example:

(a) Resolution on Housing Construction (First European Regional Conference of the I.L.O., Jan.-Feb. 1955) especially Section 11 concerning the financing of housing programmes.

(b) Resolution on Workers' Housing (Third Session of The Committee of Experts on Social Policy in Non-Metropolitan Territories, 1953) concerning the ownership of their houses by the workers.

(c) Resolution of Coal Mines Committee (Second Session 1947) concerning the general problems of miners' housing; Part III deals, inter alia, with the acquisition of individual property by miners.

¹ The problems of organising credit in both rural and urban areas, and of meeting the housing needs of workers, have often been tackled by co-operative methods, and from this point of view (i.e. co-operation) these questions have been continually studied by the I.L.O.

Article 8

(d) Resolution of the Building, Civil Engineering and Public Works Committee (Third Session 1951) concerning national housing programmes. The resolution includes among the problems calling for the Committee's attention "increased facilities for acquiring small properties".

Article 9

Everyone has the right to the protection of moral and material interests resulting from a scientific, literary or artistic work of which he is the author

At its 110th Session (January 1950) the Governing Body authorised the Office to enter into contact with the Berne Union with a view, inter alia, to reaffirming the I.L.O.'s interest in the question of performer's rights. The I.L.O. has continued to study this question, in consultation with the Berne Union and other organisations concerned, and is at present participating in the preparations for the eventual adoption of a Convention for the protection of performing artists, manufacturers of phonographic records and of broadcasting organisations.

Article 10

Everyone has the right to a decent living, and in particular to adequate food, clothing and housing.

The Declaration of Philadelphia affirms the obligation of the I.L.O. to work for "the raising of standards of living" (IIIa) and the provision of "adequate nutrition and housing" (IIIi). Compare also Id: "the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort ..."; and IIa: right of all to pursue material well-being in conditions of freedom, dignity, economic security, and equal opportunity.

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 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.

Many of the instruments mentioned above in connection with the first paragraph of Article 10 concern the provision of adequate housing. However, under Article 10 (b) reference might also be made to:

- (1) Utilisation of Spare Time Recommendation 1944 (No. 21) Section III, concerning housing policy, which suggests

Article 10

increasing the number of healthy dwellings at low rentals in garden cities or urban communities under proper conditions of health and comfort.

- (2) Resolution concerning Housing Construction (adopted at the First European Regional Conference of the I.L.O. - January-February 1955). This Resolution deals with a number of basic principles relating to housing construction, the financing of housing programmes, and the reduction of housing costs.

and (3) A number of Resolutions of I.L.O. Industrial and other Committees. For example:

(i) Resolution concerning General Problems of Miners' Housing (Coal Mines Committee, 1947).

(ii) Resolution concerning Permanent Housing for Petroleum Workers (Petroleum Committee, 1950).

(iii) Resolution concerning National Housing Programmes (Building, Civil Engineering and Public Works Committee, 1951).

Article 11

Everyone has the right to social security, ensuring protection by social insurance and 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 Preamble to the I.L.O. Constitution recognises the need for protection of the worker against sickness, disease and injury arising out of his employment, provision for old age and injury and protection of the interests of workers when employed in countries other than their own.

Article 11

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 allowances, unemployment allowances, family allowances, temporary or permanent disablement and retirement pensions.

The Declaration of Philadelphia recognises the I.L.O.'s obligation to work for "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care" (III f), as well as "provision for maternity protection" (III h).

Up to the Second World War the I.L.O. had adopted a number of instruments each of which was concerned with a particular branch of social insurance. Since the war, certain instruments of a much more general character have been adopted in an attempt to give expression to the new and wider conception of social security emerging in the post-war period. For this reason, special importance must now be attached to

(a) The Social Security (Minimum Standards) Convention 1952 (No. 102) which lays down minimum standards for the whole field of social security,

(b) The Income Security Recommendation 1944 (No. 87) and the Medical Care Recommendation 1944 (No. 88), which together dealt with the entire subject matter of the pre-war Conventions and Recommendations in a more coherent and comprehensive manner than had been possible previously.

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Article 12

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

The Preamble to the I.L.O. Constitution recognises the need to protect the worker against sickness, disease and injury arising out of his employment. In addition, the Declaration of Philadelphia affirms the obligation of the I.L.O. to work for the adequate protection of workers' health in all occupations (III g) and the extension of social security measures to provide comprehensive medical care (III f).

Some of the instruments adopted by the I.L.O. in the furtherance of these aims have already been mentioned in connection with Article 11 of the Draft Social Charter and also (from the point of view of healthy working conditions) in connection with Article 2 (a).

In certain respects, however, the health facilities envisaged in Article 12 are wider in scope than those referred to under Article 11 and Article 2(a), and the following analysis is therefore concerned with the particular measures enumerated under the second paragraph of Article 12.

Article 12

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 mal-adjusted children.

(b) the improvement of nutrition, housing, education, recreation and other environmental health factors.

The Preamble to the Constitution refers to the need to protect children and young persons, and the Declaration of Philadelphia recognises the I.L.O.'s obligation to further programmes for "provision for child welfare".

In so far as provision for the healthy, physical and moral development of the child implies regulation of the employment of children and young persons it has been dealt with in connection with Article 3 of the Social Charter.¹

In addition, special reference might be made to the Resolution concerning the Protection of Children and Young Workers (adopted at the 1945 Session of the International Labour Conference), Part II (B) of which outlines the minimum services and facilities required for the safeguarding of the general health and well-being of all children and young persons.

The Declaration of Philadelphia affirms the obligation of the I.L.O. to further programmes for the provision of adequate nutrition, housing and facilities for recreation.

Some of the instruments adopted by the I.L.O. in this connection are referred to above under Article 10 of the Social Charter,² and also (from the viewpoint of the recreation opportunities afforded by reduced working hours and the provision of paid holidays) under Article 2(d)³ and 2(e)⁴.

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¹See pp. 37-45.

²See pp. 66-72 (for housing and nutrition).

³See pp. 23-26.

⁴See pp. 27-28.

Article 12.

In connection with recreation, reference might also be made to

(a) Weekly Rest (Industry) Convention 1921 (No.14) requiring 24 hours' consecutive rest every seven days for persons employed in any industrial undertaking or branch thereof (except as otherwise provided for in the Convention).

(b) Weekly Rest (Commerce) Recommendation 1921 (No.13) recommending 24 hours' consecutive rest every seven days for persons employed in commerce (except as otherwise provided for in the Recommendation).

(c) Utilisation of Spare Time Recommendation 1924 (No.21) concerning proposals for the development of facilities for the utilisation of workers' leisure.

(d) Migration for Employment Recommendation (Revised) 1949 (No.16), paragraph 11, concerning the access of migrants and their families to recreational and welfare facilities.

Article 12

(e) Resolution concerning the Utilisation of Holiday Facilities, adopted by the International Labour Conference in 1954. This Resolution contains suggestions for assisting workers to derive maximum benefit from their annual holidays with pay.

(f) Two Reports of the I.L.O. Advisory Committee on Recreation (adopted at the Committee's First Session in 1949), concerning respectively principles for the organisation of workers' recreation and the utilisation of leisure time of young persons.

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.

There are no I.L.O. Conventions and Recommendations which deal with the subject matter of Article 13 as such, though the I.L.O. has pledged its full co-operation with such international bodies as may be concerned with measures to avoid severe economic fluctuations (Declaration of Philadelphia, IV).

The protection of savings has already been mentioned in connection with Article 8 of the Social Charter. So far as the protection of social benefits in general is concerned, reference might be made to:

(a) Social Security (Minimum Standards) Convention 1952 (No. 102) Articles 55 (10) and 60 (3) which provide that "the rates of current periodical payments in respect of old-age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living".

Article 13

(b) a Resolution concerning Economic Policies for the Attainment of Social Objectives (adopted by the International Labour Conference in 1944).

(c) Conclusions concerning Public Health and Health Insurance in Periods of Economic Depression (adopted in 1933 by a joint League of Nations/I.L.O. Committee on Public Health and Health Insurance).

(d) Conclusions concerning the Investment of the Funds of Social Insurance Institutions (adopted in 1933 by a Meeting of Experts on the Investment of the Funds of Social Insurance Institutions).

Article 14

Everyone of marriageable age has the right to found a family.

The family is entitled to the widest measure of protection.

Article 14

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 job and to receive both medical attention for herself and her child and financial assistance during the nursing period.

The question of children's allowances is dealt with in certain of the I.L.O. instruments mentioned above in connection with Article 11 (right to social security). For example:

(1) Social Security (Minimum Standards) Convention 1952 (No. 102), Part VII (Family Benefit).

(2) Income Security Recommendation 1944 (No. 87), paragraph 6, and Annex paragraph 20 (Maintenance of Children).

Reference might also be made to the

(3) Resolution concerning the Protection of Children and Young Persons (adopted by the International Labour Conference, 1945), Part II A (Maintenance).

(1) The Declaration of Philadelphia recognises the I.L.O.'s obligation to work for "provision for maternity protection" (III h).

(2) Maternity Protection Convention, 1919 (No. 3), Revised 1952 (No. 103). The revised 1952 Convention requires inter alia a period of at least 12 weeks' maternity leave, including a period of compulsory leave after confinement of no less than six weeks. Provision is also made for cash and medical benefits during maternity leave, and for the safeguarding of the woman's job during this period.¹

Article 14

The revised 1952 Convention is supplemented by the Maternity Protection Recommendation 1952 (No. 102) which lays down higher standards than those contained in the Convention in respect of maternity leave, maternity benefits, facilities for nursing mothers and infants, protection of employment, and protection of the health of employed women during the maternity period.

3. Convention concerning the minimum standard of Social Security 1952 (N° 102) whose Part VIII deals with maternity benefit.

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¹ The original 1919 Convention did not apply to women workers in agriculture - hence the Maternity Protection (Agriculture) Recommendation 1947 (No. 12), which recommends application of Convention No. 3 (1919) to women employed in agricultural undertakings.

(4) Income Security Recommendation 1944 (No. 97), Annex paragraph 10 (Maternity).

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.

The Declaration of Philadelphia recognises the I.L.O.'s obligation to work for provision for child welfare (III h), the provision of adequate facilities for recreation and culture (III i), and the assurance of equality of educational and vocational opportunity (III j).

The Preamble to the I.L.O. Constitution refers to the need to improve labour conditions by, inter alia, ensuring "the protection of children and young persons".

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.

The Preamble to the I.L.O. Constitution refers to the need for "the protection of children", and the Declaration of Philadelphia to the I.L.O.'s obligation to promote "provision for child welfare" (III h).

Instruments adopted by the

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Article 16

I.L.O. in furtherance of these aims do not discriminate between children born in wedlock and those born out of wedlock.

In some cases, moreover, the instrument expressly defines "children" so as to include those born out of wedlock. For example:

(1) Maternity Protection Convention 1919 (No. 3). "Child" signifies any child whether legitimate or illegitimate.

(2) Maternity Protection Convention (Revised) 1952 (No. 103). "Child" means any child whether born of marriage or not.

(3) Resolution concerning the Protection of Children and Young Workers (adopted by the International Labour Conference in 1945), the first paragraph of which refers to children regardless of, inter alia, family circumstances.

Article 17

Everyone has the right to education.

The Declaration of Philadelphia recognises the obligation of the I.L.O. to further programmes for:

- (a) the provision of training facilities so that workers may be employed where they can give the fullest measure of their skill and attainments and make their greatest contribution to the common well-being (III b) and
- (b) the assurance of equality of educational opportunity (III j).

Article 17

(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 13 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.

Certain of the I.L.O. Conventions and Recommendations relating to the admission of children and young persons to employment are concerned, either directly or indirectly, with the protection of schooling, the school-leaving age and similar questions.¹ For example, the Unemployment (Young Persons) Recommendation 1955 (No. 49) suggests compulsory schooling until at least 15, as well as various principles for continuing the education of unemployed juveniles who are over the school-leaving age.

Reference might also be made to the Resolution concerning the Protection of Children and Young Persons (adopted by the International Labour Conference in 1945), Section III of which deals with educational opportunities and covers matters such as free general education, compulsory school attendance, means of ensuring access to suitable education, technical and vocational training, economic assistance in connection with schooling, and apprenticeship and in-plant training.

In addition, a Resolution concerning the Extension of Compulsory Education and the Provision of

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¹A number of these instruments are set out under Article 3(a) and (b) of the Social Charter.

Article 17

Facilities for Adult Education was adopted by the International Labour Conference in 1950. This Resolution, inter alia, expresses the hope that the I.L.O. will promote opportunities for workers to be educated in order to enable them to participate more effectively in various workers' movements and to fulfil more adequately their trade union and related functions; reaffirms the I.L.O.'s interest in compulsory free education for all children; emphasises its interest in the development where necessary of elementary instruction for adults in civic, social and economic subjects; and expresses the hope that the U.N., UNESCO and the I.L.O. will co-operate in assisting governments to establish programmes designed to achieve the above aims.

Article 18

In the exercise of any of the 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.

With regard to the denial of educational facilities on the grounds of religious or philosophical conviction it may be noted that:

(1) the Declaration of Philadelphia affirms the right of all human beings, irrespective of creed, to pursue both their material well-being and their spiritual development in conditions of freedom, dignity, economic security and equal opportunity (II a), and the obligation of the I.L.O. to promote equality of educational opportunity (III j);

(2) furthermore, the first paragraph of the Resolution concerning the Protection of Children and Young Workers (adopted by the International Labour Conference in 1945) states that governments should accept responsibility for assuring the education of all children and young persons, regardless of creed.

Article 19

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

The Declaration of Philadelphia recognises the I.L.O.'s obligation to work for the provision of adequate facilities for culture (III i) and to promote policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all (III d).

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.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 13th March 1956.

Restricted
AS/Soc (7) PV 9
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fifth Session

DRAFT MINUTES

of the meetings held on Friday, 9th March 1956
at 10 a.m. and 2.30 p.m. at the Paris Office
of the Council of Europe, 55 Avenue Kléber

There were present:

Members:

M. HEYMAN, Chairman	(Belgium)
Miss BURTON, Vice-Chairman	(United Kingdom)
MM. DEHOUSSE, Rapporteur	(Belgium)
ANDERSSON	(Sweden)
BENGTSSON	(Sweden)
Mrs. CROWLEY	(Ireland)
MM. HAEKKERUP	(Denmark)
MONTINI	(Italy)
MOUTET	(France)
Mme. SCHROEDER	(Fed. Rep. of Germany)
Mme. TLABAR	(Turkey)
MM. TUMERKAN	(Turkey)
VIXSEBOXSE	(Netherlands)
Mme. WEBER	(Fed. Rep. of Germany)

Deputies

MM. COTTONE (for M. CANEVARI)	(Italy)
FLETCHER-COOKE (for Miss PITT)	(United Kingdom)
HOFLER (for M. EVEN)	(Fed. Rep. of Germany)
LAINGO (for M. RADIUS)	(France)

Observers

MM. LUGMAYER	(Austria)
STRASSER	(Austria)

Apologised for absence

MM. BONDEVIK	(Norway)
FENS	(Netherlands)
VAN KAUVENBERGH	(Luxembourg)
KIRN	(Saar)
LUCIFERO	(Italy)
MANOUSSIS	(Greece)
MELLISH	(United Kingdom)
MUTTER	(France)
SAVOPOULOS	(Greece)
STEFANSSON	(Iceland)

The following observers were also present at the meeting

MM. FANO	International Labour Organisation
BLICKENSTAFF	United Nations Organisation
KULAKOWSKI	International Federation of Christian Trade Unions
ZUNIC	World Veterans Federation
Mlle. des GACHONS	World Union of Catholic Women's Organisations
Mlle. SWAGEMAKERS	World Union of Catholic Women's Organisations

The meeting opened at 10 a.m. with M. HEYMAN in the Chair.

1. AGENDA

The draft Agenda was adopted.

Ref. AS/Soc (7) OJ 9 revised

2. MINUTES

The draft Minutes of the last meeting were adopted.

Ref. AS/Soc. (7) FV 7
AS/Soc. (7) PV 8

3. EUROPEAN SOCIAL CHARTER AND EUROPEAN ECONOMIC AND SOCIAL COUNCIL

Ref. AS/Soc (7) 31

The Chairman produced Document AS/Soc (7) 31 embodying his observations on the amendments to the Social Charter proposed by the Committee on Economic Questions (Doc. AS/EC (7) 24).

Two questions arose: should the Social Charter come under the control of the Economic and Social Council or should the draft Social Charter and the plan for an Economic and Social Council be considered separately. He proposed that the text of the Social Charter be examined first. When Chapter III, Economic and Social Council, came up for consideration, members of the committee would have to decide upon either the Economic and Social Council or on the Conference proposed by the Committee on Economic Questions.

M. Haekkerup asked whether, after discussion, the Committee would submit a report to the Assembly in April at the same time as the Committee on Economic Questions. He preferred that the two committees should produce a single report, since he considered the two texts to be very similar.

The Chairman replied that the Committee on Social Questions alone had been asked to submit a report to the Assembly.

It was decided to examine the draft Social Charter, point by point.

Part I

(Principles and objectives of Social Policy)

Mme. Weber, Miss Burton and M. Haekkerup objected to the use of the term "full employment" in para. 1 of the new text.

On the proposal of the Chairman, the wording proposed by the Committee on Economic Questions was adopted but the term "full employment" was retained.

Para. 2 of the text proposed by the Economic Committee was adopted.

On the proposal of the Chairman, in para. 3, the words "and the integrity of the family" were added after the words "human dignity".

Para. 4 of the text proposed by the Economic Committee was adopted.

On the proposal of M. Haekkerup, in para. 5, the words "and to ensure their education" were inserted after the words "children and young persons".

Para. 6 (original text) was retained.

Para. 7 (original text) was also retained. On the proposal of M. Haekkerup, the term "in the management and" was inserted after the words "particularly by participation".

The Committee retained para. 8 (original text) and para. 7 proposed by the Committee on Economic Questions, which became para. 9.

The wording of para. 8 proposed by the Committee on Economic Questions was adopted. Para. 8 became para. 10.

In connection with para. 9 as proposed by the Committee on Economic Questions a discussion ensued as to whether it was necessary to regard the High Contracting Parties as "collectively" responsible for the economic expansion of their under-developed areas.

M. Dehousse asked that the text proposed by the Social Committee containing the term "collectively", be retained. M. Montini, Tumerkan, Moutet and Mme. Schroeder agreed with M. Dehousse.

M. Haekkerup thought the text proposed by the Economic Committee was the better one.

It was decided by 10 votes to 6 that the term "collectively" should be retained. Para. 9 as proposed by the Committee on Economic Questions was accordingly adopted, subject to the insertion of the term "collectively", and became para. 11.

Para. 10 (original text) was retained and became para. 12. On the proposal of M. Haekkerup the word "native" in the English text was replaced by the word "local".

Para. 12 (original text) was also kept and became para. 13.

Para. 13 as proposed by the Committee on Economic Questions was adopted and became para. 14.

Para. 12 as proposed by the Committee on Economic Questions was adopted and became para. 15.

Part II

(Economic and Social Rights)

Article 1

There was a discussion on the term "the right to work" contained in this Article.

Mme. Weber, Miss Burton, MM. Haekkerup, Bengtsson, and Fletcher-Cooke preferred the text proposed by the Committee on Economic Questions which merely "recognises" that everyone is entitled to work, instead of stating categorically that everyone has "the right" to work. They felt that in present circumstances no European country could guarantee the right to work.

M. Montini did not think there was any great difference between the text proposed by the two Committees; he did, however, prefer the text of the Committee on Social Questions which was consistent with the fact that it was a question of ensuring certain rights.

M. Dehousse drew attention to Article 55 of the Charter of the United Nations of 1945. He also quoted Article 6 (2) of the United Nations draft Covenant on Economic and Social Rights which stipulated that Member States must ensure full productive employment. Finally he recalled that the American Declaration of the Rights and Duties of Man also referred to "the right to work".

M. Haekkerup was opposed to the Social Charter under discussion being a mere declaration like the Universal Declaration of the United Nations.

M. Moutet supported the text of the Social Committee. The right to work was indeed an obligation to be assumed by the State. It was for that reason, moreover, that countries paid benefits to the unemployed and to workers who, for one reason or another, were unable to work. If the text of the Social Committee were retained it would, among other things, make it necessary for countries with an inadequate social security system to fall into line with countries which were more advanced in that respect.

The Committee then voted on the sentence "everyone has the right to work" which was rejected by 10 votes to 6.

Article 1 was accordingly adopted with the wording proposed by the Committee on Economic Questions.

On the proposal of M. Haekkerup it was agreed to add to para. 3 of this Article a note specifying that it would be for the Governmental Social Committee to determine whether the text of para. 3 (a) of the Article could rule out the "closed shop" system.

M. Kulakowski, observer for the International Federation of Christian Trade Unions (I.F.C.T.U.) said that in the opinion of his organisation the changes and cuts made in the Social Charter deprived it of any real meaning and he therefore wondered whether it was really useful for trade unionists to participate in the work of the Committee.

M. Dehousse said the Social Charter in its present form would arouse the opposition of the working class. He would therefore abstain in future from participating in any vote.

Article 2

During the discussion of Article 2 as drafted by the Committee on Economic Questions, the following changes were proposed:

By M. Tümerkan: the addition at the end of paragraph (e) of a sentence providing for possible wage-adjustments resulting from variations in the cost of living in different areas.

This amendment was adopted.

Mrs. Crowley proposed the deletion from paragraph (f) of the sentence to the effect that the working week should be "progressively reduced to a 40 hour week".

This amendment was rejected by 8 votes to 1 with 2 abstentions (MM. Heyman and Dehousse).

M. Haekkerup proposed that paragraph (g) should provide for three weeks' annual holiday with pay instead of a "minimum of two weeks".

A vote ensued on the last proposal. Seven members were in favour of maintaining the present text, 6 were against, with 2 abstentions (MM. Heyman and Dehousse).

M. Haekkerup's amendment was rejected.

M. Haekkerup pointed out that his suggestion should not have been regarded as a proposed amendment.

It was proposed that paragraph (h) of the original text should be added after paragraph (g).

The Committee agreed to this addition.

Article 2, as amended, was adopted.

Article 3

With regard to Article 3 proposed by the Committee on Economic Questions, M. Haekkerup proposed that in para. 1, which refers to special measures of protection, the word "women" should be replaced by the word "mothers".

Miss Burton and several other members opposed this amendment, which was then withdrawn by M. Haekkerup.

Article 4

Article 5 as proposed by the Committee on Economic Questions was adopted and became Article 4.

Article 5

Article 5 (original text) was retained.

Article 6

With regard to Article 4 (the right to strike) which was adopted with the wording proposed by the Committee on Economic Questions after a slight drafting modification becoming Article 6, M. Tümerkan drew the Committee's attention to the importance of a procedure of arbitration as a means of preventing strikes and their serious social and economic consequences.

The meeting was suspended at 12.20 p.m. and resumed at 2.30 p.m.

Article 7

Article 6 as proposed by the Committee on Economic Questions was approved and became Article 7.

Article 8

There was a discussion on Article 8 (former text), the deletion of which had been requested by the Committee on Economic Questions.

Miss Burton, M. Haekkerup and Mr. Fletcher-Cooke spoke in favour of deletion.

M. Kulckowski, I.F.C.T.U. Observer, spoke against deletion.

The Chairman proposed, as a compromise, that the words "protect savings" be replaced by the words "encourage savings".

A vote was taken on this question, six members voting for deletion, one against and two abstaining (MM. Heyman and Dehousse).

Article 8 (former text) was therefore deleted.

Article 9 (former text) was also deleted.

Article 7 of the text proposed by the Committee on Economic Questions was adopted as Article 8.

Article 9

Article 8 of the text proposed by the Committee on Economic Questions was adopted as Article 9.

Article 10

Similarly, Article 9 put forward by the Committee on Economic Questions was adopted as Article 10.

Article 11

Article 10 proposed by the Committee on Economic Questions was adopted as Article 11 with the following amendments:

- the word "fundamental" was inserted before the word "unit" in paragraph 1;

- the first four lines of paragraph 2 were amended in the light of an observation by Mlle. Swagemakers, Representative of the World Union of Catholic Women's Organisations, to the effect that the State should not alone be concerned with measures to educate young persons for marriage;

- paragraph (a) of the former text (grant of allowances in proportion to the number of children) was retained. Thus paragraphs (a) to (f) of the text proposed by the Committee on Economic Questions were renumbered (b) to (g).

Article 12

Article 11 proposed by the Committee on Economic Questions was adopted as Article 12.

As regards the special protection of mothers before and after childbirth, M. Tümerkan wished it to be stated that maternity leave should amount to at least 12 weeks, rather than that it should fall 6 weeks before and 6 weeks after childbirth. He had noticed as a practitioner that, in cases of premature childbirth, many employers only granted the leave falling due after childbirth, thus denying the person concerned the leave to which she should have been entitled before childbirth.

Articles 13 and 14

Articles 12 and 13 proposed by the Committee on Economic Questions were adopted as Articles 13 and 14 respectively.

Article 15

Article 18 (former text) was renumbered Article 15 and was brought into line with the provisions of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 19 (former text) was deleted.

Parts III and IV (European Economic and Social Council and Implementation of the Charter).

The Chairman explained how the provisions of Doc. 403 differed from the proposals of the Committee on Economic Questions, the purpose of which was (i) to make the governmental Social Committee responsible for the implementation of the Charter, (ii) to convene an Economic and Social Conference with different functions.

The first difference was that the Conference proposed by the Committee on Economic Questions would have no statutory powers, but could be consulted by the Assembly at any time.

The second difference was that the Conference envisaged by the Committee on Economic Questions would be set up by a Recommendation of the Assembly and a Resolution of the Committee of Ministers, and not under the terms of the Charter itself. There would therefore be no need for ratification by the national Parliaments. In his opinion, there was a danger that, if the Economic and Social Council remained an integral part of the Charter, the latter could not be ratified by the Scandinavian countries, the Federal Republic of Germany and the United Kingdom.

At the request of the Chairman, Mr. Robertson explained the main reasons for which the Committee on Economic Questions had thought it advisable to amend the proposals of Document 403. Firstly, it considered that the Governments alone were in a position to implement the Charter and therefore proposed that this task be assigned to the governmental Social Committee. Secondly, although it agreed with the Committee on Social Questions that employers' and workers' organisations must be more closely associated with the work of the Council of Europe, it felt that a better solution would be to convene an Economic and Social Conference without statutory powers.

This could be done without ratification by the national Parliaments, and would at the same time facilitate and accelerate ratification of the Charter itself.

M. Dehousse expressed great disappointment at the trend of the discussion. The text which he had put before the Committee as Rapporteur on the Economic and Social Council had been mutilated to such an extent that he was forced to take steps to repudiate authorship. He therefore saw no alternative but to resign his position as Rapporteur of the Committee and suggested that his successor be chosen from among representatives of the north temperate zone.

The Chairman reminded the Committee of the importance of the problem and proposed a fifteen minute suspension to enable members to discuss the matter privately.

After a brief suspension of proceedings, M. Kulakowski, I.F.C.T.U. Observer, expressed his conviction that the Committee on Economic Questions would be mistaken in believing that the establishment of a Conference instead of an Economic and Social Council would be an effective means of associating the trade union movement with the work of the Council of Europe.

M. Haekkerup expressed the view that the Economic and Social Council was unacceptable to a number of Governments. The speaker felt unable, moreover, to associate himself with the proposal of the Committee on Economic Questions, since the Conference in question seemed to him both worse and less effective than the Economic and Social Council. He thought it advisable, therefore, to take advantage of existing international machinery for the implementation of the Charter and to invite I.L.O. to organise a tripartite conference.

M. Renatsson supported M. Haekkerup's proposal.

M. Dehousse drew the Committee's attention to the fact that many of those in favour of his text were absent. He did not wish it to be asserted, on the strength of these absences, that the Economic and Social Council had no supporters.

A vote was taken on Article 14 of the text proposed by the Committee on Economic Questions, which eliminates the Economic and Social Council.

This Article was adopted as Article 16 by 9 votes to 4 with 2 abstentions (MM. Heyman and Dehousse).

The Chairman noted that this meant the deletion of the text on the Economic and Social Council proposed by the Committee on Social Questions.

M. Haekkerup proposed that the Committee prepare a recommendation to the Committee of Ministers on the convocation of a tripartite conference, in accordance with Article 3 of the Agreement between the Council of Europe and the I.L.O.

M. Dehousse thought that M. Haekkerup should take it upon himself to table a draft Recommendation when the problem was debated in the Assembly.

Articles 15, 16 and 17 of the text proposed by the Committee on Economic Questions were adopted as Articles 17, 18 and 19 respectively.

Article 18 of the text of the Committee on Economic Questions was adopted with a slight textual amendment as Article 20.

Articles 19 to 23 of the text proposed by the Committee on Economic Questions were adopted as Articles 21 to 25 respectively.

Vote on the text as a whole

The Committee then voted on the draft Social Charter as a whole, there being 6 votes in favour, 0 against and 8 abstentions.

M. Dehousse maintained that, since there were 8 absentions, there could not be said to be a majority in favour of the draft Social Charter.

M. Haekkerup disagreed with this view.

At the request of the Chairman, Mr. Robertson informed the Committee that, under the Rules of Procedure of the Assembly, since only 14 members had taken part in the vote, a quorum had not been secured. He pointed out that a vote in Committee on a text considered as a whole must be taken by roll-call. Moreover, Article 34 of the Rules of Procedure laid down that only affirmative and negative votes counted in calculating the number of votes cast.

Miss Burton suggested a revote.

M. Dehousse opposed this, more particularly since a quorum was lacking.

A count was then taken of members of Committee. Fifteen members having been found present, a quorum was duly established.

A second vote on the draft Social Charter was taken by roll-call, with the following result: 6 votes in favour, 0 against and 9 abstentions.

The Chairman proposed that the Secretariat be instructed to prepare a new text of the Social Charter incorporating the amendment adopted by the Committee and that it convene the Committee once more on the eve of the Session, for final examination of the text before its submission to the Assembly.

M. Moutet asked whether members would be allowed to table whatever amendments they wished when the Committee next discussed the Social Charter.

M. Haekkerup expressed the view that, at its next meeting, the Committee could not consider amendments affecting the substance of the text already adopted. Amendments of substance, to which M. Moutet was referring, could only be put before the Assembly.

The Chairman proposed that the Committee appoint a new Rapporteur in succession to M. Dehousse.

Mme. Weber, Miss Burton and M. Bengtsson moved the appointment of M. Haekkerup, and this was accepted by the Committee.

4. MEASURES TO BE TAKEN BY MEMBER STATES TO ENCOURAGE CONTACTS BETWEEN YOUNG PEOPLE

Miss Burton presented her draft Report to the Committee (Doc. AS/Soc (7) 29).

M. Haekkerup recalled that N.A.T.O. was studying a proposal for the convocation of a youth congress.

The Committee unanimously approved the draft Recommendation and Report embodied in Doc. AS/Soc (7) 29 and decided to transmit it to the Committee on Cultural and Scientific Questions for its opinion.

5. DATE AND PLACE OF THE NEXT MEETING

It was decided to hold the next meeting at Strasbourg on the eve of the Eighth Ordinary Session of the Consultative Assembly, at a time to be fixed later.

CONSEIL DE L'EUROPE COUNCIL OF EUROPE

Strasbourg, 30th August 1956

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AS/Soc (8) 6

Or. Fr.

ASSEMBLÉE CONSULTATIVE

COMMITTEE ON SOCIAL QUESTIONS

Second Session

EUROPEAN SOCIAL CHARTER

AND

EUROPEAN ECONOMIC AND SOCIAL COUNCIL

Draft Opinion

of the Committee on Social Questions drawn up at the request of the Committee on General Affairs and presented by M. Heyman, Chairman of the Committee.

Doc. AS/AG (8) 16, submitted for opinion to the Committee on Social Questions by the Committee on General Affairs includes a draft recommendation and a draft European Convention on Social and Economic Rights. This title takes the place of that of European Social Charter and has the Committee's approval.

Draft Recommendation

Draft Recommendation

1. Paragraphs 1 and 2 of the substantive text are likely to be confusing since in the opening paragraph the Committee of Ministers is asked to approve the draft Charter, whereas in paragraph 2 the preparation of the draft at a later date is implied. Confusion could be avoided by referring in paragraph 1 to approval in principle by the Committee of Ministers. The paragraph might be worded as follows: "to approve the principle of a draft European Convention on Social and Economic Rights in accordance with the draft appended hereto and to transmit the draft Charter to the governmental Social Committee."

2. With regard to the appointment of a Special Representative of the Council of Europe, the Committee on Social Questions draws attention to its opinion to the Committee on General Affairs of 18th April, 1956 (Doc. AS/Soc (6) 1). Bearing in mind the preparatory negotiations which should be carried out with I.L.O., provision should be made to enable the Commissioner to ensure co-operation with that body; such co-operation would take place later in conjunction with the implementation of the Charter (Articles 17 and 18 of the present draft) and will again be referred to at the end of this Opinion.

Paragraph 2 might therefore conclude with the words: "and, in particular, to arrange any necessary consultation with I.L.O. in pursuance of the agreements concluded between that organisation and the Council of Europe." (1)

(1) Attention is drawn to the possibility of convening a tripartite conference, to which the draft Charter could be submitted for opinion at a later date, as foreshadowed by the Assembly in its Resolution 69 of 7th July, 1955.

Draft European Convention on
Social and Economic Rights

Preamble

1. The preamble (former Part I of Doc. 488) must be considered as a statement of principles and not as embodying an undertaking. This is indeed clear from the text itself and particularly from the provision contained in the second sub-paragraph.

2. These provisions contained in the preamble appear to be essential insofar as they affirm the European character of the Social Charter, namely the common principles and aims of the social policy of Member States of the Council of Europe. It is therefore proposed to revert to the former presentation, in which these provisions form the first part of the Charter proper, the term "preamble" being reserved for the introduction to the draft Recommendation and used to head the final instrument.

3. The proposal to include the question of financial stability in the text of the Preamble was adopted only in Doc. 403 (see para. 2 of Part I of that document). The wording has now been amended in accordance with the request of the Committee on Economic Questions.

4. The question of the protection of savings is dealt with under H below.

Part I

Social and Economic Rights

General Remarks

The remarks made by the Committee on General Affairs in regard to paragraphs 1 and 2 on page 16 of the document submitted, especially concerning the stringent and detailed character of the provisions in question, relate to a problem which has been the subject of numerous discussions and exchanges of views among the various authorities hitherto concerned with drafting the Charter, namely the Working Party, the Committee

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on Social Questions, the Committee on Economic Questions and the Joint Meeting of both Committees. As a result of these discussions, it was decided to adopt the wording contained in Doc. 488, which is the outcome of a compromise and also takes account of the observations made by the Assembly during the debates held in October, 1955. Furthermore, the text now presented by the Committee on General Affairs, though broadly based on that of Doc. 488, contains some rather important amendments (cf. the beginning of Article 1 B, C and D, as well as Article 5 of Doc. 488, which has been deleted from the present text). In a number of articles Doc. 488 drew a distinction between the first non-compulsory sub-paragraph and a second sub-paragraph which contains strict undertakings; this distinction need no longer be made under the new presentation of Part I (see remarks concerning Article 1 on page 18 of the document submitted for opinion). The new text is less complete and more stringent than the previous one.

There can be no question of postponing the general provisions of Part I, especially as there are more practical ways of disposing of the controversies mentioned in the Report, namely by means of informative contacts on the subject among the rapporteurs of the committees concerned and, if necessary, by calling upon the chairmen and rapporteurs to make statements before the Committee on General Affairs. This procedure is one to which the Committee on Social Questions will invariably be glad to give its support. It will therefore confine itself to giving its opinion on the points which were specifically raised by the Committee on General Affairs and will consider therein the amendments made by that Committee to the text of Doc. 488, which will be dealt with later on.

Similarly, it should be borne in mind that, though the originators of the various proposals have tried to ensure that the Charter shall embody precise and detailed undertakings binding upon the signatory States, this has been done so that the Council of Europe may not be accused of presenting an instrument of a purely declaratory character and not something tantamount to mere "window-dressing". Lastly, since the text in question is intended to serve as a basis for the work of the Social Committee, as well as for negotiations by Member Governments, it was desirable that the Charter should be as complete as possible and include as many objectives and clearly defined standards as possible.

Article 1

1. The considerations mentioned on page 18 referring to the system governing the recognition of social and economic rights meet with the Committee's approval.⁽¹⁾

2. Bearing in mind that in a number of Member States the measures referred to in the general provision of Article 1, particularly with regard to employment and conditions of work, are put into effect by means of collective agreements and that the representatives of the States in question have already shown some misgiving with regard to a provision which appears only to relate to measures taken or promoted by public authority, it appears necessary, in connection with the entry into force of the Convention, for the text in question to be amended by adding the words:

"in so far as these measures have not been put into effect by means of collective agreements or in any other way."

It will be noted that this amendment also takes account of the remarks on page 36 of the Report concerning the wording of points I, J and K, to which reference will be made later on.

Remarks concerning the various rights

A. The right to work

It is proposed that the following amendments be made:

in sub-para. (c): replace the words "fix", "prepare" and "establish" by the words "shall try to fixto prepare and to establish" ;

in sub-para. (d): add to the words "undertake to" the words "adopt appropriate measures to:"

The action proposed in this particular paragraph corresponds to similar measures already suggested:

in Assembly Recommendation 25 (195), with regard to the fixing of national targets;

(1) The new numerical presentation of the Articles appears unfortunate to the Committee, the more so because it fails to follow the model provided by the European Convention on Human Rights.

in Recommendation 83 (1948) of I.L.O., with regard to national budgets, and

in Recommendation 73 of I.L.O., with regard to long-term programmes.

B. The right to fair and stable conditions of work

It is proposed that the following amendments be made:

paragraph 1: reinstate, after the words "exercise of this right", the wording of para. 1 of Article 2 of Doc. 488.

Paragraph 1 would therefore consist of two separate paragraphs, numbered 1 and 2.

This amendment appears to be essential since the present text contains no provision for the right to equal pay, nor concerning the other points mentioned in the said paragraph of Doc. 488.

The new text would then be worded as follows:

"With a view to ensuring the exercise of this right, the High Contracting Parties:

1. recognise that conditions of work should be such as to enable workers to find satisfaction in their work, develop their human personality, protect their health and provide themselves and their families with an independent and decent livelihood;
2. will take, within the limits of their constitutional powers and national procedures, appropriate steps to secure such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure;
3. undertake to secure for every worker

(Insert here the text submitted for opinion).

Sub-para. (b): it is proposed that the text contained in the draft submitted for opinion be maintained;

sub-para. (c): it is proposed that the word "raisonnables" be added to the French text from which it was omitted; the word "reasonable" already appears in the English version of the original text.

Sub-para. (d): it is proposed that this text, which conforms with Labour Conventions Nos. 26 and 99, be allowed to stand.

Sub-para. (e): the first part of this text, down to the word "women", is in conformity with the standards adopted by I.L.O. There is, however, no objection to the remainder of this sub-paragraph being deleted.

C. The right of children, adolescents and women to special measures of protection in their employment

Paragraph 1

The detailed provisions relating to age and periods stipulated are in conformity with the standards laid down in this connection in the relevant conventions and recommendations of I.L.O. In some cases they fall short of those standards. (c.f. the Comparative Analysis in Doc. AS/Soc (7) 32). Needless to say, the standards laid down in the European Social Charter should be at least equivalent to those contained in the worldwide Labour Conventions.

D. The right of workers to take part in the management of an enterprise

The Committee on Social Questions has no major objections to the choice made by the Committee on General Affairs. In connection with the consideration upon which the Drafting Committee based the words "maintain organs of joint management", it is worth pointing out that this is in conformity with the terms of Article 19 of the final provisions.

E. The right to strike

The Committee prefers Alternative 1.

F. The right to form and join trade unions

It is proposed that the words "and employers" be inserted after the words "to grant workers", since this would be in line with Labour Convention No. 87.

G. The right to a decent living

1. The expression "a decent living" is used in similar documents, such as the UN Draft Treaty relating to Economic and Social Rights; Art. 7, 2(ii): "a decent living" (c.f. also para. 1 of Article 2 of Doc. 400). The provision also refers to persons not in receipt of

a fixed remuneration. The Committee nevertheless agrees to the term "a decent living" being replaced by "a proper standard of living".

2. Sub-para. (a) and (b), which have been taken textually from Doc. 488, were contained in the initial draft (Doc. 403) among a series of provisions concerning the right to a decent living, particularly from the point of view of adequate nutrition, housing and clothing. Since this refers to a right recognized as such in Article 11 of the United Nations Draft Treaty, the Committee on Social Questions eventually decided, after lengthy discussion, to retain the classification under the heading of rights and not in the preamble.

Bearing in mind the need to be concise and realistic, the provisions in question were amended in Doc. 488 to take account of economic trends which, as in the case of many other social and economic rights, govern their exercise.

H. The right to social security

1. A provision relating to the protection of savings in general was embodied in Article 30 of the initial draft (Doc. 403). It was deleted in Doc. 488, owing to the fact that it was difficult for public authorities to ensure effective protection. Since the Committee on General Affairs was solely concerned with Part I of Doc. 488, it was unable to reinstate the original provision contained in Doc. 403 and this accounts for the question raised.
2. Article 8 of Doc. 403 contains a provision relating to the property and savings of workers. A provision of this kind would be out of place in a text relating to the right to social security.

The Committee on Social Questions sees no objection, however, to reinstating the idea of original Article 8 of Doc. 403. This would entail adding to Point G a subparagraph (c) worded as follows:

"(c) protect savings and create favourable conditions for their encouragement".

3. It should be noted that the French text of Doc. 488, which is embodied in the French text of the draft submitted for opinion, should be revised to conform with the English text of Doc. 488. To this end, the words "unemployment and old-age benefits" should follow the words "benefits relating to sickness".

I. The right to a high standard of health

J. The right of the family to social and economic protection

K. The right of mothers and children to social and economic protection.

General remarks

The Committee concurs with the views expressed on page 36 of the document submitted for opinion. The more detailed wording suggested by the Committee on General Affairs has already been the subject of consideration by the Committee on Social Questions. The desired particulars were embodied in the provisions of Article 12 (para. 2) of the initial draft Charter (Doc. 405), as well as of Article 13, Doc. 408. The Committee therefore proposes that

(a) Point I be amended as follows:

"With a view to will take all appropriate measures directly or in co-operation with local authorities and competent private organisations:"

(b) Points J and K be amended as follows:

"With a view to undertake, directly or in co-operation with local authorities and competent private organisations, to"

Point I

The words "environmental health" as well as the remainder of the text reproduce the wording contained in Article 13 paragraph 2(b) of the United Nations draft Treaty. It would nevertheless be desirable to state "and other environmental health factors".

Point J

The remarks made on page 38 under (b)(i) and (b)(vi) appear to be justified. On the other hand, the Committee does not agree with that made under (b)(ii), bearing in mind the particulars at the beginning of this sub-paragraph, as well as the amendments which it is suggested should be made to this Article on the lines mentioned above under "General remarks". In point of fact, the measures in question are included in the social programme of several European countries. Furthermore, the words "measures to educate" might be replaced by the words "guidance of".

Point K

With regard to the remarks under (a)(i), it should be noted that this provision makes no distinction between married and unmarried mothers. (See also the last sentence of paragraph 5 of the Preamble). The Committee would, however, agree to a new sub-paragraph (a)(iii) being added, worded as follows:

"(iii) to adopt the necessary measures on behalf of difficult social cases in order to eliminate conditions likely to lead to recourse to abortion".

L. The Right to social and cultural aid and guidance

This provision, taken from the old Article 13 of Doc. 488 entitled "Social Services", relates to the problem of the social and cultural adaptation of the individual and the family to conditions resulting from mechanisation and industrialisation, one of the most acute and burning problems of the day, dealt with, moreover, in the social programme drawn up by the Committee of Ministers and the Assembly. It therefore appeared desirable that a specific article should be devoted to it in the Charter.

Bearing in mind the remarks on page 12, the Committee considers that it would be useful to change the title of Point L, as follows: the right to guidance with a view to social and cultural adaptation.

Parts II and III

General remarks

1. Parts II and III concern the implementation of the Convention. Part III relates to procedure, whereas Part II deals with the organs through which the Council of Europe would ensure the smooth working of that procedure. The procedure in question would be quite special and without precedent among the activities of the Council of Europe. The organisation of this procedure has to a large extent been responsible for the controversy which has arisen in connection with the system laid down in Doc. 403 and that set forth in Doc. 488. The first was based on the need to organise procedure in accordance with a new structure, whereas the second avails itself of the Council's existing institutions. There is every reason to believe that this controversy may be considerably attenuated by a better understanding of the nature and purpose of the procedure in question.
2. In an endeavour to help dispel these difficulties, the Committee on Social Questions has considered it advisable to express an opinion on Parts II and III in the form of a statement of the technical aspects of the implementation of a convention of this kind. This statement will be followed by a number of conclusions relating to the wording of the relevant texts.
3. In accordance with the system implementing the I.L.O. Conventions (Article 22 of the I.L.O. Constitution), and the system of application of the United Nations draft Treaty (Articles 17 and 18 of that draft), implementation of the Social Charter follows from a periodical submission of reports by the participating governments. The same system is provided for under the European Social Security Code. The reports referred to in Article 14 of the draft submitted for opinion will be required to state the progress accomplished at the time the Charter is put into effect. They will enable it to be determined whether and to what extent the laws and social practices (collective agreements) of the participating countries comply with the letter and spirit of the Convention. The examination of these reports is the main feature of the implementation of a social convention at international level.

4. With regard to the Labour Conventions, the system adopted by I.L.O. shows that their implementation is far from being a concern solely of the governments responsible for putting them into effect. Indeed, the examination of the reports has two aspects: first, that of technical and legal supervision and enquiry by a Committee of independent experts; and second, conciliation, promotion and mutual assistance procedure based on the Committee's conclusions and carried out on a tripartite basis, that is to say, with the direct participation of the representatives of the governments and of workers' and employers' trade unions. It goes without saying that the technical nature of such procedure calls for special machinery, of which the I.L.O., as represented by its various institutions (International Labour Office, Governing Body and the Committee and Commission for the implementation of Conventions), is a classic example.

5. It is obvious that the Council of Europe does not as yet possess such machinery. Bearing in mind the technical nature and considerable volume of reports which participating governments would submit to the Council of Europe, examination of those reports would exceed the means and facilities available to Representatives to the Assembly. The need for impartiality which, as in the case of I.L.O., must be a feature of the checking of these reports, precludes their examination from being entrusted solely to the governmental Social Committee, as was suggested in Doc. 458, since its members would in that event become judges of their own action as senior government officials responsible for taking an active part in putting the Charter into effect in their respective countries.

6. It follows, therefore, that the solution of the problem, on which Parts II and III of the present draft Charter are based, should reside in creating conditions likely to ensure the smooth working of the methods of procedure in question by means of a number of technical institutions. In its initial draft (Doc. 403) the Committee on Social Questions contemplated the setting up of an economic and social council in this connection. The proposal now put forward by the Committee on General Affairs provides for another solution, namely the appointment of a European Commissioner and a European Social Chamber.

7. Broadly speaking, this dual solution appears to correspond fairly well with the two features characterising the classic system of implementation of social conventions, namely, first, supervision by an independent authority and, second, consultation of the vocational circles concerned with a view to smoothing out, by means of conciliation and mutual assistance, difficulties arising out of such supervision. The Commissioner responsible on behalf of the Council of Europe for organising procedure governing the implementation of the Charter will possess the necessary authority to ensure that such supervision is surrounded by adequate guarantees of impartiality. Furthermore, the European Social Chamber could be the organ capable of associating the representatives of relevant sectors of the community with this procedure, as in the case of the I.L.O.

8. Whilst the appointment of a European Commissioner appears to be necessary to ensure the implementation of the Social Charter, it is all the more essential in that it would provide a basis for close co-operation with I.L.O. There are indeed several reasons why such co-operation is desirable.

First of all, there is serious risk of duplication arising in the implementation of the Social Charter, since a large number of its provisions duplicate those of I.L.O. Conventions, particularly in the sphere of employment and working conditions /see, in this connection, the Comparative Analysis in Doc. AS/Soc (7) 32/. On the one hand, it is to be expected that the periodical reports submitted by the participating governments will in many cases deal with the same points as those submitted by them each year to I.L.O. This possibility has been borne in mind in the third paragraph of Article 14 of the draft submitted for opinion. On the other hand, it is obvious that the Committee of Independent Experts of the I.L.O., which has for many years been responsible for the study and examination of the reports submitted to that organisation and has, as a result, acquired considerable knowledge and experience of the social legislation and practices of European Member States of I.L.O., would be able to give substantial assistance to the Council of Europe in connection with the examination of the periodical reports submitted to it.

9. In order to preclude the examination of the reports giving rise to conflicting interpretation, it seems necessary that procedure for implementing the Charter should be carried out with the participation of certain institutions and departments of I.L.O., including the Committee of Independent Experts, as well as the specialised departments of the International Labour Office responsible for preparing the work connected with the implementation of the Conventions. Provision for such participation has already been made in the case of the European Social Security Code, since Article 75 of the draft Code provides for co-operation of the Committee of Experts of I.L.O. in putting the Code into effect.

10. In the event of it being possible to obtain the necessary agreement of the I.L.O., implementation procedure might be as follows:

a. The reports should be addressed to the Secretary-General who will transmit them to the Commissioner and the Assembly.

b. The Commissioner will prepare a synthesis of these reports in conjunction with I.L.O. and by any other means which he deems useful.

c. The Commissioner shall on the basis of the above mentioned synthesis determine, in the first instance, which are the cases which appear to require further examination and action.

d. The report of the Commissioner containing the synthesis and the list of those cases shall be submitted to the Assembly which may consult the Social Chamber.

e. Bearing in mind the views of the Assembly on this report the Commissioner shall submit recommendations to the Committee of Ministers to which the views of the Assembly should be appended. The Committee of Ministers takes the final decision after having consulted its Social Committee. (1)

11. In accordance with the above-mentioned considerations, there will be found at the end of this Opinion an amended wording of Article 18 of the draft submitted for opinion, concerning the arrangements which should be made in this connection with the I.L.O. on behalf of the Council of Europe. It is obvious that a very important task will fall upon the European Commissioner for Social Affairs, who will, in particular, be responsible for ensuring co-ordination and co-operation among the various authorities concerned with implementing the Social Charter.

12. Incidentally, it will be noted that in theory the risk of duplication with I.L.O. might also result from the special complaints procedure laid down in Articles 24 and 26 of the I.L.O. Constitution, as well as by virtue of its provisions relating to the freedom of trade unions. This procedure, whose application has hitherto been limited to extremely rare cases, should be clearly distinguished from that provided for in Article 22 of the Constitution in so far as implementation of the Conventions on the basis of periodical reports is concerned, dealt with in this Opinion. Article 17 of the draft submitted for opinion also contains in its paragraph (a) reference to complaints procedure, in which a slight change should be made in accordance with an amendment included at the end of this Opinion.

(1) The Committee draws the attention of the Committee on General Affairs to the fact that the Convention would not seem to make provision for action by the Committee of Ministers in order to give effect to the recommendations of the Commissioner.

Conclusions (1)Article 2

The Committee on Social Questions has no objection to the new terminology explained under "Remarks" in the draft submitted for opinion.

Article 5

Bearing in mind the provisions of Article 15, it might be advisable to add that the Commissioner is empowered to address recommendations to the Committee of Ministers.

Article 15

The recommendations referred to in this Article relate to the final phase of implementation, namely, to cases in which the Commissioner or other competent authorities do not succeed in conciliating the parties concerned. It therefore seems that Article 15 should come after Articles 17 and 18, since these precisely relate to procedure for supervision and conciliation. This is all the more advisable since experience acquired by the I.L.O. shows that cases of dispute are very rare and that, as a rule, it is possible to bring about conciliation, it being sufficient to embody particulars thereof in the Commissioner's annual report to the Assembly in accordance with the terms of Article 16.

Article 17Paragraph (a)

With reference to paragraph 11 of the "General Remarks", the Committee suggests that this Article be amplified and amended as follows:

"except

- (i) where this question is the subject of a complaint before the International Labour Office, when the procedure provided for in Articles 24 and 26 of the I.L.O. Constitution is applicable;
- (ii) in cases governed by the provisions put into force by the I.L.O. concerning the freedom of trade unions."

(1) The conclusions relate solely to the technical aspects

Paragraph (c)

This paragraph becomes unnecessary; the wording proposed for Article 18 is of itself sufficient.

Article 18

At the end of "General Remarks" it was proposed that this article be amplified and amended as follows:

1. "Agreements shall be concluded with international or European organisations competent in economic, social and cultural matters, in particular with the I.L.O. and O.E.E.C., to enable the Commissioner to perform the tasks incumbent upon him at the time of putting the Convention into effect, so that, in order to avoid any duplication in this connection, these tasks may be the subject of appropriate co-operation, especially in connection with the submission of the annual reports referred to in the last paragraph of Article 14, and their examination."
2. The Commissioner shall, within the framework of these agreements, ensure the participation of the organisations in question with the implementation of the Convention.

Part IV

The Committee agrees.

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COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 10th September, 1956.

Restricted

AS/Sec (8) PV 2
Cr. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Second Session

DRAFT MINUTES

of the meetings held at 4 p.m. on Wednesday, 5th September, 1956
and at 9.30 a.m. on Thursday, 6th September, 1956,
at the Paris Office of the Council of Europe,
55, Avenue Kléber.

There were present :

MM. COURANT, Vice-Chairman	(France)
BIRKELBACH, Vice-Chairman	(Fed. Rep. of Germany)
Mrs. CROWLEY	(Ireland)
MM. ENGEL	(Saar)
ERDEN	(Turkey)
EVEN	(Fed. Rep. of Germany)
FENS	(Netherlands)
HARUNOGLU	(Turkey)
Dame Florence HORSBRUGH	(United Kingdom)
MM. KOLLER	(Belgium)
MONTINI	(Italy)
MOUFFET	(France)
Mrs. SLATER	(United Kingdom)
MM. STRASSER	(Austria)
VIKSPÖCKE	(Netherlands)
Mrs. WEBER	(Fed. Rep. of Germany)
M. WILLEY (for Dr. FAUCHON)	(United Kingdom)

Apologised for absence :

MM. HEYMAN, Chairman	(Belgium)
ANDERSSON	(Sweden)
BENGTSSON	(Sweden)
BONDEVIK	(Norway)
CANEVARI	(Italy)
HAEKKERUP	(Denmark)
KALENZAGA	(France)
van KAUVENBERGH	(Luxembourg)
LUCIFERO d'APRIGLIANO	(Italy)
LUGMAYER	(Austria)
SAVOPOULOS	(Greece)
STEFANSSON	(Iceland)
YEROCOSTOPOULOS	(Greece)

The following observers were also present :

MM. BLICKENSTAFF	United Nations
FANG	International Labour Organisation
KULAKOWSKI	International Federation of Christian Trade Unions
SCHEVENELS	International Confederation of Free Trade Unions
ZUNIC	World Veterans Federation
Melle SWAGEMAKERS	World Union of Catholic Women's Organisations.

In the absence of the Chairman, M. HEYMAN, on account of ill health, M. COURANT, Vice-Chairman, took the Chair and opened the meeting at 4 p.m.

1. AGENDA

The Agenda was adopted.

∟Ref: AS/Soc (8) CJ 27

2. MINUTES

The Minutes of the meeting held on 18th April, 1956 at the Seat of the Council of Europe were adopted.

∟Ref: AS/Soc..(8) FV 17

3. EUROPEAN SOCIAL CHARTER AND EUROPEAN ECONOMIC AND SOCIAL COUNCIL

The Chairman opened the discussion on Document AS/Soc (8) 6 containing the opinion of the Committee on the draft Social Charter submitted by the Committee on General Affairs, and invited M. Tonicic, Rapporteur of the Committee on General Affairs, to address the meeting.

M. Tonicic presented Doc. AS/AG (8) 16 containing the draft report of the Committee on General Affairs on the establishment of a European Convention on Social and Economic Rights.

The Chairman proposed that advantage be taken of M. Tonicic's presence to ask him general questions, after which the meeting could be adjourned until 9.30 a.m. on the following day, in order to enable members to study the draft opinion prepared by M. Heyman at the request of the Committee on General Affairs (Cf. AS/Soc.(8) 6).

This was agreed.

Several general questions were put to M. Tonicic, namely by MM. Birkelbach, Moutet, Montini and Tens and Mae, Hebar.

The meeting was adjourned at 6.15 p.m. and resumed at 9.30 a.m. on the following day, 6th September. M. COURANT being unable to attend, M. BIRKELBACH, Vice-Chairman, took the Chair.

The Chairman proposed that Docs. 488, AS/AG (8) 16 and AS/Soc (8) 5 be taken as a basis for the Committee's work.

The Committee decided to undertake an examination of Doc. AS/AG (8) 16, beginning with the Preamble, but not to discuss the draft Recommendation until a later stage.

MM. Fens and Vixseboxse, Dame Florence Horsbrugh and Mme. Weber expressed approval of the suggestion of the Committee on General Affairs that the text setting forth the principles and objectives of social policy should appear as a Preamble to the Convention and not stand as part of the substantive text.

M. Montini agreed with this view but wished it to be specified in the Minutes that this was a change of form and not of substance.

The Committee therefore approved this method of arrangement.

The idea of including the question of financial stability in the Preamble was left to the Committee on Economic Questions for study.

As for the suggestion of the Committee on General Affairs that it would be well to stress the need for protecting savings in the Preamble (the same question arises in connection with Article 1, Sub-division H), the matter was left to the full discretion of that Committee.

The Committee then went on to discuss the lay-out of Article 1.

M. Tomic commented on the suggestion made by the Committee on General Affairs in this context. He thought that Member States might be disinclined to ratify the Convention if they saw it as an attempt to tie their hands too closely. On the other hand, the Committee on General Affairs had tried to ensure that the substance of this Article was something more than a mere declaration. The Governments would have a choice of two alternatives: either to implement the listed rights immediately - if their social systems were sufficiently advanced - or to move progressively towards recognition of these rights - if their social systems were still too backward.

M. Montini agreed to this suggestion, but wished it to be made clear in the Minutes that this was a matter of recognition of rights and not of mere formulation.

The Chairman expressed agreement with the lay-out suggested by the Committee on General Affairs, although the numbering of the Articles now no longer followed the precedent of the European Convention on Human Rights.

This view was shared by the Committee as a whole.

The Committee then proceeded to examine Article 1, section by section.

M. Strasser approved of the idea of moving progressively towards implementation of the rights mentioned in Article 1, but nevertheless proposed that the word "progressively" be deleted wherever it occurred in the sub-divisions of this Article.

A discussion followed between the Chairman, MM. Toncic, Fens, Schevenels (Observer of the International Confederation of Free Trade Unions) and Kulakowski (Observer of the International Federation of Christian Trade Unions).

M. Montini said that, so long as these rights were recognised, it did not worry him that their implementation would be progressive. The purpose was not to make it impossible for the States to ratify the Convention but to encourage them to keep abreast with social progress.

The Committee accepted M. Strasser's proposal and went on to examine sub-division A (The right to work).

Dame Florence Horsbrugh proposed that this sub-division be redrafted so that sub-paragraphs (b) and (c) could be merged into a single paragraph.

This was agreed.

The Committee passed on to sub-division B (The right to fair and stable conditions of work).

Sub-paragraph (b): The word "including" was deleted and the word "and" substituted.

Sub-paragraph (c): To bring the French text into line with the English, the word "raisonnables" was added at the end of this paragraph.

Sub-paragraph (d): Despite a suggestion to the contrary by the Committee on General Affairs, the original text, which conforms with Labour Conventions Nos. 26 and 99, was retained.

Sub-paragraph (e): On the proposal of Mr. Willey, it was decided to delete all but the phrase "equal pay for equal work."

Sub-paragraph (h): The words "a decent living" were replaced by the expression "a proper standard of living".

With regard to sub-paragraph (f), there was a discussion between the Chairman, Dame Florence Horsburgh and Mr. Molter, Moutet and Kulekowsk (I.F.C.T.U.) as to whether it was necessary to specify a forty-hour week.

On the proposal of M. Fens, it was decided not to change sub-paragraph (f) for the time being, but to put forward amendments when the Social Charter came before the Consultative Assembly.

On the proposal of the Chairman, and taking into consideration (i) that the measures referred to in sub-paragraphs (a) to (h) were put into effect by collective agreement in certain Member States and (ii) that the Representatives of those States had already shown some reserve concerning a provision which apparently related only to measures adopted or promoted by the public authorities, the Committee felt it necessary to expand the text as follows:

"to the extent that such measures are not carried out by collective agreement or by some other method."

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

The Committee went on to examine sub-division C (The right of children, adolescents and women to special measures of protection in their employment).

In reply to the remarks of the Committee on General Affairs, the Committee took the view that the detailed stipulations concerning age and periods of leave should be retained, since they accorded with the standards laid down in parallel conventions and recommendations of the I.L.O.

The Committee also decided to add the same clause to this sub-division as to sub-division B (see above).

The Committee went on to examine sub-division D (The right of workers to be consulted on the management of the enterprise by which they are employed).

Mr. Willey felt unable to accept the text as it stood, since it dealt with organs of joint management and not consultative bodies. He intended to raise this matter in the Consultative Assembly.

In order to bring the French text into line with the English, the Committee reworded the main clause as follows:

"s'engagent à établir ou à maintenir des organes de co-gestion, etc....".

It was also decided to add the same clause to this sub-division as to sub-divisions B and C.

The Committee then turned to sub-division E (The right to strike).

M. Tencic expressed a preference for Alternative 1 proposed by the Committee on General Affairs in Doc. AS/AG (8) 16.

Mr. Willey, on the other hand, preferred Alternative 2, but proposed that it be amended in such a way as to recognise the right to strike.

M. Schevenels (I.C.F.T.U.) said that Alternative 1 would be unacceptable to the free trade unions, inasmuch as the State would be obliged to regulate the conditions of the right to strike. He supported Mr. Willey's proposal.

M. Moutet pointed out that no Government could abandon the right to attempt to avert a strike by encouraging arbitration and therefore recommended that Alternative 2 be combined with Alternative 1.

M. Kulakowski (I.F.C.T.U.) was in favour of Alternative 1 but was prepared to accept Alternative 2, provided that acceptance of arbitration were made optional.

At the proposal of the Chairman, the Committee finally adopted the following text:

"The High Contracting Parties, while recognising the right to strike, undertake to encourage the use of agreed machinery for the settlement of labour disputes."

Having adopted sub-division P as it stood, the Committee went on to examine sub-division Q (The right to a decent living).

In accordance with the remarks of the Committee on General Affairs, the Committee decided to replace the words "a decent living" by the words "a proper standard of living".

The Committee then proceeded to examine sub-division H (The right to Social Security) and recorded the following statement:

"In connection with the proposal of the Committee on General Affairs concerning the protection of savings, it should be noted that Document 403, Article 8, contains a provision which relates to the protection of workers' real and personal property and savings.

A provision of this kind is perhaps not in its correct context in a draft relating to the right to social security. A case perhaps exists for adding it to sub-division G. The Committee is prepared to leave the appropriate decision to the Committee on General Affairs.

It should be noted that the French text of Doc. 488, which is embodied in the French text of the draft submitted for opinion, should be revised to conform with the English text of Doc. 488. To this end, the words "prestations en cas de chômage et de vieillesse" should follow the words "indemnités de maladie."

The Committee went on to examine sub-divisions I, J and K (The right to a high standard of health; the right of the family to social and economic protection; the right of mothers and children to social and economic protection).

On the proposal of the Chairman, the Committee endorsed the views expressed by the Committee on General Affairs on page 35 of Doc. AS/AG (8), 16.

The following amendments were therefore introduced:

(a) The opening passage of sub-division I to read as follows:

"with a view to will take all appropriate measures directly or in co-operation with local authorities and competent private organisations

(b) The opening passage of sub-divisions J and K to read as follows:

"with a view to undertake, directly or in co-operation with local authorities and competent private organisations, to

On the proposal of Mlle. Swagemakers (Observer of the World Union of Catholic Women's Organisations), the Committee decided to delete sub-paragraph (ii) of sub-division J, concerning measures to educate young persons for marriage.

In reply to a remark by the Committee on General Affairs concerning the words "environmental health factors" in sub-division I, the Committee proposed that the following expression be substituted: "and other environmental health factors". However, the final choice between these two versions was left to the discretion of the Committee on General Affairs.

The Committee approved without discussion the wording of sub-divisions L and M proposed by the Committee on General Affairs. It then proceeded to examine Parts II and III of the draft Social Charter.

M. Kulakowski (I.F.C.T.U.) recalled that the Christian trade unions had already taken the view that Doc. 488 did not go far enough. However, the text now proposed by the Committee on General Affairs could be considered acceptable, although it was no more than a compromise. The proposed Chamber was a step backward from the earlier Economic and Social Council, and it was a disappointment to his organisation that it would have no competence in economic questions. Despite all this, the present text gave the workers grounds for new hope and might re-awaken their confidence in the Council of Europe.

M. Schevenels (I.C.F.T.U.) considered that social questions should be the prerogative of the I.L.O. alone. Since the Chamber proposed by the Committee on General Affairs had no authority in the economic field, it was no longer of any interest to his organisation.

M. Toncia said that the Committee on General Affairs would like to have created something more powerful than the Chamber, but went on to explain that the Committee's main task had been to safeguard to the utmost the powers of the Consultative Assembly. Indeed, the Chamber would merely play an advisory rôle in relation to the Assembly.

M. Molter welcomed the appointment of a European Commissioner for Social Affairs, but had some misgivings with regard to the establishment of the Charter, on the ground that it might divert the work of the I.L.O.

M. Montini pointed out that he had always supported the idea of an Economic and Social Council. However, he felt able to accept the proposals of the Committee on General Affairs since they appeared to represent a happy compromise. It seemed obvious to him that the appointment of a Commissioner would necessitate the establishment of a body which could co-operate with him. If there must be a choice between a Charter and a governmental Committee, he far preferred the Chamber. So far as the I.L.O. was concerned, he felt that it should not be entrusted with a specifically European task since, in his view, it was no better equipped for such work than the Council of Europe itself. By setting up a Social Chamber, the Council of Europe would capture the attention of the working-class community, and he himself was convinced that economic circles would be bound to follow the trend of social circles.

As for the financial aspect, he pointed out that C.E.E.C., W.E.U. and the E.C.S.C. were also interested in social questions and thought that the Chamber could open the way to a concentration of all social activities, thus reducing costs.

M. Fens shared this view.

Mme. Weber was not yet prepared to give a definite opinion on the Commissioner and the Chamber.

Dame Florence Horsbrugh feared that the Chamber would duplicate the work of the I.L.O. and if it were accepted as an integral part of the Charter, difficulties might arise with regard to ratification.

The Chairman, speaking in a personal capacity, opposed the idea of the Social Chamber. In his view, the Commissioner could provide liaison between the Consultative Assembly and the I.L.O.

Mr. Miller was also opposed to the setting up of a Chamber, particularly after hearing the statements of the trade union representatives, which made it clear that their organisations attached little importance to a Chamber of the type proposed by the Committee on General Affairs. On the other hand, he agreed to the idea of appointing a Commissioner, who might subsequently determine whether a Chamber was really necessary.

M. Tencio recalled that the Committee on Economic Questions had rejected the idea of an Economic and Social Council and expressed astonishment that the Committee on Social Questions should now be prepared to reject a Social Chamber. It would appear from this that the Council of Europe did not want European institutions, however tame they might be.

M. Vixseboxse spoke in favour of the Commissioner and the Chamber.

M. Kulakowski (I.F.C.T.U.) associated himself with the remarks of MM. Montini, Toncio, Fens and Vixseboxse and expressed the view that, without a Chamber, a type of European paternalism might well arise in the social field. As regards the I.L.O., the trade unions desired the closest possible co-operation between this organisation and the Council of Europe.

M. Moutet believed that it might be premature to set up a Social Chamber. It would be better to concentrate on securing ratification of the Charter and then see whether a Chamber was necessary. He agreed with the idea of appointing a Commissioner.

The Chairman noted the wide range of opinions expressed and asked members of the Committee whether they thought it preferable to vote on the text submitted by the Committee on General Affairs or to inform that Committee of the diversity of their views.

M. Fens regretted the inability of the Committee on Social Questions to give the Committee on General Affairs a clear and definite opinion. He wondered what attitude the latter would adopt at its Vienna meeting.

The Chairman thought that the Committee should be content to give its opinion on Part I, leaving the institutional aspect of the Charter to be discussed more thoroughly at a later date.

M. Fens asked whether the Committee on General Affairs would still be able to present its draft Charter to the Consultative Assembly.

M. Montini suggested that the Committee on General Affairs be informed that the Committee on Social Questions had failed to reach agreement. In his view, the Committee on General Affairs was still free to present its draft Charter to the Assembly.

M. Strasser believed that the responsibility of presenting the draft Charter to the Assembly rested with the Committee on General Affairs. He suggested that the Minutes of the present meeting should record the Committee's unanimous agreement concerning the Commissioner and its uncertainty with regard to the Social Chamber.

M. Teneis stated that M. Dehousse, President of the Assembly, and M. de Monthou, Chairman of the Committee on General Affairs, would like to have presented the draft Social Charter to the Assembly next October. He could not say just now what the Committee on General Affairs would decide, but his personal belief was that it was free to take whatever decision it considered expedient.

On the proposal of the Chairman, it was decided that the Committee should render its opinion on Part I of the draft Charter, whereas, in regard to Parts II and III, it would simply state that it had been unable to reach a decision within the time available.

The meeting was closed at 6.45 p.m.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Paris, 6th. September, 1956.

Restricted

AS/SOC (8) 9

Or. fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Second session

EUROPEAN SOCIAL CHARTER

AND

EUROPEAN ECONOMIC & SOCIAL COUNCIL

Opinion

of the Committee on Social Questions
addressed to the Committee on General Affairs.

Doc. AS/AG (8) 16, submitted for opinion to the Committee on Social Questions by the Committee on General Affairs includes a draft recommendation and a draft European Convention on Social and Economic Rights. This title takes the place of that of European Social Charter and has the Committee's approval.

2. DRAFT RECOMMENDATION

Discussion on the draft recommendation has been postponed.

3. PREAMBLE

(a) The Committee on Social Questions is in agreement with the opinion of the Committee on General Affairs whereby the text of Part I of Document 488 forms part of the Preamble.

(b) The proposal to include the question of financial stability in the Preamble is left to the Committee on Economic Questions for examination.

(c) The Committee considered desirable that the question of the protection of savings should be left for decision by the Committee on General Affairs.

4. PART I - SOCIAL AND ECONOMIC RIGHTS

The Committee agrees with the proposals of the Committee on General Affairs concerning the lay-out of Part I.

5. ARTICLE I

The Committee agrees with the new text proposed by the Committee on General Affairs for the opening paragraph on Article I.

The Committee is of the opinion that the word "progressively" should be retained in the first paragraph of Article I but should be suppressed where it appears in the various sub-divisions of the Article.

6. A, THE RIGHT TO WORK

The Committee suggests that this sub-division be redrafted as follows: paragraphs (b) and (c) to become a single paragraph to read

"accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work; such as fixing national employment targets, prepare national manpower budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation; "

(d) to become (c).

7. B. THE RIGHT TO FAIR AND STABLE CONDITIONS OF WORK

1. (b): it is proposed to replace the word "including" by "and";
1. (c) the French text to be brought into conformity with the English text by the addition of the word "reasonable";
1. (d) the Committee is in favour of maintaining the original text which is in conformity with Labour Conventions nos. 26 and 99.
1. (e) The Committee considers that this paragraph should read as follows "equal pay for equal work" all after "particularly" being deleted.
1. (h) The Committee suggests replacing the words "a decent living" by "a reasonable standard of living".

Bearing in mind that, in a number of Member States the measures referred to under paragraphs (a) to (h) are put into effect by means of collective agreements and that the representatives of the States in question have already shown some misgiving with regard to a provision which appears only to relate to measures taken or promoted by public authority, the Committee considers it necessary for the text in question to be amended by adding the words "in so far as these measures are not put into effect by means of collective agreements or in any other way".

8. C. THE RIGHT OF CHILDREN, ADOLESCENTS AND WOMEN TO SPECIAL MEASURES OF PROTECTION IN THEIR EMPLOYMENT

The Commission considers that the detailed provisions relating to age and periods stipulated in this sub-division should be maintained, these being in line with the standards laid down in this connection in the relevant Conventions and Recommendations of I.L.O.

This sub-division should also be amended by the same form of words concerning collective agreements in B.

9. D. THE RIGHT OF WORKERS TO BE CONSULTED ON THE
MANAGEMENT OF THE ENTERPRISE BY WHICH THEY ARE
EMPLOYED

The Committee proposes that the French text be brought into line with the English to read as follows "undertake to establish or maintain organs of joint management etc." The Committee also proposes that this sub-division be amended as in B. above.

10. E. THE RIGHT TO STRIKE

The Committee is in favour of Alternative 2 proposed by the Committee on General Affairs amended as follows:

"the High Contracting Parties while recognising the right to strike undertake to encourage the use of agreed machinery for the settlement of labour disputes."

11. G. THE RIGHT TO A DECENT LIVING

The Committee agrees with the views of the Committee on General Affairs that the term "a decent living" be replaced by the words "a proper standard of living".

12. H. THE RIGHT TO SOCIAL SECURITY

In connection with the proposal of the Committee on General Affairs concerning the protection of savings, it should be noted that Document 403, Article 8, contains a provision which relates to the protection of workers' real and personal property and savings.

A provision of this kind is perhaps not in its correct context in a draft relating to the right to social security. A case perhaps exists for adding it to sub-division G. The Committee is prepared to leave the appropriate decision to the Committee on General Affairs.

It should be noted that the French text of Doc. 488, which is embodied in the French text of the draft submitted for opinion, should be revised to conform with the English text of Doc. 488. To this end, the words "unemployment and old-age benefits" should follow the words "benefits relating to sickness".

13. I. THE RIGHT TO A HIGH STANDARD OF HEALTH
- J. THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION
- K. THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

The Committee concurs with the views expressed on page 36 of the document submitted for opinion. The more detailed wording suggested by the Committee on General Affairs has already been the subject of consideration by the Committee on Social Questions. The desired particulars were embodied in the provisions of Article 12 (para. 2) of the initial draft Charter (Doc. 403), as well as of Article 13, Doc. 488. The Committee therefore proposes that

(a) Sub-division I be amended as follows:

"With a view to will take all appropriate measures directly or in co-operation with local authorities and competent private organisations:"

(b) Sub-division J and K be amended as follows:

"With a view to undertake, directly or in co-operation with local authorities and competent private organisations, to"

14. I. THE RIGHT TO A HIGH STANDARD OF HEALTH

The words "environmental health" as well as the remainder of the text reproduce the wording contained in Article 15 (paragraph 2(b)) of the United Nations draft Treaty. It would nevertheless be desirable to state "and other environmental health factors".

15. J. THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION

The Committee is in favour of suppressing (b) (ii).

16. PARTS II AND III

In view of the limited time at its disposal, the Committee did not feel able to give an opinion on Parts II and III of the Social Charter, the importance of the question calling for most detailed study.

Section IV

Documents of the Consultative Assembly

(April/October 1956)

INTERNATIONAL FEDERATION OF CHRISTIAN TRADE UNIONS

WETSTRAAT 148

BRUSSELS - BELGIUM

TELEGRAMS: CHRISTLABOR-BRUSSELS

TELEPHONE 33.37.85 - 33.37.89

The I.F.C.T.U. has consultative status with the Economic and Social Council of the United Nations (Category A), with the International Labour Organisation, with UNESCO and with the Council of Europe

Brussels, 10 April 1956
JK/LV - 70/56

THE EUROPEAN SOCIAL CHARTERTHE EUROPEAN ECONOMIC AND SOCIAL COUNCIL.

Note

submitted by the International Federation of Christian Trade Unions at the first part of the 8th. session of the Council of Europe Consultative Assembly.

During the first part of its 8th. session, a new draft of a European Social Charter was submitted to the Consultative Assembly.

The present draft differs considerably from that which was referred back to Committee in October 1955.

The main differences concern:

- (1) the enumeration and the extent of the rights set out in the Charter;
- (2) the Economic and Social Council;
- (3) the procedure for the application of the Charter

The International Federation of Christian Trade Unions and, through it, all the Christian trade union organizations in Europe, jointly pronounced themselves in favour of the former draft included in doc. 403 of the Council of Europe. While recognizing the necessity of improving that first draft, the I.F.C.T.U. approved of its general spirit as well as the main features of its dispositions.

The present draft has practically nothing in common with the original one. Moreover, it is in contradiction with order N° 70 of the Assembly. The I.F.C.T.U. accordingly declares itself opposed to this draft, mainly on account of the three features following:

- (1) the absence of any reference to certain essential rights, (such as the right to work) and certain obligations on the part of governments (such as the obligation to pursue a full-employment policy and to protect the practice of saving);
- (2) the suppression of the draft European Economic and Social Council;
- (3) the exclusion of the workers from the procedure to be followed for the application of the Charter, through the introduction of a technocratic system which, in denying the workers the participation they have won at national level, threatens to reveal itself as quite

The adoption of such a text by the Consultative Assembly of the Council of Europe risks to prove a bitter disappointment to the workers.

For years, through the I.F.C.T.U., the Christian trade union organizations have been giving vigorous and attentive co-operation to the Council of Europe. It is to be feared that the European organizations affiliated with the I.F.C.T.U. may turn their backs on the Council of Europe. Thus the propagation of the European ideal among the working classes may be seriously imperilled, and yet such propagation is necessary if the aims of the Council of Europe are ever to be achieved.

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

14th April, 1956

Doc. 488

European Social Charter
and
European Economic and Social Conference ¹

DRAFT RECOMMENDATIONS
AND REPORTS

presented,
on behalf of the Committee on Social Questions ²,
by MM. HEYMAN and HAEKKERUP, Rapporteurs

TABLE OF CONTENTS

	Page
A. Draft Recommendation concerning a European Social Charter	1
B. Draft European Social Charter.	3
C. Report by M. Heyman on the European Social Charter	15
D. Draft Recommendation on a European Economic and Social Conference	24
E. Report of M. Haekkerup on a European Economic and Social Council	25

**A. Draft Recommendation
concerning a European Social Charter ³**

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the

1. See Doc. 403 (Draft Recommendation), Doc. 407 (Communication), Doc. 430 (Draft Order) and Order 79.

2. Adopted by the Committee unanimously.

MEMBERS OF THE COMMITTEE: *M. Heyman (Chairman)*; Miss Burton, M. Mutter (*Vice-Chairmen*); MM. *Andersson, Bengtsson, Bondevik, Canevari, Mrs. Crowley, M. Dehousse, Even, Fens, Haekkerup, van Kauenbergh, Kirn, Lucifero, Manoussis, Mellish, Montini, Moutet, Miss Pitt, M. Radius, Savopoulos, Mme. Schroeder (Substitute: M. Birkelbach), M. Stefansson, Mme. Tlabar, MM. Tümerkan, Vixseboxse, Mme. Weber (Substitute: M. Höfler).*

N. B. THE NAMES OF THOSE WHO TOOK PART IN THE VOTE ARE PRINTED IN ITALICS.

3. See 10th Sitting, 20th April, 1956 (draft Order contained in Amendment No. 1 adopted) and Order 87.

Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, and in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953), in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

Having taken note of the request of the Committee of Ministers that a joint meeting should be held to discuss the Social Charter between the governmental Social Committee and the competent committees of the Assembly;

Expressing the hope that such a meeting can be held in the near future, since the representatives of the Social Committee were unable to attend one before the opening of the Eighth Session of the Assembly;

Having considered the report of its Committee on Social Questions,

Approves the draft Social Charter appended hereto; and

Recommends that the Committee of Ministers should :

1. transmit this draft to the governmental Social Committee with instructions to be guided by the statement of the Assembly's wishes contained therein;
2. submit in due course the draft Social Charter elaborated by the Social Committee to the Assembly for its opinion.

B. Draft European Social Charter

*(as amended by the Committee on
Social Questions on 9th March, 1956)*

The Governments signatory hereto,
being members of the Council of Europe.
Considering that...,
Have agreed as follows :

PART I

Principles and objectives of social policy

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, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.

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

3. 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.

4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family

responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected regardless of the marital status of the mother.

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 management and 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 organise assistance for 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, nationality, national or social origin, or political or other opinions.

10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Charter are extended to all groups and sectors of the population.

11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan underdeveloped areas, and bound to develop them by all means within their power.

12. 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 local populations and, where appropriate, with qualified international organisations.

13. 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.

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Charter depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Charter applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

PART II

Economic and social rights

ARTICLE 1

The right to work

1. The High Contracting Parties *recognise* that everyone is entitled to and should be enabled to earn his living in a freely accepted occupation.

2. With this in view they will :

(a) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work;

(b) fix national employment targets, prepare national man-power budgets, and establish long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation.

3. The High Contracting Parties *undertake* to :

(a) establish or maintain the freedom from any restrictions on the right to work¹, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;

(b) protect effectively the right of the wage-earner freely to choose any available occupation;

(c) establish or maintain both general and specialised free employment services;

(d) promote vocational guidance and training.

ARTICLE 2

The right to fair and stable conditions of work

1. The High Contracting Parties *recognise* that conditions of work should be such as to enable workers to find satisfaction in their work.

¹ It will be for the governmental Social Committee to examine the question whether this text excludes the "closed shop".

develop their human personality, protect their health, and provide themselves and their families with an independent and decent livelihood. Within the limits of their constitutional and national procedures, they will take appropriate steps to secure such conditions, particularly through measures designed to secure for all workers fair wages, including a guaranteed minimum wage and a guaranteed weekly wage, reasonable possibilities of promotion and adequate time and facilities for leisure.

2. They *undertake* to secure for every worker :

(a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;

(b) protection against arbitrary dismissal, including prohibition of dismissal on account of maternity, military service, and similar circumstances;

(c) reasonable notice of dismissal;

(d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;

(e) equal pay for equal work, particularly as between men and women, subject to any adjustments that may be necessary on account of variations in the cost of living in different areas;

(f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;

(g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods;

(h) the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living.

ARTICLE 3

The right of children, adolescents and women to special measures of protection in their employment

1. The High Contracting Parties will take all appropriate steps to protect children, adolescents and women against the physical and

moral hazards of their work and to enable women to carry out their maternal duties.

2. 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 and women in work which is physically or morally injurious shall be punishable by law;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

ARTICLE 4

The right of workers to be consulted on the management of the enterprise by which they are employed

The High Contracting Parties undertake to encourage the establishment or maintenance of organs of joint consultation and/or to take other appropriate measures, to ensure that workers have an opportunity to express their views about the general management of the enterprise by which they are employed.

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

The right to strike

The High Contracting Parties recognise the right to strike and will maintain the

necessary procedures for the solution of labour disputes.

ARTICLE 7

The right to form and join Trade Unions

The High Contracting Parties recognise the right of workers to form trade unions, local, national or international, and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights and Fundamental Freedoms¹.

ARTICLE 8

The right to a decent living, including adequate food, clothing and housing

The High Contracting Parties will :

(a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;

(b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

ARTICLE 9

The right to social security

1. The High Contracting Parties undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury

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".

and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

2. The High Contracting Parties *recognise* the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance.

3. The High Contracting Parties will take the necessary steps to safeguard social security benefits against the effects of depreciation of their currencies.

ARTICLE 10

The right to a high standard of health

The High Contracting Parties *will take all appropriate measures* :

(a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;

(b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;

(c) to prevent epidemic, endemic and other diseases;

(d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

ARTICLE 11

Rights of the Family

1. With a view to ensuring the economic and social protection of family life, the High Contracting Parties will foster and protect the family as a fundamental unit of society.

2. They *undertake* to make available, or to encourage the provision of the following facilities and advantages :

(a) the grant of allowances in proportion to the number of children;

(b) measures to educate young persons for marriage;

(c) cheap loans for the founding of homes;

(d) preferential allocation of housing to families and persons wanting to marry, and rent reductions for low income families with many children;

(e) allowances to families whose breadwinners are subject to military services;

(f) tax reductions related to the size of the family;

(g) organisation of home help services.

ARTICLE 12

Rights of Mothers and Children

1. The High Contracting Parties will take all necessary measures for the effective protection of mothers and children, including the establishment or maintenance of appropriate institutions for the purpose.

2. They undertake, for the protection of mothers :

(a) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;

(b) to provide directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.

3. They undertake, for the protection of children :

(a) to establish or maintain specialised organs with powers to prevent the neglect of children;

(b) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

(c) to provide special services for homeless children, for children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

ARTICLE 13

Social services

1. The High Contracting Parties will directly or in collaboration with local authorities and appropriate voluntary organisations, establish or maintain social welfare services for aid and guidance to the individual in industrialised society.

2. They *undertake* to assure free legal advice and assistance to those who need it.

ARTICLE 14

The right to education

1. The High Contracting Parties *undertake* to make primary education for children compulsory and free.

2. They will introduce progressive measures in order :

- (a) to make facilities for secondary education, in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;

- (b) to ensure a basic education for those persons who have not received or have not completed their primary education;

- (c) to make university and other higher education accessible to all.

ARTICLE 15

The choice of education

In the exercise of any functions which they assume in relation to education and to teaching, the High Contracting Parties will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

PART III

Implementation of the Charter

ARTICLE 16

1. The High Contracting Parties agree that a programme of implementation should be drawn up in order to secure the progressive implementation of this Charter and the extension of its benefits to all groups and sectors of the population.

2. This programme shall be drawn up by the Social Committee of the Council of Europe and submitted to the Consultative Assembly for its opinion.

3. On the basis of the proposals of the Social Committee and the opinion of the Consult-

ative Assembly, the Committee of Ministers shall approve the programme of implementation and forward it to the High Contracting Parties for action. At the same time it shall be communicated to the Consultative Assembly for information.

ARTICLE 17

1. The High Contracting Parties undertake to forward to the Secretary-General of the Council of Europe annual reports showing by what means and to what extent the programme of implementation is being realised in their respective territories, provided, however, that in cases where reports on the implementation of certain rights are sent to other international organisations, the Secretary-General shall arrange to obtain the information required from the latter.

2. The reports and information referred to in the preceding paragraph shall be submitted by the Secretary-General to the Social Committee of the Council of Europe, which shall then make its own report, indicating whether satisfactory progress is being made in the implementation of the Charter and, in appropriate cases, making recommendations for its more effective implementation.

ARTICLE 18

The reports and information referred to in paragraph 1 and the reports of the Social Committee referred to in paragraph 2 of the preceding Article shall be referred to the Consultative Assembly for its opinion. The Assembly shall examine them in accordance with such procedure as it shall itself determine and may make recommendations to the Committee of Ministers relating to the implementation of the Charter.

ARTICLE 19

1. The reports of the Social Committee referred to in paragraph 2 of Article 17, and any recommendations made by the Consultative Assembly in accordance with the provisions of Article 18, shall be considered by the Committee of Ministers, which shall decide what action to take thereon.

2. The decisions of the Committee of Ministers shall be communicated to the Consultative Assembly.

PART IV

ARTICLE 20

Nothing in this Charter shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

ARTICLE 21

1. 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.

2. 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 22

Any High Contracting Party may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Social Committee of the Council of Europe. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

ARTICLE 23

1. A High Contracting Party may denounce the present Charter as far as it is concerned 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.

2. A High Contracting Party which shall have ratified the present Charter and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Charter as far as it is concerned on the expiry of each successive five years period.

3. 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 24

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

2. The present Charter shall enter into force after the deposit of five instruments of ratification.

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

4. The Secretary-General of the Council of Europe shall notify all the Members of the Council 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 25

The French and English texts of this Charter shall be equally authoritative.

C. Report by M. Heyman on the European Social Charter

1. Introduction

On 9th July 1954, the Standing Committee adopted Order 58 in which it instructed the Committee on Social Questions to :

“ begin to prepare a draft Social Charter for submission to the Committee of Ministers and submit a preliminary report on this question at the second part of the Sixth Ordinary Session. ”

In accordance with this Order, the Committee on Social Questions started work on a draft Social Charter and presented an interim report to the Assembly in September, 1954 (Doc. 312). The Assembly then instructed the Committee to continue with its work and present a draft Charter in the course of the Seventh Session (Minutes of Proceedings of 23rd September, 1954, Item 5).

This was duly done. A detailed draft was submitted in October, 1955 containing :

1. a Preamble, setting out the general principles on which the Charter was based;
2. a number of articles containing legal obligations designed to give effect to these principles;
3. proposals for the creation of a European Economic and Social Council as an "organ of implementation" of the Charter.

This draft was contained in the Committee's report of 26th October, 1955, Document 403, and is referred to later in this report as "the October draft."

When it was considered by the Assembly in October, 1955, a certain number of criticisms of the draft were expressed, particularly by members of the Committee on Economic Questions, which had in fact asked that the debate should be postponed, as they had had insufficient time to consider the economic aspects of the draft Charter (Doc. 407).

The Assembly then adopted its Order 79, referring the draft Social Charter to the Committee on Social Questions and the Committee on Economic Questions with instructions that they jointly examine any amendments proposed and appoint representatives who, together with representatives of other competent committees, would discuss the question with the governmental Social Committee, with a view to the adoption of a recommendation in the course of the Eighth Session of the Assembly.

The two Committees continued their work on the draft Charter during the inter-session.

The Committee on Economic Questions had expressed its preference for drafting a statement of the principles which the Assembly would wish to see incorporated in a convention, with the intention of leaving the actual drafting to the governmental Social Committee.

However, in view of the determination of the Committee on Social Questions to present a draft Charter to the Assembly and of the fact that a detailed draft had already been presented to and given a first reading by the Assembly, the Committee decided to accept the idea of a detailed draft. It accordingly considered the revised draft Charter article by article, made a number of amendments, and submitted the amended text (Doc. AS/EC (7) 24) to the Committee on Social Questions as a *bloc* amendment to the October draft (Doc. 403).

In adopting this text the Committee on Economic Questions proposed the deletion of those parts of the October draft relating to the creation of an Economic and Social Council. Instead, it proposed :

(a) that the implementation of the Charter should be left to the governmental Social Committee; and

(b) that a separate Economic and Social Conference should be called periodically to discuss various economic and social questions of interest to the Council of Europe.

Further explanations on this point are given in section 4 of this report below.

The Committee on Social Questions met in Paris on 9th March, 1956, and accepted by majority vote most of the amendments proposed by the Committee on Economic Questions including the disjunction of the Economic and Social Council from the Social Charter.

Sections 2, 3, 4 and 5 below explain the main changes which have been made to the October draft (Doc. 403).

2. Part I of the Social Charter

(Principles and objectives of social policy)

Part I of the new draft remains a statement of principles and objectives of social policy, and this is now brought out more clearly in the heading. It follows the same general lines, and deals with the same subjects as the October draft (Doc. 403).

In general terms, the aim of the Committee on Social Questions in accepting by a majority most of the amendments proposed by the Committee on Economic Questions has been to improve the prospects of the Social Charter

by commanding the support necessary for its ratification by the national parliaments.

At the suggestion of the Committee on Economic Questions, paragraph 1 has been amended in several respects, with the aim of rendering it more concise without seriously affecting its substance. In particular, the Committee preferred the expression "the stability of their economies" to "the stability of the purchasing power of money", as being a more comprehensive and more adequate term. However, contrary to the views of the Committee on Economic Questions, it was decided to retain the term "full employment",¹ which is one of the aims already declared, not only in various Assembly Recommendations, but also in several texts of the International Labour Organisation, including the Declaration of Philadelphia. Paragraphs 6 and 7 of the earlier text, which refer specifically to the right to work and the share of workers in the fruits of their labours, have been retained contrary to the views of the Committee on Economic Questions. Moreover, the idea of workers' participation in the management of the undertaking by which they are employed has been inserted in the text of paragraph 7.

In paragraph 11, the idea of the collective responsibility of the High Contracting Parties for the economic expansion of their metropolitan under-developed areas has been retained. This was felt by the Committee on Economic Questions to encroach too drastically upon the sovereign rights of the Governments. The Committee on Social Questions rejected this argument on the ground that the use of the word "collectively" accorded with the principle of a common European policy. Obviously each country is responsible for its own under-developed areas; nevertheless, the Council of Europe (Strasbourg Plan) and the O. E. E. C. (Vanoni Plan) have recognised the principle of collective responsibility for under-developed areas. The question at issue, therefore, is that of accepting the idea of collective responsibility in a moral sense and in a spirit of European solidarity.

3. Part II of the Social Charter

(Economic and social rights)

Part II of the new draft remains the principal operative text, containing the legal

1. The Committee on Economic Questions proposed that this be replaced by the expression: "a high and stable level of employment."

obligations which the Contracting Parties will assume in the social field.

Broadly speaking, the main changes in this part of the Charter introduced by the *bloc* amendment of the Committee on Economic Questions and accepted for the most part by a majority of the members of the Committee on Social Questions affect :

- (i) the method of presentation of the rights embodied in the Social Charter;
- (ii) the scope of the binding obligations;
- (iii) the recommendations concerning specific economic policies as means of attaining the various objectives of social policy.

Most of the criticisms of the Committee on Economic Questions related to the scope of the "rights" laid down in the Charter and to their economic and political implications.

In the October draft (Doc. 403), the structure of all the Articles setting forth "rights" was the same, each beginning with a declaration relating to the subjective aspects of a "right", and continuing with an enumeration of the objective conditions necessary for its exercise. Rights were thus defined in terms of the ways and means of making them effective and obligations were expressed in terms of precise policies.

The Committee on Economic Questions proposed a change, which was accepted by the Committee on Social Questions by majority vote. It believed that the "right to work" and other social "rights" of a similar character might be recognised as *moral rights* or *natural rights*, but could not be recognised as *legal rights*; if the "right to work" were a legal right it would be legally enforceable, but everyone knows that this is not the case. It would therefore be misleading to state "everyone has the right to work" in an international convention imposing legal obligations on the signatory Governments, even though such affirmations can be found in the Universal Declaration of Human Rights and similar documents which do not constitute legal commitments.

Generally speaking, it was felt that it would raise vain hopes — and result in disappointment — to proclaim as "rights" things that are by nature ideals and cannot reasonably

be expressed otherwise than in declaratory form.

On the other hand, it seemed to be essential to define as clearly as possible those social desiderata which can realistically be formulated as binding obligations on the part of the signatory Governments.

The structure of the operative articles of the Charter, as amended by the Committee on Economic Questions and accepted by the majority of the Committee on Social Questions, can thus schematically be described as follows :

The term "right" is used in the heading of each article and here only. This use expresses the solemn character of the following provisions without extending their legal character beyond what is explicitly set out in the text of the article. The first part of the text of an article states the recognition by the signatories of a principle or objective of social policy relating to the right in question. This in turn is followed by a description of what the signatory Governments undertake to do to ensure the implementation of the relevant principle or objective of social policy. In this part of the article pains have been taken to define obligations in terms of precise social measures and to avoid reference to general or specific economic policies as being conducive to or necessary for the realisation of any given social policy.

Briefly, the reasons for deciding to avoid the procedure followed in the October draft—recommending or binding Governments to specific economic policies, as a means of attaining given social objectives—are as follows :

It lies in the nature of economic policies to be the subject of continually fluctuating political controversy, and it would not seem to lie within the purview of the Charter, which is intended to be a lasting framework of European social policy, to express in such matters a preference which may soon be outmoded.

Secondly, at the present stage of European collaboration in matters of social policy, it would appear indispensable to avoid too doctrinaire an approach if a majority of member countries are to ratify the Charter.

Further, the state of advancement of the economies and of the political institutions of the countries to which the Charter would apply vary considerably and are also in constant flux; not only are the starting-points different,

but the range of possible economic measures will also vary from country to country and from time to time.

In Article 2 (2) the provision concerning retirement at the age of 65 has been retained by the Committee on Social Questions, in opposition to the view of the Committee on Economic Questions, which wished it to be deleted on two grounds : (a) it seemed hardly appropriate to specify a definite age, since policy in this matter tends to vary considerably from country to country; (b) the present trend seems to be in favour of a higher age of retirement.

Articles 8, 9 and 19 of the October draft (Doc. 403) have been deleted, the first—relating to the protection of workers' savings and progressive opportunities of becoming owners of real and personal property—because the proposed measures would not be acceptable to the Governments in the form of obligations, the second—relating to moral and material interests in scientific, literary or artistic production—because the subject is already dealt with elsewhere, particularly in the Berne and UNESCO Conventions, the third—relating to the right to take part in cultural life and to enjoy the benefits of scientific progress—because it seemed out of place in a Charter devoted to social aims.

4. Part III of the Social Charter

(Implementation of the Social Charter)

The draft Social Charter prepared by the Committee on Social Questions last year (the October draft) proposed that there should be created within the framework of the Council of Europe a European Economic and Social Council and that this new organ should be given the task of supervising the implementation of the Charter.

The idea of creating a European Economic and Social Council had been accepted by the Assembly as long ago as January, 1953, when it adopted its Resolution 26, expressing an opinion on the draft Treaty for the creation of a European Political Community, elaborated by the Ad Hoc Assembly.

The Committee on Economic Questions stated that it was opposed to the creation of a European Economic and Social Council. It pointed out that Resolution 26 of January, 1953

related to various methods of establishing links between the Council of Europe and the proposed Political Community but that, as this Community had never been created, the whole basis of Resolution 26 had ceased to exist. Moreover, it did not consider the Economic and Social Council an appropriate body for the implementation of the Social Charter. This view was based on two arguments, one positive and one negative.

Positively, the Committee felt that it must necessarily be the Governments that implement that Charter and that the supervision of its implementation should as a matter of principle be kept within the existing framework of the existing organs of the Council of Europe. Negatively, it was not convinced of the need of an Economic and Social Council either for the purpose of implementing the Charter or for that of assuring closer association with the work of the Council of Europe of employers', workers' and other non-governmental organisations, since these objectives may be attained by other means.

In fact, it had most serious misgivings about instituting an Economic and Social Council along the lines suggested in Document 403, on account of the corporative character of its structure. The Committee on Economic Questions felt that the existence of the Economic and Social Council would in practice mean a surrender of the Assembly's competence in the social field to an organ over which, by the very nature of its composition, it would have very little influence.

The Council of Europe would derive considerable prestige from shouldering itself the responsibility of supervising the implementation of the European Social Charter. A decision to the contrary would seriously jeopardise the Council's standing in public opinion. In particular, it would divest the Assembly of an important means of rallying the interest and support of the working classes in its activities. Further, the Committee on Economic Questions was convinced that the existing organs of the Council of Europe—the Consultative Assembly and the Committee of Ministers, assisted by its Social Committee—could quite adequately cope with the new function of supervising the implementation of the Charter.

The majority of the members of the Committee on Social Questions shared this view.

Accordingly, the principles governing the implementation of the Charter set forth in Part IV of the October draft have been replaced by a new statement whereby the Governments would agree that a programme of implementation should be drawn up by the governmental Social Committee and submitted to the Assembly for its opinion.

On the basis of the proposals of the Social Committee and the opinion of the Consultative Assembly, the Committee of Ministers would approve the programme of implementation and forward it to the high Contracting Parties for action. At the same time the programme would be communicated to the Consultative Assembly for information.

Furthermore, the Governments would submit to the Council of Europe annual reports for examination by the Social Committee and by the Assembly. Thus the system suggested by the Committee on Economic Questions and accepted by a majority of the members of the Committee on Social Questions places the main responsibility for the implementation of the Charter upon the governmental Social Committee. However, the Assembly will be kept fully informed and will be entitled to express its opinion at any time.

5. Part IV of the Social Charter

(Final Provisions)

The final clauses contain the usual provisions found in an international convention of this sort. The only point to be noted is that the number of ratifications required for the Charter to enter into force has been reduced from ten (in the October draft) to five.

. . .

This Report was approved unanimously by the Committee on Social Questions, though certain members reserved their position on particular points.

Personal note by the Rapporteur :

I have done my duty as a rapporteur by, I believe, faithfully reporting the majority decisions taken by the Committee on Social

Questions. Some members have, however, stated that they reserve the right to submit to the Assembly amendments to some of the articles adopted by a majority decision.

D. Draft Recommendation
on a
European Economic and Social Conference

The Assembly,

Considering that it is desirable to associate more closely with the work of the Council of Europe the national and international organisations which represent employers and workers;

Considering that the Council would be assisted in the discharge of its functions by receiving the advice of the said organisations on proposals of an economic and social character which may be submitted for consideration by either of its organs,

Recommends that the Committee of Ministers should invite the International Labour Organisation to collaborate with the Council of Europe in convening, and should vote such funds as may be necessary for, a tripartite European Economic and Social Conference, to be organised on the following lines :

1. The Conference should be held under the joint auspices of the Council of Europe and the International Labour Organisation and should meet on the premises of the Council of Europe.
2. The Conference should consist of representatives of Governments, employers and workers from the Member States of the Council of Europe.
3. In addition, there should be invited to send observers to the Conference such international non-governmental organisations competent in the economic and social field as may be determined by the Committee of Ministers, the Bureau of the Assembly and the Governing Body of the I. L. O.
4. The Committee of Ministers, the Consultative Assembly of the Council of Europe and the Governing Body of the I. L. O. should be able to submit to the Conference for discussion projects of an economic or social character under examination by the Council or by the

Organisation. The Conference should give its opinion on such projects, which would be communicated to the Committee of Ministers, to the Assembly and to the Governing Body.

**E. Report of M. Haekkerup
on a European Economic
and Social Council**

The draft Social Charter submitted to the Assembly by the Committee on Social Questions in October, 1955 (Doc. 403, which is referred to below as the "October draft") contained a proposal for the creation of a European Economic and Social Council, together with an Explanatory Memorandum by M. Dehousse.

The origin of this proposal was Resolution 26, adopted by the Assembly on January 17th, 1953. This resolution related to the draft treaty for the creation of a European Political Community, which was then being elaborated by the Ad Hoc Assembly. Part II of the Resolution, dealing with questions of association and liaison between the Council of Europe and the Political Community, proposed the creation of an Economic and Social Council with consultative functions representing the fifteen Members of the Council of Europe. In May, 1953 the Assembly instructed the Committee on Social Questions and the Committee on Economic Questions to prepare a draft Recommendation for the creation of such a body (References 23 and 26).

The two committees set up a Joint Sub-Committee which was instructed to do this work. For various reasons which it is not necessary to describe in this report, the Joint Sub-Committee made little progress with its work before the summer of 1955. By that time the Committee on Social Questions had been instructed to prepare a draft Social Charter and had appointed a Working Party to elaborate a first draft. This Working Party considered that it would be appropriate to include provisions for the creation of an Economic and Social Council in the draft Social Charter and to entrust this Council with the task of supervising the implementation of the Charter. The Working Party therefore held a meeting in June, 1955 with the Joint Sub-Committee on the Economic and Social Council, at which these proposals were agreed. They were then submitted to the two parent committees in September, 1955.

The Committee on Social Questions

approved these proposals at its meeting on September 10th, 1955, but the Committee on Economic Questions, which met nine days later, felt unable to do so without further study of the problem.

The text approved by the Committee on Social Questions was then submitted to the Assembly in October, 1955 (Doc. 403) and a debate on first reading was held on 18th October. Subsequently the question was referred back to the two committees for further examination in the light of the discussion which had taken place (Order 79).

The Committee on Economic Questions meeting in January, 1956, was of the opinion that it was not desirable to include in the Social Charter provisions for the creation of an Economic and Social Council; its reasons for this belief have been summarised above in the Report of M. Heyman. But the Committee went further and expressed its doubts as to the advisability of setting up a Europe Economic and Social Council at all. It drew attention to the fact that when the Assembly, in its Resolution 26 of 1953, took a decision in principle to set up an Economic and Social Council, this organ was intended to form one of the links between the Council of Europe and the European Political Community; in view of the subsequent setback suffered by this project, the Committee thought it necessary that the Assembly should reconsider the matter in the light of present circumstances.

The Committee on Economic Questions went on to record its full agreement with the view expressed by M. Dehousse in his explanatory memorandum contained in the October draft that an effort should be made to associate Employers', Workers' and other non-governmental Organisations more closely with the work of the Council of Europe, and considered that this very important question deserved to be thoroughly examined by the Assembly and the Committee of Ministers. It then proposed that an Economic and Social Conference comprising both national and international organisations representing employers, workers, consumers and other professional groups should be held regularly in order to discuss European economic and social problems. This would, it believed, meet the fundamental purpose of the Committee on Social Questions without giving rise to the difficulties of an institutional character which would be involved in creating an Economic and Social Council as a third

organ of the Council of Europe with statutory powers.

The Committee on Social Questions considered these views at its meeting on 9th March, 1956 and agreed, by a majority vote, not to recommend to the Assembly the creation of an Economic and Social Council. The Committee was of opinion that the need for creating yet another organ of international co-operation in Europe had not been clearly established, that there would be a great danger of duplication of work if it were to be created and that the chances of its ratification by the national parliaments were slender.

The Committee was in full agreement, however, that it was desirable to find some suitable procedure whereby the Council of Europe could obtain the advice of qualified representatives of employers and workers on its activities in the economic and social fields; it also attached great importance to the idea of associating these groups in some way with the work of the Council and, so far as possible, obtaining their support for its economic and social projects. It did not appear necessary, however, to create new organs with statutory powers, some of which would rival, or encroach on, those of the Assembly itself.

The Committee then considered the proposal of the Committee on Economic Questions that the Council of Europe should convene an annual Economic and Social Conference comprising both national and international organisations representing employers, workers, consumers and other professional groups. While fully sympathising with the idea underlying this proposal, the Committee feared that the procedure envisaged was somewhat complicated and might tend to duplicate the tripartite conferences of governmental representatives, employers and workers which are convened by the International Labour Organisation.

The Agreement concluded between the Council of Europe and the I. L. O. on 23rd November, 1951 envisages the possibility that the Council of Europe may wish to convene European conferences of a tripartite character, and provides that in such cases the Committee of Ministers will propose to the Governing Body of the I. L. O. that the latter should convene

the conference. It seemed to the Committee that this provision might provide the solution to the problem it was considering.

The consultation of employers and workers and their association with the economic and social activities of the Council of Europe could take place within the framework of a tripartite conference convened by the I. L. O. at the request of the Council, if the I. L. O. would agree to do so on conditions that are mutually acceptable. It is to be noted that there is nothing in the Agreement with the I. L. O. which obliges the latter to convene such meetings at the request of the Council; it is left for the Governing Body to take a decision on any request that may be made to it. Nevertheless, the excellent relations which exist between the two organisations make it seem probable that the Governing Body would agree to a reasonable request of this sort. At the same time, it is equally to be noted that there is nothing to prevent the Committee of Ministers, when it addresses its request to the I. L. O., from making such proposals about the organisation of the meeting as it considers proper; nor is the Committee of Ministers bound in any way if its proposals are not accepted by the Governing Body. In other words, the conditions under which such a tripartite meeting should be held are a subject for negotiation between the Committee of Ministers and the Governing Body and neither party is bound in any way if the negotiations should prove unsuccessful. (This point has been made in order to allay certain fears which have been expressed to the effect that if the Council invites the I. L. O. to convene the meeting, it will lose all control over its management).

Against this background, the Committee on Social Questions considered that the best procedure for consulting employers and workers and associating them with the work of the Council of Europe would be that the Committee of Ministers should invite the I. L. O. to convene a European Regional Conference of a tripartite character limited to representatives of the Member States of the Council of Europe. Such a conference should be convened by the I. L. O., in accordance with the terms of the Agreement, but should be held under the joint auspices of the two organisations, in view of the fact that one of its objects is precisely to associate employers and workers more directly with the work of the Council. For the same reason, the conference should be held at Strasbourg—or,

if more than one is held, alternately at Strasbourg and Geneva.

Both the organs of the Council of Europe as well as the Governing Body of the I. L. O. should have the right to propose items for the Agenda, which should finally be settled by mutual agreement. Responsibility for the preparation of the necessary documents (which is a matter of considerable importance) could no doubt be settled by agreement between the two organisations, though it would probably be desirable that the I. L. O., with its greater resources and experience should assume the major responsibility in this respect, if it would be willing to do so.

It may be desirable that such tripartite regional conferences should be held annually or at other regular intervals. It would seem wise, however, to leave this question open for the present and take a decision about the future procedure in the light of the results achieved by the first meeting.

With these considerations in mind, the Committee on Social Questions has prepared the draft Recommendation set out above, which it has the honour to submit to the Assembly.

..

This report was approved unanimously by the Committee on Social Questions, though certain members reserved their position on particular points.

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

19th April, 1956

Doc. 488

Amendment No. 1

European Social Charter
and European Economic and Social Council

AMENDMENT¹ AND DRAFT ORDER²

*concerning the draft Recommendation
of the Committee on Social Questions*

*presented by M. BICHET
and a number of his colleagues*

I. Amendment

1. Subject to such changes as may result from the examination referred to in the draft Order, insert after Chapter II of the draft Social Charter a new chapter embodying the texts of Chapter III of the original draft Social Charter (Doc. 403) concerning the European Economic and Social Council.
2. Insert, at the beginning of Chapter IV, a new Article reproducing the text of Article 40 of the original draft (Doc. 403), slightly amended by the deletion of the words "drawn up by the European Economic and Social Council" and by the substitution of the word "in" for the words "in the second paragraph of".
3. Amend Chapter III of the draft Social Charter as follows :

Implementation of the Charter

ARTICLE 34

The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Charter by stages.

This programme shall be drawn up by the European Economic and Social Council and

1. See 10th Sitting, 20th April, 1956 [Referred to the Committee on General Affairs].

2. See 10th Sitting, 20th April, 1956 (draft Order adopted after amendment) and Order 89.

decided on by the Committee of Ministers of the Council of Europe, after the opinion of the Consultative Assembly has been obtained.

ARTICLE 35

The High Contracting Parties undertake to submit to the European Economic and Social Council annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall indicate any difficulties or other factors which may have prevented the States concerned from carrying out all their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

ARTICLE 36

The Council may deal with any question connected with the observance of the rights and fulfilment of the obligations recognised in the Charter, unless such question has already been the subject of a complaint lodged with the International Labour Office in accordance with Article 26 of the Constitution of the International Labour Organisation.

It may invite the Government or Governments directly concerned to submit such comments as may be thought necessary.

It may ask the opinion of any European or international organisation competent in economic, social or cultural matters.

ARTICLE 37

The Council may, with the approval of the Consultative Assembly given on the basis of a special report by the Council, make recommendations to the Committee of Ministers intended for the Government directly concerned, in order to secure from that Government the fulfilment of its obligations under the Charter.

ARTICLE 38

The Council shall submit an annual report to the Consultative Assembly of the Council of Europe on the progress made in the implementation of this Charter.

ARTICLE 39

Agreements shall be concluded with European and international organisations competent in economic, social and cultural matters, in particular with the I. L. O. and O. E. E. C. so that the Council may perform the tasks assigned to it under this section of the Charter and may benefit from the technical assistance which these organisations may be able to afford it.

II. Draft Order

The Assembly refers the draft Social Charter together with Amendment No. ... to the Committee on General Affairs for re-examination, with reference, particularly, to the implementation of the Charter and proposed creation of a European Economic and Social Council.

Signed :

BICHET, TEITGEN, JAQUET, MOLTER, DE MENTHON,
MONTINI, FENS, BOHY, DE FÉLICE, RADIUS

**CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE**

EIGHTH ORDINARY SESSION

20th April, 1956

Doc. 488

*Amendment to
Amendment No. 1*

European Social Charter
and European Economic and Social Council

AMENDMENT¹ TO AMENDMENT No. 1
*to the draft 'Recommendation
of the Committee on Social Questions*

*presented by Mr. EDWARDS
and a number of his colleagues*

Leave out the draft Order and insert
a new draft Order as follows :

“ The Assembly refers the draft Social
Charter, together with the draft amendment
presented by Monsieur Bichet, to the Com-
mittee on General Affairs for examination and
report in consultation with the Committee on
Social Affairs and the Committee on Economic
Affairs. ”

Signed :

EDWARDS, ELMGREN, KAPTEIJN, CZERNETZ, METZGER, POPPLEWELL,
JAKOBSEN, VAN REMOORTELT, JONES, BROUGHTON, LE BAIL

1. See 10th Sitting, 20th April, 1956 (Amendment
adopted after amendment).

8. *European Social Charter
and European Economic
and Social Conference*

*(Debate on the draft European Social Charter
and on the draft Recommendations
presented by the Committee
on Social Questions, Doc. 488)*

THE PRESIDENT (Translation). — The next item in the Order of the Day is the draft Recommendation relating to the European Social Charter and the draft Recommendation relating to a European Economic and Social Conference.

The President (continued)

I call M. Heyman, Chairman and Rapporteur of the Committee on Social Questions, to present the draft European Social Charter.

Mr. EDWARDS (*United Kingdom*). — I rise to a point of order and would be most grateful to you, Sir, for your advice. There has been circulated an Amendment to Doc. 488—an amendment and draft Order presented by M. Bichet and other Representatives. Although this document is dated 19th April, it was not, in fact, circulated until late this morning. When I collected my papers first thing this morning, the document was not there. As a result, there are very many Representatives, of whom I am one, who saw the document for the first time just before 3 o'clock this afternoon. It is not a simple document; it is very complicated and not easy to understand at a first reading.

I would ask you, Sir, whether in all the circumstances it would really be fair to ask the Assembly to consider it this afternoon. I would say not only to you, Mr. President, but to M. Bichet as well that, whilst we do not want to be at all obstructive, it is really extremely important that we should have proper notice and proper time in which to read and consider things. We should do a profound disservice the Assembly if we were to talk about matters which we have not even had time to read. I ask for your ruling on this matter.

THE PRESIDENT (Translation). — Mr. Edwards, the question you have raised is covered by Rule 29 paragraph 2 of our Rules of Procedure, which reads as follows :

“ Amendments shall relate directly to the text which it is sought to alter. The President shall decide whether they are in order. Amendments should apply only to the substantive text; they must be signed by their author and, unless proposed in the course of a debate, laid on the table so as to leave sufficient time for them to be printed and distributed before they are discussed. ”

In these circumstances I could, in answer to your request, either suspend the Sitting for a few minutes...

M. HEYMAN (Translation). — That is not necessary.

THE PRESIDENT (Translation). — ...so

look at the text that has been distributed—in which case, I would ask you to request as short a suspension of the Sitting as possible—or else I shall be obliged to have recourse to a procedural device.

Indeed, M. Bichet could perfectly well move his amendment during the Sitting, in which case there would be no question of its not being in order.

Do you really wish the Sitting to be suspended?

Mr. EDWARDS (*United Kingdom*). — If M. Bichet would say that he would not press this matter, except in the sense of its being discussed, I should be perfectly happy. If, however, M. Bichet does not feel able to do that, I would respectfully suggest that you, Sir, should adjourn the Sitting for half-an-hour in order that we may have proper time to read and consider the document.

THE PRESIDENT (Translation). — I call M. Bichet.

M. BICHET (*France*) (Translation). — I have no objection to the Sitting being suspended for half-an-hour, but it would be very difficult for me to withdraw my text, on which I intend to speak in the general debate so as not to have to speak to it later.

THE PRESIDENT (Translation). — Do you not think, Mr. Edwards, that a quarter of an hour's suspension of the Sitting would suffice?

M. HEYMAN (Translation). — I ask leave to speak.

THE PRESIDENT (Translation). — I call the Chairman of the Committee.

M. HEYMAN (Translation). — I should like to ask Mr. Edwards if he thinks it absolutely necessary to suspend the Sitting. For my part, I think it would be very useful for us to hear the different points of view on the subject, after which, since M. Bichet himself has asked for the question to be referred to Committee, we could take a decision without losing any time. Considering the large list of speakers for this debate on the Social Charter, I think it would be preferable if we were to begin the debate, listen to the various speakers, and then take a final decision.

THE PRESIDENT (Translation). — I call

M. BICHET (Translation). — The Chairman of the Committee has made a very sensible suggestion. If I am rightly informed there are, indeed, about 10 speakers down on the list. While they are speaking, those of our colleagues who have not yet studied my amendment will have time to do so. They will have more than a quarter of an hour at their disposal, and our work will not be held up.

THE PRESIDENT (Translation). — I call M. Bohy.

M. BOHY (*Belgium*) (Translation). — I should like, *pace* my good friend Mr. Edwards, to second M. Bichet's suggestion.

I am not against a suspension of the Sitting, but I think that such a suspension would only be of use after the question had been debated. If a suspension is thought necessary it would be far more effective after the debate rather than before it.

May I therefore ask the Assembly to agree to M. Heyman's suggestion that the debate should start at once, and that the Assembly should decide after the debate whether or not to suspend the Sitting?

THE PRESIDENT (Translation). — The suggestion made by the Chairman of the Committee on Social Questions seems very reasonable to me.

Does Mr. Edwards accept this suggestion?

Mr. EDWARDS (*United Kingdom*). — I am very sorry to be troublesome, but we are here concerned with an important democratic matter. An Assembly of this kind ought not to be asked to discuss a difficult and important document in circumstances in which very many Representatives have had no chance of reading it, and those of us who are organised in political groups have had no chance to consult our groups. I should respectfully submit to everyone who has spoken in this discussion that we should do a profound disservice to the Assembly if we insisted on riding roughshod over the objections of those who feel very strongly that it is important that we should have adequate time to discuss this matter.

I am entirely in your hands, Mr. President, and I shall be guided by you. If you tell me that I am wrong, I shall accept your ruling.

THE PRESIDENT (Translation). — I call M. Bohy.

M. BOHY (Translation). — Mr. President, I quite agree with Mr. Edwards's argument.

We disagree only on when to suspend the Sitting. Mr. Edwards is asking that we suspend the Sitting in order to examine a document. I feel, however, that we could consider this document much more rapidly and with much better results once it has been subjected to open discussion in this Sitting.

Consequently, I should like to suggest again that we open the debate and hear the speakers and, if it seems useful to suspend the Sitting before we vote, Mr. Edwards can then ask for such a suspension. We shall then be able to decide whether such a suspension would be of any value, but at least our consideration of the document would take place in the light of the arguments advanced during a preliminary debate.

THE PRESIDENT (Translation). — That is what the Chairman of the Committee suggested, and I do not think that Mr. Edwards could find any reason for objecting to this course.

I call Dame Florence Horsbrugh.

Dame Florence HORSBRUGH (*United Kingdom*). — I should like to support what Mr. Edwards has said. Although it has been said that it would be better to consider this matter after arguments from each side have been put, we who have not had time to discuss the document feel that we shall not be able to put arguments from one side or the other. I agree with Mr. Edwards. If we are to discuss a document and arguments are to be put from either side in order that the Assembly may come to a conclusion, surely it is right that we should have sufficient time to read the document and to know something of the arguments.

THE PRESIDENT (Translation). — I should not like to waste the Assembly's time by debating a question of procedure. The problem which has arisen is very simple: all we need to decide is whether we are going to suspend the Sitting for a quarter of an hour now, or if we should suspend it at the end of the debate.

Since various Representatives now seem to wish to persist in their objections to this latter course, which did not seem to me to be the case at the beginning of this discussion, I shall ask the Assembly to make a decision.

I therefore ask the Assembly whether it wishes to suspend the Sitting at once for a quarter of an hour or to suspend the Sitting in the course of the debate.

(*The Assembly decided to suspend the Sitting immediately.*)

10th Sitting The President, M. Federspiel, M. Heyman, Mr. Edwards, Mme. Rehling

THE PRESIDENT (Translation). — We shall therefore suspend the Sitting.

(The Sitting which was suspended at 3.40 p.m. was resumed at 4 p.m.)

THE PRESIDENT (Translation). — The Sitting is resumed.

Ladies and Gentlemen, before calling on those who wish to speak I should like to draw your attention to the purpose of this debate.

The Assembly has been asked to discuss the Committee's report relating to the European Social Charter and to the European Social and Economic Conference. I have only been presented with one amendment to this report, —that moved by M. Bichet.

This amendment is in three parts and ends with a general Order asking that the report by the Committee on Social Questions, including the amendment itself, be referred back to the Committee on General Affairs.

I should therefore ask you to vote first of all on the general Order which suggests that the report and the amendment, as a whole, be referred back to the Committee on General Affairs.

Does the Assembly agree to this method of procedure?

I call M. Federspiel.

M. FEDERSPIEL (*Denmark*). — Do I understand, Mr. President, that it is your intention, without a debate, to send the Amendment proposed by M. Bichet and others to the Committee on General Affairs?

THE PRESIDENT (Translation). — That is exactly what I was going to ask the Assembly. Do members of the Assembly wish to refer both the report by the Committee on Social Questions and M. Bichet's amendment back to the Committee on General Affairs, or do they wish to open the debate and to decide later about M. Bichet's amendment beginning, of course, with the Order which concludes this amendment?

I call M. Heyman, Chairman and Rapporteur of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, I should like to suggest most emphatically that we open the debate on these two highly important questions.

M. Bichet, in his Order, suggests that we refer the report back to the Committee on General Affairs for their opinion. I do not think it would be at all desirable to do this before hearing the arguments for and against the report. I feel we should all benefit by hearing the speeches of those who wish to take

part in this debate. It has always been our practice to try to throw as much light as possible on a question before coming to any decision which needs careful consideration.

A debate will, I am sure, be very useful although we shall not be able to reach any definite decision before our October Session.

I admit the Committee on Social Questions is not unanimous about the report, and I shall explain this in my speech, but our duty is to set forth the conflicting arguments—as in any parliamentary debate.

THE PRESIDENT (Translation). — I call Mr. Edwards.

Mr. EDWARDS (*United Kingdom*). — I think the Chairman and Rapporteur are perfectly right and that we should now proceed to debate the matter. I should like to give you, Mr. President, preliminary notice that I propose to table an alternative draft Order. Having had an opportunity of considering the document during the interval that you were so kind to give us, I suggest that we should proceed to the debate, but I hope you will deal with my alternative draft Order as soon as I am able to put it in your possession.

THE PRESIDENT (Translation). — All this is now quite clear: we will open the general debate and hear M. Heyman, the Chairman, first, and then the other Representatives who have declared their wish to speak.

We shall conclude the debate by voting on the Order which forms the last part of M. Bichet's amendment, bearing in mind, of course, that Mr. Edwards intends to move an amendment for a modification of M. Bichet's draft Order.

I call Mme. Rehling.

Mme. REHLING (*Federal Republic of Germany*) (Translation). — Is the debate going to be concerned solely with the amendment, or are we going to engage in a debate on the whole question of the Social Charter?

THE PRESIDENT (Translation). — The debate will cover both the Amendment and the Recommendation.

I call M. Heyman, Chairman and Rapporteur of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Ladies and Gentlemen, there is no need at all for me to stress the importance of this afternoon's debate, which is to be devoted to the European Social Charter and Economic and

M. Heyman (continued)

Social Council. We are all well aware of the effect these two questions will have upon our European economic and social policy.

With regard to the European Social Charter, I would remind you of the decisions you reached on 25th October of last year. As Rapporteur, I shall confine myself to an objective account of the present situation and leave it to succeeding speakers to comment on this or that aspect.

This is not the first time that we have debated the problem of a Social Charter. Indeed, we have been considering it for more than two years, and it has aroused widespread interest both within and without the Council of Europe.

Just recently I have noticed in the press of several countries and in the opinions put forward by workers' unions that there is anxiety lest no acceptable solution be found to these two problems.

It is not my intention to recapitulate the events of previous Sittings on the European Social Charter, but I must recall the conclusions of the draft Recommendation put before the Assembly last October :

"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.

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 (I emphasise the word "complementary") to the European Convention on Human Rights and Fundamental Freedoms:

Having given further consideration to the principles which should be enshrined in the Charter,

Recommends to the Committee of Ministers

the adoption of the Draft European Social Charter appended hereto;

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."

Thus the idea behind this recommendation is to secure in the social field what the Convention on Human Rights has achieved in the political.

I do not think I go too far by reminding the Assembly that it is vital to guarantee social as well as political rights if we are to awaken the sympathetic interest of the masses in the work of the Council of Europe.

There are two grounds for this assertion; first, that it is only reasonable; second, that we wish to forestall certain political movements now active throughout Europe which would convince the masses that they must look to the other side of the Iron Curtain for their salvation, rather than to ours.

That is why we wanted to bring together employers, workers and Government representatives round the same table so that they could discuss their mutual interests.

Let us show our workers that the running of a factory, for instance, involves a multitude of elements—investments, capital, the purchase of raw materials, etc. At the same time let us try to convince those who do not live in daily contact with the masses that working-class families have a right to a decent standard of living.

I repeat therefore : our primary aim was to achieve in the social field what has already been achieved by the Convention on Human Rights in the political field.

I now turn to our second question : the Economic and Social Council. The present position will become clear in a few moments.

This Council, as originally envisaged, was a by-product of another venture, namely the "draft Treaty embodying the Statute of the European Community," which was a political instrument.

Three or four years ago an attempt was made to achieve European unity by drafting a political statute. It is not my present purpose to explain why this failed; I would merely note that Article 51 of the draft Statute was worded as follows :

M. Heyman (continued)

"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."

It must be observed that most of those members of the Committees on Economic and Social Questions who opposed the establishment of an Economic and Social Council argued that, since the draft Treaty had come to nothing, all the Articles in question must also lapse.

This view was not shared by the Council of Europe last October, for it insisted on considering the possibility of an Economic and Social Council as a complement to the Social Charter and as an instrument for the supervision and implementation of the Charter.

Thus the original idea was that the Social Charter and the Economic and Social Council should form a composite whole, each being complementary to the other.

Let us now consider what happened in October, 1955. I will not read you the reports of all the meetings devoted to this question. A summary must suffice.

You decided, in October, 1955, to seek the opinion particularly of the Committee on Economic Questions on these problems. You even suggested that the Committees on Economic and Social Questions should meet in joint session; and they did so at Paris in March.

I must frankly admit that the Committee on Economic Questions raised a number of objections, especially to the establishment of an Economic and Social Council. These objections were put before the Committee on Social Questions, which was responsible for reporting on the matter, and were accepted by the majority of its members.

This brings me to a point on which everyone, I trust, will be agreed. The business of our Committees is to make preliminary studies and in the last resort it is the Assembly which must decide. It is not enough to say: "This decision was reached in Committee by a unanimous or a majority vote and the matter is therefore closed". Far from it! If that were the posi-

tion, what should we be doing here? What would become of the parliamentary character of our Assembly if members, having studied the opinions and reports of appropriate Committees, could not make up their own minds on the problem and assume public responsibility for their decision?

As I have just said, the Committee on Social Questions endorsed most of the views of the Committee on Economic Questions. I can and do affirm, however, that certain important recommendations of the Committee on Social Questions have been retained in the text now before you. I must content myself with three examples.

In the section dealing with the broad principles on which the Social Charter is based, the Committee on Economic Questions had deleted the words "full employment," whereas the Committee on Social Questions has insisted on retaining this term.

Similarly, the references to the right to work and the maintenance of full employment, and to the share of workers in the fruits of their labours have been retained by the Committee on Social Questions against the advice of the Committee on Economic Questions.

Consequently, there have been radical changes in a number of respects.

As regards the Economic and Social Council, I must inform you that our Danish colleague, M. Haekkerup, who was responsible for this part of the report, is, unfortunately, prevented by national commitments from attending this Sitting. You can, however, draw your own conclusions from Document 403, which, as I have explained, forms the basis of this question. Our honorable President, M. Dehousse, was originally appointed Rapporteur on the Economic and Social Council, but, last October, just as he was about to come and introduce his text to the Assembly, his duties as General Commissioner for the Saar, obliged him to leave Strasbourg in haste. For this reason I took it upon myself to explain M. Dehousse's views—doing so objectively, though without his flair.

When the Committee on Social Questions decided by a majority vote against the creation of the Economic and Social Council, M. Dehousse resigned and was replaced as Rapporteur by M. Haekkerup, who is now unable to be with us.

I do not feel justified in replacing M. Haekkerup, partly because it would hardly be tactful, partly because I feel I lack the authority to

M. Heyman (continued)

support a section of the report for which I was not personally responsible.

However, this difficulty is not insuperable, for now that the Committee on Social Questions has reached a majority decision against the very principle of an Economic and Social Council, our colleague, M. Bichet, has tabled an amendment proposing a reversal of this decision. It is not my business to support this amendment—M. Bichet is quite capable of doing this himself—so I will pass over the details of this question.

One final remark; you will have noted, Ladies and Gentlemen, that the reports on the Social Charter and on the substitute for the Economic and Social Council have both been adopted unanimously. How is this? Because the same applies here as in all our parliamentary Assemblies. When a Rapporteur submits his report to the competent committee, each member decides whether it is a faithful reflection of the committee's position, whatever may be his own personal views. And so they decided with regard to the reports now before us. They are a faithful reflection of the decisions of the Committee and take no account of personal opinions.

Furthermore, several members preferred to have a truncated Social Charter rather than no Social Charter at all. But we reserve the right enjoyed by all members of the Assembly, even if they are not members of the committees concerned, to criticise and perhaps submit amendments to the report during the general debate.

You will find in M. Haekkerup's report on the Economic and Social Council that the Committee on Economic Questions requested the replacement of the original Council by an Annual Conference under the aegis of the Council of Europe, which would supervise the implementation of the Charter.

I must point out that M. Haekkerup did not agree to this request, as you will see from his report. Instead, he has proposed, on his own responsibility, that the Economic and Social Council be replaced by a tripartite conference of workers, employers and Government representatives under the auspices of the International Labour Organisation. I cannot tell you whether or not the three parties have been consulted or have volunteered an opinion on

this proposal; but at all events you will find it in M. Haekkerup's report.

Mr. President, to conclude my survey, I would remind the Council of Europe that some of us think it necessary, with all the facts before us, to consider calmly whether we should modify the procedure accepted hitherto. This is of great interest for the future, but need not concern us at the present moment.

The procedure will be as follows: the decision of the Assembly will be referred to the Committee of Ministers which has already met in Strasbourg to discuss social questions and notably the Social Charter. The matter will thus come before the Committee of Ministers, which will consult its Social Committee. Like the Committee of Ministers this Committee itself is entitled to make what amendments it wishes or, of course, suggest other solutions.

Although the Ministers and their experts may make great changes in the Assembly's proposals, we have two other means of asserting our views.

Before final signature of the Social Charter, the Committee of Ministers will no doubt wish to refer it to the Assembly for an opinion. Admittedly, this procedure is not laid down in the Statute, but it has now become normal practice—it will be remembered that, before signature, the Convention on Human Rights, the Agreements on Social Security, the Convention on Social and Medical Assistance and other Council of Europe Agreements have already been submitted to the Assembly for its opinion.

At an earlier stage, before the final text is adopted there must be consultations between representatives of the Committee of Experts and of the Assembly Committee on Social Questions, to examine the Experts' findings. There have already been joint meetings of a legal nature between members of Assembly Committees and of Committees of Experts to examine various conventions, and the same procedure should apply to the draft Social Charter.

In point of fact, the Committee of Ministers has already proposed a joint meeting in its Supplementary Report of October, 1955. This proposal was accepted in principle by the Assembly—and only practical difficulties have delayed its implementation.

Ladies and Gentlemen, before I end my speech, I would make just one final comment.

I believe it would be dangerous to try and

M. Heyman (continued)

separate the Social Charter from the Economic and Social Council. Whatever solution you adopt, you must preserve the connection between these two issues, for a Social Charter without a supervisory body would be far from complete. A means must be found of giving practical effect to a document of such social importance.

I believe that I have fulfilled my duty as Rapporteur by giving you an objective account of the present situation. I am all ears to hear the various speakers who have been concerned with this matter but, again, I would implore you not to divorce the two issues—both of paramount importance from the economic and social standpoint.

THE PRESIDENT (Translation). — I call M. Spallicci.

M. SPALLICCI (*Italy*) (Translation). — Mr. President, Ladies and Gentlemen, although the Social Charter we are considering today and which M. Heyman has so brilliantly presented, has been modified since it was first drafted last October, some defects still remain.

I have set myself a limit of 10 minutes to deal with Articles 14 and 15, but I shall, if you have no objection, refer also to several other Articles. For example, Article 6, concerning the right to strike, should, in my opinion, provide for the setting up of a Court which, by preventive arbitration, could prevent damage being done to third parties and prevent certain classes of workers from striking. I have in mind doctors, nurses, firemen and W/T operators at airports who hold the life of flying crews in their hands.

Now an arbitral court, that is to say a form of tribunal comprising committees, with equal representation and presided over by a magistrate, could prevent certain disputes.

Article 10 states that the High Contracting Parties will take all appropriate measures to reduce infant mortality, to improve nutrition and living conditions of workers and to combat epidemics.

Now, all these tasks fall within the competence of W. H. O.—the World Health Organisation—and close co-operation with that organisation will be necessary in the near future.

Another Article to which I would draw your

attention is that which deals with measures to educate young people for marriage. I am glad this problem was considered and that the duties of those contemplating marriage are discussed, that they should be convinced of the need for submitting themselves to biological and medical examination for diagnosis and treatment of hereditary disease which might prove a heavy burden to their children.

Let me, however, pass straightaway to Articles 14 and 15, for a thorough examination of the entire Social Charter would require at least an hour and certainly more than the ten minutes I have allowed myself.

These Articles refer to the need for free primary education and to the encouragement of secondary education. This is as it should be. The physical aspect of life can, in our days, not be considered as a thing apart from the intellectual and the spiritual. The struggle with ignorance and illiteracy must be maintained albeit with some degree of prudence and precaution.

Teaching should not be considered as an administrative career. Only too often, there are those who, having obtained a degree or even a doctorate imagine they are in possession of a general open sesame; yet, in fact, only reach a position which they could have attained without such qualifications.

On the other hand, there is no doubt that a trained craftsman is of far greater value to the community than one who is guided only by his creative instinct. A farmer who understands the machines he uses, the fertilisers most suited to his land is of far greater value than an unskilled agricultural worker.

We should above all see that this system of general education does not lead to overcrowding in the liberal professions. A careful selection must be made. The initial selection should normally take place in the course of the transitional stage from primary to secondary education. While university education should, it is said, be encouraged, a rigorous selection is nevertheless essential. The liberal professions in Italy, and also, I believe, in France, are becoming overcrowded; the universities each year produce thousands upon thousands of graduates who, since they can find no employment at home nor where they would prefer, are reduced to an unaccustomed, not to say, at times, even an irregular mode of life.

The equivalence of university degrees might

M. Spallicci (continued)

prove an important task for the Council of Europe, so that certain countries in need of doctors or engineers could employ members of such professions whose academic qualifications have been recognised by universities of other nations, and in due course of extra-European countries.

Other outlets might also be found for these people.

It has rightly been said that there exists a shortage of technicians for the peaceful use of atomic energy. Young people should be encouraged to engage in these up-to-date subjects, which have the advantage of leading to lucrative posts.

Again, free secondary education should go hand in hand with automation which reduces occupational fatigue. The workers must not consider the machine as an enemy as they did in the past in my country, and still do in certain regions. When the machine of tomorrow replaces the inhuman labour of today, we shall be able truly to speak of the joys of labour and no longer of earning one's daily bread by the sweat of one's brow.

We must, however, above all combat the great scourge of illiteracy without introducing no less an evil—that of overcrowding the liberal professions.

I am happy to note that in Article 15 stress is laid on the right of parents to ensure the education of their children in conformity with their own religious and philosophical convictions: for this is no place, Ladies and Gentlemen, in which to hoist the flag of the Dominicans with the motto: "He who is is not with us is against us". In this Assembly we want all doctrines and religious faiths to be respected.

The preamble to the Charter states that the improvement of the standard of living depends primarily upon economic relations. "*Primum vivere, deinde philosophare*". In our struggle against illiteracy and ignorance, it is essential to put the working classes in a position to resist the temptations of totalitarianism and dictatorship. Yet, in fighting illiteracy we shall be fighting for the same principles and for the same ideas; and without having recourse to totalitarianism and, above

all, without justifying dictatorship, we shall be creating new allies who will profess the same faith as we do in the principles of civilisation and democracy which are the foundation-stones of the European Community.

THE PRESIDENT (Translation). — Ladies and Gentlemen, as we still have sixteen speakers to hear I must request you to restrict the length of your speeches.

I call M. Bichet.

M. BICHET (*France*) (Translation). — Mr. President, I wish to intervene in the general debate to justify the amendment which was under discussion just now. I wish to make it clear that this amendment has been signed by representatives of several Member States and members of all political parties of this Assembly.

I am not giving away any secret by stating that I have taken over the work of our President, M. Delhousse, who for over two years in this Assembly has, in a number of capacities, championed the cause of the European Social Charter and the Economic and Social Council.

First, I wish to emphasize that the rejection of the Economic and Social Council by our Committees on Economic and Social questions has caused no little stir among the workers. The Belgian newspaper, *La Cité*, recently published an article entitled "No room for the workers in the Council of Europe" expressing this concern. It pointed out that Europe could not be built only by politicians or officials who often lived remote from the realities of life, but needed the co-operation of the workers.

It was for the purpose of enlisting the workers in the task of European unification that the Committee on Social Questions anticipated in its preliminary draft of the Social Charter—I refer to Document 403—the creation of a body which would afford drive and technical assistance and exercise control for the implementation of the Charter. In the absence of any other pertinent proposal, the Committee has estimated that the duties of such an organ could successfully be carried out by the European Economic and Social Council, the establishment of which was proposed by the Assembly in its Resolution 26, on 17th January, 1953.

But, instead of dealing with the prior question

M. Bichet (continued)

of the implementation of the Charter, the debates which took place on this subject concentrated solely upon the desirability of the establishment of the European Economic and Social Council, with the result that the need to set up the body I have just referred to for the implementation of the Charter was almost completely lost sight of. The debates both in the Plenary Assembly and the Committees have, consequently, distorted the true concept of the authors of Document 403, the purpose of which was to prevent that, in the absence of this body, the undertakings of the Parties to the Charter should remain theoretical.

The soundness of this concept can be appreciated if it is recalled that the undertakings in question are for the most part of a character which require for their implementation the institution of administrative or legislative measures to be taken at a later date.

Long experience of inter-governmental co-operation has shown that plans for European integration may well not materialise so long as their elaboration is left solely in the hands of national Governments.

The Assembly formally agreed with this when, on 25th October, 1955, during its last Session, it adopted Resolution 88 on the appointment of European Commissioners.

In the Explanatory Memorandum to the report of the Committee on General Affairs—(Document 403)—which was accepted by the Assembly, one finds the following passage :

“ Experience has shown that traditional methods of inter-governmental co-operation fail to give an adequate stimulus to European integration. At diplomatic conferences and inter-governmental meetings of ministers, the problems of European integration are very rarely presented and studied from the angle of long-term common interest, which are the objective of integration. Individual governments, anxious to protect the immediate interest of their country, tend to concentrate on the defence of such interests. It is usual, therefore, for inter-governmental negotiations to start with the confronting of national points of view, which soon results in deadlock, whereas it would be much better if they immediately centred upon

definite and constructive proposals designed to facilitate the transition from the present national systems to a future state of European integration ”.

There can be no doubt that these considerations which, it must be emphasized, reflect the opinion of the Consultative Assembly itself, refer on the first instance to the activities of the committees of governmental experts who can only act on the instructions of their Governments and whose first concern is steadfastly to maintain the national policies with the defence of which they have been entrusted.

If ever there was a danger threatening the successful outcome of inter-governmental co-operation it is manifest in this long-term enterprise of putting into operation the European Social Charter, an implementation which will demand a much greater degree of the spirit of understanding, conciliation and self-restraint than is customarily demanded in matters of co-operation.

It is thus clear that the organ to be set up for the purpose of implementation should be independent of individual Governments and it follows that it could not possibly be the Committee of Social Experts, which is governmental.

Not only would this Committee, composed of the spokesmen of individual Governments, be one of those bodies which, according to Resolution 88, would be inadequate to take effective action, but it would be these same Governments who, through their spokesmen within the Social Committee, would be called upon to control their own actions.

This is why it would be unwise to follow the example of the Committee on Social Questions which has entrusted the implementation of the Charter to the Social Committee.

Would a body which affords drive and exercises control encroach upon the Consultative Assembly's political powers of control?

This argument has been maintained by some Representatives, and the Assembly has itself again given us the reply by accepting the report of the Committee on General Affairs—Document 404—in which the following passage figures :

“ Admittedly, the Consultative Assembly, was itself created to spur on the Governments towards the achievements of the aims of the Council of Europe, but experience has proved

M. Bichet (continued):

that its work, as at present organised, is inadequate for the purpose. First, it is not technically equipped for preparing detailed European plans in all the fields of its competence. Secondly, it lacks the necessary continuity for bringing sustained political pressure upon the Governments to adopt its proposals."

This in itself is proof that in the highly technical business of implementing a Social Charter the Assembly does not have at its disposal the means of making the necessary assessments and comparison for it to carry out independently and unassisted its task of stimulating and controlling action by individual Governments. A mere glance at the documentation which the fifteen member countries have just placed at the disposal of the Social Committee for the sole purpose of studying the right to work which appears in the first three articles of the Charter is enough to make one clearly aware of this. Together with the comments of the Secretary-General there are already several hundred pages which it seems unlikely that either the Assembly or the Committee on Social Questions will have the time to study.

All this would seem to make it clear that the Assembly should be the first to be endowed with some form of technical assistance as provided for in the preliminary draft of the Social Charter. The establishment of such an organ would lend strength to its action rather than encroach upon its competence. Moreover, it would meet a need which has been generally recognised in the framework of inter-governmental co-operation at world level.

Though the organ to be set up for the purpose of implementing the Charter may have to satisfy technical requirements, the Assembly has, nevertheless, according to the very terms of the report, Document 404, adopted by it, the right to insist that this organ should have a constant activity. Such is not so in the case of the Committee of Social Experts which, in 1955, sat only for a few weeks, or of the European Economic and Social Conference, the establishment of which was proposed by the Committee on Economic Questions when the draft Social Charter was being debated.

In this connection, one may well ask if those members of the Committee on Economic Questions who voted in favour of draft Resolution 88 and Document 404 could logically

oppose the Economic and Social Conference being vested with permanent status.

Why then should they oppose the plan for a European Economic and Social Council?

One thing or the other: either the question of implementing the Charter should be given further study, which, in view of the political importance of the matter in hand would have to be entrusted to the Committee on General Affairs: or, a return should be made to the only valid proposal which has been put forward with regard to the Economic and Social Council, *i.e.* that embodied in Chapter III of Document 403.

Such is the aim of our amendment; and if those who are responsible for the amendment do not, in these circumstances, consider themselves bound to propose improvements to the plan for a European Economic and Social Council—since this should normally be the lot of its adversaries—they are, of course, prepared to consider them in a favourable light.

It might in this respect be worth-while considering the possibility of a partial agreement between Member States wishing to establish a European Economic and Social Council. This could be effected by amending Articles 34, 37 and 38 of Document 403 along the lines of the optional competence for which provision is made in the European Convention of Human Rights, and Articles 46 and 56 of that Convention.

Nor would those responsible for the amendment before us oppose the appointment, when the Committee on General Affairs considers the matter of implementation, of a limited Board of European Commissioners who would be responsible for promoting the policy of integration set out in the Social Charter.

This Board, which would be appointed by the Committee of Ministers after opinion rendered by the Assembly, and which would automatically form part of the Bureau of the Economic and Social Council, would be responsible for directing and guiding the consultative work of the Council.

In short, it would seem that those Representatives who opposed the original draft of the Social Charter, as it appears in Document 403, failed to give it really thorough consideration. They appear to have lost sight of the essential point, which is the implementation of the Charter.

This is a serious controversy. It stems, not from moral, economic or social considerations, but is similar to that which is evident today

M. Bichet (continued)

between the broader currents of opinion in respect of European integration.

Such determination that the inter-governmental co-operation of the Fifteen should not at last emerge from the rut in which it has lain so long, such resolution that the Consultative Assembly should be prevented from giving a healthy stimulus, could well be interpreted as fresh proof of the continued opposition in certain quarters to European unification, or, at the very least, as yet a further example of pedantry.

In respect of a subject such as this, such an attitude will undoubtedly have unfortunate repercussions among the masses, of which not only Europe, but, in the long run, the Council of Europe itself, will have to bear the brunt. Should the Assembly follow the line taken by the Committees on Economic and Social Affairs, it would run the risk of destroying the workers' very conception of Europe.

If any of our colleagues entertain any doubts on this score, I would advise them carefully to re-read the document addressed to many of us on the 18th April by the International Confederation of Christian Trade Unions, which expresses the wishes of nearly all free trade unions.

May I conclude by quoting again from the article in the newspaper *La Cité*; which, Ladies and Gentlemen, is directed at you :

"The Social Charter and the Economic and Social Council would create powerful links between the Council of Europe and the workers of Europe. Those who take upon themselves to break these links before even they have been chained together, should be aware that they assume a very grave responsibility."

I venture to hope the Consultative Assembly will not itself assume this responsibility.

THE PRESIDENT (Translation). — I call M. Radius.

M. RADIUS (*France*) (Translation). — Mr. President, Ladies and Gentlemen, M. Dehousse, the new and distinguished President of this Assembly, told us on Monday that the Assembly should endeavour more and more to develop into a true Parliamentary body. I

believe that in doing so he gave expression to the ardent wish of most of us.

Now, the task of a parliamentary assembly is not limited to the formulation of a few general principles, but its business is to legislate and therefore to do something concrete.

In the present social debate no evidence has so far been provided of the wish to acquire that spirit which is essential in an Assembly aspiring to become a parliamentary assembly. Indeed, the principle of a Social Charter was voted by the Assembly with little or no difficulty.

The rub only came when it was a matter of doing something positive. There was a debate last October which I cannot be alone in describing as a disappointment. I do not think one need be a passionate supporter of the plan for the Social Charter and the European Economic and Social Council to deplore the spirit in which some of the arguments against them were put forward.

However disappointing this debate may have been, it did result in an Order which seemed full of promise. The suggestion that the scheme should be re-examined by the Committees on Social and Economic Questions in conjunction with the Committee on Social Experts was as reasonable a proposal as could be desired. But Order 79 spoke of amending an existing draft.

This draft was for a Charter involving certain rights and obligations and one for the establishment of a European Economic and Social Council.

Now, Document 488 embodies a plan which is so different from its predecessor that it is no longer possible to speak of a draft Amendment, and we must acknowledge that we are face to face with something completely new.

A distinguished jurist in this Assembly has even declared that he would bring an action to disclaim any parenthood of this plan. He was certainly not just trying to exercise his wit.

Further comparison of the two Drafts shows that the essential differences between the present Draft and that which was referred to the Committee last October lie mainly in the range of the rights defined by the Charter and in the latter's implementation.

The particular distinction of the original draft was that it was a definition of those rights which Governments are bound to recognise and gradually implement in the member

M. Radius (continued)

countries of the Council of Europe. Such a Charter could really claim to bring about changes and serve as a guide to the internal legislation of these countries.

In the new draft these rights are relegated to the preamble and thus lose all sense of legal obligation. This is true,—to quote only a few of the more striking examples—of the right to work, the responsibility of Governments to ensure full employment and to protect savings.

One cannot indeed claim that the right to work is something that can be sanctioned by the Courts but I think many of us in this Assembly believe that above the positive right there is a natural right and that if all European States believed it was their duty to grant an allowance to all those out of work to compensate them for their enforced idleness, it is because they considered this Right to be most real.

On this matter I am at one with my colleague, M. Marius Moutet, who has repeatedly emphasized the point. Is it not rather strange to include references to certain rights in the titles of articles, rights which are subsequently not referred to in the text itself? I think, Mr. President, that our Assembly should not indulge in such subtleties which can only result in the loss of our prestige in the eyes of the public and more particularly of the workers.

Mr. President, were I to analyse the whole of the second part of the draft Charter I should be taking up too much of the Assembly's time, but I fear that too many of the provisions of the proposed new Charter tend to show up the Council of Europe as being to say the least, remarkably timorous.

Article 4 concerns the workers' right to be consulted in any matter relating to management. But in the majority of countries they are not only consulted but are also closely associated with this management within the works councils.

I know, moreover, that particularly in the United Kingdom, this association, however real it may be, is not institutionalised as it is on the Continent: but is that a reason for placing the Charter on a level with such a concept—which incidentally, I have no intention of criticising? I am the first to wish to

seek a compromise solution, but the last to countenance the abandonment of one concept in favour of another.

May I also point out that in the new draft no mention is made of the workers' accession to ownership, which is now no longer disputed by anyone in Europe. Public opinion as a whole, even that which is taxed as conservative, has been won over to the idea.

Side by side with the capital question of the scope of the rights defined by the Charter is that of its implementation.

It was thought advisable to suppress the plan for the Economic and Social Council. You know I am an ardent supporter of this Council, I championed it last October with arguments which as yet have not been refuted. I do not wish to dwell further on this matter, but I cannot help expressing my astonishment at some of the arguments contained in M. Haekkerup's report. This distinguished Rapporteur believes, among other things, that there are better methods than the Economic and Social Council of associating the social forces, and particularly the workers, with the activities of the Council of Europe.

I have the impression that this assertion is contrary to the attitudes adopted by the workers' qualified representatives who have not ceased to ask and even implore us to set up this Economic and Social Council.

I am astonished that some have not hesitated to claim that the workers will give greater support to our Assembly in the absence of the Economic and Social Council.

In any case, warnings have been given by the great International Trades Unions which are quite contrary to the statements made by the Rapporteur.

These warnings, by virtue of the extremely loyal and active co-operation of the Council of Europe with these Unions, deserve, I think, to be given consideration.

There is one final argument which is perhaps the most astonishing of all: the reproach which is levelled against the supposedly corporative nature of this Economic and Social Council. What is a corporative regime? It is, clearly, one in which a corporative chamber reserves to itself the political power to legislate. It is quite clear that there was no question of this in our plan. If the Council is accused of being

M. Radius (continued)

a corporative body the only logical conclusion is that France and the Low Countries, to quote only two nations, must at the present moment be living under a corporative régime since they have national consultative councils with economic and social competence.

I have nothing to say on the subject of the Conference which it has been suggested should take the place of the Economic and Social Council. Do you really believe that there can be any logic in the claim that it will help to sound the views addressed to the Governments by workers and employers when at least half this Conference will be composed of the representatives of these very Governments?

There is, finally, the question of the rôle of the Committee of Social Experts in the implementation of the Charter. I have the best possible opinion of the Social Experts and do not doubt that they would get down to their task with great competence and zeal. May I just point out that this same Social Committee is also responsible for arranging the implementation of the Charter, for controlling its application by the Governments of Member States, and for examining proposed Amendments—all this, of course, without reference to the workers or those concerned.

The paternalism of employers is indeed perhaps out-moded but I am sorry to see the Council of Europe founding its policy and even its administration on the same basis.

Mr. President, I am a co-signatory of M. Bichet's amendment. In other words, I am in complete agreement with him and I think it advisable that the Committee on General Affairs should make a thorough study of the whole text and not merely of the wording of Part Three.

Various opinions have been expressed in this Assembly throughout the whole of the debate on the Social Charter and no doubt we have still to hear others. I have expressed disagreement with some of the attitudes adopted, but I have too great a faith in our organisation and too much confidence in the good faith of my colleagues not to believe that we all wish to find a solution which is neither an escape nor a retreat.

The principles which should prevail are neither French, nor British nor Scandinavian nor those of such and such a political group. We are all here on behalf of a cause, which is that of Europe.

We may interpret this in different ways, but do we always realize that without the support of the majority of the workers who constitute the largest section of public opinion it cannot be achieved. If greater acknowledgement were made of this fact in our debates we would avoid much waste of time, many futile controversies and would better serve Europe's great cause.

THE PRESIDENT (Translation). — I call Dame Florence Horsbrugh.

DAME FLORENCE HORSEBRUGH (*United Kingdom*). — It is a great honour for me to address this Assembly, especially as this is the first time I have had the honour of being a member of it. I am particularly glad that I should be speaking to the Assembly on the subject of social services, because I have given especial attention to those services and in my country I have had some ministerial responsibility in administering them.

I should like to begin by congratulating the Rapporteur. I should like, also, to express our gratitude to those who have been working on this Charter, because I know what a difficult job that is. I am not surprised that it is difficult. I am not surprised that even now we may find any amount of subjects which we could discuss, and continue to discuss, because, after all, to draft a social charter is a very complex and difficult job. One has to range over so many human activities. One has to consider how we can give help or protection to men, women and children in so many different circumstances.

That, for a beginning, is difficult, but that is not all. Next, there is the great difficulty in deciding whether we must in our Charter—this picture we are giving of comprehensive social services—be sure that we leave no gap. Must we be sure we have the highest possible standards? I know there have been difficulties between putting into force in this Charter schemes on a more general basis—some might think on a too general basis—and also, on the other side, the balance of the difficulties of not being too precise. I think that problem is almost insoluble. I congratulate the Committee and the Chairman on struggling with it, and struggling with it nobly. As I read the Charter, it seemed to me that in one article we have become, rightly, more general and, in the next, too precise, with too much detail of method put in. I am not complaining of that, but I am giving it as an example of the difficulty of drawing up a social charter.

Dame Florence Horsbrugh (continued)

I am not going to say anything now on the subject of the Economic and Social Council. As I have said, I have not been in this Assembly before. I have not attended the meetings of the Committee on Social Questions, but I can assure you, Mr. President, that I have read very carefully all that has been said and I have studied the minutes of those meetings. This afternoon I want to deal with the document as we have it before us.

I should say straightway, looking at the wide picture that has been given to us, that I think it has been very much improved compared with the first draft I read and which was passed at a previous Session. On the wide view, the main picture that has been painted of comprehensive social services, I should say that all of us, if we were quite certain that those services were being provided in every European country today, would be thankful, glad and proud to say, "That is our European standard." If there are some who think it ought to go farther in one direction or another, I should like to appeal to the Assembly to get some balance on the questions and to see that at any rate we make progress.

I have sometimes felt that we look too far to the ideal. We look up at the mountain and say, "That is the point we want to reach." That is good, but then we have to say to ourselves, "How do we get there?" We have to look how the path winds one way and another, we have to reach one shoulder and then look how to get to the next. I look on the Charter as the top, the peak, the high standard, and I say to myself, "Are we all sure we are going to start to get there?"

Enthusiasm for words in a Charter, enthusiasm for voting for certain provisions in a Charter, is not enough. I believe that the implementation of what we find in this Charter will mean years of hard work, patience, enduring determination, for many countries. It is to that aspect that I should like to draw the attention of the Assembly this afternoon.

I have said that I fully agree with the main provisions. In fact, most, I think all, of the Services—all the security benefits—we already have in my country and have had for a number

of years—certainly all those enumerated in paragraph 1 of Article 9.

I should like to say something also about paragraph 2 of that Article, because it deals with reciprocal arrangements between different countries. I hope we shall be able to extend that. A person who is entitled to medical care in one country and falls ill in another country should be able to receive that medical care in that other country. We have these arrangements and have already entered into them. I should like to see them extended.

Perhaps some Representatives may say that it is strange to think that we may be able to build up greater European union on small things like that, but I am not at all sure that that is not the basic way of building more integration—coming together to do good for each other.

On the main provisions of Article 9, that is, the allowances in various cases—children's allowances, maternity benefit, unemployment allowances, widows' pensions, old-age pensions and the rest—it seems to me that they fall into a category by themselves, apart from the category, so to speak, of social services. In that category it seems to me that what has to be done is simply to decide how much money can be spent and to set up the organisation or the administration for the conditions and methods of spending it.

Today I am not going to speak on finance. I am not going to discuss what proportion of the national income should be devoted to the social programme. I am going to take a holiday from finance. I had plenty of discussions on that when I was Minister of Education in my country. I had plenty of difficulties in seeing how I could get the best value for every penny I could get, and I did a lot of thinking about how I could get the allocation to my Department enlarged. But today I am not dealing with finance.

I turn to what I would call more the social services, and I ask the Assembly to realise and to face the gigantic task we have in setting them up and maintaining them. Already this afternoon, Article 14, dealing with education, has been referred to. I am not going to discuss the details and suggestions in it. We are hoping and trying and succeeding in my country

Dame Florence Horsbrugh (continued)

in getting many of our boys and girls to stay at school until they are 18. More and more are going on to our universities. This Article speaks of secondary education and university education. In passing, may I be excused if I say, do not let us ever forget the value of good, sound primary education. We cannot produce our technicians or our students at the universities unless we pay more attention to the soundness of primary education in our schools.

What does this programme mean? I have had some experience in this connection, because I have been battling with the question of how we can increase as quickly as possible the number of schools and extend our universities. It entails an enormous building programme, and it is not only buildings that we require. What is even more important is trained personnel to recruit and train a large number of teachers. I believe that the casual reader, taking up this Charter, would not realise the enormous amount of detailed work that lies behind the implementation of it. There is the great building programme, the difficulty of training enough personnel and training them well, and I would plead that in extending our services we do not sacrifice quality simply because we are in a hurry and want to do everything at once.

No sooner do I think of school buildings, and the training of teachers by the thousands and the tens of thousands, than I remind myself that, as a result of the social programme, we have at the same time to build hospitals and to see that more doctors, dentists and nurses are recruited. Then again, no sooner do we think of building schools and hospitals than we remember what is almost the basic necessity, namely, housing projects.

I quite agree with those who have said that the family is of basic importance to society, but I have given those examples because I want to remind the Assembly of the enormous task we are tackling. We cannot do this in a short space of time, especially in many countries which have not had the opportunities which we have had of building up during the last ten years a good part of this programme. We must have patience and perseverance, and I believe that the implementation of the programme should be, to a great extent, left to individual nations to decide.

I said a moment or two ago that I thought that, although I agreed with a number of aspects of the picture, in some ways the detail had been filled in too much and that we have become too precise. I do not want to take up too much time now, so may I give one example?

In Article 11, dealing with the family, I think we should agree that we want to help the family and newly married people to build their homes, but I think it is rather a pity that the question of cheap loans for the founding of homes is laid down in this Charter. The fact that I dislike any social service getting loans does not matter, but the point to which I want to draw the attention of the Assembly is that it is not a good plan to lay down precisely the method. Help them in founding homes, yes; but in my view, once such precise methods are put into a Charter, difficulties arise.

In my country we have different methods of introducing our social services. I think that I have said enough to indicate that we are carrying on these services and enlarging them, and doing more in the way of extending opportunities for technical education; but we want to go on and do more. We are not lagging behind the standard which is set out in this Charter, but our methods are different. That is the difficulty which must face any British Government if it is asked fully to adhere to this Charter, and I want to make it clear that I do not believe that a British Government of any political party could ratify this particular Charter in the way in which it is at present framed.

When the Assembly comes to the vote, I shall abstain. That will not be because I do not wish to see a great advance in European social services, nor because I do not want to see us getting together to consult and to help one another in these services and to be proud of building up the highest standard of European social services. It will simply be because of the method. In my country we are very proud of having some diversity in the methods by which we arrange our affairs.

For instance, a great deal of responsibility is left to our local authorities. The central Government do not direct everything in detail but leave responsibility for many of our social services to the local authorities. The central Government will help in directing, suggesting, and giving certain guidance on the main prin-

Dame Florence Horsbrugh (continued)

ciples; they will help with grants, but they do not take responsibility for the detailed arrangements of some of these services. For instance, the Charter says that there should be a priority for new houses for young married people. It is our local authorities and not our central Government that decide such priorities.

But there is something wider and bigger than that. Article 2 of the Charter deals with rates of pay, hours of work, holidays with pay, and Article 4 refers to managements co-operating with employees—co-partnership, profit sharing, call it what you will. I must tell the Assembly that in my country those things are settled by negotiation between individual employers in individual industries and the employees through their trade unions. We have diversity. There may be differences in schemes between one industry and another, but we leave it to those parties to negotiate. That is our tradition, and I cannot imagine that any British Government would be able or would wish to depart from it.

Having said that, I should like, in conclusion—and if it is not completely illogical—to end by referring to the beginning of the Charter. At the very beginning of the Charter, in what I might call the preamble, even before paragraph 1, it says that we are to pursue the objectives of social policy contained in the Charter. Mr. President, I can assure you that I am in favour, as I believe are all those in my country, of pursuing the objectives of the social policy laid down in the Charter. I have shown already what we are doing; I have shown already what we are trying to extend, and I would suggest that, although the Rapporteur has said that the Social Charter without control is just hot air, if he came to my country and saw how we were getting on with our Social Charter, I do not believe that in the Kingdom of Great Britain and Northern Ireland he would find too much hot air.

We mean to go on, and I would suggest that unity of purpose is really more important than complete uniformity in method and detail. Other countries, perhaps, will feel the same from other points of view and I would make this appeal to the Assembly: Do not let us, in striving for uniformity, lose the chance of unity of purpose. Our purpose here in discussing social services is surely to have the widest and most comprehensive range of social services

and to have them at the highest possible standard.

That will be our aim, I believe, in my country. I believe that with this Charter, which puts before us the great aim which should be the ideal, we can in the years to come—and it will take time—look forward to a time when we can look at the standard that the other countries and my own have reached in their social services and say with pride, "That is the European standard".

Mme. WEBER (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, as a consequence of the numerous criticisms hurled from all sides, during our last Session, at the Social Charter and, chiefly, as a result of the rejection of the Economic and Social Council, the Committee on Social Questions has reconsidered the problem. We have therefore drawn up a new scheme eliminating the Economic and Social Council.

I should, first, like to make a remark on a matter of principle. By this turning down of the Economic and Social Council, we did not wish by any means to impair the rights of workers. We claim to be as sympathetic towards workers—and we understand by workers all strata of the working population—as the champions of the Economic and Social Council.

If we rejected the Economic and Social Council it was out of consideration for the Council of Europe. We thought that by creating a new organ we should be weakening the Council of Europe. We were convinced that it was possible to find another way of making the social Charter effective and of working out a regime of control. By our resolution we did not wish to hamper but to strengthen the Council of Europe. All the debates of the last few days have shown that we all want a united Europe, that we want it through practical means. Until the political unity of Europe is attained social and economic unity can only be realised in one way. May I explain myself? We are friends of Europe, enthusiastic friends of Europe. We have among us representatives of labour, we are therefore never without the advice of the workers. The workers' representatives are always present at the meetings of the Committee on Social Questions, and we like to have their opinion.

Another proposal has been submitted to us, an amendment which we have only received

Mme. Weber (continued)

and read today at mid-day. May I say, in the name of many of my friends, that we should very much like to examine carefully this amendment, but that it is not possible to do so in a quarter of an hour nor even in an hour; after all, we have been working on the Social Charter for the last two years. We have therefore accepted the proposal that this amendment, together with the Social Charter, should be referred to the Committees on General Affairs, Social Questions and Economic Questions. We wish to be absolutely impartial. I would even say—all women are a little sentimental—that this project of a Social Charter is very dear to us. We wish to achieve it but we wish to achieve it in such a form as to be able to conceive its application in all European countries. We wish it to be a working proposition. This is our heartfelt desire.

In regard to Parts III and IV, I should like to say that we associate ourselves with the amendment and the Opinion. We want only one change, namely—I do not know if such was the intention of the movers—that the Committee on Social Questions and the Committee on Economic Questions should once again have the chance of discussing the Social Charter and the Amendment.

Just a few words on Parts I and II of the Social Charter: I only intend to summarise the most important questions without going into all the details, as this would be impossible. First of all, I should like to make one short remark.

The Social Charter is as important to Europe as the Declaration on Human Rights. We do not wish to build a Europe haunted by fear, but a healthy Europe resting on a solid economic basis, an Europe autonomous on the social and cultural plane. It should not be forgotten that economic structure, social organisation and the standard of social policy vary considerably in all European countries and that a Social Charter should take these differences into consideration and not seek to apply, throughout, a uniform pattern. It is, above all, the diversity of its economic, social and cultural structure that makes Europe what it is.

We should avoid, as much as possible, I think, all normative clauses. The Charter should be so worded as to permit of a progressive development, an extension and an adaptation. The recognition of the principle of full employment, for example, should not imply

the obligation of adopting any specific economic recipe.

In Germany, it lies with the employers and with the workers—and not with the State—to guarantee suitable wages and to fix the details of the 40-hour week.

Nor do we wish the State to take dictatorial and coercive measures in order to secure the best service for the consumer. A good economic policy should accomplish this. In order to guarantee subsistence to the needy? State aid must be given though public assistance. But are the Contracting Parties in a position to assure protection in regard to social security provision? We should be only too happy if this were so, but I reserve the right to doubt it.

In our opinion the paragraph on strikes has not been sufficiently debated. It should not be applicable to people who have undertaken special obligations towards society: soldiers, police, civil servants. The right of association should be granted to employers and employees.

The Social Charter proposes to leave to contracting countries the onus of finding methods of applying social measures. Nevertheless, one might get the impression that family responsibility, freedom of action and initiative on the part of the people is not sufficiently emphasized. After all, we do not wish that the State should have too great an influence on public health measures. In all questions of assistance to the family and to children, of advice to married couples and to teachers, let us not forget the principle of action on one's own initiative, of self-help. Quite a number of the clauses of the Social Charter, we feel, go into too much detail. The responsibility of deciding what assistance to grant to children and to young couples should rest with the Contracting Parties.

I shall conclude by emphasizing once again this point: we want a Social Charter. We know that the political integration of Europe cannot be realised as rapidly as it should be. But integration in other spheres must therefore be all the more actively pursued. I am thinking here of the economic, social, and cultural spheres, the social sphere perhaps being the most important. Europe should be conspicuous by fixing an extremely high social target. It is on the way to doing this. The greater our activity in following this aim the more and the better we shall be working for the well-being and unity of Europe.

THE PRESIDENT (Translation). — I call M. Fens.

M. FENS (*Netherlands*) (Translation). — Mr. President, Ladies and Gentlemen, as I am rightly or wrongly classified in this Assembly as a military expert, it was a great surprise to me when I was one day elected a member not only of the Committee on Social Questions, but also of the Working Party appointed to prepare the preliminary draft European Social Charter. I must confess that my initial surprise at this promotion soon gave way to a feeling of gratitude.

I was grateful in the first place for being allowed to play a part in the fulfilment of that noble ideal of protecting human rights in the social and economic spheres; and, in the second place, because M. Dehousse, our distinguished President, was a member of our Working Party. I shall always have pleasant recollections of the friendly and valuable co-operation which he gave us in this Committee.

It is because the Working Party carried out its task so conscientiously that I feel justified in making a humble contribution to this debate.

I must begin by expressing my deep disappointment that the draft Social Charter now before us has been deprived of one of its main elements—namely, the European Economic and Social Council, which has been completely eliminated.

It would be undemocratic to challenge the right of Representatives to oppose the idea of an Economic and Social Council, but I would point out that in this issue we are faced with two very different types of opponent—those who oppose the Council on principle and those who raise practical objections.

I have no wish to attack the former; but I entirely disagree with the latter, whose objections are based on certain alleged defects and deficiencies which they thought fit to point out in the October draft of the Committee on Social Questions.

I feel justified in replying to this second group of opponents, who, as you will remember, far outnumber the rest.

My quarrel with them is that they failed to submit a single amendment or counter-proposal—which would, after all, be normal practice when criticising a document on grounds other than principle or substance. Most of these people object to the Economic and Social Council on the grounds that its powers would be too extensive. Others base their opposition on the size of the proposed Council; and I would like to ask these two groups why they have not tabled an amendment seeking to limit these powers and this membership. That is surely the least that might have been expected as a parliamentary method of dealing with the situation.

For the moment, I can only conclude that these opponents have examined the scheme in sufficient detail.

Others, again, are opposed because they fear that certain Governments would be unable to join the Economic and Social Council on any terms.

I would point out to them, however, that this Assembly now has a standard method of overcoming such a difficulty, namely the method of partial agreement. Not only is this practice familiar to Member Governments of the Council of Europe, but there is also an extremely apt precedent for it in the Convention on Human Rights—to which, by decision of the Committee of Ministers, the Social Charter should form a pendant.

You will recall, Mr. President, that in Articles 46 and 56 of the Convention, which concern the option to recognise the compulsory jurisdiction of the European Court of Human Rights—an option which my Government has accepted—the authors of the Convention successfully overcame a difficulty similar to the one I have just mentioned. In spite of this it has been cited by a number of opponents of the Economic and Social Council as a reason for not setting up that body. I can only infer that they have given far from adequate attention to the implications of the draft Economic and Social Council.

M. Fens (continued)

There are other opponents of the scheme who do not regard the Economic and Social Council as a suitable body for ensuring observance of the obligations under the Charter. These would prefer to establish a Special Committee for this purpose; but I question whether this justifies opposition to the creation of an Economic and Social Council—especially as Article 32 of the October draft (Doc. 403) explicitly states that the Economic and Social Council shall be composed of sections.

Obviously, one of these sections would be put in charge of implementation of the Charter. Again, I say, therefore, that these criticisms of the Economic and Social Council are based on insufficient knowledge of the problem.

There is one objection which I find particularly difficult to understand, namely the alleged danger of the Council becoming too independent. For, as you will remember, it is strictly laid down in Article 20 of the draft that the Economic and Social Council shall be set up within the framework of the Council of Europe. I am frankly at a loss to understand how there can be any danger of a subsidiary body endangering its parent organisation.

It would seem, too, that these critics have paid scant attention to the main purpose of the Economic and Social Council—which is to enhance the prestige of the Council of Europe, especially with the general public. Was not our primary reason for urging the establishment of this body that, in the social and economic field, it would strengthen the technical work of the Council of Europe, and particularly of the Assembly?

Again, if it is genuinely feared that this new body will become too powerful, there are means at hand for overcoming this disadvantage, one of which would be to appoint a European Commissioner or Board of Commissioners to supervise and stimulate European integration under the auspices of the Council of Europe and its subsidiary organs.

This idea is by no means new, for you will recall that it was adopted by the Assembly in Resolution 88 of 26th October, 1955.

Here I might mention that, two days ago, the Committee on Social Questions adopted an Opinion specifically recommending the appointment of a European Commissioner or Board of Commissioners to implement the Social Charter.

This idea seems to me to merit the special attention of those who fear that the Economic and Social Council might deviate too far from the policy of the Council of Europe, for the European Commissioner appointed by the Committee of Ministers on the recommendation of the Assembly would be specifically responsible for smooth co-ordination between the Economic and Social Council and the other branches of the Council of Europe.

As the special representative of the Council of Europe, he would attend meetings of the Economic and Social Council in his own right; and if that is not enough to re-assure the critics, there is no reason why he should not have a permanent seat in the Bureau of the Economic and Social Council.

I said in my opening remarks, Mr. President, that I would not criticise those who oppose the Economic and Social Council on grounds of principle. However, I must make an exception of those who believe that it would take us back to the corporative era. You will be aware, Mr. President, that the term "corporative" is often used in a derogatory sense—as it is here.

But the facts are there to show that a national scheme on the lines of the Economic and Social Council is already operating in one of the member countries of the Council of Europe. Moreover, in countries pursuing a progressive economic and social policy, experience has shown that it is no longer possible to dispense with the salutary assistance of an Economic and Social Council. I know what I am talking about, Mr. President, on this because there is just such a body in my own country, the Netherlands.

I am convinced that not one of the Representatives to this Assembly who is acquainted with the age-old democratic institutions and love of freedom of the Netherlands will accuse my fellow-countrymen of harbouring corpora-

M. Fens (continued)

tive tendencies in any shape or form.

In conclusion, I feel justified in asserting that the opponents of the draft European Economic and Social Council have not gone into the question with sufficient care. That is why I have ventured to offer them a few suggestions which might help them to put forward constructive criticisms and possibly table amendments.

In order to show you, Mr. President, that I myself have followed the normal procedure, let me add that it has given me great pleasure to support M. Bichet's amendment.

THE PRESIDENT (Translation). — I call M. Lefèvre.

M. LEFÈVRE (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, let us take a look at the circumstances which first prompted the Council of Europe to draw up a Social Charter.

At the time when the Assembly instructed its Committee on Social Questions to submit a draft Social Charter, the United Nations was drafting a covenant on civil and political rights, which was akin to the European Convention on Human Rights, and a subsidiary instrument dealing with economic, social and cultural rights.

In its desire to ensure the effective implementation of the Charter, the Committee on social Questions proposed the inclusion of provisions setting up an Economic and Social Council, and on 26th October, 1955, a document entitled Draft Recommendation containing the draft European Social Charter (Doc. 403), was submitted to the Assembly.

Part II of this draft, like the Covenant adopted by the United Nations Human Rights Commission on 16th April, 1954, contains a list of economic and social rights. Parts III and IV, on the other hand, deal with the creation of an Economic and Social Council.

This body was considered essential to ensure implementation of the Charter and was, in fact, provided for in the Charter itself. I would remind you, Ladies and Gentlemen, that, when the draft was adopted, there were six votes in favour and eight abstentions. It was then referred to the Committee on Economic Questions for opinion, after which it was recon-

sidered by the Committee on Social Questions.

Not to put too fine a point on it, the draft has been completely emasculated. The list of rights has become a mere statement of principles, all reference to rights having been removed, except in the chapter headings and the Preamble—which, I must remind you, is not legally binding.

As for the text itself, which is destined to become law in our respective countries, nothing remains of it except statements of intention which, fine as they may sound, are, nevertheless, lacking in substance.

Yet have we not learnt from experience that an agreement concerning principles too often means that principles alone are affected, to the complete exclusion of their application?

This is doubly deplorable because, as you must all be aware, one of the main obstacles to the establishment of a common market is the disparity between social standards. The more advanced countries fear that they may start with a handicap in a system providing for unrestricted movement of persons and goods and free competition throughout the market.

By adopting a genuine Charter, fit to serve as a pendant to the Convention on Human Rights—which is not, I insist, a mere declaration of principles relating to man—the Assembly would be making a valuable contribution to European integration.

This is not to say that the text of Part II of the draft Recommendation is completely satisfactory, but, since previous speakers have pointed this out, I will not labour the point. I would simply urge that the proposals which we shall be asked to adopt in the near future should take the form of a genuine declaration of human rights.

With regard to the Economic and Social Council, I would like to speak at somewhat greater length, though I shall do my best to avoid the ground so ably covered by previous speakers, particularly M. Fens. There are two points which I would bring to your notice.

In the debate following the inspiring speech of the Italian Foreign Minister, M. Martino, speakers were unanimous in regretting that the Assembly had lost touch with the general public. Public opinion no longer takes the same interest in our work as in 1950. Glance at a wide range of newspapers and you will see that the space allotted to our debates is very

M. Lefèvre (continued)

small. For example, not a single Belgian newspaper thought it worth while to keep a correspondent in Strasbourg after the speeches of the Greek, French and German Foreign Ministers.

What is the explanation of this general apathy? Simply that the general public believe that our work has nothing to do with their everyday problems and cares; that we are far less concerned with social than with political and economic questions.

It will not be easy to remove this impression. It will not be deleted, but merely strengthened, if we adopt the milk-and-water proposals of Document 488. The general public will take no notice of the European flag when it is flown on public buildings and will contemptuously throw away our most carefully written and luxuriously-produced pamphlets, realising in advance that they will contain nothing to fulfil their aspirations.

You have all expressed regret at our lack of contact with the general public and of our failure to follow the main stream of public opinion. Regrets are salutary insofar as they prick the conscience; but what use is an uneasy conscience if it fails to spur us to appropriate action—in this case to the adoption of a Charter which will not merely be window-dressing, but a genuine token of generosity, capable of making a deep impression on public opinion.

There is another point which I would ask you to consider. We are all aware, to a greater or lesser degree according to the country, that parliamentary democracy is passing through a crisis. I agree with those who think that this is a crisis of adjustment.

Most of our constitutions were worked out during the halcyon days of Liberalism, or based on constitutions of that period; in one country or another constitutional practice was established during the same half-century.

Since then, universal suffrage has won the day in Europe. Moreover, our democracies, which began by being political, have since assumed an economic and social aspect. Trade unions have grown up in every sphere—industry, agriculture, trade, and the handicrafts—and have tended to assume feudal rights, especially since there is no special place for them in our traditional social structure.

They have political power, but no political responsibility. We all keep a close watch on their activities, but pretend that they are none

of our business. We take their wishes into consideration, but are loath to admit it.

Although so many important problems are now dealt with outside Parliament, we parliamentarians continue to work and behave as if no problem was beyond our competence and nothing could be done unless we proposed it on our own initiative.

It is easy to define the symptoms of this crisis of adjustment, but no one has yet suggested a way of dealing with it on traditional democratic lines. Here in Strasbourg, however, there are no hallowed texts or traditions to prevent us from using social and economic "pressure-groups" in our efforts to achieve integration. We have begun our work in an age of political, economic and social democracy, and we can give free play to our inventive faculties. We can suggest up-to-date institutions which may one day be imitated on a national scale.

Do you not think that it would be a step in the right direction to set up an Economic and Social Council for the purpose, among others, of implementing the Charter? Would not this realistic acknowledgement of present-day trends, this invitation to co-operate, help to forestall a crisis of adjustment on a European scale such as is now besetting our countries on a national scale?

Some, I imagine, will object that this will strengthen the hand of the pressure-groups at the expense of the Parliaments. But let us face the facts. These groups are already active, and have no need of strengthening or encouragement. If Parliaments have to contend with them now, a future European Parliament might well have the same problem.

That is what we must avoid, and the way to do so is not to bury our heads in the sand and pretend to ignore those who are perfectly aware of us.

Let us reserve a place for these pressure-groups in the system that we are planning. Let us make sure of their good will and collaboration. In opposition to them, or without them, there will be no European unity. With them it can be achieved.

How can we achieve this aim by shifting to the I. L. O. the responsibility of implementing the Charter? I have never heard the I. L. O. described as a European institution. Are we, the potential Parliament of Europe, to hand over a major share of our responsibilities to a non-European institution?

Are we likely to get what we want by handing

M. Lefèvre (continued)

over the implementation and supervision of the Charter to Government officials? But they take their orders from those whom we should be asking them to supervise. Moreover, they are handicapped by the very national regulations which now prevent the implementation of the Charter!

Do we want our Assembly itself to undertake this task? It so happens that the great social organisations are not associated with it in their own right. Hence they will remain suspicious and are likely to be half-hearted in their co-operation. In that case, what will the Charter be worth?

All things considered, you must agree that the creation of an Economic and Social Council is imperative. Having carefully listened to all the arguments put forward and added some of my own, which I hope you will consider with sympathy, I wish to move formally that Document 403 as a whole be referred back to committee. To which Committee? Certainly not to the Committee on Social Questions or the Committee on Economic Questions.

This does not mean that I wish to deprive the Committee on Social Questions of its proper functions; but, since the Charter also raises a general issue, as I have attempted to explain, I suggest that we now vote on the amendment circulated this morning, and then return to Document 403 with a view to referring it to the Committee on General Affairs for an opinion.

THE PRESIDENT (Translation). — Ladies and Gentlemen, in order to enable you to accept the invitation of our President, M. Dehousse, I must now suspend this Sitting until 6.45 p.m.

The Sitting is suspended.

The Sitting was suspended at 6.10 p.m. and resumed at 6.50 p.m.

THE PRESIDENT (Translation). — The Sitting is resumed.

I call M. Hermod Lannung.

M. Hermod LANNUNG (Denmark). — In the brief remarks I shall make I wish to support the draft Social Charter before us, notwithstanding the fact that I find certain provisions not quite satisfactory, but, as a Representative who has been a member neither of the Committee on Social Questions nor of the Committee on Economic Questions, I should like to make a few observations with regard to some details.

I should have liked the provision against discrimination in paragraph 9, Part I, to have had the same wording as the corresponding article in our European Convention on Human Rights and Fundamental Freedoms. That would also have been most natural. I take it, however, that we all agree that the article shall be understood as having the same scope as the equivalent article of our Convention.

In Article 2 the provision concerning retirement at the age of 65 has been retained in opposition to the view of the Committee on Economic Questions. I share the view that it is hardly appropriate to specify a definite age, since the present trend seems to be in favour of a higher age of retirement. On the other hand, I should have much preferred that the original Article 8 had been retained. It relates to protection of workers' savings in connection with the desirability that workers may progressively become owners of real and personal property, particularly of their own homes, which I find very important in itself and also as a stabilising factor in society.

As to Article 3, I should have preferred that the word "women" had been deleted, as the rights of women do not belong to the same category as those of children and adolescents. In the opinion of many Scandinavian women, it is out-of-date to mention their rights in this context, and I understand that the I. L. O. some time ago discontinued doing so. I should, therefore, have preferred that special measures of protection for women, as mentioned in this paragraph, should be deleted and that paragraph 2 (c) of Article 3 should be transferred to Article 12.

I share the view that the protection which Article 3 seeks to give women operates against the employment of women and to the detriment of women wage-earners. For further details, I refer to the statement of the Danish Representative, Mme. Gloerfelt-Tarp, in the debate on the Social Charter in October, 1955. In Article 6 it is said that the High Contracting Parties recognise the right to strike and will maintain the necessary procedures for the solution of labour disputes. Article 6 recognises the right to strike in principle, and I can agree to that; but I find that in the modern, very complex society there is a problem if the right to strike and of lockout is absolutely unlimited and unconditional. At any rate, it will be more and more necessary to strengthen the procedures for the solution of such

M. Hermod Lannung (continued)

conflicts if, in a given situation, too much harm is not to be done to the economic life of one's country.

In my country even our Social Democratic Government found it necessary a few days ago to introduce and pass a law enforcing the acceptance of a mediation proposal in a comprehensive industrial dispute—which proposal had been rejected by the workers—and to do so even against the protest of the trade unions.

For me it is important that it is expressly stated in Article 20 that nothing in this Charter shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party, or under any international agreement to which it is a party, and that in virtue of Article 21 any party exercising the right of derogation shall keep the Secretary-General informed of the measures taken and the reasons therefor.

I also want to stress the concept expressed in paragraph 15 of Part I of the Charter that it should be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis, which, above all, must be those of the United Nations. This has a special interest for me as, for a considerable part of the last four months of last year, in the Third Committee of the United Nations, as representative of my country, I was occupied with the consideration of the Draft Covenants of the United Nations, one of which will define the economic, social and cultural rights.

In so far as the United Nations is concerned, many differing legal systems, social philosophies, cultural traditions and economic concepts must be reconciled before these rights can be defined, codified and organised into documents of international responsibility having binding effect. In our case, here in the Assembly of Europe, we are in a better position, as our cultural heritage and traditions to a great extent are the same and our social philosophies and economic concepts differ to a far lesser extent. Just as the European Convention on Civil and Political Rights was in force even before the corresponding Draft Covenant of the United Nations came before the United Nations for first reading, it is, for the reasons just men-

tioned by me, only natural that our Social Charter of the Council of Europe should set an example and pave the way for a universal covenant on economic and social rights. Also in this light we should support the draft Charter before us.

THE PRESIDENT (Translation). — I call Dr. Broughton.

Dr. BROUGHTON (*United Kingdom*). — This is the first occasion on which I have been privileged to attend a meeting of the Consultative Assembly of the Council of Europe, and I am grateful to you, Sir, for granting me this opportunity of addressing the Assembly.

I am particularly pleased that I should have been permitted to make my first contribution to the deliberations of the Assembly by taking part in this debate on the proposed European Social Charter, because I come here as a Representative from one of the countries where human rights have long been regarded as precious and where social justice is looked upon as being of paramount importance.

I am a member of the British Labour Party, which has a proud record of having struggled for social justice and having advanced to a great extent social welfare in my country in the five years immediately after the last war, when my party formed the Government of the United Kingdom. I think it is only fair to add that today both the major political parties in Britain fully understand and appreciate the importance of our welfare services. The differences between the political parties in Britain now are not of a fundamental nature; they are merely of degree. I think that the speech which Dame Florence Horsbrugh made and the remarks which I have already made will have shown that both sides of the House of Commons are deeply interested in social justice. It is not surprising, therefore, that this draft Social Charter should have been given most careful consideration by all the Representatives from the United Kingdom.

The first observation that I should like to make on the proposed Charter is that it is clearly the result of a great deal of hard and useful work on the part of the Committee on Social Questions. I wish to pay my tribute to the Chairman and to the other Representatives who have served on that Committee. Undeniably their efforts have been painstaking; nevertheless, I am bound to say at once

Dr. Broughton (continued)

that the task has not yet reached completion and that still more remains to be done.

I believe that many Representatives from many countries had hoped that this Assembly would give its approval to the Charter now, so that Governments could go ahead at once, or very soon, with the necessary legislation to implement its recommendations. But I believe that it would be wise to tarry a little longer lest serious mistakes are made, and I make an appeal for patience. I fear that if we make haste to approve this European Social Charter in its present form, we shall find that we make less speed in implementing its proposals.

The Committee on Social Questions should not allow itself to feel disappointed if the acceptance of the Charter is delayed a little longer. So much good work has been done that it would be a pity to spoil it by not giving it consideration for a while longer. It is a difficult and complicated task to draw up a Social Charter which can be accepted and implemented by all the nations concerned. I feel strongly that the final stage in our deliberations on this matter has not yet been reached.

I suggest that in some respects the proposals go into far too much detail and thereby permit of insufficient latitude in their implementation by Governments which must pay close regard to established customs in their respective countries. Too often the proposals cut across established customs in my country. If I may give one example, I would draw the attention of the Assembly to Article 2, in which it is stated that:

"The High Contracting Parties... undertake, to secure for every worker a minimum of two weeks' annual holiday with pay."

I speak for my colleagues as well as for myself when I say that we agree whole-heartedly with that policy in principle, but in my country the Government would be most reluctant to legislate on it, for the reason that in the United Kingdom questions of holidays for workers, and other matters of greatest importance to workers, such as wages and conditions of work, are decided upon by negotiation between the trade unions and the employers. If Her Majesty's Government were to legislate on the questions of holidays with pay,

minimum wages and on other aspects of fair conditions of work, the effect would be to emasculate the British trade unions, and I fear that in the long run the British worker would be the loser. The history of our trade union movement is a long one. Customs have grown, traditions are rooted, and our system works reasonably well, to say the least. I could not subscribe to such interference with the activity of British trade unions.

Probably it is realised by many Representatives that this proposed Charter in its present form could not be fully implemented by all the Nations. Perhaps some Representatives have it in mind to make amendments to it after ratification by this Assembly. I suggest that the amendments be made first, that is, before we accept it.

There is so much good in this proposed Charter that I am loath to vote against it. Covering, as it does, the rights of workers, the rights of women and children, the right to a decent living and to social security for all, it is based on noble ideals, and I do not wish to vote against it. On the other hand, as it contains some articles which no Government of my country would be able to implement, I cannot vote for it.

I hope that the Assembly will take the course of referring the draft to the Committee on General Affairs for examination and report in consultation with the Committee on Social Questions and the Committee on Economic Questions.

THE PRESIDENT (Translation). — Ladies and Gentlemen, I regret I must call for your co-operation. It is now 7.15 p. m. There remain 8 Representatives down to speak, and after consulting the President of the Assembly, M. Dehousse, I find it will be quite impossible to postpone the conclusion of this debate either to tonight's Sitting, or to that of tomorrow morning, since the Orders of the Day for both of these are full enough as it is.

You yourselves have all stressed the importance of this debate but, unless we conform to certain rules, we may well be unable to bring it to an end.

I feel we should vote and reach some definite decision on the subject now under consideration. I feel there should be little difficulty in coming to some agreement. You are aware

The President (continued)

that, at the end of the debate you will have placed before you M. Bichet's amendment, embodying an Order on which you will first be called upon to vote. This Order proposes that both the report of the Committee on Social Questions and M. Bichet's amendment be referred back to the Committee on General Affairs.

At the beginning of this Sitting, Mr. Edwards made certain reservations in respect of M. Bichet's amendment and he has now handed me his own amended text. Mr. Edwards asks that the draft Order embodied in M. Bichet's amendment should read as follows :

"The Assembly decides that both the draft Social Charter and the draft amendment presented by M. Bichet shall be referred back to the Committee on General Affairs in consultation with the Committees on Social Questions and on Economic Questions for consideration and a report."

I have spoken to M. Bichet on this matter and I understand he is quite willing to support Mr. Edwards' text.

M. BICHET (*France*) (Translation). — I am indeed quite willing to accept Mr. Edwards' amendment which is very similar to mine. I trust this will allow us to conclude the debate quite quickly and in more or less complete agreement.

THE PRESIDENT (Translation). — May I then suggest that we close the general debate by asking those Representatives down to speak merely to explain their vote instead of making their proposed speeches in the general debate? That would seem the best way out.

I call M. Montini.

M. MONTINI (*Italy*) (Translation). — Mr. President, if the list which is posted on the board is correct I think I am the first speaker. I am taking advantage of this to associate myself entirely with the proposal which you have made just now.

For some time we have been faced with two different proposals. The difference, in my opinion, relates to the substance and not only to detail.

Perhaps we are not even in agreement on the definition of the right or the rights in question; we are, however, agreed that the whole matter was very properly referred to the Committee on General Affairs in consultation with the Committees on Economic Questions and Social Questions.

Had I been able to speak at greater length I would have been among those who support the project almost as it was drafted in Document 403.

However, in order to avoid a debate in which it would have been necessary to go into almost microscopic detail and which would have been consequently very long, I agree entirely with the proposal which has just been made and I propose that it should be voted on immediately.

Nor do I intend—and I believe this should be a help—to explain my vote, as it is only on the question of procedure.

THE PRESIDENT (Translation). — I call M. Kopf.

M. KOPF (*Federal Republic of Germany*) (Translation from German). — Mr. President, in addition to the amendment submitted by Mr. Edwards we now have a further amendment signed by Mme. Weber, Mme. Schröder, and a few other colleagues. In similar fashion to Mr. Edwards' amendment, it is the purpose of this further amendment to remit the draft of the Social Charter, in the first place to the Committee on General Affairs, secondly to the Committee on Social Questions, and, thirdly, to the Committee on Economic Questions. As this amendment is substantially the same as that submitted by Mr. Edwards, on behalf of the movers I withdraw our amendment, as submitted by Mme. Weber and some other Representatives, in favour of Mr. Edwards' amendment.

THE PRESIDENT (Translation). — I was unaware of this amendment, but I must thank you for taking this step. —

I call Mme. Schröder.

Mme. SCHROEDER. — Mr. President, I have heard your suggestion with regret. I must tell you that as early as yesterday afternoon I put my name down in the Secretariat office, and I was then fourth on the list. At least 12 colleagues have spoken so far, and now I am to be cut short. It was not my intention to make a long speech. I merely wished to raise a few questions; this I could have done in about five minutes. In these circumstances I very much regret that you refuse to let the six speakers whose names are still on the list have a chance of speaking; all the more so, as I was really under the impression that I had applied to speak in good time.

THE PRESIDENT (Translation). — I am sorry, Mme. Schræder, but I have called the speakers in the order in which they are down on the list before me. You are down as number 11. I shall have great pleasure in calling upon you to explain your vote, should the Assembly agree to the procedure I have proposed.

I call M. Federspiel.

M. FEDERSPIEL (*Denmark*). — I believe it would be undesirable that a vote should be taken at this stage without one of the Committees which has been working on this matter for a very long time stating its view. Earlier this afternoon, I have had my name as Chairman of this Committee inscribed on a list which has, unfortunately, not been reproduced on the copy before you—and I think I could give the Assembly certain purely historical information which would facilitate members in deciding their views on the proposal before us. I wonder if you would permit me to do so. I should do it very briefly. I have to regret that the Rapporteur of my Committee, M. Kalbitzer, has had to go away to Bonn and I have therefore stepped into the breach in his place.

THE PRESIDENT (Translation). — M. Moutet has asked to be allowed to speak; I call M. Moutet.

M. MOUTET (*France*) (Translation). — All I wish to say, Mr. President, is that I am willing to renounce my right to speak (*Applause*)

THE PRESIDENT (Translation). — I shall thus put the combined texts of the amendments of MM. Bichet and Edwards to the vote.

I call M. Federspiel.

M. FEDERSPIEL. — Unfortunately, the full argument was not developed before the Assembly, but I believe that I could give the historical information which would help Representatives to decide their views. If I could be permitted to do that, I could do so briefly. I regret that the Rapporteur of my Committee has had to go to Bonn and I have, therefore, taken his place.

THE PRESIDENT (Translation). — What was the question?

M. FEDERSPIEL (Translation). — I do not feel the Assembly should take a decision on a

draft presented by two committees, without hearing the opinion of one of these committees.

I asked to be allowed to speak at about 6 p. m., but my name is, unfortunately, not down on your list.

THE PRESIDENT (Translation). — I shall try to give you the floor if this can be done without prejudice.

De members of the Assembly wish to close the general debate after hearing M. Federspiel on behalf of the Committee on Economic Questions, Mme. Schræder and then of course M. Heyman, Chairman and Rapporteur of the Committee on Social Questions?

Are there any objections?...

This is agreed to.

We shall therefore in turn hear M. Federspiel, M. Heyman and Mme. Schræder. I shall then present the Order submitted to us and call those who wish to explain their vote. I shall in any case consult the Assembly on the adjournment at 7.50 p. m. and put the Order to the vote.

Are there any objections?...

This is agreed to.

I call M. Federspiel.

M. FEDERSPIEL. — May I begin by paying my tribute to my friend and colleague, M. Heyman, for the way in which he has managed to steer through the Charybdis of the Committee on Economic Questions and the Scylla of his own Committee to arrive at the draft before us. It has been a very long and arduous task, and there has been very considerable resignation on the part of the two Committees. I shall not go into the divergences of view. I believe that it is a happy result and that we have arrived at a conclusion acceptable to both the Committee on Economic Questions and the Committee on Social Questions.

In order to explain why we have arrived at this conclusion, which is satisfactory in its complete context to neither of these Committees, it is necessary to understand the history of this draft Social Charter. The original recommendation of this Assembly was to the Committee of Ministers to request the social experts of the Governments to draft a Social Charter. By a subsequent decision of the Bureau the matter was also referred to the Committee on Social Questions. At the same

M. Federspiel (continued)

time, the question of an Economic and Social Council, which originally had nothing whatever to do with the draft Social Charter, was introduced to the Assembly when the E. D. C. failed. There it remained as the last remnant of the Political Community before this Assembly. The Economic and Social Council was part of the Political Community. You will remember that there are certain animals whose tails and other limbs you can cut off and they grow again. Well, that is what happened in this case—only in reverse.

The Economic and Social Council is redundant, it has no function at all. It is no longer part of a Political Community and it was raised in connection with the Social Charter in the following way, that a joint sub-committee of the Sub-Committees of the Economic and Social Committees dealt with the question of the Economic and Social Council during and parallel with the examination by the Committee on Social Questions of the draft Social Charter. At the last minute, at the Assembly's Session in October, these two things were joined together in a sub-committee of the Committee on Social Questions, and suddenly the redundant member of the European Political Community reappeared as an instrument of implementation of the draft Social Charter—a complete improvisation. The whole matter was again brought before the Committee on Economic Questions and after long discussions with the Committee on Social Questions, by the unanimous advice of the Committee on Economic Questions, the Committee on Social Questions dropped the idea of an Economic and Social Council as part of the draft Charter, and I attribute that to the wisdom of my colleague, M. Heyman.

These two questions were separated because they had nothing whatever to do with each other. The reasons were explained at length in a report which has not been submitted to this Assembly, which is already overburdened with papers and documents, a report prepared by my friend M. Kalbitzer, but which we refrained from putting before the Assembly because we were perfectly satisfied with the draft Social Charter and the Report presented by M. Heyman and M. Haekkerup. Not that we agree to everything in it. Let me explain

why that was immaterial, and why I think in this debate we should not go into details but rather into principles.

The fate of this draft Social Charter which is put before us here is not being decided now by the vote of this Assembly. What is proposed is to send this draft Social Charter to the Government experts for further study in consultation with the Committee on Economic Questions and the Committee on Social Questions. M. Heyman will agree with me that that is the procedure.

We are at a stage where we have produced a document setting out certain ideals of social policy. Some of us may agree with some of them, some of us may agree with others; some of the things we may want to reject; but at least it is a conscientious document worked out throughout six months of hard work between the two Committees. Suddenly we find there is a spanner thrown into this procedure. The whole matter is to be delayed, not in the interests of those who are in one way or another interested in the progress of this draft Social Charter, but because of the idea of an Economic and Social Council—which was originally, let me repeat, completely separated from the draft Social Charter and which is not in any way an essential element of a Social Charter, which is a document setting out the principles and the social policy to be followed by the Member States. It has already been suggested why your Committee on Economic Questions (and let me say that it was unanimous) was opposed to this Economic and Social Council—not only because it was a curious, redundant element of a policy which, unhappily, was defeated, but because we believed that this Economic and Social Council had certain political elements in it which we did not like. In the first place, it meant abdicating whatever powers we had in this Assembly to criticise social policy and to request Governments to report on their social policy. All that would go to a body which would not be in any way democratic.

Let me read to you what the original proposal was in Doc. 493. It was that an Economic and Social Council should be appointed by Governments—not elected but appointed by Governments, by the representatives of the Governments, of the employers and of the workers. Now, what does that remind you

M. Federspiel (continued)

of? It reminds me in a most unhappy way of the ideas which crept up in the days when Parliamentary democracy was in decline in Europe between the two World Wars. It is an idea of corporative power. That organ would have the power of initiating legislation and suggesting things to Governments. It would have power to criticise Government policy and it would have to report to this Assembly, but we would have no control over that body whatever. That was the main reason why the Committee was dead against the creation of this curious body outside the walls of the Council and in the hands of who knows what forces.

The other reasons why we were opposed to it were political; they were positive, they were negative. We had no faith in that body and, above all, we saw no political use for it whatsoever. Let that be considered before we decide to revive this question again. I do not think there is any difference of opinion between your Committee on Economic Questions and your Committee on Social Questions on the point that it is not essential. We may have slightly different views on whether it might in certain cases be useful, but it is not in any way useful to revive that body as part of the Social Charter of which it never originally formed a part.

What remains, therefore, is the political consideration, and therefore I am speaking entirely on my own, if the President will permit me. We have eliminated the connection between the Economic and Social Council and the draft Social Charter—and what remains is the redundant limb of the European Political Community. Now, what I am asking this Assembly is: are we going to hold up the work of a Social Charter which is found to be useful in many respects by reviving a political discussion on whether to create some tottering limb of the original Political Community, reviving that with no superstructure as originally contemplated for it? I trust that my colleagues who have presented the Amendment will forgive me for putting it so bluntly, but I happen to know the history of the whole of this matter. It is an entirely mistaken idea to bring this up in connection with the Social Charter. Let us revive the discussion on the European Political Community, but it can be revived perfectly easily without bringing into

this document, which has been weeded for six months by two Committees, working hard, something which has been eliminated by agreement between the two parties as having nothing whatever to do with it.

THE PRESIDENT (Translation). — I call Mme. Schroeder.

Mme. SCHROEDER (*Federal Republic of Germany*) (Translation). — Mr. President, as I have already said, I shall be brief and shall pass over in silence certain points which I would otherwise have broached. Nor do I wish to dwell here, in this debate, on the question as to who is the better champion of the workers interests, those who are in favour of a special Social Council, or those who believe that things should be settled within the Council of Europe.

I have been present at the discussions during the whole two-year period of the Committee's action under the Chairmanship of M. Heyman and may I say, in my name and the name of my friends who for many years have been in favour of a supranational social policy in the interests of workers, that we support, without reservation, the European Social Charter.

It is not, then, a question of knowing whether we should accept it, but of knowing how we should adopt it and what form we intend to give it.

In the German Federal Parliament we have always insisted that the international labour conventions drawn up by the International Labour Organisation should be voted on by Parliament. We should like to be able to do the same in regard to the decisions which we take here. This is why we are so anxious to eliminate any traces of vagueness in the Charter.

If the whole question is referred once again to the Committee, I wish to support all those who are in favour of a new debate within the Committee on Social Questions and the Committee on Economic Questions—I have myself signed the motion—and I prefer to refrain from adding all the suggestions of minor importance which I would wish to formulate. However, I should like to call attention quickly to three questions of principle in order that they may be adequately discussed during our new deliberations.

The first question is this. On whom should devolve the duty of putting into application the protection of workers and the right of

Mme. Schroeder (continued)

work contained in the Social Charter? On examining the Charter, we see that this task appertains in the first place to the Governments. However, we should not like the collective wage-rate conventions the principle of which are firmly established in our country and in some other countries to be set aside, but that the new measures that are forthcoming should likewise be the subject of wage-conventions. We are entirely in favour of the minimum rates laid down in Articles 1 and 2. But the question of the body to be entrusted with their application has still to be settled.

The second question concerns the right of forming associations. In the Social Charter one point remains obscure: is the right of association granted to workers in as precise a manner as, for example, in Convention No. 87 of the I. L. O.? This is a point that should be clarified either by a new draft of the text or by clauses of implementation.

Then, another word on the subject of Article 6 in order to avoid any misunderstanding. The right to strike must be granted to workers fully and absolutely. The State as such must not be able to interfere in that matter. For the autonomy of the parties to the Convention in respect of the right to strike simply must be safeguarded.

These are the three essential points which I wished to touch upon.

One word more on the subject of the amendment by M. Bichet and other signatories. I am sorry that after the long discussions we have had this amendment should still be tabled. But, I repeat, I do not see any objection to it being referred to the two committees in question, the Committee on Social Questions and the Committee on Economic Questions. Nor do I see any objection to it being referred, along with the original Social Charter, to the Committee on General Affairs; for there is no doubt that the whole question has an essentially political character. We who live in countries as close to the Iron Curtain as Germany, and more especially in my own town, Berlin, know how important it is to have a body of social law which is really adequate and which affords adequate social protection in the struggle which we are waging against dictatorship.

THE PRESIDENT (Translation). — I call M. Heyman, Chairman of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — I trust the Assembly will allow me, contrary to the usual practice, not to comment on the remarks made in the course of the debate on the report.

We have clear proof of the usefulness of a debate in which everyone has had the opportunity to express his or her opinion, I wish only to state that, having consulted a number of members of the Committee on Social Questions, I can accept M. Bichet's and Mr. Edwards' amendments.

On the other hand, I think everyone will agree that the matters we have been discussing should, and indeed must not, be relegated to the attic. We most fervently hope that we may, in the course of the second part of our Session in October, after opinions have been rendered by the Committees on General Affairs and on Economic Questions (the Committee on Social Questions being, naturally, informed of the substance), conclude the debate and cast a final vote.

THE PRESIDENT (Translation). — Does anyone else wish to speak?...

The general debate is closed.

I shall now submit to you the following combined amendment moved by M. Bichet and Mr. Edwards.

"The Assembly decides that both the draft Social Charter (Doc. 488) and M. Bichet's amendment shall be referred back to the Committee on General Affairs, in consultation with the Committees on Social Questions and on Economic Questions, for further consideration, particularly with regard to the implementation of the Charter and on the plan for a European Economic and Social Council."

I call M. Heyman.

M. HEYMAN (Translation). — I should like to avoid any misunderstanding. The text submitted to the Assembly refers to consultation with other Committees. I feel that, in any event, matters discussed this evening should remain as a whole within the competence of the Committee on Social Questions.

M. BICHET (*France*) (Translation). — Undoubtedly.

THE PRESIDENT (Translation). — Are there any other remarks?...

Mr. EDWARDS (*United Kingdom*) (Translation). — May I speak?

THE PRESIDENT (Translation). — I call Mr. Edwards.

Mr. Edwards, the President, Lord Layton, M. Bichet, M. Temple, M. de Menthon 20th April, 1955

Mr. EDWARDS. — I am not sure whether the translation was correct, but, as you read the text, Mr. President, it was not precisely the text that I have put in and which has been accepted. It may be just a difference in the interpretation, but I should like to be sure that we are in fact voting on the text as I put it in and as it has been accepted by M. Bichet and M. Heyman.

THE PRESIDENT (Translation). — I am prepared to alter the text I have just read out, should it not express exactly what you and M. Bichet would wish.

Mr. EDWARDS. — Would you give us the number of that document in French, please?

THE PRESIDENT. — The document distributed is Doc. 488.

I call Lord Layton.

Lord LAYTON (*United Kingdom*). — You have read a different text in French.

THE PRESIDENT (Translation). — We have before us a Committee report which bears the number 488 and two amendments, the purposes of which are identical, presented by M. Bichet and by Mr. Edwards.

I suggest to the Assembly that these two amendments should be combined. A short while back the Assembly agreed to this course. The text I have submitted to you proposes that the initial report of the Committee, the Document numbered 488, together with the Order resulting from a combination of M. Bichet's and Mr. Edwards' amendments be referred back to the Committee.

I call Mr. Edwards.

Mr. EDWARDS. — There is one important change that you have made, Mr. President. In the Amendment which I have proposed, I was very careful to say not only "the draft Social Charter" but also "the draft Amendment": that is to say, in the French as you were using it, it is necessary to say "le projet d'amendement".

THE PRESIDENT (Translation). — You are perfectly right. I should have said: "...the draft Social Charter, Document 488, and M. Bichet's draft amendment thereto be referred back etc..." I shall therefore alter the text to this effect.

M. BICHET (*France*) (Translation). — We agree!

THE PRESIDENT (Translation). — Does anybody else wish to speak?...

I put the draft Order in its present form to the vote.

(*The draft Order, having been put to the vote, was adopted, with 5 negative votes.*)

THE PRESIDENT (Translation). — I must thank you for lightening my task and thus making it possible to bring this debate to the desired conclusion.

DIRECTIVE 89

89	10th Sitting 20th April, 1956	Committee on General Affairs	<i>European Social Charter and European Economic and Social Council</i> The Assembly refers the Draft Social Charter (Doc. 488) together with the amendment proposed by M. Bichet to the Committee on General Affairs, in consultation with the Committee on Social Questions and the Committee on Economic Questions, for re-examination, with particular reference to the implementation of the Charter and proposed creation of a European Economic and Social Council.
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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

27th September, 1956

Doc. 536

CONSULTATIVE ASSEMBLY

EIGHTH ORDINARY SESSION

EUROPEAN SOCIAL CHARTER ⁽¹⁾

DRAFT RECOMMENDATION

for the establishment of a European Convention
on Social and Economic Rights

presented on behalf of the Committee on General Affairs (2)
by M. L. TONCIC, Rapporteur

(1) See Order No. 89 of 20th April, 1956.

(2) Adopted by the Committee by 13 votes to 0 and 5 abstentions.
Members of the Committee: MM. de Menthon (Chairman), Struye
(Alternate: la Vallée Poussin), Edwards (Vice-Chairmen);
Albrecht, Amery, Badini Confalonieri, Becker, Bettiol, Bohy,
Böyum, Lord Chesham, MM. Corish, Elmgren, de Féllice, van der
Goes van Naters (Alternate: M. Goedhart), Jakobsen, Jaquet
(Alternate: M. Devinat), Kallias (Alternate: M. Loizides),
Kiesinger (Alternate: Fürst von Bismarck), Kirikoglu,
Mlle. Klompé, MM. Mandalinci (Alternate: M. Aktas), Margue,
Maris, Mommer, Pittermann (Alternate: M. Toncic), Santero,
Stefansson, Stürgkh, Wistrand.

N.B. The names of those who voted are underlined.

DRAFT RECOMMENDATION
CONCERNING A EUROPEAN CONVENTION
ON SOCIAL AND ECONOMIC RIGHTS

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December, 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, and in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953), in which it expressed its support for the proposal to conclude a European Social Charter, which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

After study by its competent committees,

Keeps under serious consideration the draft European Convention on Social and Economic Rights prepared by those committees and

Recommends that the Committee of Ministers:

1. Establish a convention on social and economic rights on the basis of this draft;
2. And for this purpose
 - (a) work in close co-operation with competent inter-governmental organisations, trade unions and employers' organisations, and all other competent organisations enjoying consultative status;
 - (b) appoint without delay a special Representative of the Council of Europe who shall press for the establishment of the Convention. To this end, the Representative would in particular be responsible for continuous co-ordination between Member Governments on the one hand and international organisations on the other.

A P P E N D I XDRAFT EUROPEAN CONVENTION
ON SOCIAL AND ECONOMIC RIGHTS

The Governments signatory hereto, being members of the Council of Europe,

Considering that,

Have agreed as follows:

PREAMBLEPRINCIPLES AND OBJECTIVES OF SOCIAL POLICY

The object of this Convention or Social 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, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.
2. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which in turn reflect the moral and spiritual values inherent in the common heritage of the European peoples.
3. 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.

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4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They accept as one of their aims and responsibilities to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected whether the mother is legally married or not.

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 management and 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 organise assistance for 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, nationality, national or social origin, or political or other opinions.

10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Convention are extended to all groups and sectors of the population.

11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan under-developed areas, and bound to develop them by all means within their power.

12. 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 local populations and, where appropriate, with qualified international organisations.

13. The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate institutions

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increasingly depend, on closer co-operation between them, so that social and economic rights may be ensured on a European as well as on a national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Convention applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

PART I

SOCIAL AND ECONOMIC RIGHTS

Article I

The High Contracting Parties recognise the following rights and undertake to take action, both jointly and severally, to ensure progressively the full exercise of these rights, in particular by adopting or promoting the measures defined in connection with each of these rights:

A. - THE RIGHT TO WORK

1. With a view to ensuring the exercise of this right, the High Contracting Parties

- (a) recognise that everyone should have an opportunity to earn his living in a freely accepted occupation;
- (b) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work, such as, for example, the fixing of national employment targets, the preparation of national manpower budgets, and the establishment of long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation;

(c) undertake to:

- (i) establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations;
- (ii) protect effectively the right of the wage-earner freely to choose any available occupation;
- (iii) establish or maintain both general and specialised free employment services;
- (iv) promote vocational guidance, training, and rehabilitation.

B. - THE RIGHT TO FAIR AND STABLE CONDITIONS OF WORK

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to secure for every worker; insofar as these measures are not put into effect by means of collective agreements or in any other way:

- (a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;
- (b) protection against arbitrary dismissal, and prohibition of dismissal on account of maternity, military service, and similar circumstances;
- (c) reasonable notice of dismissal;
- (d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;
- (e) equal pay for equal work;
- (f) a reasonable working week, to be reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;
- (g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods;
- (h) the possibility of retirement at the age of 65, at the latest with a pension ensuring a reasonable standard of living.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint

C. - THE RIGHT OF CHILDREN, ADOLESCENTS AND WOMEN TO SPECIAL MEASURES OF PROTECTION IN THEIR EMPLOYMENT

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to take all necessary steps, insofar as these measures are not put into effect by means of collective agreements or in any other way, so that

- (a) the employment of child labour of under 14 years of age, and the employment of adolescents and women in work which is physically or morally injurious shall be punishable by law;
- (b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;
- (c) the working day of persons under 16 years of age shall be in accordance with the needs of their development, and particularly with their need for vocational training;
- (d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;
- (e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates.

D. - THE RIGHT OF WORKERS TO BE CONSULTED ON THE MANAGEMENT OF THE ENTERPRISE BY WHICH THEY ARE EMPLOYED

With a view to ensuring the exercise of this right, the High Contracting Parties:

Undertake to establish or maintain organs of joint management and/or to take other measures enabling workers to share in the life and general management of the enterprise by which they are employed, insofar as these measures are not put into effect by means of collective agreements or in any other way.

B. - THE RIGHT TO STRIKE

The High Contracting Parties recognise the right to strike.

They undertake to encourage the use of agreed machinery for the settlement of labour disputes.

B. - THE RIGHT TO FORM AND JOIN TRADE UNIONS

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to grant workers every opportunity to form local, national or international trade unions and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention on Human Rights and Fundamental Freedoms (1).

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(1) Paragraph 2 of Article 11 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".

G. - THE RIGHT TO A PROPER STANDARD OF LIVING

With a view to ensuring or promoting the exercise of this right, the High Contracting Parties undertake to:

- (a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;
- (b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene;
- (c) protect small savings.

H. - THE RIGHT TO SOCIAL SECURITY

With a view to ensuring the exercise of this right, the High Contracting Parties:

1. undertake to raise their social security systems to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and diseases resulting from employment, family benefits, maternity benefits, invalidity benefits and survivors' benefits;
2. recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance;
3. will take steps for the adjustment of social security benefits to meet any currency depreciation.

I. - THE RIGHT TO A HIGH STANDARD OF HEALTH

With a view to ensuring the exercise of this right, the High Contracting Parties will take all appropriate measures, directly or in co-operation with local authorities and competent private organisations

- (a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;
- (b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;
- (c) to prevent epidemic, endemic and other diseases;
- (d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

J. - THE RIGHT OF THE FAMILY TO SOCIAL AND ECONOMIC PROTECTION

With a view to ensuring the exercise of this (these) right(s) the High Contracting Parties undertake, directly or in co-operation with local authorities and competent private organisations, to

- (a) foster and protect the family as a fundamental unit of society;
- (b) make available or encourage the provision of the following facilities and advantages:
 - (i) the grant of allowances based on the number of children;
 - (ii) cheap loans for the founding of homes;
 - (iii) preferential allocation of housing to families and persons wishing to marry, and rent reductions for low income families with many children;

- (iv) allowances to families whose breadwinners are subject to military service;
- (v) tax reductions related to the size of the family;
- (vi) organisation of home help services.

K. - THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

With a view to ensuring the exercising of this right, the High Contracting Parties undertake, directly or in co-operation with local authorities and competent private organisations

- (a) for the protection of mothers:
 - (i) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;
 - (ii) to provide directly or in collaboration with appropriate voluntary organisations, a sufficient number of maternal and infant welfare centres.
 - (iii) to extend particular protection to widows supporting children.
- (b) for the protection of children:
 - (i) to establish or maintain specialised organs with powers to prevent the neglect of children;
 - (ii) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;
 - (iii) to provide special services for homeless children, for children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

I. - THE RIGHT TO SOCIAL AND CULTURAL AID AND GUIDANCE

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to:

- (a) promote or maintain, directly or in collaboration with local authorities and appropriate voluntary organisations, social welfare services for aid and guidance to the individual in industrialised society;
- (b) assure free legal advice and assistance to those who need it.

M. - THE RIGHT TO EDUCATION

With a view to ensuring the exercise of this right, the High Contracting Parties

1. Undertake to make primary education compulsory and free;
2. Will introduce measures
 - (a) to make facilities for secondary education in its different forms including technical and professional training available to everyone at least up to the age of 16 years and to make it increasingly free;
 - (b) to ensure a basic education for those persons who have not received or have not completed their primary education;
 - (c) to make university and other higher education accessible to all.
3. Will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

PART II

A EUROPEAN COMMISSIONER AND CHAMBER

Article 2

A European Commissioner for Social Affairs shall be appointed and a European Social Chamber set up within the framework of the Council of Europe.

Article 3

- (a) The Commissioner shall be responsible for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the European Convention on Social and Economic Rights.
- (b) The Commissioner shall be proposed by the Consultative Assembly and appointed by the Committee of Ministers.
- (c) The Commissioner shall be appointed for a period of three years.

Article 4

- (a) The Commissioner may deal with any question falling within his competence.
- (b) The Commissioner shall receive from the High Contracting Parties any necessary assistance relating to questions falling within his competence.

Article 5

- (a) The Commissioner may submit to the Consultative Assembly draft recommendations.
- (b) He shall be entitled to address the Consultative Assembly at his own request.
- (c) He shall give the Consultative Assembly an account of his activities whenever the Assembly so desires.

Article 6

- (a) The Chamber shall be responsible, acting in a consultative capacity, for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the present Convention on Social and Economic Rights.
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- (b) It shall consist of 60 members, one third representing the employers, one third the workers and one third the other sectors of the community.
- (c) It shall be convened by the Consultative Assembly at least once a year and may also meet whenever convened by its President.

Article 7

The Chamber shall be a deliberative body at the disposal of the Consultative Assembly.

Article 8

- (a) The Consultative Assembly may request the opinion of the Chamber on any question within the competence of the Chamber, in particular concerning draft recommendations submitted to the Assembly by the Commissioner.
- (b) The Chamber shall reply to these requests by opinions adopted by simple majority.

Article 9

- (a) The Chamber may on its own initiative adopt resolutions to the Consultative Assembly drawing attention to the political, social, economic and cultural implications of questions within its competence.
- (b) Acting by absolute majority, it may also submit for adoption by the Consultative Assembly draft recommendations to the Committee of Ministers.

Article 10

The 20 seats allotted to each category shall be allocated according to nationality as follows:

- Iceland, Luxembourg, the Saar⁽¹⁾, Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey: 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom: 2 seats

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(1) This provision is based on the present Saar Statute within the Council of Europe.

Article 11

- (a) The representatives of the employers and workers respectively shall be appointed by their respective governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organisations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed.
- (b) The representatives of the other sectors of the community shall be appointed by their respective governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities.
- (c) The members of the Chamber shall be appointed every three years.
- (d) The members of the Chamber shall not be bound by any mandate or instruction.

Article 12

- (a) The Commissioner shall be assisted by the Secretariat-General of the Council of Europe.
- (b) The Chamber shall be assisted by the Office of the Clerk of the Consultative Assembly.
- (c) Expenditure relating to the Commissioner and to the Chamber shall be borne by the Council of Europe.

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PART IIIIMPLEMENTATION OF THE CONVENTIONARTICLES 13, 14, 15 and 16Article 13

- (a) The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Convention by stages.
- (b) This programme shall be drawn up by the European Commissioner for Social Affairs and decided on by the Committee of Ministers of the Council of Europe after the opinion of the Consultative Assembly has been obtained.

Article 14

The High Contracting Parties undertake to submit to the Commissioner and the Consultative Assembly annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall also indicate any difficulties or other factors which may have prevented the States concerned from carrying out their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

Article 15

Bearing in mind the reports referred to in Article 14, the Commissioner may make recommendations to the Committee of Ministers and, if necessary, intended for a government directly concerned, in order to secure from that government the fulfilment of its obligations under the Convention.

Article 16

The Commissioner shall periodically submit to the Consultative Assembly a full report on the progress made in implementing this Convention.

Article 17

- (a) The Commissioner may deal with any question connected with the observance of the rights and the fulfilment of the obligations recognised in the Convention, except
- (i) where this question is the subject of a complaint before the International Labour Office, when the procedure provided for in Articles 24 and 26 of the Constitution of the International Labour Organisation is applicable.
 - (ii) in cases governed by the provisions put into force by the I.L.O. concerning the freedom of trade unions.
- (b) The Commissioner may invite the government or governments directly concerned to submit such comments as may be thought necessary.

Article 18

Agreements shall be concluded by the Council of Europe with European and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to ensure close co-operation with these organisations in the implementation of the present Convention.

PART IVFINAL PROVISIONSArticle 19

Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 20

- (a) 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 Convention, 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.
- (b) 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. The Secretary-General shall in turn inform the High Contracting Parties.

Article 21

Any High Contracting Party may propose amendments to this Convention in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Committee of Ministers and submitted to the Consultative Assembly. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

Article 22

- (a) A High Contracting Party may denounce the present Convention as far as it is concerned only after
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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.

- (b) A High Contracting Party which shall have ratified the present Convention and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Convention as far as it is concerned on the expiry of each successive five years period.

Article 23

- (a) This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.
- (b) The present Convention shall enter into force after the deposit of eight instruments of ratification.
- (c) As regards any signatory ratifying subsequently, the Convention shall come into force on the date of the deposit of its instrument of ratification.
- (d) Any country not a member of the Council of Europe may accede to this Convention under conditions laid down by the Committee of Ministers and approved by the Consultative Assembly.
- (e) The Secretary-General of the Council of Europe shall notify all the Members of the Council of the entry into force of the Convention, 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 24

- (a) Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.

- (b) The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe.
- (c) The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

Article 25

The French and English texts of this Convention shall be equally authoritative.

EXPLANATORY MEMORANDUM

presented by M. TONCIC, Rapporteur

A. Introduction

1. On 12th, 13th, 14th and 15th September, 1956, the Committee on General Affairs drew up the preceding text based on M. Toncic's report. The question had been referred to the Committee by Order No. 89 of 20th April, 1956:

"The Assembly refers the Draft Social Charter (Doc. 488), together with the amendment proposed by M. Bichet, to the Committee on General Affairs, in consultation with the Committee on Social Questions and the Committee on Economic Questions, for re-examination, with particular reference to the implementation of the Charter and proposed creation of a European Economic and Social Council."

2. The question of debating the principle of the European Social Charter no longer arises.

(a) On 23rd September, 1953, the Assembly adopted Opinion No. 5 in the second paragraph of which it approves the principle of drawing up a European Social Charter, which "should define the social aims of the Member States of the Council of Europe and serve as a guide for all future activities of the Council in the social field."

In May, 1954, the Committee of Ministers stated that it would try to elaborate such a Charter (Doc. 238, para. 45).

(b) the institution of an Economic and Social Council had been proposed by the Assembly in its Resolution 26 of 17th January, 1953, concerning the projected Political Community: "An Economic and Social Council shall be set up with consultative functions representing the fifteen Member States of the Council of Europe." This institution was to constitute a link between the Europe of Fifteen and the proposed Political Community of Six. Apart from this link, the Committee on Social Questions expressed the opinion in April 1955 (Doc. 403, para. 2, p.16) that "the preparation of a European Social Charter necessarily implied the establishment of a social and economic body."

From the political standpoint, the Committee on General Affairs, in July 1955 (see Doc. 362, para. 23), also declared itself in favour of the establishment of an Economic and Social Council, on the view that this "would be of great value in promoting economic and social unification".

3. The principal developments in this question since that time have been as follows:

(a) In October, 1955, the Committee on Social Questions submitted to the Assembly a draft European Social Charter, including proposals for a European Economic and Social Council (Doc. 403). The statute of this body is embodied in the text of the Charter.

(b) The question having been referred to Committee, the Committee on Social Questions, in consultation with the Committee on Economic Questions submitted to the Assembly in April 1956 a new draft European Social Charter and proposed that a European Social and Economic Conference be convened in place of a European Economic and Social Council (Doc. 488). The convening of this Conference was not proposed in the text of the Charter but in a Recommendation of the Consultative Assembly to the Committee of Ministers. The object of the Conference was to bring employers' and trade union and other non-governmental organisations into closer association with the work of the Council of Europe, but it was not suggested that they should play a part in the implementation of the Social Charter.

(c) The Assembly withheld its approval of this proposal after the tabling by M. Bichet and colleagues of an amendment (see Doc. 488, Amendment No. 1) calling for a fresh consideration of the establishment of an Economic and Social Council. It referred the whole question to the Committee on General Affairs (see Order No. 39 above).

4. In view of the differing conceptions put forward in Docs. 403 and 488, the Committee on General Affairs, on the proposal of its Rapporteur, has felt the need for a compromise solution which could command the support of a substantial majority in the Assembly.

5. Its attitude is based on the following general considerations:

(a) The enclosed draft presents the question in a new way and takes account of the experience acquired in the course of the work undertaken by the competent committees. This makes it unnecessary for the Committee to reopen discussion on innumerable points already dealt with and permit it to

(b) It has become both urgent and necessary to reach agreement on the problem of the Social Charter, since the procrastination displayed by the Assembly is harmful to it.

(c) The Assembly must first of all complete its work in this connection in order to allow the governmental experts to reach their own conclusions. The experts will subsequently submit to the Assembly for its opinion the results of their negotiations.

6. In accordance with Order 89, the Committee on General Affairs has consulted the Committees on Social Questions and on Economic Questions.

(a) The Committee on Social Questions, in its opinion, made a number of amendments in the original text of the Committee on General Affairs, which have fully been taken into account.

(b) The Committee on Economic Questions has not thought it necessary to reconsider its previous decision to approve Doc. 488 and has therefore expressed the opinion that this document should be presented once more. It considers in particular that the organisational aspects of this draft Convention are not consistent with the views it has already expressed concerning Docs. 403 and 488.

(c) The Committee on General Affairs has also consulted at some length intergovernmental international organisations, trade unions and other competent organisations enjoying consultative status with the Council of Europe.

7. In the light of its own discussions and its consultations, the Committee on General Affairs has decided to lay before the Consultative Assembly the present draft Convention and to submit to the Assembly for its approval the draft Recommendation preceding this draft Convention.

In presenting the following study the Rapporteur wishes, on behalf of the Committee, to pay a tribute to the initiative and unremitting efforts of M. Heyman, Chairman of the Social Committee.

B. Draft Recommendation

The draft calls for the following remarks:

(a) It reproduces the first four paragraphs of the draft Recommendation contained in Doc. 488.

(b) The Committee deliberately proposes that the Assembly should "keep under serious consideration", rather than approve, the text to be transmitted to the Committee of Ministers. The Assembly is required to take a decision on the principle and application of a Social Charter; it cannot from the outset tie the hands of the experts appointed to prepare the final draft, but will confine itself to giving a very clear and detailed indication of its wishes.

(c) Hence the draft Recommendation alone is to be voted upon by the Assembly. The draft Convention appended to it does not call for a separate vote since it has not yet been given its final form. In the light of its own work and its consultations, the Committee on General Affairs, considering that this draft Convention represents an acceptable compromise between the arguments put forward in Doc. 403 on the one hand and those in Doc. 488 on the other, has decided to keep it under serious consideration as an expression of the wishes of the Consultative Assembly and as such to attach it to the draft Recommendation which it has adopted by 13 votes to none, with 5 abstentions.

(d) The experience gained in the field of European integration has shown that it is essential that the draft Recommendation should provide for a special procedure to expedite and promote the drawing up of this Convention.

(i) This procedure implies in the first place the immediate appointment by the Committee of Ministers of an authority who might be known as a Special Representative and whose main duty would be to make special and unremitting efforts to bring about the early conclusion of the European Convention on Social and Economic Rights.

One of the most important tasks of this Representative will be to establish contact with I.L.O. and to secure every possible and desirable form of co-operation with that Organisation in order to promote the early entry into force of the Convention. In this connection the appointment of the Special Representative will constitute implementation of paragraph 3 of Article I of the Agreement concluded between the Council of Europe and I.L.O. according to which the two Organisations may each appoint one Special Representative to discuss matters of common interest. When the Convention has come into force the duties of the Special Representative will be performed by the European Commissioner mentioned in Part II of the draft.

(ii) The Convention shall be drawn up by the governmental experts in close co-operation with those competent bodies enjoying consultative status with the Council of Europe which are most interested in the conclusion of such an international instrument.

C. Draft Convention

This calls for the following general comments:

(a) It was considered necessary to submit this text to the Committee of Ministers in the form of a draft Convention. In the first place it was necessary to bear in mind the wish of the Committee of Ministers that the European Social Charter should be "complementary in the social field to the European Convention on Human Rights". Moreover, such a Convention would by its very nature be the appropriate framework for the multilateral undertakings to be entered into by Member States to pursue a joint social policy and which indeed are fundamental to the Social Charter. Lastly, a draft Convention constitutes the most effective means of illustrating and explaining to the governmental experts the solution applied by the Committee to a number of legal and political problems.

(b) Like the United Nations' draft Covenant on Economic and Social Rights, the draft Convention provides a framework which should be developed and gradually amplified in the light of practical experience.

(c) However, the Committee on General Affairs has fully endorsed the opinion of the other committees that this draft Convention should provide for specific and detailed undertakings binding upon the signatory States. The idea is to forestall any criticism of the Council of Europe on the grounds that all it is presenting is yet another of those declaratory instruments which are frequently tantamount to mere window-dressing.

(d) The Committee considers that even if a signatory country has a high standard of living and an advanced social organisation this multilateral Convention will be of real political importance for the social organisation of a united Europe.

(e) The title preferred is "Convention on Social and Economic Rights", for the following reasons:

- (i) It is a normal term for a text which is subject to ratification by several countries.
- (ii) It indicates clearly the connection between this draft and the Convention for the Protection of Human Rights and Fundamental Freedoms.

In order not to lose the appeal which the term "Social Charter" has made to public opinion, the Committee suggests that the words "or Social Charter" be inserted after the word "Convention" where first used in the text. This would also satisfy organised labour which keenly desires to have its "Charter".

PREAMBLE

Principles and objectives of social policy

(a) In the light of its own discussions and its consultations, the Committee on General Affairs has thought it preferable that this set of principles and objectives of social policy should form the preamble and not Part I of a draft Convention, mainly because it is an affirmation of principles and does not embody any undertakings. Thus the form of a preamble is eminently suitable in this case.

(b) The text of this preamble is identical with that of Part I of Doc. 488. The Committee on General Affairs has therefore adopted the explanatory section in this text as set forth in Doc. 403, and amended and supplemented by Doc. 488.

(c) Paragraph 5 has undergone a change in form: the words "whether the mother is lawfully married or not" are thought preferable, on the grounds of greater precision, to the words "regardless of the marital status of the mother" which do not bring out clearly enough the aim to protect motherhood.

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PART I

Social and Economic Rights

(a) The Committee on General Affairs has examined this part from the political standpoint and has accordingly made the structural amendments explained below.

The title is identical with that of Document 488. The Committee interchanged, however, the terms "economic" and "social", the expression "social and economic rights" being more consistent with the scope of a "social charter".

This part is virtually a repetition of the corresponding part of Doc. 488.

The detailed changes in respect of each of the rights under review were made at the request of the Committee on Social Questions.

(b) (i) The Committee has adopted a new lay-out. This Part now forms a single Article (Article 1), the description of each right (A, B, C, etc.) having a reference to the introductory paragraph. In this the Committee took as a pattern paragraph 15 of the Preamble (as in Doc. 403), which concerns the legal aspect of the commitments undertaken by the Contracting Parties, and also Article 2 paragraph 1, of the Draft Pact concerning Social, Economic and Cultural rights adopted by the Human Rights Commission of the United Nations.

With this re-arrangement the text automatically implies recognition of the rights set forth below, in each case followed by a statement of the measures by which the Contracting Parties undertake to ensure the exercise of these rights.

(ii) The Committee agrees that it is unnecessary to define each of the rights set forth. They are recognised because they exist. Furthermore, they are defined in various connections in national legislations and even constitutions. In any case, the measures to be taken by the State serve in themselves to constitute the rights in question, the exercise of which is governed by them.

(iii) In addition, the use of the word "progressively" clearly shows that this Convention lays down the framework of a social policy which is to be applied stage by stage as specifically stated in Article 13 (a) of the draft. It is therefore unnecessary to repeat the word "progressively" in connection with measures relating to certain rights dealt with below.

(iv) Lastly it should be noted that the provisions of Article 5 of Doc. 488 have been placed under the headings with which they were concerned so as not to disturb the order in which these rights are listed in Article 1, A, B, C, D, etc.,

(e) Concerning each of these rights the Committee has adopted the explanatory sections of Doc. 403 as amended and supplemented by those in Doc. 488.

(d) Furthermore in the light of its own discussions and its consultations, the Committee on General Affairs has made the following amendments:

Point A

(i) Sub-paragraphs 2 (a) and (b) of paragraph 2 of the corresponding Article 1 of Doc. 488 have been combined to form a single paragraph.

(ii) The word "rehabilitation" has been added to paragraph (iv) (cf. Doc. 488, Article 1, 3(d), as it is necessary to provide for the vocational rehabilitation of the disabled and persons who have to change their occupation as a result of developments in the industrial and economic spheres.

Point B, C, D

Bearing in mind that in a number of Member States the measures referred to in the general provision of Article 1, particularly with regard to employment and conditions of work, are put into effect by means of collective agreements and that the representatives of the States in question have already shown some misgiving with regard to a provision which appears only to relate to measures taken or promoted by public authority, it appears necessary, in connection with the entry into force of the Convention, for the texts in question to be amended by adding the words:

"in so far as these measures have not been put into effect by means of collective agreements or in any other way."

Point E

(i) Paragraph 1, of the corresponding Article 2 (cf. Doc. 488) has been dropped as the provisions in question are covered both by the paragraph heading Article 1 and the Preamble to the present draft.

(ii) Sub-paragraph (e) (cf. Doc. 488, Article 2, 2(e)) has been cut down to the words "equal pay for equal work".

(iii) In sub-paragraph (h) the words "a proper standard of living" have been deemed preferable to "decent living". (cf. Doc. 488, Article 2 (h)).

Point D.

The Rapporteur had offered the Committee an alternative: either provisions based on those of Article 4 in Doc. 403 or the provisions of Article 4 in Doc. 488. In the light of its own discussions and its consultations, the Committee preferred to revert to the proposals of Doc. 433 while suggesting a more flexible wording. The Committee's preference was prompted by its concern to take the highest existing standards as an example.

Point E

The wording proposed by the Committee is that of Doc. 488 (Article 6) amended in such a way as to enable the procedures required for the settlement of labour disputes to be accepted by both parties to the dispute.

Point G

(i) The words "proper standard of living" have been thought preferable to "decent living" (cf. Doc. 488, Article 8).

(ii) A new sub-paragraph (c) has been added concerning the protection of "small savings". Extensive provision for the protection of savings was made in Doc. 403 (Article 8) but was later dropped in Doc. 488.

Points I, J and K

All three texts are concerned with application of the principle of collective responsibility for health and welfare.

In order to provide for the operation of private organisations in addition to State activities in these matters, the text has been amended as follows:

(i) Point I:

"With a view to will take all appropriate measures directly or in co-operation with local authorities and competent private organisations".

(ii) Points J and K:

"With a view to undertake directly or in co-operation with local authorities and competent private organisations".

It should be noted that the amendments made under these two Points are provided for in Article 12 of Doc. 403 and in Article 13 (1) of Doc. 488.

Point I

Sub-paragraph (b): the words "other health factors" have been preferred to "other environmental health factors" (cf. Doc. 488, Article 10 (b)).

Point J

The provision contained in Article 11, 2 (b) (cf. Doc. 488) has been dropped.

Point K

A new provision for the special protection of widows with dependent children has been introduced under (iii) (cf. Doc. 488, Article 12, 2).

PARTS II AND IIIThe European Commissioner, the Chamber and the implementation of the ConventionPreliminary remarks

(a) Parts II and III of the draft Convention concern implementation. Part III relates to procedure, whereas Part II deals with the organs through which the Council of Europe would ensure the smooth working of that procedure. The procedure in question would be quite special and without precedent among the activities of the Council of Europe. The organisation of this procedure has to a large extent been responsible for the controversy which has arisen in connection with the system laid down in Doc. 403 and that set forth in Doc. 488. The first was based on the need to organise procedure in accordance with a new structure, whereas the second avails itself of the Council's existing institutions.

(b) It might be useful here to outline once more the method used for implementing such a Convention:

(i) In accordance with the system implementing the I.L.O. Conventions (Article 22 of the I.L.O. Constitution), and the system of application of the United Nations draft Treaty (Articles 17 and 18 of that draft), implementation of the Social Charter follows from a periodical submission of reports by the participating governments. The reports referred to in Article 14 of the draft will be required to state the progress accomplished at the time the Charter is put into effect. They will enable it to be determined whether and to what extent the laws and social practices (collective agreements) of the participating countries comply with the letter and spirit of the Convention. The examination of these reports is one of the main features of the implementation of a convention on social policy at international level.

(ii) The example of I.L.O. shows that the implementation of these conventions is far from being a concern solely of the governments responsible for putting them into effect. Indeed, the examination of the reports

in question has two aspects: first, that of technical and legal supervision and enquiry by a Committee of independent experts; and second, conciliation, promotion and mutual assistance procedure based on the Committee's conclusions and carried out on a tripartite basis, that is to say, with the direct participation of the representatives of the governments and of the workers' and employers' trade unions. It goes without saying that the technical nature of such procedure calls for organisational machinery, of which the I.L.O., as represented by its various institutions (International Labour Office, Governing Body and the Committee and Commission for the implementation of Conventions), is a classic example.

(c) It is obvious that the Council of Europe does not as yet possess such machinery. Bearing in mind the technical nature and considerable volume of reports which participating governments would submit to the Council of Europe, examination of these reports without the assistance of a technical body would exceed the means and facilities available to Representatives to the Assembly. The need for impartiality which, as in the case of I.L.O., must be a feature of the checking of these reports, precludes their examination from being entrusted solely to the governmental Social Committee, as was suggested in Doc. 468, since the members of that Committee would in that event become judges of their own action as senior government officials responsible for taking an active part in putting the Charter into effect in their respective countries. For these reasons the Committee on General Affairs has departed from the method of implementation provided for in Doc. 468.

(d) It might conceivably have been asked whether this task could not have been entrusted to I.L.O. The Committee on General Affairs considered that in view of its own specific political rôle as the promoter of European unity the Council of Europe could not shed any of its responsibilities in connection with implementing a Convention which it held as necessary. Furthermore universal character of the I.L.O. precludes it from assuming such responsibility; indeed, there can be no question of entrusting an organisation, some of whose Members have an undemocratic political system, with the task of "supervising" the implementation of a Convention on the social and economic rights of citizens of democratic countries.

(e) These political considerations do not in any way lessen the need for the Council to avail itself as far as possible of the highly developed technical resources of the departments and organs of an organisation such as I.L.O. The Committee therefore preferred a solution based on a joint system under which the Council of Europe would be responsible for implementing the Charter while ensuring close co-operation in this connection with I.L.O. The appointment of a European Commissioner and the setting up of a Social Chamber of the Consultative Assembly should be viewed in the light of these considerations.

The appointment of an eminent authority endowed with political powers by the Council of Europe is essential in order that the Council may be guaranteed full freedom of action in its co-operation with I.L.O. (See paragraph 3 below for details of this co-operation).

Broadly speaking this dual solution also corresponds to the two features characterising the classic system of implementation of social conventions, namely, first, supervision by an independent authority and, second, consultation of the vocational circles concerned with a view to smoothing out any difficulties by means of conciliation and mutual assistance. On the one hand there would be the Commissioner who would be responsible on behalf of the Council of Europe for organising procedure for implementing the Charter; he would possess the necessary authority to ensure that such supervision was surrounded by adequate guarantees of impartiality. On the other hand the European Social Chamber could be the means of associating the representatives of relevant sectors of the community with this procedure, as in the case of I.L.O.

1. The European Commissioner

(a) The Commissioner is appointed in response to:

- (i) the desire expressed by the Consultative Assembly in the Resolution 88, proposing the appointment of "European Commissioners" who should "give a continuous stimulus of a political nature to European unification";
- (ii) the suggestion of the Committee on Social Questions in Doc. AS/Sec (3) 1: that a European Commissioner could help usefully to overcome difficulties encountered by Governments in the implementation of the Social Charter;
- (iii) to the argument that Governments who will have to implement the Charter, will be unwilling to grant power of supervision to someone who is not responsible to themselves.

(b) From the political point of view the Commissioner must, in the interests of efficiency, have all possible freedom of action in order to carry out his task in regard to the Committee of Ministers representing the governments. These provisions are fully in accord with those set forth in Resolution 88 and take account of the experience gained by M. Pierre Schneider, Council of Europe Special Representative for National Refugees and Over-Population (cf. Articles 3 and 4).

(c) As well as entering into relations with the Committee of Ministers, the Commissioner may seek the support of the Assembly. To this end he may for example submit to the Assembly draft recommendations, in the same way as the Committees, and when adopted these will become Recommendations of the Assembly to the Committee of Ministers. This will place him in a stronger position in putting his views before the Ministers (see Article 5).

2. The European Social Charter

(a) A Chamber constituted on the lines proposed:

- (i) meets the need, recognised by the Committee on Social Questions and the Committee on Economic Questions, of an organ through which employers and trade union associations and non-governmental organisations can be associated with the work of the Council of Europe;

- (ii) accords with the desire of the Committee on Social Questions for an organ to help "prepare, guide and facilitate ... measures of integration or co-operation" in the European social and economic field (Doc. 403, Art. 21);
- (iii) conforms with the general wish that an organ of this kind shall not encroach upon the prerogatives of the Assembly;

The Committee has chosen the name "Chamber":

- because it is a new name in the Council and does not invite comparison with other organs existing or contemplated;
- because it is an apt description for a specialised consultative organ;
- because it is eminently suitable for a body whose function is to study, observe and promote European social policy.

(b) The membership of the Chamber is smaller than that proposed for the European Economic and Social Council and the European Economic and Social Conference. It is thought unwise to place side by side with the Consultative Assembly a deliberative body with as many as 99 members.

The Chamber is convened by the Assembly at least once a year for its statutory session; it may also meet at other times if it so desires (see Article 6).

(c) The Chamber will be in a position to afford the Assembly its special assistance in regard to the fulfilment of the social policy of the Council of Europe. The Consultative Assembly will preserve intact its prerogatives as a parliamentary organ without derogation in favour of the Chamber (see Article 7).

(d) The Assembly will in its own interests apply to the Chamber for its special assistance and advice. Among other matters, the Assembly will refer to it the Commissioner's draft recommendations as well as reports received from Member States, which it has examined, and which are mentioned in Article 14 (see Article 8).

(e) The Chamber must be able on its own initiative at any time to refer questions within its competence to the Assembly. Similarly, it may present to the Assembly draft recommendations in the same way as Assembly Committees (see Article 9).

(f) The Chamber will thus be at the disposal of the Assembly and have special competence in matters dealt with by the Commissioner. The two organs will of necessity work in close conjunction with each other, as for example by the Chamber inviting the Commissioner to appear before it.

Although the Committee on General Affairs agrees on the usefulness of co-operation between the Chamber and the Commissioner, it is against providing for direct relations between these two organs for the treatment of specific questions. It prefers not to make statutory provisions in these matters but to leave the two parties free to make arrangements "ad hoc".

(g) Apart from modification of membership and the matter of Austrian representation the provisions are those of Articles 23 to 27 of Doc. 403 (see Articles 10 and 11).

5. Implementation of the Convention

(a) The preliminary remarks on Parts II and III drew attention to the importance of revising some machinery for implementing the Convention. Moreover the draft European Social Security Code and the United Nations draft Covenant concerning economic and social rights both provide for a method of implementation similar to that proposed in this draft.

(b) Thus the machinery consists of a Commissioner for Social Affairs and a Social Chamber at the disposal of the Consultative Assembly.

(c) It is unnecessary as yet to go into the methods enabling the Commissioner to fulfil his responsibility of ensuring that the Charter is implemented, especially in his relations with I.L.O.

Yet the need for close co-operation with I.L.O. justifies the provisions of Article 18 of the present draft for the following two reasons. On the one hand, it is to be expected that the periodical reports submitted by the participating governments will in many cases deal with the same points as those submitted by them each year to I.L.O. This possibility has been borne in mind in the third paragraph of Article 14 of the present draft Convention. On the other hand, the Committee of Independent Experts of I.L.O. which has for many years been responsible for the study and examination of the reports submitted to that organisation and has, as a result, acquired considerable knowledge and experience of the social legislation and practices of European Member States of I.L.O., would be able to give substantial assistance to the Council of Europe in connection with the examination of the periodical reports submitted to it.

PART IV

Final Provisions

The text follows that of Doc.488 (Part IV) subject to the following modifications:

(a) Article 20 (b) (cf. Doc. 488, Article 21, 2) the following clause is to be added: "The Secretary-General shall then inform the High Contracting Party".

(b) Article 21 (cf. Doc.488, Article 22): the second sentence has been amended so that the Assembly may be in a position to take decisions regarding amendments to the Convention.

(c) Article 22, paragraph 3 of the corresponding Article in Doc.488 (Article 23) has been dropped in view of the new provision made under para. (d) of Article 22.

(d) Article 23: in accordance with the precedent established by certain Council of Europe Conventions, the Committee has introduced a new clause (d) enabling European non-Member States to accede to the Convention (cf. Doc.488, Article 24).

(i) The Committee feels that the Convention should not appear to be restricted to certain States as under the terms of Article 23, para. 3 in Doc.488.

(ii) Hence new accessions should be approved not only by the Assembly but also by the Chamber, since it is a question of the latter opening its doors to representatives of other countries.

(e) Article 24 is identical with Article 63 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

20th October 1956

Doc. 536

Amendment No. 1

AMENDMENT No. 1¹

*to the Report
on the European Social Charter*

*proposed by MM. HELLWIG, KALBITZER
and a number of their colleagues*

In the Draft Recommendation after the words "Recommends to the Committee of Ministers"

leave out paragraphs 1 and 2 and insert :

" 1. Establish a European Convention on Social and Economic Rights, taking into consideration this draft and the observations and suggestions made during the debates in public session, in particular on Parts II and III of this draft; and

2. For this purpose to work in close co-operation with competent intergovernmental organisations, trade unions and employers' organisations, and all other competent organisations enjoying consultative status."

Signed :

HELLWIG, KALBITZER, CORNIGLION-MOLINIER, CZERNETZ,
ERGIN, JENKINS MacBRIDE, STÜRCKH.

1. See 26th Sitting, 26th October, 1956 (Amendment withdrawn).

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

23rd October 1956

Doc. 536

Amendment No. 2

AMENDMENT No. 2¹

*to the Report
on the European Social Charter*

*proposed by Mr. EDWARDS
and a number of his colleagues*

In the Draft Recommendation after the words "Recommends to the Committee of Ministers" leave out paragraphs 1 and 2 and insert :

" 1. Establish a European convention on social and economic rights, taking into consideration the present draft and the observations and suggestions made during the debates in public session, in this matter, and,

2. in order to advance this aim, appoint without delay a Special Representative who shall work in close co-operation with the I.L.O. and other competent intergovernmental organisations, trade unions and employers' organisations, and all other competent organisations enjoying consultative status."

Signed : Signé :

EDWARDS, STRASSER, BIRKELBACH, BROUGHTON,
HAEKKERUP, MOLTER.

¹. See 28th Sitting, 26th October, 1956 (Amendment agreed to).

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

24th October 1956

Doc. 536

Amendment No. 3

AMENDMENT No. 3¹

*to the Report
on the European Social Charter*

proposed by M. HEYMAN

In the Draft Recommendation, point 1,
after the words : " On the basis of this draft "
insert the following text :

" and bearing in mind the observa-
tions and suggestions made in public debate,
referring particularly to Parts II and III of the
Appendix. "

Signed : Signé :

HEYMAN.

1. See 28th Sitting, 26th October, 1956 (Amendment
withdrawn).

9. European Social Charter
and proposal for the creation
of a Social and Economic Chamber

575

(Debate on the Report
of the Committee on General Affairs, Doc. 536,
on the establishment of a European Convention
on Social and Economic Rights)

THE PRESIDENT (Translation). — The next item in the Orders of the Day is the debate on the Report of the Committee on General Affairs on the European Social Charter and the proposal for the creation of a Social and Economic Chamber and the establishment of a European Convention on Social and Economic Rights.

M. Teitgen will take the Chair during this debate.

The Sitting is suspended for a few minutes.

(The Sitting was suspended at 11.35 a.m. and resumed at 11.40 a.m. with M. Teitgen, Vice-President of the Assembly, in the Chair).

THE PRESIDENT (Translation). — The Sitting is resumed.

I call M. Toncic, Rapporteur of the Committee on General Affairs.

M. TONCIC (Austria). — Mr. President, before we proceed to the examination of the report which the Committee on General Affairs has instructed me to submit to the Assembly for approval, I should like to express my gratitude, as an Austrian Representative, for the honour which has been conferred on me.

The question of a Social Charter and its implementation has been debated and examined at great length and is fresh in everyone's mind. It started from the day when the Committee on Social Questions submitted a draft Social Charter for a European Economic and Social Council to the Bureau of the Assembly. The debate on this question is still present in our memories. I remember attending your discussions as an Austrian observer and listening to the eloquent words of M. Heyman—to whom I wish to pay a special tribute—in favour of the Committee's draft which, as you know, had another distinguished author in the person of M. Dehousse.

The debate last April on the second draft prepared by the Committee on Social Questions and the Committee on Economic Questions showed that there was no doubt that the Assembly wanted to see a Social Charter. Secondly, the two former drafts submitted to the Assembly were neither approved nor rejected. They did not get as far as a vote because of the lively controversy to which they gave rise between two diametrically opposed schools of thought. In April there was an agreement about a code of rights, but no agreement about the implementation. That was the question of the so-called *amendement détaché*, and disunity about implementation was the main reason why the Assembly entrusted the Committee on General Affairs with this matter.

this debate—the Assembly does not take a decision it will be revealed as completely ineffectual. This debate must be decisive.

During the discussions about this project, for as long as we have considered the matter we have always had two dangers in mind. One is that Article 2 of the Protocol of Rome—the definition of property—is so vague that anybody can underwrite and ratify such a meaningless definition. If we draft a Social Charter without any practical contents, it can be ratified by Governments but will have no value at all. The second danger is that we may go too far in our desire to define specific rights so that no Government will ratify such a Social Charter. That is the danger which occurred in the case of the Convention on Genocide, which received the approval of everybody but did not get one single ratification of the Governments concerned. We had to find a way between these two dangers, so that we could draft a Convention which at least had a chance of being ratified by the Governments concerned.

The Committee on General Affairs has prepared for this third debate, in accordance with Order 89. It instructed me to prepare a preliminary draft, on which we spent many long and arduous hours of work. The outcome of this was a previous preliminary draft of the Committee, which we referred afterwards to the Committees on Social Questions and Economic Questions for their opinion. We also had sufficient opportunity to hear the statements of both the International Federations of Trade Unions and other organisations: for instance, the *Confédération Européenne de l'Agriculture*. In the light of all these very often divergent opinions, the Committee prepared Doc. 536, which is now before the Assembly.

I now come to the draft Recommendation which I submit for approval. It is only this draft Recommendation which is subject to a vote. In the draft the Assembly recommends the Committee of Ministers to conclude the European Convention on Social and Economic Rights. It accordingly submits to the Committee of Ministers the appended draft which is intended only as a basis for the preparation of such a Convention. The division between the Recommendation and the Appendix is the practical result of our fear of getting involved in the great dangers which I have mentioned. The Appendix which contains a draft Convention does not call for a separate vote.

M. Tomic (continued)

it the Assembly's Recommendation asking it to appoint a special Representative of the Council of Europe who will be entrusted with a specific task, mentioned in the terms of reference, and comparable with the duties conferred by the Assembly upon M. Schneider, Council of Europe Special Representative for National Refugees and Over-population. In view of the successful work done by M. Schneider, the Committee on General Affairs wishes to continue this practice and to appoint an eminent figure to assume responsibility for the Charter from the time the Assembly votes a draft Recommendation to the time when the Convention comes into force.

Thus, there is no question here of establishing an office which might be confused with the European Commissioner for Social Affairs.

I turn now to the draft Convention. For the Committee it is a most courageous solution, as matters stand at present. It is so courageous that many of us hesitate to go so far at the moment in the development of European unity. The procedure in question is without precedent among the activities of the Council of Europe so far. However, this draft Convention provides a framework, a programme, which States will undertake to introduce only progressively. I wish to refer to Article 1 and Article 13 of the draft Convention. A vital point in the whole draft is the undertaking progressively, stage by stage, to make it possible for the less advanced countries in our European community to ratify the Convention.

On the other hand, I draw attention to Article 19 which is of interest to the more advanced countries, especially those in the West and North. It states :

" Noting in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party. "

The draft even provides for an extension of the Convention to territories beyond the seas. That provision is made in Article 24, thus keeping in mind the same procedure as that adopted in the Convention on Human Rights.

The draft Convention has two aspects, dealing

first with the purpose of the Convention and then with the means of promoting its implementation. The purpose is to institute a Charter. Representatives will find almost—and I stress "almost"—word for word in the Preamble and in Part I, which deals with social and economic rights, the proposals made in the second draft, Doc. 488. The division into a general Preamble and a more specific Part I is intentional, because there is a general agreement by all about the principles expressed in the Preamble but there are many different opinions on the specific rights mentioned in Part I. The scope of this latter part has been slightly modified.

As pointed out in the Explanatory Memorandum, rights are recognised in Article 1 as moral or national rights. It seems better, therefore, not to seek to define these rights, for it is not our business just now to invent or to define rights but to frame a European Social Charter based upon a common recognition of rights already defined by national legislation and acceptable to the States concerned.

Article 1 is a very decisive article. It contains the fundamental principle that the High Contracting Parties undertake to take action to ensure the full exercise of these rights by the measures they agree to adopt. The States bring these rights into the province of positive law in the sense that they become enforceable.

A Convention such as this needs machinery for supervision and control in its implementation. I should like to quote here an opinion expressed in April 1955 by the Committee on Social Questions that the preparation of a European Social Charter necessarily implied the establishment of a social and economic body—it did not speak about a commission, but it spoke about a body—because there must be something to ensure the implementation of the Social Charter. It is precisely this machinery of implementation which is lacking in regard to the European Social Charter. The discussion of all these difficulties is proof of the political importance of the question of implementation. Nobody denies that the Convention must be binding on all the States parties to it, and nobody denies that it requires guarantees of some implementation if it is not to remain at a low level. Therefore, nobody

M. Tomic (continued)

can deny the need for machinery to ensure implementation.

The machinery which we have in mind is not intended to supplant Governments in their work, but to provide international co-ordination in Europe. How are we to set up this machinery? That is where the difficulty arises. The Council of Europe, as a matter of fact, has no organ adapted to such a task. It has a Committee of Governmental Experts, but to assign the task to that Committee would be tantamount to telling the Governments to effect control themselves, which would hardly appear to be a sound guarantee.

I come next to the question of the overlapping of institutions. There have been many criticisms about the setting-up in the world, as a whole, and in Europe, of so many institutions the functions of which are overlapping. There is, of course—and we cannot hide it—the International Labour Organisation, which has earned a very high reputation for the efficient control of the operation of international Conventions. But, within the context of European integration, the Council of Europe has a European political competence which makes it impossible for it to transfer responsibility to a world organisation. The International Labour Organisation is a world-wide organisation in which the States of Asia, Eastern Europe and, let us say so quite frankly and democratically, Communist States play an important role.

It has been stated that there is a prospect of a Regional Conference within the framework of the International Labour Organisation. However, this Regional Conference is responsible to the International Labour Organisation as a whole.

Then there is still another argument. When the European States created the Council of Europe, they expressed the wish to create European organs. One cannot be prepared to organise a very important region without being prepared also to create organs in such a region, and it cannot be the task of the Council of Europe to place obstacles in the way of creating European organs. There might well be criticism about national organs and there might be criticism about universal organs, but we in the Council of Europe must be logical about the creation of European organs.

We shall be confronted with this question very often in the future. We need, of course, an impartial European instrument of control. On the other hand, it is quite logical that the machinery of implementation of such a Convention should be defined in the text of the Convention itself, because to create a Convention, on the one hand, and perhaps a few years later to create another Convention dealing with implementation, breaks the logical unity of the Convention as a whole. Once these principles which I have mentioned have been established, it only remains to determine what kind of machinery is needed. It must be responsible to the Assembly and to the Committee of Ministers and it must enjoy freedom of action.

Thinking along those lines, the Committee on General Affairs felt that the time had come to entrust the machinery of implementation to a European Commissioner proposed by the Consultative Assembly, and appointed by the Committee of Ministers, to which he would be responsible. In its Resolution 88, the Assembly requested the appointment of a European Commissioner for the promotion of European integration. To quote a suggestion made by the Committee on Social Questions :

“ A European Commissioner could help usefully to overcome difficulties encountered by Governments in the implementation of the Social Charter. ”

By proposing a European Commissioner, the Committee on General Affairs was only acting on the lines of Resolution 88 and the wish expressed by the Committee on Social Questions. The purpose of the Charter calls for such a step, for we are contemplating a programme to be implemented, as I said, by stages in a manner to be agreed between the various States, and we must have an individual who will watch this implementation by stages. A European Commissioner for Social Affairs would be our spokesman. He would bring his influence to bear upon those States which had agreed to his appointment. I said intentionally that the Commissioner would be “ our spokesman ”, and I meant it, for in our capacity as an Assembly we should give him every assistance and advice within our power.

I now come to perhaps the most crucial point of the whole matter—the question of a European

M. Tomic (continued)

Social Chamber. Again I should like to quote the Committee on Social Questions, which expresses the desire for an organ to

“prepare, guide and facilitate such measures of integration or co-operation”

in the European social and economic field. You will find that in Document 403, Article 21. By proposing a European Social Chamber—if you like a European Social and Economic Chamber—we are therefore also acting on the lines suggested by the Committee on Social Questions.

Such a European Social Chamber would bring representatives of the employers, the workers and the other sectors of the community into association with our work.

This Chamber, through the agency of the Assembly, would be of invaluable assistance to the Commission in carrying out its work. Once these two vital parts of the machinery of implementation had been established—different bodies endowed with clear and straight-forward functions—a very promising interplay might develop between the Commissioner and the Government and between the Commissioner and the Assembly, with this Social Chamber.

The present draft provides for another sort of co-operation, namely, co-operation with a qualified intergovernmental organisation; and, in particular, the Council of Europe should take the utmost advantage of this, in view of the high degree of efficiency of I. L. O. in the implementation of international conventions.

Before I close, I should like again to draw attention to the draft Recommendation on page 1 of this Report. It was our intention to quote the historic sources of the matter. We have in Europe a European Convention on Human Rights. We have, on the other hand, a Universal Declaration of Human Rights, 1948. The first one is the implementation, the second one just the wish. It is quite logical that we should put by the side of the European Convention on Human Rights a European Convention on Social and Economic Rights. I think this is something which we must bear in mind in discussing this matter—that as soon as we got the European Convention on Human Rights it had logically to lead to a European Convention on Social and Economic Rights.

But there is still another decisive reason for the proposed organs of implementation. The Committee on General Affairs expresses its deep conviction that any Social Charter which does not meet the needs of the working classes in Europe and which is not approved by their representatives is of no value at all and that a purely impersonal code of rights without well-defined organs of implementation in the international field is of no practical value.

The Council of Europe has a great chance not only to promote social progress in Europe by co-operation between Member States but also to bring the European working classes nearer to the Council of Europe, especially now, at a moment of great changes in the oppressed countries and among the captive nations in the East, where the working class are looking towards us. We have a chance to start developments of far-reaching consequences for all of us. No question of prestige or of more or less important details ought to let us forget the greatness of this undertaking and, above all, our own responsibility towards the social progress of all the peoples of Europe.

THE PRESIDENT (Translation). — Ladies and Gentlemen, without passing any judgement on the substance of his Report, I should like to express my particular thanks to M. Tomic for the very able and convincing way in which he has carried out this difficult task so soon after joining the Assembly.

I call Mr. Heyman, Chairman of the Committee on Social Questions.

M. HEYMAN (Belgium) (Translation). — Mr. President, I would prefer to speak this afternoon if that is convenient.

THE PRESIDENT (Translation). — I see no objection.

I call Mr. Corish.

Mr. CORISH (Ireland). — Mr. President, one of the most important methods of maintaining what we know to be the democratic way of life in Europe is to provide for the workers a scheme of social security which will be for them a firm bulwark against the hazards that beset us during life and against the possibility of the growth of Communist influence. Unless each member country is prepared to work towards

Mr. Corish (continued)

that end, we cannot say that we are aiming at a free Europe, because a free Europe means more than a Europe free from occupation or aggression. It means a Continent in which its people are free from want and free from the fear of insecurity.

Because this Charter which is before us today embodies in it proposals of security against unemployment, sickness, etc., and purports to provide a decent standard of living, I welcome it.

The document as it stands will not, I am sure, have the full approval of any single Representative, but will at least commend itself to everyone as a sincere attempt to provide a Social Charter for Europeans. It is as such at I regard it—as a document containing objectives in social security at which we must aim, and which we must try to fulfil as quickly as our resources allow us.

Many of us feel that it has taken the Council of Europe too long to draft and accept a Social Charter, but if we accept it in an unfinished form, or if we accept a Charter incapable of implementation in the foreseeable future, it is possible that the public and their respective Governments may dismiss the document as being of no practical value. No useful purpose would be served by adopting a Charter towards which the public would cast a cynical eye and which Governments would pigeon-hole. The worker particularly wants a Charter which he feels will benefit him in his own lifetime and which will be of practical value to him. Therefore, we should be patient in our efforts to show our sincerity by the fullest examination of each separate proposal.

Of course, the best security that can be offered to the individual is employment—not casual or sporadic employment, but for a guaranteed period, with good wages and good working conditions. We must also remember that full employment at productive and necessary work is in itself security and protection against risks which this draft Charter intends

should be covered, and in consequence reduces social welfare expenditure by Governments.

When I spoke on the last occasion in this Assembly on the subject of the European Social Charter, I expressed certain misgivings in regard to the draft which was under discussion. I thought the draft, while acceptable as a general directive, was asking Member Governments to go too fast. I felt there was a risk that proposals, expressed as rights, were being too freely guaranteed without any reasonable prospect of their being implemented and that the programme for action which was implied was of such a far-seeing and probably costly nature that many Governments might be frightened away altogether.

The latest draft now before us gives the Charter a new name and a "new look," but in my opinion would have little prospect of being acceptable to most Governments. Many of the objections raised against the former draft could be made again today and the document indicates not only that much re-drafting but also that much fundamental re-thinking is still necessary. I note that attempts to define certain rights are now abandoned, it being taken for granted that they exist. I am not sure that that is altogether a good thing, but one of the main results is that the document becomes very much more a programme for action by Governments.

I wonder whether this is a very realistic move. Governments elected in a democracy usually consider themselves pledged to a certain outlook and to a certain programme of action which have commended them to the electorate, and there is a time-limit beyond which that mandate cannot be said to run. I should be surprised if many Governments would be prepared to go beyond what they consider to be their mandate and commit posterity to targets which are not realisable in their own period of office. While it may be within the bounds of possibility to secure the consent of Governments to the general lines of desirable social policy, it is hardly realistic to expect them to commit

Mr. Corish (continued)

not only themselves but future Governments to specific courses of action, the justification for which may well vary from time to time in the rapid, kaleidoscopic changes which are the experience in world affairs.

In my view, it would be a better plan to separate the underlying philosophy and the statement of rights and general objectives of social policy from any specific commitments or undertakings. If the document were so separated into two parts, it should be a much simpler task to prepare a reasonable text on the first of these parts and all Member States might reasonably be expected to sign it. This in itself would be no mean achievement—to have an agreed social philosophy and an agreed statement of rights and of the general social objectives.

As regards the second part—specific commitments—this might possibly be drawn up in the form of a Protocol to the Charter. Some Member States might be prepared to sign such a Protocol and undertake all the commitments, but others may not find themselves able to subscribe to this or that clause, but might be allowed to sign in respect of such sections of the Convention as they were prepared to subscribe to.

I had intended to give a few examples of certain commitments which I am sure my Government would not undertake. I am glad to note that, as a result of the work which has been done by the Rapporteur and his Committee over the last few days, many of the objectionable features have been removed. For example, a Charter was presented last year, and contained in that Charter up to a week or so ago there were two items which I am sure I should not be prepared to undertake either for myself or for my Government. For instance, the proposal which would regulate the conditions under which workers might strike has been deleted, and I was very glad to see the improvement which has been made in that respect. I certainly would not undertake to ask my Government to introduce legislation to regulate the conditions under which workers might strike. Too much interference by way of legislation between trade unions and

employers would not improve their relationship. I was also glad to see that the Charter was improved in respect of the proposal for the education of young persons for marriage, believing, as I do, that this type of education is a matter not for one's Government but for one's Church and one's parents.

However, I mention these examples to demonstrate that, whilst I would subscribe to the greater portion of the Charter, the inclusion of certain clauses prevents me from accepting the whole pending its further examination.

I think also that there is little point—and indeed some measure of foolishness—in having the Assembly approve of a draft here and now while, as mentioned in the Preamble to the draft Recommendation, a Committee of Governmental Experts set up by the Committee of Ministers is actually working on a draft and is, in fact, about to have joint discussions on the matter with the competent committees of the Assembly.

For these reasons, I think we should be well advised not to commit ourselves to any particular draft at this stage and to leave over also the proposals to establish a European Social Chamber and to appoint a Commissioner. Although the idea of a European Economic and Social Council has now been somewhat modified, it is still, in the form of a Chamber, combined with a Commissioner, a rather grandiose conception for the purpose envisaged, and indeed a purpose which is not yet clearly defined. We should not put the cart before the horse and should know definitely where we are going before fashioning the tools to help us. And I am afraid I am not too happy about the establishment of what might be regarded as an extra-national pressure mechanism which might conceivably be of considerable embarrassment to the Governments of Member States.

I am whole-heartedly in support of the idea of a Social Charter. In the European field it should be possible to produce a Charter with more advanced standards and commanding a broader area of agreement than a similar document for the world as a whole. Such a Charter might be expected to contribute materially to the development of the human personality and to raising the standards of living. If we produce a document which is likely to be

Mr. Corish (continued)

rejected because it is unrealistic or too ambitious, the whole concept of a Charter may be consigned to oblivion. I am in favour of cautious and realistic progress. Precipitate or headstrong action can lead only to frustration.

THE PRESIDENT (Translation). — Thank you, Mr. Corish. I call M. Strasser.

M. STRASSER (Austria) (Translation). — Mr. President, Ladies and Gentlemen, there is not one of us who is against the principle of a Social Charter but I think there are many who disagree with both the contents of the Convention appended to Document 536 and the procedure which has been followed.

The Rapporteur admittedly had a particularly ungrateful task and I am only sorry that it was not found possible to postpone this question which, in my opinion, was prematurely included in the Agenda of this Session.

Three arguments were put forward for its inclusion. First, that the question had been under discussion for three long years, had given rise to Documents 403, 488 and 536 and should now be settled without further ado. Then there was talk of impatience on the part of the labour organisations which, it was claimed, could wait no longer and were calling for the adoption of the Charter. Let it be noted, however, that it is not for this Assembly to adopt the Charter; it can only adopt a Recommendation submitting to the Committee of Ministers a charter which, as the Rapporteur said, we do not, ourselves, find satisfactory.

There is even a third, but to my mind, invalid argument: that, since arrangements have been made to televise this evening's debate, it would be extremely difficult to remove the question from the Orders of the Day.

THE PRESIDENT (Translation). — There is no justification for that argument.

M. STRASSER (Translation). — I share your view, Mr. President, as I have just said, but the point has, nevertheless, been raised in conversations outside this Hall.

I had the impression in the Social Committee, and I think it was shared by a number of my colleagues in the Committee, that there was a

desire to have done with the Charter as quickly as possible, without even giving the Committee time to discuss the bulk of it.

All that we discussed with M. Tomic was the preamble and the first part of the Convention. Thus far agreement was reached. The result was not to the satisfaction of all Committee members but was at least regarded as an acceptable compromise.

On the rest of the Charter there was no thorough discussion and certainly no voting in the Committee. Hence, several of my colleagues consider that the draft Recommendation in Document 536 requires amendment.

This Recommendation requests the Committee of Ministers to

“establish a convention on social and economic rights on the basis of this draft...;”

namely the draft Convention appended to the Recommendation.

There are many of us, Mr. President, who feel it is not feasible to ask the Ministers to work on a document which will certainly lack the support of the majority of the Assembly and we are therefore submitting the amendment which has been distributed, with a strong appeal that it be considered on an equal footing with the Charter and any proposals and objections which arise in the course of this debate.

I think the preamble and the first part of the text might have been accepted as representing the opinion of the Committee but since we have not discussed the rest, we consider that the same importance shall be attached to any objections raised as to the draft Charter presented by M. Tomic as an appendix, so to speak, to the Recommendation.

I wonder, Mr. President, if we should be wise in these circumstances to send this Recommendation to the Committee of Ministers.

According to Article 22 of the Statute, the Assembly is the deliberative organ of the Council of Europe; it is required to debate matters within its competence and present its conclusions in the form of recommendations to the Committee of Ministers.

What are we to do, now that M. Tomic's Report is before us? Are we to send a Recommendation to the Committee of Ministers from which it will be concluded that the Assembly is not in favour of a certain charter. If I were in the Committee of Ministers' shoes,

M. Strasser (continued)

I should send back the draft Convention for the Assembly's opinion, thus providing an opportunity for thorough discussion—an opportunity which, in my opinion, was never given to the Committee on Social Questions.

To return, Mr. President, to a point which has often been stressed in the Committee, namely that the labour organisations are awaiting this Charter with impatience, I cannot feel that this argument carries a good deal of weight.

I remember the speeches made in the Committee by representatives of the International Federation of Christian Trade Unions. On consulting the Minutes of the Committee meeting, I find that M. Koulakowski, speaking on the Charter, said that he had been authorised to accept the draft "giving it the benefit of the doubt" and on condition that it would only be regarded as a working document; he preferred to await the final draft of the Social Charter before deciding whether it was really a step forward.

All in all, the representative of the Christian Trade Unions is none too enthusiastic about this Charter.

Then we also heard a statement from the representative of the International Confederation of Free Trade Unions who—I refer once more to the Minutes—maintained that it would have been preferable if the Charter had been drawn up by a conference in which the representatives of the different economic sectors had taken part. He regards the Charter, and especially the second part, as entirely worthless.

Thus the Christian Trade Unions' support of the Charter is very lukewarm, and the representative of the Confederation of Free Trade Unions goes so far as to oppose it. I must admit that I do not quite see why, in his Report, M. Tomic drew such a point of the need to secure the approval of the labour organisations for what we do in this Assembly.

In fact, the International Confederation of Free Trade Unions has pointed out that the rights, and particularly the standards of social welfare, laid down in Part I of the Charter, fall far short of those adopted by the International Labour Organisation.

Thus this draft Social Charter contains provisions less generous than those of conventions already adopted by the International

Labour Organisation in such matters as the minimum age for admission of children to employment, questions of labour inspection, and minimum wage-fixing machinery.

M. Tomic drew our attention to the difficulty of merging our identity with that of a body like the International Labour Organisation which includes Asiatic and other countries. We must, he told us, have a separate machinery.

To this I will simply reply that the International Labour Organisation, despite its Asiatic Members, has adopted conventions which go far beyond the proposals of this Social Charter.

That is why I have strong reservations concerning this Charter, which even at this stage is not regarded as an advance upon the Conventions of the International Labour Organisation.

I cannot see my way to voting for a Recommendation based on this Charter unless it is amended. I hope, therefore, that when it reaches the Committee of Ministers the latter will instruct a special representative to draw up a European Social and Economic Convention which goes further than the one referred to in the Recommendation.

I hope, too, that the Agreement which has existed for about six years between the Council of Europe and the International Labour Organisation will at last be put into effect.

This Agreement provides for a tripartite conference to be attended by accredited representatives of workers, employers and Governments as well as by experts, whose task it would be, as formerly proposed in Document 488, to prepare a draft more suitable as a basis for our deliberations than the present Recommendation.

Any proposal for the creation of an Economic and Social Council sponsored by a conference of that kind would easily win the approval of the great majority of this Assembly.

It is my hope, therefore, that when this Recommendation has been adopted in an amended form, such a conference will be held in the very near future attended by experts who will have much to say on this complex issue.

THE PRESIDENT (Translation). — I call Mrs. Crowley.

Mrs. CROWLEY (Ireland). — The difficulty about a Social Charter such as this is to find a

Mrs. Crowley (continued)

measure of agreement between the different interests involved. By its nature this Charter is a human document, affecting in a very real way the lives and working conditions of people, as distinct from tables, statistics, etc. It is obvious that great care must therefore be taken to make it a workable proposition. The modern industrial idea of streamlined efficiency cannot be applied rigorously to human beings, nor to countries. Diversity of character is surely a valuable part of the life of those nations. Therefore, the Governments ratifying the Charter should be allowed to put a reasonably wide interpretation on some of the more contentious clauses.

Complaints have been made that the Charter has been so long being put in its final form. I think that this is a good sign rather than a bad one. Anything done in a hurry is not well done, and the Charter has not suffered from undue haste and ill-considered judgment. Several committees have been working on it, with consequent variety of outlook as well as of personnel. I am not in entire agreement with every provision for implementing the rights. Some have a limited value. Others, such as the protection of savings, unless used in their widest sense, are impossible to fulfil, but, apart from Parts II and III, this Charter has become more like the ideal in the social field.

THE PRESIDENT (Translation). — I call M. Bondevik.

M. BONDEVIK (Norway). — Mr. President, I welcome this draft recommendation for the establishment of a European Convention on Social and Economic Rights with great pleasure — that is, the first part of it which deals with the Social Charter. In the present shape it seems to me to be a realistic one. The preliminary draft Charter presented in Document 403 in some cases went much too far in present circumstances, or was in contradiction to some of the main lines of the social policy of Member States. In its original form, therefore, it would not have had any chance of ratification by many of the interested parties.

As long as the level of social progress is so different in the various Member States of Europe, the aims of the common social policy must be of a limited character. It is of no use to declare high ideals which cannot be put into practice in the near future. Therefore, after long discussions, where different points of view were put forward the committees concerned have at last chosen the sensible way of recommending an acceptable draft Charter based on sober realities.

Our progress in this and other fields must rest on strong economic power in order to prevent setbacks. Further steps may be taken as soon as circumstances have changed and developed in a desirable direction towards a more sure economic foundation. In order to reach a decent standard of living in the social and economic field, one of the primary conditions is to establish peaceful co-operation between the social classes and thus break Communism. The free democratic nations must therefore do much more than hitherto in order to secure for everybody a dignified human life.

Difficulties, of every kind in the economic, social and cultural field may, without an energetic will on the part of the community to overcome these difficulties, easily lead to stagnation. Consequently, society has to stimulate all measures providing security to all citizens. The policy of each contracting party must make suitable arrangements to obtain for its nationals the benefits mentioned in this draft Charter; otherwise, to millions, the Charter may be only an empty document, without force and without hope. The politicians must not lose sight of this most important point.

I shall concentrate my remarks upon a few points. According to Article B. 1 (h)

“...the High Contracting Parties undertake to secure for every worker ...the possibility of retirement at the age of 65, at the latest, with a pension ensuring a reasonable standard of living”.

In many countries at the present time the number of old men and women is increasing compared with the young generation. It appears to me to be unrealistic to fix the old-age

24th Sitting

M. Bondevik, M. Molter

M. Bondevik (continued)

pension in general at 65 years. With better conditions, more machinery, better health services and so on, many people possess their full working power at the age of 70 years. Our task and aim must be to help when and where help is necessary, and not to take persons out of activity. We must not stimulate unnecessary retirement. Thus, the paragraph ought to be better formulated according to the different situations of Member States.

As to Article 1 (E), I wish to say that in my opinion strikes are not a suitable means of solving disputes. I recognise this right only so far as the nations, parliaments or Governments have and use resources to protect the inhabitants against the most serious consequences of strikes in a modern society. I think this view is expressed in the sentence which says that the High Contracting Parties :

“ undertake to encourage the use of agreed machinery for the settlement of labour disputes ”.

So far I agree. Very small groups of people—for instance, those who are engaged in the transport sector—may today by a strike stop the whole machinery of society and lay a dead-hand over the community. The various sections of economic, cultural and social life are so inter-related that their smooth functioning depends on close co-operation.

I am wholly against Parts II and III of Document 536. In my opinion, the setting up of a new Chamber in the present shape, in addition to the many already existing, and a new Commissioner, will complicate the situation and bring into circulation a new heap of documents. We have already more than enough councils and conferences. International life is overburdened by meetings of various kinds. I am glad to see that the original plan of a great Social and Economic Council is rejected by the Committee, but there still remains a Chamber with 60 seats. Such a Chamber will doubtless take out of the hands of our Assembly one of its concrete and essential subjects, and thus reduce the influence and competence of the Council of Europe.

It seems to me that the Council of Europe, I. L. O. and the Committee of Social Experts in co-operation should have the qualifications to solve the problems which might arise in connection with the application of this Charter. There is no need for a new body. I am in favour of Amendment No. 1 submitted by M. Hellwig, M. Kalbitzer, and a number of their colleagues.

THE PRESIDENT (Translation). — I call M. Molter.

M. MOLTER (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, I am in full agreement with M. Strasser's excellent speech and will therefore dwell no further on the general aspect of the problem before us.

I should, however, like to draw your particular attention for a moment to Article 24, which deals with the delicate problem of the application of the Charter to overseas territories.

The draft reproduces the provisions of Article 63 of the Convention for the Protection of Human Rights and Fundamental Freedoms. It seems to me that this aspect of the problem should be examined more carefully in connection with the European Convention on Social and Economic Rights.

There are many countries nowadays which send workers overseas to help in the vocational training of the local populations. And since, in accordance with Article 24, it is optional for a State to extend the Convention “ to all or any of the territories for whose international relations it is responsible ” a worker going to a non-self-governing territory to which the Convention did not apply would cease to enjoy the rights he possessed in a territory where it was recognised as applying.

We should, therefore, recommend that a way be sought of remedying this unfortunate state of affairs. One I should like to suggest is that a worker who lives in an overseas country as a result of a labour contract concluded in a country where the Convention is recognised and applied, should retain his economic and social rights in that overseas country.

The social and economic conditions of workers in economically under-developed non-self-gov-

M. Molter (continued)

erning countries already confront us, and will continue to confront us, with many problems.

To my mind, it is essential that at least those already in possession of economic and social rights when proceeding overseas should be guaranteed their continued enjoyment.

THE PRESIDENT (Translation). — I call M. Laingo.

M. LAINGO (France) (Translation). — Mr. President, Ladies and Gentlemen, as a newcomer to this Assembly I do not wish to try your patience by making a long speech, for which in any case I lack experience.

However, one need only have followed the proceedings of the Assembly during this Session to realise that Strasbourg is the heart of Western Europe. The free nations take new life from the ideas expressed in this building. They support each other as they march forward—slowly perhaps, but with hope and determination.

During this Session we have debated and voted on a number of reports and projects of undeniable importance, but, to my mind, none is so vital as the debate we have just begun.

I need hardly impress upon you the importance of this Social Charter, for both here and in Committee it has given rise to much heated discussion. I would simply thank those representatives who had the courage to initiate the Convention and pay tribute to the Rapporteur for his excellent report.

Despite outstanding differences of opinion on certain aspects of the draft, the Assembly should agree to the Charter so that Governments may take prompt legislative action to put its recommendations into force.

This will not only assist social progress, but will bring the workers of the European countries closer together; they will feel more firmly united when they are covered by the same guarantees and can claim the same economic and social rights whatever their nationality.

Mr. President, Ladies and Gentlemen, I should not refer to the overseas territories and

departments, had I not read the following statement in the Charter :

“ The High Contracting Parties... recognise that they are responsible for the economic and social development of territories under their jurisdiction in collaboration with the local population and where appropriate with qualified international organisations. ”

Thus the problem explained by MM. Ninine and Kalenzaga in the debate on the establishment of a general European Common Market arises once more in connection with the Social Charter, in a less acute form, perhaps, but just as significantly.

Overseas territories attached to the metropolis by firm economic and social ties cannot remain indifferent to the European Convention on Social and Economic Rights and should, in my opinion, reap the same benefits from European solidarity as the mother country.

The metropolitan country cannot shoulder the full financial burden of developing the territories under its administration. Yet even the most backward native populations want to live in the same way as their more advanced fellow-countrymen.

Like them they have a thirst for education. Let us extend compulsory education to all the overseas territories and we shall be more certain of preparing their peoples for democracy through the inculcation of the Western civilisation, of which you, Ladies and Gentlemen, are the main advocates and trustees.

The Charter provides that there shall be “ equal pay for equal work ”. How much discontent and revolt would be avoided if that principle could be applied in the overseas territories!

The Europe we are trying to build has its enemies within the gate, namely the purveyors of honeyed words.

Allow me here to use what may be a somewhat obvious simile : the chemist offers his bitter medicine in the form of sugar-coated pills, or tablets, and the patient swallows them with water to avoid their bitter taste. Otherwise he would spit them out—and the medicine could have no effect.

M. Laingo (continued)

The same applies to these honeyed words, which seem sweet to the discontented, but which cause the most serious social upheavals when stripped of their sugar-coating.

We can only defeat these enemies of social progress by improving the lot of the native peoples.

Thus, by applying the Social Charter both to the countries of Europe and to the overseas territories, we shall build a strong and rejuvenated Europe without disappointing the expectations of the working people in the metropolitan countries or the overseas territories.

THE PRESIDENT (Translation). — Thank you, M. Laingo.

I take it that the Assembly will wish to leave the remainder of the debate until this afternoon's Sitting. (Agreed.)

10. Date, time and Orders
of the day of the next Sitting

THE PRESIDENT (Translation). — I propose that the Assembly hold its next Sitting today at 3 p.m. with the following Orders of the Day.

European Social Charter and proposal for the instituting of a Social and Economic Chamber (resumed debate on the Report of the Committee on General Affairs, Doc. 535, on the establishment of a European Convention on Social and Economic Rights, Doc. 536).

At 6 p.m., ceremony of award of the European Prize of the Assembly (Cultural prize of the F. V. S. Foundation) to the Reverend Father du Rivau, Director of the International Office of Liaison and Documentation in Cologne.

Are there any objections?...

The Orders of the Day are settled accordingly.

Does anyone else wish to speak?...

The Sitting is closed.

(The Sitting was closed at 12.55 p.m.)

Appendix

24th October 1956

APPENDIX

Names of Representatives or Substitutes who signed the register of attendance, in accordance with Rule 25¹.

MM. Aktas	MM. Gonella	MM. Nacucchi
Albrecht	Haasler	<i>Kirk</i> (Oakshott)
Atademir	Haekkerup	<i>Dickson</i> (Ohlin)
<i>Reif</i> (Becker, Max)	Harunoglu	<i>Metzger</i> (Paul)
Becker, Richard	<i>Nicolson</i> (Hay)	<i>Laingo</i> (Pernot)
Bengtsson	Heyman	Pezet
Bettiol	Dame Florence Horsbrugh	Pittermann
Boggiano Pico	Sir James Hutchison	Popplewell
Mrs. <i>Crowley</i> (Mr. Boland)	MM. <i>Eriksen</i> (Jakobsen)	Mme <i>von Finckenstein</i> (M. Pün-
M. Bozbag	<i>Jeger</i>	der)
Sir David Campbell	<i>Broughton</i> (Jenkins)	M. Radius
MM. <i>Ebner</i> (Canevari)	Jones	Mme <i>Weber</i> (Mme Rehling)
<i>Cunningham</i> (Lord Ches-	Kalbitzer	MM. <i>Alric</i> (Reynaud)
ham)	Kalenzaga	<i>Molter</i> (Rolin)
<i>Pecoraro</i> (Codacci-Pisa-	<i>Loizides</i> (Kallias)	Santero
nelli)	Karasan	Savopoulos
Corish	<i>Hoel</i> (Knudsen)	Schmal
Corniglion-Molinier	Kraft	Mme <i>Meyer-Laule</i> (Mme Schroe-
Crosbie	Lannung	der)
Czernetz	Le Bail	MM. Schütz
Dehousse	Legendre	Seidl
De Vita	<i>Even</i> (Lenz)	<i>Bondevik</i> (Selvik)
Droulia	Leverkuehn	Sener
Edwards	Loulakakis	<i>Charpentier</i> (Senghor)
Elmgren	Lucifero	Smitt Ingebretsen
Erden	Lugmayer	Stefansson
Ergin	<i>Maydon</i> (Maclay)	Strasser
Erkmen	Margue	<i>de la Vallée Poussin</i> (Struye)
<i>Jacobs</i> (Erler)	Maris	<i>Anderrson</i> (Sundström)
Federspiel	de Menthon	Teitgen
Fens	<i>Ninine</i> (Minjoz)	Toncic
Mrs. <i>Slater</i> (Mr. Gaitskell)	<i>Aabrek</i> (Moe)	<i>Lefèvre</i> (van Cauwelaert)
MM. <i>Hellwig</i> (Gerstenmaier)	Mommer	<i>Lawson</i> (Willey)
<i>Goedhart</i> (van der Goes van	<i>Cottone</i> (Montini)	
Naters)	Moutet	

The following Representatives apologized for absence :

MM. Alamanis	MM. Galletto	MM. de Moustier
Amery	Jaquet	Moylan
Azara	Jonasson	Näsgard
Badini Confalonieri	Josefsson	Nicholson
Beaufort	Kapteijn	Paget
Benvenuti	van Kauvenbergh	Plaisant
Bohy	Kiesinger	Rodopoulos
Böyum	Kirikoglu	Schaus
Bruins Slot	Kopf	Spallicci
Cingolani	Korthals	Stürgkh
Engel	Lord Layton	Treves
de Félice	MM. von Merkatz	Wistrand
Gaborit	Motz	

1. The names of Substitutes replacing Representatives are printed in italics, the names of the latter being given in brackets.

CONSULTATIVE ASSEMBLY OF THE COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

OFFICIAL REPORT

Twenty-fifth Sitting

Wednesday, 24th October 1956, at 3.20 p.m.

SUMMARY

1. Adoption of the Minutes.	775	6. European Social Charter (continuation of the debate on the Report of the Committee on General Affairs, Doc. 536, on the establishment of a European Convention on Social and Economic Rights).	797
2. Attendance Register.	775	<i>Speakers</i> : MM. Heyman (Chairman of the Committee on Social Questions), Toncic (Rapporteur), Federspiel (Chairman of the Committee on Economic Questions), Montet, Radius, the President, Fens, Mme. Weber, MM. Haekkerup, Broughton, Edwards, Nigel Nicolson, Benztson, Kalenzaga, Hellwig, Even, Jones, Strasser.	
3. Announcements by the President. . . .	775	7. Date, time and Orders of the Day of the next Sitting	824
4. European Social Charter (continuation of the debate on the Report of the Committee on General Affairs, Doc. 536, on the establishment of a European Convention on Social and Economic Rights).	776	<i>Appendix</i> : Attendance List.	825
<i>Speakers</i> : The President, MM. Heyman (Chairman of the Committee on Social Questions), Strasser, Fens, Toncic (Rapporteur), Hellwig, Kallätzer, Haekkerup, de la Vallée Poussin, Dame Florence Hersbough, MM. Lefèvre, Smitt Ingebretsen, Birkelbach.			
5. Announcements by the President. . . .	797		
Suspension of the Sitting.			

The Sitting was opened at 3.20 p.m. with M. Teitgen, Vice-President of the Assembly, in the Chair.

THE PRESIDENT (Translation). — The Sitting is open.

1. Adoption of the Minutes

THE PRESIDENT (Translation). — In accordance with Rule 21 of the Rules of Procedure, the Minutes of Proceedings of the second Sitting on Wednesday, 24th October 1956 have been distributed.

Are there any comments?...

The Minutes of Proceedings are adopted.

2. Attendance Register

THE PRESIDENT (Translation). — The names of Substitutes present at this Sitting

have been posted on the Board. The attendance list appears as an Appendix to the Minutes and to the Official Report of Debates.

3. Announcements by the President

THE PRESIDENT (Translation). — Ladies and Gentlemen, before passing to the Orders of the Day, I have two announcements to make.

First, I would remind you that voting on the text and amendments relating to the Social Charter will take place at 3 p.m. next Friday, 26th October, in accordance with the Assembly's decision of Monday, 22nd October.

Secondly, I would remind you that there will be a special Sitting at 6 p.m. at which the

The President (continued)

Assembly's European Prize will be given to the Reverend Father du Rivau.

On behalf of the Bureau I would urge as many of you as possible to attend this special ceremony.

4. European Social Charter

(Resumed debate on the Report of the Committee on General Affairs, Doc. 526, on the establishment of a European Convention on Social and Economic Rights)

THE PRESIDENT (Translation). — The next item in the Orders of the Day is the resumed debate on the report of the Committee on General Affairs dealing with the Social Charter together with the proposal for the setting-up of a Social and Economic Chamber and embodying a draft European Convention on Social and Economic Rights.

I would request those who wish to speak in the debate to register their names with the Bureau as soon as possible. If there are no objections, the list of speakers will be closed at 7 p.m., in accordance with the Assembly's decision of Monday morning.

Are there any objections?...

It is settled accordingly.

I call M. Heyman, Chairman of the Committee on Social Questions, to resume the debate.

M. HEYMAN (Belgium) (Translation). — Mr. President, I should like to make sure whether the debate as well as the voting on amendments will be taking place on Friday at 3 pm.?

I only enquire in order to gain time.

THE PRESIDENT (Translation). — We are about to resume the General Debate...

M. HEYMAN (Translation). — And the discussion on the amendments—like the voting—will not be starting until Friday?

THE PRESIDENT (Translation). — That is so.

However, speakers need not adhere too rigidly to this rule; they may allude to any amendments they intend to support, but they should reserve their main comments on them for the Sitting at which they are to be voted upon.

M. HEYMAN (Translation). — Thank you, Mr. President, for that word of explanation.

Ladies and Gentlemen, as our honourable Rapporteur M. Toncic so rightly pointed out this morning, this is not the first time we have debated the Social Charter.

Considering the swift development in the process of European policy, this may already be regarded as a long-standing problem, for the Social Charter has been on the agenda of the Council of Europe for over three years and has already suffered many vicissitudes. Some may say that we have made decisive progress in this sphere. Allow me to take a less optimistic view and to put it to you that it is high time we broke the present deadlock.

I think it would be well to recall briefly how the Council of Europe has come to be considering the present version of the Social Charter. I will therefore recapitulate the main stages of its evolution.

On the 10th March 1953, the Ad Hoc Assembly approved the draft Treaty embodying the statutes of the European Political Community, Article 50 of which provided for the setting-up of an Economic and Social Council of the Six to assist the European Executive Council and Parliament in an advisory capacity.

Meanwhile, on the 17th January 1953, while that draft was being prepared, the Consultative Assembly had adopted Resolution 26 on the draft Treaty instituting a European Political Community. The second part of this Resolution, which deals with association and liaison between the Community and the Council of Europe, proposed the setting-up of an Economic and Social Council representing the fifteen Member States of the Council of Europe. On the same day the Assembly instructed the Committees on Economic and Social Questions to prepare a draft recommendation concerning the setting-up of an Economic and Social Council.

The Committee, on Economic Questions however, was opposed to this idea. On 13th April 1953, M. Federspiel and others tabled a request that the question of setting up an Economic and Social Council of the Council of Europe be included in the Agenda of the Session, whereupon the Assembly referred the matter to the Committees on Economic and Social Questions.

M. Heyman (continued)

These two Committees then decided to set up a joint sub-committee, and on 23rd September 1953, the Assembly adopted Opinion N° 5, paragraph 2 of which approves the principle of drawing up a European Social Charter, the purpose being—and here I quote—

“to define the social aims of the Member States and serve as a guide for all future activities of the Council in the social field.”

We now come to 1954. In May of that year the Committee of Ministers stated that it would endeavour to draw up such a Charter and would entrust this task to the new governmental Social Committee which it had recently set up.

On 9th July 1954, the Standing Committee formally instructed the Committee on Social Questions to prepare a draft Social Charter.

On 1st April 1955, the Committee on Social Questions set up a Working Party to draft this text. In the course of its work, this group consulted, among other documents, the draft United Nations Covenant on Economic, Social and Cultural Rights, and the idea was to include in the Social Charter provisions for an Economic and Social Council.

On 10th September 1955 the draft Social Charter, including Parts III and IV on the setting-up of an Economic and Social Council, was approved by the Committee on Social Questions and became Document 403.

Ladies and Gentlemen, as Chairman of the Committee on Social Questions, I have always tried—as I hope you will agree—to give an objective account of the views both for and against the principle of an Economic and Social Council expressed in this Committee. If I may now be allowed to express my own views, I would say how deeply I believe in the idea of such a Council and how much I feel that Document 403 is the best draft yet produced by the competent Assembly committees. You all know that the reason for the indifferent success of this document was the opposition it aroused in certain quarters.

On 17th September 1953, the Committee on Social Questions submitted Parts III and IV of Document 403 to the Committee on Economic Questions for its opinion. In the truncated form proposed by the latter, the draft Social Charter risked becoming a mere vague declara-

tion of principle devoid of all means of implementation.

On 26th October 1955 the draft Charter was put before the Assembly, which referred it back to the Committee on Social Questions for reconsideration, and to the Committee on Economic Questions for its opinion.

On 23rd January 1956 a joint meeting of the two Committees failed to produce agreement upon methods of implementing the Charter.

On 9th March 1956 an Amendment (embracing the totality of the amendments) embodied in a report by the Committee on Economic Questions—I refer here to M. Kalbitzer's report, which I am far from wishing to criticise, for it faithfully portrays the considered views of that Committee—was submitted to the Committee on Social Questions, which, admittedly, agreed to the greater part of it.

It is also a fact that the text of the Committee on Economic Questions left aside, among other things, the whole notion of setting up an Economic and Social Council.

In my capacity as Chairman of the Committee on Social Questions, it is my duty to give an objective account of all that takes place in this Committee, and I cannot conceal the fact that the rejection of the idea of an Economic and Social Council provoked lengthy and heated discussion in our Committee. Those in favour of this Council gave up the idea with reluctance—and even now I wonder whether the majority of its members were for or against it.

Be that as it may, Document 488, which was the outcome of this phase of the work of the two Committees, presented us with a vastly different draft from its predecessor.

That brings us to a new fact. Our distinguished colleague, M. Dehousse, who has always been a staunch supporter of the Economic and Social Council, on which question he acted as Rapporteur, went so far as to state at the time that he would disclaim all responsibility for the draft embodied in Document 488.

I shall not waste your time, Ladies and Gentlemen, by analysing the main differences between Documents 403 and 488. I have only to say that Document 488 omitted the proposal for an Economic and Social Council, and you will realise how great a disappointment it was for many of us.

M. Heyman (continued)

I do not wish to labour the point, but allow me to repeat what I said in April last: I sincerely believe that it would be dangerous to divorce the Social Charter from the question of its implementation, as M. Tonicic so clearly showed this morning. No matter what solution you adopt, the two questions must be linked. A Social Charter without a supervisory body would be a hollow shell. There must be some machinery for implementing instruments of such social importance as this.

Be that as it may, on 20th April of this year, the revised text of the draft Charter, namely Document 488, was presented to the Assembly. On the basis of an amendment by M. Bichet calling for a return to the text of Document 403, the Assembly adopted an Order referring the draft Charter and the amendment in question to the Committee on General Affairs to deal with it in consultation with the Committees on Social and Economic Questions.

With your permission, I shall give a very brief account of recent developments concerning the Charter. At the instigation of its excellent Rapporteur, M. Tonicic, the General Affairs Committee, bearing in mind the gulf between Documents 403 and 488, agreed upon the need to propose a solution calculated to secure a substantial majority in the Assembly.

Document 536, which we are now debating, is the outcome of this work by the General Affairs Committee. It calls for the following general comments which I believe to be a fair summary of its implications.

First, there is urgent need to reach final agreement on the Social Charter, since, by its procrastination, the Assembly is doing itself a grave disservice.

Secondly, we now have a new presentation of the subject which takes into account the findings of the various committees concerned. In this way the General Affairs Committee has avoided a relapse into the same idle discussions.

Thirdly, the Assembly will have its first opportunity of implementing its Resolution 86 concerning European Commissioners.

Before presenting Document 536, now under discussion, the Committee on General Affairs

sought the opinions of the Committees on Social and Economic Questions.

Their opinions were as follows:—

First, the Committee on Social Questions suggested amendments to the first part of the original text of the General Affairs Committee, and we are grateful to the Committee for paying careful attention to these suggestions. Unfortunately, as M. Strasser said this morning—and I shall return to his remarks in due course—the Committee on Social Questions had no time to reach a verdict on Parts II and III of the draft, which concern the institutional aspects and implementation of the Charter.

Secondly, the Committee on Economic Questions did not see fit to go back upon its decision to maintain Document 488 and opted in favour of again presenting this document—for which, as you will remember, M. Dehousse had disclaimed responsibility as Rapporteur. It also considered that the institutional aspects of the present draft Convention were contrary to the views it had previously expressed in connection with Document 403. It said “yes” to the Social Charter, but “no” to the means of implementation.

I have a few comments on the draft Recommendation to be found in Document 536 now before us.

I would ask you to pay particular attention to the point I am going to make, for although it is not new to you, it is of vital importance. The fact that it has been overlooked is causing regrettable confusion.

Certain speeches give the impression that either today or on Friday, you will be asked to adopt the text of a Social Charter. That is not the case. All that the Committee on General Affairs proposes is that the Assembly accept—not approve—the text to be sent to the Committee of Ministers, so that, without at this stage formally binding the experts responsible for the final draft, the Assembly will have given it a clear indication of its wishes.

Is that not our function? In this way only the draft Recommendation will be voted upon by the Assembly. The draft Convention appended to it needs no special vote, since it is not yet in its definitive form.

M. Heyman (continued)

The draft Recommendation of the Committee on General Affairs provides for :

(1) the appointment by the Committee of Ministers of a European Commissioner—I shall return to this point shortly;

(2) the drafting of the Convention by the governmental experts, in co-operation with appropriate organisations possessing consultative status with the Council of Europe.

Let us now turn to the difference between the methods of implementation envisaged in Documents 403, 488 and 536.

Document 403 proposes the setting-up of a European Economic and Social Council as the machinery for implementing the Charter.

I have already discussed this question and tried to explain what prompted a great number of my friends to support the idea of an Economic and Social Council which others have rejected.

I should like to remind you, for this should, I feel, be made clear, that the idea of doing away with this Council caused great disappointment among the workers. That is a simple statement of fact, but, as with every fact, one must have the courage to speak one's mind about it.

Through their qualified representatives the workers have never stopped asking us—I might even say beseeching us—to set up, under the auspices of the Council of Europe, an Economic and Social Council to give advice on the implementation of the Charter. This is a plain fact which I, personally, accept.

Document 488 did away with the Economic and Social Council, with the result that the Governments would have been obliged to call upon the governmental Social Committee to prepare a programme for implementing the Charter and submit it to the Assembly for its opinion.

Moreover, let me remind you that the Committee on Economic Questions had contemplated the convening of an annual Economic and Social Conference composed of both national and international organisations representing employers, workers, consumers and other professional groups.

The implementation of this proposal would thus have been left entirely to the governmental Social Committee, and we should have had nothing more to do with it.

Like my friend and colleague M. Radius, who made this point in one of his speeches last

April, I, too, still have the highest opinion of the social experts and have no doubt that they would perform their duties with much competence and zeal. But, like M. Radius, I would have you note that this same committee of experts would then be responsible for preparing the programme of implementation of the Charter, for supervising its application by the Member Governments and for examining proposed amendments, all this, of course, with the assistance of the parties concerned—the workers, in particular—who would all be associated with the scheme.

As regards the Economic and Social Conference proposed in Document 488, I seriously doubt, Ladies and Gentlemen, whether it could have genuinely interpreted the views of the employers' and workers' organisations when half of its members would have been representatives of the Governments.

When I speak of consultations, I always have in mind the employers as well as the workers. Indeed, I am deeply convinced that social harmony should have its roots in both sides of industry—that is to say, be based on understanding between employers and workers thanks to free discussion and not on the struggle between two opponents. Whenever their interests are at stake, the deciding factor should no longer be political. In the last resort a political decision must be taken—but only after consulting the parties concerned.

That idea, Ladies and Gentlemen, seems to me to be generally accepted in this twentieth century of ours, in all branches of society, in every parliament and in all political circles.

Now, Document 536, which we are considering at the moment, provides, first, for a European Commissioner and, in the second place, for the European Social Charter.

Let us therefore turn to the institutional aspect of the Charter and begin by briefly considering the question of a European Commissioner. The appointment of a European Commissioner broadly meets a number of requirements, for instance the wish expressed by the Assembly in its Resolution 88, which called for the appointment of European Commissioners with the object that—and here I quote—

“they may give a continuous stimulus of a political nature to European unification.”

That meets the case—and is also consistent

M. Heyman (continued)

with the opinion transmitted by the Committee on Social Questions to the Committee on General Affairs in pursuance of Order 83 on the appointment of European Commissioners or Boards of Commissioners in the social sphere.

In this connection, the Committee on Social Questions particularly mentioned that a European Commissioner could do useful work with the various Governments in solving the manifold difficulties they might encounter when implementing the provisions of the Social Charter. It also meets the objection that, since the implementation of the Charter is a matter for the Governments, they would be loath to place its supervision in the hands of a body not responsible to them.

There is another argument for the appointment of a European Commissioner, which I must mention today and which I hope will not fail to impress you.

A few days ago you all heard the speech of our distinguished friend M. Schneider. His first progress report is of cardinal importance and vindicates those who considered that the appointment of a European Commissioner for Refugees and Over-population would give the sort of impetus to the Council of Europe which has hitherto been lacking in many spheres.

Let us now consider the European and Social Chamber. Its institution would meet the need, recognised by the Committees on Economic and Social Questions, for a body associating the employers', workers' and other non-governmental organisations with the activities of the Council of Europe.

It also meets the wish expressed by the Committee on Social Questions—and here I refer to Document 403, Article 21—that such a body should help

“to prepare, guide and facilitate measures of integration or co-operation in the various sectors of European social and economic life.”

Furthermore, this institution meets the demand put forward in various quarters that such a body should not have the power to encroach upon the prerogatives of this Assembly.

The word “Chamber” was chosen for the following reasons: first, because it is new—and therefore invites no comparison with existing or prospective bodies; secondly, because it is perfectly adapted to a specialised but purely advisory body; lastly, because it does not rule out the idea of studying, assessing and giving impetus to the European social policy which a Charter of this kind should promote.

Before I conclude my speech, allow me, Mr. President, Ladies and Gentlemen, to comment on two particularly important points: co-operation with the International Labour Organisation and co-operation with trade union organisations. I shall then reply to this morning's speech by our distinguished friend M. Strasser in order to clarify certain points.

As regards the International Labour Organisation, I am utterly convinced of the need for collaboration with that organisation. I was present with Albert Thomas at its inception, and have never forgotten it. I am equally convinced that the appointment of a European Commissioner will be the very means of ensuring better collaboration between ourselves and the International Labour Organisation.

We may be sure that in the European Commissioner the International Labour Organisation will find an authority with whom it can negotiate and who will also be able to safeguard the European character of the Charter's implementation, for I must state emphatically that, whereas the International Labour Organisation in Geneva has a world mission, we have our own special European mission, and if each keeps to its own preserves, there need be no obstacle to close collaboration—quite the contrary.

As regards the association of employers' and workers' trade-union movements with the Council of Europe, everyone will surely agree that it could not have been adequately organised on the basis of mere consultative status.

The Social Chamber will allow these movements to express themselves freely. I know that some of our friends would have preferred to entrust the implementation of the Charter to the International Labour Organisation, thus simplifying the task of the European Commissioner and obviating the need for a Social Chamber.

M. Heyman (continued)

But the International Labour Organisation does not possess an appropriate body, nor will it for many a long year. At this important juncture, the Council of Europe should bow to public opinion which demands action, not merely negotiations or principles likely to retard all progress in this sphere.

In the light of these considerations, allow me, Mr. President, Ladies and Gentlemen, to quote a few extracts from an article published yesterday in *La Cité*, a Belgian newspaper of considerable influence in Christian trade union circles.

This is what it says :

"The time has come to face our responsibilities in the light of recent debates on the Social Chamber. We cannot help wondering whether it is ingenuousness or bad faith which has caused certain political circles to oppose one of the few concrete and far-reaching schemes conceived by the Council of Europe."

It goes on to say :

"Whatever the result of the debate now taking place in the Consultative Assembly, this is not the time to postpone a decision, but whatever the outcome, we shall know for certain to which side we may look for a sense of realism and social responsibility in Europe today."

Mr. President, I hope I am not taking undue advantage if I ask for a few minutes more, for I consider it necessary to reply to this morning's speech by my distinguished friend M. Strasser.

I much appreciate M. Strasser's remarks.

M. Strasser believes that one should say what one thinks and think what one says. That is the right attitude, and our friend will realise that I too wish to speak my mind about his speech this morning.

My friend, I shall make no bones about the fact that your speech this morning deeply depressed me. First of all, you told us that everyone agrees to the principle of a Social Charter. I take it, Sir, that you have heard the proverb: "the road to hell is paved with good intentions". Your principles are sound, but that is by no means enough. You are a democrat like myself, so you will know that, generally speaking, the public—by which I do not mean

the workers alone—has had enough of declarations of principle leading to no positive action.

Believe me, a little progress is preferable to any number of declarations of principle. What we need is to make headway, and I am sure you will agree with me in this.

You went on to say: though we support the principle of the Social Charter, the present one is imperfect and should be deferred. You then referred to the three arguments we have heard in favour of the immediate adoption of the Recommendation—but not of the Charter.

These are the three arguments—as I understood them.

You said it had been pointed out in the General Affairs Committee that, this matter having dragged on for three years, it was high time to have done with it; you said that the argument about the impatience of the working-class community was irrelevant. Thirdly, you mentioned an argument heard in the lobbies, which hinged on the fact that the Sitting was to be televised.

THE PRESIDENT (Translation). — May I be allowed to interrupt you, M. Heyman?

M. HEYMAN (Translation). — Certainly, Mr. President.

THE PRESIDENT (Translation). — Allow me to say that the argument in question is entirely without substance.

M. HEYMAN (Translation). — That is just what I was going to say, Mr. President.

THE PRESIDENT (Translation) ... and to make it clear that there has been no request for adjournment of the debate, a matter which would have to be considered by the Bureau.

The Bureau has received no motion to adjourn the debate.

Thank you for allowing me to interrupt you.

M. HEYMAN (Translation). — Thank you for the explanation, Mr. President, but I don't propose to dwell on the third point.

I presume that if, by mischance, the social debate had had to be postponed, on account of the television arrangements, something else could easily have been found. But that's not the point, although we are all very happy to be spending this evening on the television screen.

M. Heyman (continued)

I shall therefore drop this argument and get on with the other two.

Your first argument then is that, as this question has dragged on for three years, it could very well wait a little longer. Ladies and Gentlemen, believe me, it is high time that it was settled!

Can it be that you who are familiar with working-class circles, have no inkling of what is going on? Have you not seen the documents which were distributed only a few days ago by the International Federation of Christian Trade Unions and this very day by the International Confederation of Free Trade Unions?

You plead that their disagreement with the draft Charter justifies your own position. I beg you not to misinterpret the significance of this disagreement. Though both federations have expressed their dissatisfaction it is because the present proposals fall short of even their minimum demands. Don't you think this throws quite a different light on the question?

I won't take up much more of your time. I am sure that other speakers will return to this point; otherwise I should have read you a few extracts from these documents, which have been distributed. It is high time that a decision was taken one way or the other.

I would also like to draw your attention to a document issued by the International Union of Family Organisations, which speaks for millions of children and heads of families.

This document was distributed today.

THE PRESIDENT (Translation). — M. Heyman, will you permit M. Strasser to ask you a question?

M. HEYMAN (Translation). — Certainly.

THE PRESIDENT (Translation). — I call M. Strasser, with the speaker's permission.

M. STRASSER (Austria) (Translation). — My question, is very simple. Does M. Heyman consider that the letter, which has just been distributed, from the International Confederation of Free Trade Unions, is in favour of the Recommendation proposed to us today?

You were referring, M. Heyman, to a letter from the International Confederation of Free Trade Unions. Is this letter, signed by M. Sche-

venels, in favour of the draft Recommendation contained in Document 536?

M. HEYMAN (Translation). — Of course, and that is what I just said.

M. Schevenels, who was present at all our committee meetings, made it clear from the very beginning—though if the letter referred to had not been distributed I would not discuss it, as it is not usual to repeat what is said at committee meetings—that he disagreed with the proposals of the Committee on General Affairs because they did not go far enough. I won't quote his letter, so as not to take up any more of your time.

You have also received a communication from the International Union of Family Organisations, begging you in the name of, I repeat, millions of families to approve at least this minimum that has been proposed.

Finally, M. Strasser said that the argument that the working classes were impatient did not hold water. I have two things to reply to that.

Last April, my honourable colleagues M. Lefèvre of Belgium and M. Fens of the Netherlands defended the Charter here just as I had defended it before the Assembly. I was duly informed. Do they deny having received letters congratulating them on their speeches?

M. FENS (Netherlands) (Translation). — I admit it gladly, Mr. President.

M. HEYMAN (Translation). — We, too, received letters from all quarters.

That is not the only argument; here is the main one.

All working-class circles—I have no hesitation in saying this—believe that an end must be put to the present situation. Now, as a parliamentarian and a politician, I can tell you straight away that I have no intention of letting the trade unions dictate my views to me; politics and trade-unionism have each their own sphere of action; but I think, none the less, that it would be a grave error not to consult those most directly affected, both workers and employers, on their conception of the best means of defending their interests.

After all, Ladies and Gentlemen, we are surely not going to sink back into the old grooves of the late nineteenth century and to allow one side to impose its will on the other, without consulting it, or taking its demands and aspira-

M. Heyman (continued)

tions into account. Surely we are not going to do this?

I consider that we have an obligation, when drawing up these texts, which will have such important consequences in the future, to consult at least the international organizations and to tell them that they are entitled to give their opinions and comments and to suggest amendments, before we ourselves finally assume our responsibilities.

So, your arguments, my honourable colleague, are not valid and I most earnestly beg you all to get these two ideas firmly into your minds.

Before concluding, I shall recall this remark of our colleague: "Why was this job not given to the International Labour Office?"

I shall not return to this point, because I have already replied to it.

As to the remark made a while ago by our honourable colleague that the Committee on Social Questions had not the time, at its meeting in Paris last September, to come to a decision on the second and third parts of the Charter, this is, unfortunately, true, for I was unavoidably absent at that time, on account of illness. This morning, Ladies and Gentlemen, you heard Mr. Corish commenting on parts I, II and III. Anyone else who wants to give his opinion may still do so. We ask the Committee of Ministers, the Committee of Experts and all those who will be called upon to make a decision to take note of all the views put forward during the debates. We must understand the attitude of the Committee on General Affairs, meeting a week later in Vienna, which obtained the opinion of the Committee on Economic Questions and of the Committee on Social Questions on the first part, but which could not, after all, send back their members who had come to Vienna from all over Europe, without deciding on a definitive text.

These, Mr. President, Ladies and Gentlemen, are just a few remarks which I hope may be useful to you at the opening of the General Debate on the Social Charter.

I submit them to you in the hope and conviction that you will bear them in mind when making your decision on this most important problem, on which I hope we may yet reach a satisfactory agreement.

I shall conclude with these general considerations, reserving the right to speak later in the discussion of the amendments which our

distinguished President has announced for Friday afternoon, and I venture to hope that the Council of Europe will not fail in this task, any more than in the others that it has successfully performed—and will prepare the way for the realisation of a work which will do it honour and secure for it the good will of the working classes of Europe.

THE PRESIDENT (Translation). — I call M. Tonic, the Rapporteur.

M. TONCIC (Austria) — I should like to intervene, if I may, in order to say a few words which may be useful to our debate this afternoon.

It was quite natural that the discussion would deal with the opinion of the international Federation of Christian Trade Unions, and I think that the best thing I can do is to quote what they say. We have before us a note from the International Federation of Christian Trade Unions, dated 13th October 1956, which has been distributed. That Federation presented us with a Memorandum which was unanimously adopted by the Committee on European Questions of the International Federation of Christian Trade Unions at a meeting in Luxembourg on 4th October of this year.

Paragraph 1 contains the following sentence:

"Being desirous of helping the Council of Europe in its efforts to define, promote and implement a European policy of social progress, the International Federation of Christian Trade Unions accepts the draft as a useful working document."

That is exactly what our draft Recommendation says that we desire to have—a basis. That is in accordance with the opinion of the International Federation of Christian Trade Unions. Paragraph 3 of the same document reads:

"The International Federation of Christian Trade Unions records its agreement in principle with the draft Recommendation for the establishment of a European Convention on Social and Economic Rights."

That is the official opinion of the International Federation of Christian Trade Unions. I should like to quote a letter from M. Schevenels, the Secretary-General, to President Dehousse on 20th October 1956. On page 3 we read the following words:

25th Sitting M. Tonicic, the President, M. Hellwig, M. Kalbitzer, M. Haekkerup

M. Tonicic (continued)

« Nos organisations syndicales libres d'Europe attachent une extrême importance à la création d'une institution européenne où les représentants des travailleurs pourraient efficacement, et sur un pied d'égalité avec les employeurs et les gouvernements, prendre part à l'examen des questions économiques qui se posent à l'Europe et apporter leur contribution propre à la solution de ces problèmes...¹. »

I shall stop at that sentence for a moment.

THE PRESIDENT (Translation). — M. Hellwig wishes to ask you a question.

I call M. Hellwig.

M. HELLWIG (Federal Republic of Germany) (Translation). — I should like to ask the Rapporteur whether he shares the opinion expressed in paragraph 1 of the Note from the International Federation of Christian Trade Unions, according to which certain members of this Assembly lack the good will to see this matter through, and whether he is also critical of the attitude adopted by the Committee on Economic Questions.

THE PRESIDENT (Translation). — I call the Rapporteur.

M. TONCIC (Translation from German). — If you give me permission to reply immediately to my interpellator, I should like to say that, in my capacity as Rapporteur of the Committee of General Affairs, I am not authorised to criticise the attitude of members of other committees. (He then continued in English.)

I should like to say a few words about this argument. M. Schevenels absolutely agreed with the establishment of a European institution in which the workers' representatives could effectively take part, and this is what we want in our proposal—not only a Charter of rights, but an institution. The letter continues in the following words :

« Les organisations syndicales libres ont salué avec joie, il y a quelques années, l'initia-

1. "Our European free trade unions attach great importance to the establishment of a European institution in which the workers' representatives could effectively take part, on an equal footing with employers and Governments, in the study of the economic questions confronting Europe—and make their own contribution to the solution of these problems."

tive du Conseil de l'Europe visant la création d'un tel Conseil économique et social¹. »

Thus, M. Schevenels would like to have an Economic and Social Council, which is more than our proposal would admit. We should take into consideration in this connection the argument that the greater includes the less, since it is clear that our proposal is less than he would like to have.

THE PRESIDENT (Translation). — I call M. Kalbitzer.

M. KALBITZER (Federal Republic of Germany) (Translation). — Mr. President, as Rapporteur of the Committee on Economic Questions, I should like to point out that the passages M. Tonicic has just read out in French have, unfortunately, not been translated. As I do not understand French I cannot express any opinion on them. I should be grateful if I could have an English or German translation of M. Schevenels' letter. I would then willingly state my views.

THE PRESIDENT (Translation). — M. Haekkerup would also like to ask a question, Mr. Rapporteur.

I call M. Haekkerup.

M. HAEKKERUP (Denmark). — May I put a question to the Rapporteur? He has quoted a great deal of a letter from M. Schevenels. I suppose he has also read the last page in the letter, page 5 of the English text. May I ask whether he has read it?

I am sorry that I do not have the text in English, so I will give it in French. It is as follows :

« C'est surtout en vertu des dernières considérations relatives à la Chambre sociale que les organisations syndicales libres d'Europe ne peuvent pas apporter leur approbation et leur appui au projet actuel de Charte sociale.

Il y aurait peut-être une issue à cette situation, permettant de donner satisfaction aux aspirations des travailleurs appartenant au mouvement syndical libre d'Europe. C'est ainsi que l'Assemblée Consultative l'avait suggéré

1. "The free trade unions were delighted, a few years ago, by the Council of Europe's announcement that it proposed to establish such an Economic and Social Council."

M. Hackkerup (continued)

en 1955 dans sa réponse au quatrième rapport de l'O. I. T., de prier celle-ci de convoquer, conformément à l'accord entre l'O. I. T. et le Conseil de l'Europe, une Conférence régionale tripartite à laquelle le projet de Charte sociale européenne serait soumis pour nouvel examen¹.»

That is exactly the proposal which the Committee on Social Questions had put earlier in Document 488, and this was repeated by M. Schevenels a few days ago.

THE PRESIDENT (Translation). — I call the Rapporteur to reply to M. Hackkerup.

M. TONCIC (Austria) — I should like to answer this point. These organisations are opposed to our draft to a certain extent. They may be opposed to it because they think we are presenting too much or, on the other hand, too little. In my Report this morning, I mentioned the fact that we are faced with two great dangers—on the one hand, of presenting too much, which will never be accepted by the Governments and, on the other, of presenting too little, which is meaningless. It is obvious that we cannot absolutely meet all the desires and wishes of these international workers' organisations. Their criticism is that we do not offer enough, but the International Federation of Christian Trade Unions is of a different opinion and, in principle, accepts what we offer. M. Schevenels makes a certain amount of criticism because he wanted much more in the way of an organisation for implementation, namely, an Economic and Social Council.

THE PRESIDENT (Translation). — I call M. de la Vallée Poussin.

M. de la VALLÉE POUSSIN (Belgium) (Translation). — We have just heard a series

1. "It is chiefly these last considerations, concerning the Social Chamber, which preclude the free trade unions of Europe from approving and supporting the present draft Social Charter.

There is perhaps a way out of this situation enabling satisfaction to be given to the aspirations of the workers belonging to the free trade union movement of Europe. This is to follow the suggestion made by the Consultative Assembly in 1955, in its Reply to the Fourth Report of I. L. O.: namely, to request I. L. O., in pursuance of the Agreement between that organisation and the Council of Europe, to convene a tripartite regional conference to which the draft European Social Charter would be submitted for fresh examination."

of exchanges of a rather unusual nature for our Assembly; and one is tempted to wonder whether the point they dealt with was not somewhat secondary, since it is not of any immediate interest to us to know the position of the various trade unions on the problem under discussion.

It is, obviously, up to us as a political organ to take our own decisions and assume our own responsibilities. We are certainly interested to know the opinion of the unions, but the decision rests with us and not with them.

I would like to follow the example of our Rapporteur, M. Toncic, who, to my mind, has the great merit of having got down at once to essentials. Without worrying too much about the views of the various committees, parties, trade unions and private persons involved, he has attempted to discover what ground for agreement can be found in the Assembly and what progress we can make among ourselves.

In our search for a plan of action, we are forced to the regretful conclusion that the machinery of the Council of Europe has worked very badly, or at any rate with deplorable slowness, since for over three years we have been held up by a series of internal struggles between committees. This is disappointing on the part of an Assembly which prides itself on its social spirit and in a period when all the parliaments of Europe profess a concern for social questions.

We have had here almost all the Foreign Ministers, we have had nearly all the Ministers for Economic Affairs, we have even had Ministers for Transport in our Assembly, and the only Ministers who have never been here are the Ministers for Social Affairs.

And yet we are living in a Society where economic and social organizations are assuming increasing importance. A new social structure is being elaborated in the modern world and if we do not manage to adapt our political framework to these basic structures we will find one day that this framework no longer corresponds to any reality.

This is a fact which we should bear in mind when considering the evolution of the world in general and of our European society in particular.

From the moment we abandoned economic liberalism to found our political system on State planning—in response to the demands, it should be said, not only of workers and employees but also of employers—it was inevitable that the economic world and all social life should be incorporated in the political structure.

M. de la Vallée Poussin (continued)

This problem is an old one. Between the wars the dictatorships found a solution to it which was basically wrong, for, though both Fascists and Nazis claimed to have incorporated the economic and social structure in the political system, they did this by imposing State control on the trade unions and economic organizations.

This created a dangerous principle of State domination, and the Communists make the same mistake. I am sure that the risings of the workers on the other side of the Iron Curtain are partly due to the fact that they no longer have their own unions but only unions which are in reality an extension of the State machine.

What we want is something quite different. Our object is to respect the spontaneous organisation of social life into forms appropriate to the new needs created as a result of new production and organisational techniques. We must respect these social forms, but we must also incorporate them in the State structures. We must fit them in where they belong.

If you consider the evolution of trade unions, at the present time, you see that they no longer serve merely to help the workers and to improve their standard of living but they are beginning to demand a share in running the economic and political machine. And you must decide whether you are prepared to recognize their right to this.

I have no hesitation in saying that the trade unions are right to demand a share in running the political and economic machine, that that is their function, that they form a new social class which is entitled to a say in the administration of affairs.

Just as in the nineteenth century the middle class was the powerful class and held the reins of Government, in the sixteenth century the great dynasties got control, in the time of the Communes the merchant and trading classes organised the Communes and urban principalities; in the anarchy of tenth-century feudalism the men-at-arms raised themselves into an aristocracy, so today in our world of technicians, in our world of highly planned and evolved economic organisation, it is the working

class which is inevitably called upon to play an important part in the Government of society.

If, Ladies and Gentlemen, you fail to appreciate this evolution or to integrate these forces in the place to which they belong you will end up with a system that will very soon be out of all touch with reality.

It is obvious that these new economic and social organisations cannot properly exercise the power we will have to give them unless they also assume the attendant responsibilities. That is why we are faced not only with the problem of giving these social organisations what they want, but also of taking measures to oblige them to assume their responsibilities. This is the main point of the document which has been submitted to you by the Committee on General Affairs.

This document is not perhaps perfect. It could be changed in fifty different ways; I am quite sure that if we were to instal a few good draftsmen with a little imagination round a table, they would be able to draw up ten, fifteen or twenty plans of the same kind. But I do not think that they could produce a better one in the present circumstances. Indeed, we are not required, as M. Heyman has said, to vote a final text; all we have to do is to launch a project, which can only be pursued with the agreement of the Governments concerned. But if we want to make any progress we must finish the drafting in assemblies and get our proposals submitted for study by the Governments.

In this kind of work, it is useless for parliamentary bodies to strive after perfection. We have to take into account the reactions of civil servants, of the legal political authorities and of the individual States.

I therefore believe that any attempt to achieve perfection or to elaborate better documents would be a waste of time and would only serve to increase the deplorable state of confusion and stagnation in which our Assembly is bogged down.

Only one thing matters today: we have a text good enough to submit to the higher authority and we want to know their reaction. If their reaction is delayed, if the Governments

M. de la Vallée Poussin (continued)

show no interest in this question we are putting before them and fail to appoint a special Commissioner, I am sure that the Assembly can return to the attack; perhaps even summon the Governments to reply, or at least to study the question submitted to them, but today any further delay in submitting our Document to them would only be a waste of time.

Ladies and Gentlemen, I said to you a while ago that the unions had an important part to play and that they were powerful without being responsible; this is a typical example of that:

How can you expect the trade unions to accept, in advance, a draft which you are submitting to the Committee of Ministers, and which this Committee of Ministers may possibly alter?

Our responsibility is to push this matter forward on the political plane. The unions which have no such responsibility, are only interested in stating their demands as clearly as possible. That is their function. But it is up to us to push the matter forward, and it will be time enough when the draft is referred back to us, after examination by the Committee of Ministers, to consider the objections of the trade unions and to decide whether or not to adopt them and refer them back to the Committee of Ministers.

For all these reasons it seems to me that we ought to put an end to these pointless discussions on the documents we are sending to the Committee of Ministers. We are in a position to send them a really useful document, which gives a general and well-considered survey of the question. The Committee of Ministers, when they examine it, will, naturally, refer to the speeches made in the Assembly, which give additional information and comment.

So when we vote on this document, we all have the right to make our personal reservations or to suggest the changes we would like to see made.

To what do these reservations apply? Nobody here wants to go on with the discussion for the purpose of improving the text of the Charter. We know it is only a preliminary document, but it is one, none the less, which expresses, broadly speaking, the views of our Assembly and which therefore deserves to

be taken by the Ministers as a basis for their work.

We know that the Committee of Ministers—for we are alas familiar with the way Governments work when there is no one to spur them on—will not get anything done unless we have a special Commissioner to push the matter forward and keep constantly after the Ministers.

Fortunately, we have an interesting example inside the Council of Europe. We know how much M. Schmeiter managed to do when he was appointed Special Representative for refugees. We at once saw what progress was made, how ready the Ministers and the administrative authorities were to carry out his requests and to help him and associate themselves with his work.

I am convinced that, if we appoint a special Commissioner again we will find that it is very effective.

There remains the question of the Chamber; as far as that is concerned, Gentlemen,—as I have already hinted in the first part of my speech—I am in complete agreement with those who regret that this Chamber, as provided for in our draft, will have no economic competence.

I am even in agreement with the Socialist trade unions and the Christian trade unions in saying that it is more important for this Chamber to have economic competence than to have social competence; for it is no longer possible to do much in the social field without getting involved in economics.

So, like many of those who spoke today, I shall be very happy to vote for the adoption of the draft before us, with the reservation that so long as the Chamber has no economic competence, I do not consider the project a good one, and I hope that the Committee of Ministers will make up, on this point, for what may have been a shortcoming on the part of the Assembly or a weakness of the Committee on Social Questions, in its conflict with the Committee on Economic Questions.

Ladies and Gentlemen, I have one last point to make and I shall do so very rapidly.

The Socialist trade unions, represented here by M. Strasser, have asked that I. L. O. hold a meeting to study this problem and make a report to the Ministers; it is an excellent idea, but it does not directly concern us. The Ministers will read, in the report of today's

25th Sitting

M. de la Vallée Poussin, Dame Florence Horsbrugh

M. de la Vallée Poussin (continued)

debates, that many of us would probably agree to their taking this step, but we need not necessarily ask them this in a document. It is enough if they know that in taking such a decision they will have the approval of the majority of members of this Assembly. It would be deplorable if, while agreeing on the substance of this document, we were, through inability to agree on its form—that is, on the manner of presenting it to the Ministers—to delay a vote which in my opinion is both urgent and necessary.

THE PRESIDENT (Translation). — Thank you, M. de la Vallée Poussin.

I call Dame Florence Horsbrugh.

Dame Florence HORSEBRUGH (*United Kingdom*) it is a great honour and privilege again to address this Assembly on the subject of the Social Charter in which, in my work in the years gone by in various Ministries in my country, I have had a certain interest and perhaps some experience.

I begin by congratulating our Rapporteur on the manner in which he presented his Report, but I congratulate him on something else as well. I congratulate him on the way in which he has dealt with this subject and I thank him for coming to our Committee meetings and for his patience, which never seemed to be ruffled. I thank him for the way in which he dealt with our various points of view during conferences and meetings of our Committee which have been somewhat difficult, because, naturally, things are difficult when people feel very strongly about any subject. Sometimes one can get through certain projects in Committee in a peaceful atmosphere of almost instant agreement, but often these are occasions when there is no strong feeling among those taking part in the discussions.

When I listened to M. Heyman giving us the history of this work on the Social Charter over so many years, I realised his anxiety that now at last we should come to some conclusion and that we should feel, after all this work, that we had succeeded. I congratulate him on the work he has done, but I know that

many of us speak today with keen disappointment. I want to be quite realistic. The facts as I see them are that we have failed to come to a real agreement. We must face that position. We must face the fact that we have discussed these problems and failed to reach a really satisfactory agreement.

Many problems are involved. When I heard M. de la Vallée Poussin say that it was a pity that there was not present in our Assembly a Minister for Social Affairs from one of our countries, I took my pencil and wrote down for my own interest the Ministries in my country which are interested in this work. There are four—the Ministry of Labour, the Ministry of Health, the Ministry of Pensions and National Insurance, and the Ministry of Education. I wish that I had had the chance to come here when I was Minister of Education. When I say that in the United Kingdom there would be not one Ministry but four involved, that shows how wide are the problems.

Do not let us be disheartened, but let us be realists. We have not succeeded in getting agreement, and now the suggestion is—I do not say whether it is a wise one or not—that we should send to the Committee of Ministers the draft that we have got and the various suggestions which have been made in the Assembly. I feel, therefore, that I am not merely speaking to the Assembly, great as that privilege and honour may be, but to the Committee of Ministers, and I want to tell those Ministers my view on what might be done.

I have always noticed that when we discuss subjects of social interest we express our personal views. If we discuss a great subject of international affairs, we do not know all the details, but on matters such as this we have a personal opinion and we want to put it before those with whom we discuss these subjects.

Why have we come to the stage where we cannot agree and where we are about to tell the Committee of Ministers that we cannot agree? We are about to tell them, "We cannot agree, you get on and continue to draw up your Charter and let us see what sort of a job you have made of it". That, to be realistic, is what we are doing. But why has this happened?

I propose to advance, I hope with due modesty, though it is a great thing that we

Dame Florence Horsbrugh (continued)

should each express our opinion, some views why I think this has happened. I think that we have been trying to evolve too complex a scheme. We have been trying to put in too much detail. My plea now would be to see whether we can simplify in any way whatever the Charter and its means of implementation. I believe that then we might get agreement. We might not get all that is required, but I believe that we have had too much detail and that we have been trying to build up something which is too complex.

I stress not only the Charter but the means of implementation, because when I see Parts II and III and the suggestions about the Commissioner and the Chamber, it seems to me that suddenly there has grown up, almost before we realised what was happening, a great additional complex structure attached to this Charter which we have been discussing for so long.

I agree with M. Strasser in what he said about the Committee on Social Questions and its taking cognisance of Parts II and III. At the meeting which we held in Paris in September, there was a certain amount of discussion, but there was no vote. I am not blaming those in authority in any way for that. The fact is that there was not a quorum. If the minutes of the meeting are read, it will be seen that many thought that it was unwise to add these Parts II and III, but when it came to the taking of a vote, unfortunately there were not sufficient members present. As I say, I am not blaming anybody for that, but I do say that it is most unfortunate that that has occurred, and that when we come to Strasbourg and we see this in its final form, we are told we cannot amend it, we cannot take one Part from the other, and we cannot try to improve it. It is a case of this or nothing. That is why I honestly think there has been a great deal of feeling on the subject; but again, it is because we are all so very anxious and keen to get this Charter.

I want to make it perfectly clear that I, personally, could not support Parts II and III. When I am told that the Council of Europe must go on creating new organs, I reply just as I have said on occasions in the House of Commons in Britain, "Go back and find a

more simple organ than you have given us today". I believe that we could, if we were sufficiently determined, find a more simple way of implementing this Charter. We agree that the Report must go forward, but I would suggest that we cannot simply say it is a question of this or nothing. There are many wise people who have given us this complex and wonderful organisation, and I would suggest that an attempt should be made by them to give us something more simple, which, although we may take the view that it is not as wonderful, we should prefer.

Now I come to Part I, the actual Charter. Again, we cannot agree. The Committee of Ministers is to be asked to look at this and to hear our observations.

These are the observations that I should like to make. I agree with many of the points which are made, but I should like to see something more simple. When I say "more simple" I do not mean to say that we should not keep in the Charter the main essentials. But do let us take a pruning-knife and severely cut off those things which are not essential. I regret that we have drawn up this Charter in what I may call the categories of rights. I agree with our Rapporteur that Article 4, calling for progressive implementation, is a great improvement. Then we go on to the thirteen rights. We are sometimes told that thirteen is an unlucky number, and it would appear that we have had to fit all that we want to do in the Charter into these small compartments of the thirteen rights. What is the result of that? We have repetition. For instance, if one looks at the subject of housing, in which I am very interested, it is found that housing is met with in three of these compartments of rights.

Again, I fear that the word "right" leaves my mind in some confusion. There is the legal right. We can pass legislation and we can give men and women, by that legislation, the right to a pension and the right to an allowance; but then there is the other type of right which I might call the moral right, and we should put in the same class the right of work.

I wonder whether it would not have been better if we had had a different classification. I feel that in many cases the content has been

Dame Florence Horsbrugh (continued)

sacrificed to the form. I know that in the Preamble, paragraph 14, it is stated that:

"The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties to other individuals and to the community in which they live."

I wish we could have infused more of that idea into the main part of the Charter. As I have said, we want to keep the main essentials, and I think that we have all agreed on the main essentials which are in the Charter; but I think that they are badly placed. I think that they appear among some non-essentials, and in a great many cases they do not assume their proper position as being of tremendous importance.

As we know, the Preamble to the Charter says that:

"The High Contracting Parties recognise that the family is of basic social and moral importance to society."

I fully agree. I have already referred to the subject of housing. We all agree that in our Social Charter we want the various Member States to work on projects of providing homes and healthy houses for their people.

Then, we go on from the home to the care of mothers and babies; to the children and to the help of those, as we say in our country, "in need of care and protection"—who are without parents, or in difficulty, and also the handicapped children. Then there are the schemes that we and other countries have for the blind and deaf children. Then we build up health services for the whole of the people. From that we go on to see how we can help the family in matters of taxation and family allowances, according to the number of children. Then there are such things as maternity benefits, which enable the mother to leave work

and have her baby without the threat of being dismissed from her employment; and, in the matter of education, the restriction of the number of hours that children can work if they are continuing with extra education.

All those matters are provided for in the Charter, but they are put into this straight-jacket of different rights; they do not stand out as the main features. We know what security benefits are, and we have our European code for sickness, unemployment, and the rest. If we could get all those things into the Charter and get agreement about them, as I think we can, we could see that as people moved throughout the member countries of the Council of Europe they had a right to the same social services and benefits. Then, at last, our ordinary, everyday people, who do not know much of what we are doing in this Council of Europe, would find that Europe really was a community and that they belong to it.

Of course, all this depends—and I agree with the point brought out in the Charter about a high standard of living—upon what the Charter rightly puts first, namely, work. We have to produce the goods; build the schools and houses, and train the teachers and doctors. We can have all these services on paper, but it is only by an infinite amount of work that we can get them in reality.

The only thing I want to say about that—and that is why I have left it to the end—is that there are still certain difficulties for my country, because we arrange our conditions of work, pay, holidays and the rest, not through the central Government, but through negotiation.

I know that there is now a proviso in the draft Charter dealing with Rights B and C. All I can say is that it should also be added to Right D, which talks about management. If we could get some definite simple scheme like that, could not we all agree upon it? Let us discuss something more restrictive, and let us be selective. Then, perhaps, we shall get a greater measure of agreement.

I want to underline the comments I have made. I want to give Representatives a picture of what I want to see done, and what I think would be of inestimable benefit if it

Dame Florence Horsbrugh (continues)

were done. I do not want to see added this protection of small savings, because that can lead to enormous difficulties with regard to the section that you are going to cushion against inflation. We shall only argue and we shall not agree. I do not want to argue whether we should have in the Charter a provision for at least three weeks' holiday with pay for adolescents. I can appreciate the difficulties involved when apprentices leave their businesses. I do not think that we could get agreement about that.

Then there is Right L—the right to social and cultural aid and guidance. I must confess that I really do not understand the first part of that, although other Representatives may.

I put these points because I think we should urge the Committee of Ministers to do some pruning, if necessary, but to keep what is absolutely essential. Then we can build up something which we shall be proud to agree to as part of a European Charter.

Yesterday we were talking of a free trade area and a Common Market. I want to see an area of European social security as well as a free trade area. I want to see a social union in Europe, because, then, each man, woman and child would feel some effect of this unity. If we bring that about, I feel that the ideal of our Council will have been considerably advanced.

THE PRESIDENT (Translation). — I call M. Lefèvre.

M. LEFÈVRE (*Belgium*) (Translation). — Mr. President, I shall not retrace the history of the Social Charter. M. Heyman, the Chairman of the competent Committee, has done so—I think—for the third time, and far better than I could.

I shall merely recall that, over three years ago, our Assembly recommended the Committee of Ministers:

“to elaborate a European Social Charter which would define the social objectives aimed at by Members and would guide the policies of the Council in the social field, in which it would be complementary to the

European Convention on Human Rights and Fundamental Freedoms”.

After a long discussion in committees—where, incidentally, we saw the birth of a sort of committee chauvinism and in the plenary sitting, Document 536, of 27th September 1956, was submitted. It must be emphasised, since some people are apt to forget it, that this document is the result of a compromise which goes well beyond what the trade unions asked for. New amendments have since been submitted, but I shall consider only that of M. Heyman.

On the strength of the admirable report of our friend M. Tencie, I was simple enough to believe that the declaration of rights would no longer be called in question. Yet I have been hearing it criticised and ridiculed in the lobbies of our Assembly. Not that it is difficult to ridicule a declaration of rights. Let us remember the contempt shown by the publicists and demagogues of the right for the Declaration on the Rights of Man and the Citizen in the period between the wars. Do any of us wish to follow in their footsteps during this debate?

Thus I regard the declaration as unanimously agreed upon, especially as the Social Charter only reproduces, clarifies, strengthens and supplements the instruments of the International Labour Organisation.

Let us not follow the example of M. Strasser who, this morning, quoted only one provision of the Charter, carefully omitting to mention any others—in order to give the impression that the provisions of the draft Charter are inferior to those of the conventions of the International Labour Organization.

No, let us be fair and consider them all. It will then be seen that the Charter, as a whole, is an advance on the ILO instruments. But I do not therefore claim that the draft before us is perfect. I myself would have preferred a bolder approach, but the Convention is only a framework or programme which can be improved by the Committee of Ministers. It certainly will be improved in course of implementation.

Let us therefore turn to the implementation of the Charter; that is what must be assured. In these days Mr. President, it would be naive to try to distinguish between progressives—in Flemish we have a better word *socialvoelend*—and reactionaries, merely by what they say.

M. Lefèvre (continued)

It is no longer good form to call oneself a reactionary. To be in the swim nowadays one has to be a progressive. People and political parties must therefore be judged by their actions. Thus nobody dares to contest the rights set forth in the declaration, and few admit that they still prefer a declaratory instrument to a mandatory one; but those who argue about implementation are not so few.

In the opinion of many of our colleagues there can be no question of entrusting this implementation to the officials of national ministries, for such officials would be both judges and parties to the case. They would be judges as members of the Social Committee—and parties as Government officials, with an active part to play in implementing the Charter in their respective countries.

Another and, I think, equally unfortunate suggestion is to entrust the implementation of the Charter to the International Labour Organisation. It is unfortunate, first, because European social standards are different from, and, in fact, higher than those of the conventions of the International Labour Organisation. Secondly, because there is a danger of indirect interference by Eastern European countries—which, it must be remembered, are members of I. L. O.—in the social policy of the Member States of the Council of Europe.

For the latter reason, moreover, it would be difficult for the International Labour Organisation to set up a Western European section. Hence we need special institutions, as provided for in Document 403 and now again in Document 536.

It would appear, Ladies and Gentlemen, that some people are still reluctant to accept these new institutions because they suspect them of supranational powers. They are wrong, and they are lagging behind the United Nations.

I have before me the commentary by M. Hammarström, the Secretary-General of the United Nations, on the draft Covenant on economic, social and cultural rights. On page 33 I read:

“It has been emphasized that the Covenants are made to be implemented, and that without measures for implementation they would be of little practical use. The Universal Declaration having been promulgated,

the main purpose of the Covenants is to provide for international co-operation to ensure respect for human rights.”

Ladies and Gentlemen, is the Council of Europe to be more timid in supranational matters than the United Nations?

What then are these new institutions? They are a European Commissioner for Social Affairs—I shall come to that in a moment—and a Social Chamber.

Let us be quite clear that we have no desire whatever to dispense with the valuable assistance we could obtain from the International Labour Organisation and its organs. On the contrary; the Social Charter should be implemented by the Council of Europe, but in close co-operation with the International Labour Organisation. That is why the appropriate institutions for this co-operation, as proposed in the draft Recommendation under discussion—and I must stress this point—do not affect the freedom of action of the Council in any way.

It has been proposed, for instance:

“to appoint without delay a Special Representative of the Council of Europe”

so that the International Labour Organisation can have dealings with a competent authority of the Council of Europe.

It would not matter if this Special Representative were not made a European Commissioner for Social Affairs from the outset—if he were not immediately given duties equivalent to those of M. Schneider in respect of refugees. I am convinced that experience will show that the Special Representative will have to become a Special Commissioner; but that will be for the Assembly to decide, as the Commissioner must be its agent. The Assembly will still retain control, as regards direction and implementation.

The second institution is the Social Chamber. Provision was originally made for an Economic and Social Council, which was more realistic and would have been far more effective, as my colleague M. de la Vallée Poussin said a moment ago. Should we reject the draft Charter before us and refer it back to committee because, on this particular point, the draft Recommendation in Document 536 lags behind the draft in Document 403? I think not. For there can be no doubt that social and economic affairs are so closely interconnected that the Social Chamber will, naturally, have to deal

M. Lefèvre (continued)

with them in their entirety. It is often better to leave well alone, and we should be wrong to vote against the Charter or delay its adoption because its preparation is entrusted to a Chamber that is called "Social" only.

We already know that owing to the force of circumstances the Chamber will also have to deal with economic matters—a fact which the Assembly and the national parliaments can only accept and approve.

I am told that the trade unions are divided among themselves—and that it is therefore preferable not to take up arms for a Social Chamber. That is how some of our colleagues think they can interpret the letter sent to our President M. Dehousse on 20th October, by the Secretary-General of the European branch of the International Confederation of Free Trade Unions.

I should like to make one comment concerning that letter. M. Dehousse decided to communicate it to the Assembly. We have now all officially received a copy, but before M. Dehousse had had a chance to note its contents it had already been circulated among one of the political groups of our Assembly. I find this surprising.

Now, to continue—no doubt the trade unions are divided, but only on the tactics to be adopted, not on the substance of the matter. Some think they cannot rely on the Assembly subsequently to extend the competence of the Chamber; others, on the contrary, think it better to have a Charter with a Chamber, even if it is only a social one to begin with, than no Charter at all. They feel sure that, as time goes on, the competence of the Chamber will be extended to the economic fields. But both groups will co-operate if the Charter is adopted.

Mr. President, Ladies and Gentlemen, an opportunity is offered to our Assembly; we must not let it pass. Our Assembly is indulging in an excess of hair-splitting, which may well prove fatal. The remedy is to take on a practical task: improvement of the standard of living of our peoples through co-ordination of social policies in close collaboration with existing social organisations.

Consider the debates of the Common Assembly of the European Coal and Steel Community; they are unquestionably more alive than ours, because they get down to practical matters.

Ours will come to life in the same way if we adopt the Charter.

Europe, too, is being offered a chance; it should not scorn this chance, as it has scorned nearly all the others. Can the tragic events in Poland and Hungary teach us nothing? Is there no fear of a new form of Communism, which may tomorrow be known as "Gomul-kism", and will be more attractive to the working masses than Russian Communism? Let us hasten, while there is still time, to place Western Europe in a strong competitive position.

Above all, my friends, do not tell me that you cannot vote for the draft recommendation because your Government would not welcome it. This would be "passing the buck". It would be tantamount to breaking up the Assembly of the Council of Europe into a collection of national, if not nationalist, delegations. No; let everyone bear his part. It is for us, as a European Assembly, to recommend the adoption of the Charter. It will then be for Governments, as national bodies, to adopt or reject it.

To reject the Charter or to adopt an amendment resulting in a recommendation that is neither one thing nor the other, would sweep away what remains of our Assembly's prestige.

I therefore urge the Assembly to adopt the draft Recommendation in the form approved by the Committee on General Affairs. After all, it is already a compromise solution.

I also urge that, of all the amendments, you adopt only that of M. Heyman.

THE PRESIDENT (Translation). — I call M. Smitt Ingebretsen, who wishes to make a brief comment.

M. SMITT INGEBRETSEN (Norway). — M. de la Vallée Poussin noted with regret that no Minister for Social Affairs has come to the Assembly for this debate. I think it proper to call the attention of the Assembly to the fact that when on an earlier occasion we discussed the Social Charter there were in this Chamber two or three Ministers for Social Affairs, among them being my compatriot, the Norwegian Minister for Social Affairs, M. Harlem.

M. de la VALLÉE POUSSIN (Belgium). (Translation). — I am sorry I overlooked that;

M. de la Vallée Poussin (continued)

Mr. President; but it is quite true and I thank our friend for recalling it.

THE PRESIDENT (Translation). — M. Smitt Ingebretsen's remark is noted; it was quite justified.

I call M. Birkelbach.

M. BIRKELBACH (*Federal Republic of Germany*) (Translation from German). — Mr. President, Ladies and Gentlemen, Our distinguished Chairman, M. Heyman, and other speakers have already explained how we have been trying to work out a draft European Social Charter here for several years now. The aim was, indeed, to achieve social structures throughout Europe of a general standard higher than the average in the rest of the world. The present draft also indicates that our idea was in no way just to bestow charity upon the less well-off portion of the population. Instead, it was regarded as an obligation for society as a whole to create social conditions on the basis of which men will have the opportunity to develop their potentialities fully in our industrialized era. This charter must therefore leave no doubt that we are not concerned with mere measures of assistance.

After our present discussion it now appears as if the implementation of this policy would depend on an institution of a special nature being set up within the framework of the Council of Europe. I refuse to recognise this formulation, since it is my conviction that the Consultative Assembly of the Council of Europe, and indeed the Council of Europe as a whole, has hitherto not developed its effective powers far enough to be able to exert sufficient pressure on public opinion and political action for it to be said that direct progress is being made. The only exception that might be made would be the Court of Justice for Human Rights and the Declaration of Human Rights.

My reason for choosing this point of departure is that I believe we should be wrong in driving the alternatives to extremes with eloquent speeches. Such a situation would be untenable, since the contributions to the debate already made indicate that there will be no two-thirds majority unless greater elasticity can be shown on the institutional aspect. If we accept a risk of that kind we shall be doing no service either to the Council of Europe or to the Consultative Assembly.

Let me go a step further. When I consider the specific institution either of an Economic and Social Council or of the Chamber now proposed, when I come to reflect what can be their significance, then I observe that what is here proposed is the creation of a consultative organ attached to a consultative organ, and, moreover, an organ to deal with matters which have up to now been dealt with primarily in consultation with the International Labour Office. I therefore consider it wrong to twist the discussion in such a way that the only subject ultimately involved will be these institutions.

At the point of departure we were in agreement. We were also agreed on our goal of reaching standards for European social structures which are internationally recognised and go beyond those that are otherwise normal in the rest of the world.

Besides the institutional question, to which I wish to refer briefly later on, we must also bear in mind the fact that social development has been achieved in varied ways in the European countries. In some cases social development has, for instance, been advanced through and with the State, elsewhere by free organisations, originally partly against and without the State. The results of these different stories of development are to be seen in legislation and practice. And, in consequence, we find that the position of the organisations formed by the workers for their own protection, that is to say the trade unions, differs widely in the various societies. That must be taken into account if very serious mistakes are to be avoided. A European Social Charter will not be able at one fell swoop to co-ordinate all the varying legal provisions regarding the social order which we find in our countries. On the contrary, as soon as any attempt is made to deal with any particular sphere in this Social Charter, the danger of causing misunderstanding arises. For instance, where there are strong unions the Governments concerned might take this Charter as a justification for legal regulation of trade union activity.

For the Federal Republic of Germany and the trade unions in operation there this view would be wholly unacceptable. Where this Charter defines the conception of the right to choose freely one's place of work, or where it touches upon the right to combine, the right to strike, the conception of the freedom of partners in wage agreements or the conception of arbitration, we are faced with very serious political questions. The Governments should

M. Birkelbach (continued)

not fail to realise—and today's discussions in this Assembly should be brought to the notice of the Committee of Ministers—how strongly the opinion is held here that the position of the unions or of the partners in wage agreements must not suffer as a consequence of any decisions taken.

We thought we had got over a lot of these difficulties in formulation, since at least the first part and the preamble of the present draft were generally accepted in their basic features, even though certain details were disputed. In addition, there are still disagreements on the instituting of the European Commissioner and of the Social Chamber. Here I do not wish to conceal in any way my view and that of my colleagues: we are not in favour of setting up such institutions at the present moment, since we see in such action not only the danger of considerable overlapping and unfruitful wrangling, but also the danger that, if these institutions are proposed, the countries which are most advanced socially might not see their way to ratifying this convention. When we consider the attitude of the trade unions and the international trade union organisations on this question we must also bear in mind which European countries possess the strongest trade union movements.

It is high time that we stop conducting interminable discussions on a draft Convention only to drop it when we seem to be getting somewhere. What must be done is to submit a real text to public discussion, supplement it by means of the opinions here expressed and then bring it to the attention of the Ministers. We regard it as most useful that a regional conference of I.L.O. should be held to discuss these questions, on the basis of some such text and of the opinions expressed on it, perhaps through someone specially appointed for this type of work here with the Council of Europe. Then it will be possible to learn officially and precisely how the trade union representatives, as well as the representatives of the employers and the Governments themselves, really stand on this subject. This would open the way for the Council of Europe and the Consultative Assembly themselves to take the lead once more.

While I am on the first part of the Convention, I should like to say just this: a good part of

it is quite undisputed, a good part of it has already been laid down in the Conventions of I. L. O. There is certainly a danger—this was shown by speeches made in the Assembly on the last occasion as well as today—that in certain circumstances conditions will fall behind the standards already recognised in the ILO Conventions. The basis of all our work must be that the social structures in Europe must be raised to such a level that the working population will regard Europe in all respects as a true home.

We must not overlook the fact, however, that, as regards purely legal regulation, regarding the rights on paper, social inequalities within Europe are not as extensive as many believe. The disparities are due to the actual circumstances, to what can actually be offered to the working man on the spot. Here the European Charter by itself cannot offer a way out. We are aware that many Governments and legislative assemblies do not want to be suspected of operating a policy of "wage-dumping" and therefore pass social laws which are often not subsequently carried out in practice in the way foreseen on paper.

It is not as if the blame for not carrying out and respecting such standards lies with the Governments alone in such countries or even with the nation itself. It is simply that the social product of these countries, calculated *per capita* of the population, simply does not supply enough for the attainment of the objective desired. We must then examine the question how far the other European nations pledged to solidarity are here prepared to afford supra-national assistance and to support investment plans in order to create the basis without which these standards cannot effectively be respected. In this regard Europe still requires proof of this international solidarity.

This action is, of course, not sufficient by itself to solve the question we are here dealing with. In the same order of ideas we must consider the promotion of professional training by means of international aid in spheres in which there are unused sources of manpower. In addition, we must ask ourselves in what way an international system of presenting reports and a properly functioning international control, which includes arrangements in the parliamentary sphere, perhaps here in the Consultative Assembly, may be able to help to

M. Birkelbach (continued)

ensure that the standards recognised in legislation are indeed respected.

I have here touched on questions which should, in my view, concern the Council of Europe beyond the range of the Social Charter itself, and I should like to proceed in this line of thought a little further.

In today's debates I felt that too much was being said to suggest that the adoption of a Social Charter by this Assembly is almost a matter of life and death for the future of the working population. I believe that the Council of Europe, and in particular the Consultative Assembly, has definite tasks confronting, quite apart from these concerns, and it should get to work on them. It is only fair to point out that many common interests and concerns have become manifest in the Assembly and the Committees with regard to social achievements. If these common points of view do exist, then it would certainly be possible for us, among ourselves, to take a step forward and, for instance, to consider what we think of the idea of the welfare State and, may be, of the various malicious stories circulated about it and how we here can content with fallacious ideological assertions on matters which are irrelevant.

I feel that the Consultative Assembly and the Social Committee should here be brought in so as to find ways and means of coping with excrescences and abuses in the field of social legislation in those cases where it may be that the insufficient level of education and democratic responsibility of the population causes certain difficulties.

I know that the Brussels Treaty countries have already conducted certain preliminary investigations into these questions, but there would be no harm in the Consultative Assembly of the Council of Europe dealing directly with them also. We could profit from experience gained in our countries with regard to administration in the social field and concerning the right methods of ensuring human welfare. What we have to do here is to determine what practical experience might be of value for all the nations.

I should like to recall how irresistibly the attention of the whole world was drawn to accident prevention, working precautions and working hygiene by the deplorable tragedy of Marcinelle. If we bear this in mind, we shall not, I believe, fail to recognise that here, too, there are certain tasks which the Consultative

Assembly and our Committee can help to solve directly. A significant role will also, incidentally, be played by the problem mentioned by our esteemed colleague Dame Florence Hersbrugh, that of proper accommodation for the working population. I am concerned here with the very specific problem of accommodating men and women who work outside their own country. Anyone who has had the opportunity to see the real situation at first hand will agree with me that here in Europe we have little to be proud of in this question.

I have mentioned these matters because I do not want a debate at this level in the Consultative Assembly to be restricted to the disputed question of the number of Social Commissioners and Social Chambers we should have. I do not believe that can be the question we now have to deal with. We must make sure that a draft text and the opinions expressed in the Assembly are brought before the Ministers, in order that other heads may ponder on the same subject in other circumstances.

This will not remove these questions from our sphere of activity. There is, on the contrary, a special responsibility for the Council of Europe and for the Social Committee of the Consultative Assembly.

We want to make sure that the alternatives are not artificially and unnecessarily driven to a head. That is why a number of my colleagues and I have introduced a compromise proposal under Amendment No. 2 to Document 536. By proposing the appointment of a special official within the Council of Europe to set certain specific work and certain specific negotiations going, we wish to open up a possible way of emerging from mere declamatory pronouncements in support of the principles of the Charter. I should have expected that ladies and gentlemen who have more experience than I have in the best way of escaping from an impasse might take up this proposal so that it could receive a two-thirds majority at Friday's vote. We should then be able to deal with the question later in quite different circumstances and without prejudice, after others have expressed their opinion on it.

I therefore consider it right to explore this possibility once more. Those who pass over the present chance for a compromise now will bear the responsibility later if we never get beyond mere declamation.

THE PRESIDENT (Translation). — Thank you M. Birkelbach.

5. *Announcements by the President*

THE PRESIDENT (Translation). — I must remind you that, in accordance with the Assembly's decision yesterday morning (Tuesday), the Report of the Committee on General Affairs concerning relations between the Consultative Assembly and national parliaments will be discussed tomorrow morning (Thursday) as the first item of the Orders of the Day, at 10 a.m.

The Sitting will now be suspended for the ceremonial presentation of the Assembly's Prize to the Reverend Father du Rivau.

The debate will be resumed tonight at 9.30 p.m., and part of it will be televised.

All voting on the amendments and texts relating to the Social Charter will take place next Friday 26th October at 3 p.m., as decided by the Assembly at its morning meeting on Monday 22nd October.

Does any one else wish to speak?...

The Sitting is suspended.

(The Sitting suspended at 5.35 p.m. was resumed at 9.49 p.m.)¹

THE PRESIDENT (Translation). — The Sitting is resumed.

6. *European Social Charter*

Resumed Debate on the report of the Committee on General Affairs, Ccc. 536, on a draft European Convention on Social and Economic Rights)

THE PRESIDENT (Translation). — We now resume the debate on the Report of the Committee on General Affairs on the European Social Charter, on the proposal for the setting up of a Social and Economic Chamber and on a draft European Convention on Social and Economic Rights.

In the continuation of the General Debate, I call M. Heyman, Chairman of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, in the Social

Charter which we are debating today, we have embarked upon a course of positive and concrete action without exceeding the limits set by the consultative nature of our Assembly.

Perhaps for the first time in the history of the Council of Europe, interest in our debate is not confined to political circles but has taken a firm hold on the workers of Europe. It is because of the grave issues at stake and the special importance of this debate that we have had such difficulty in finding a solution to satisfy all parties.

The issues here at stake are the leadership and commitments to be assumed by Europe in the social field, and these issues, Ladies and Gentlemen, transcend our Assembly and even our Organisation.

Indeed, the Organisation for European Economic Co-operation is becoming increasingly involved in social problems. The High Authority of the European Coal and Steel Community will be—indeed already is—impelled to reconsider and broaden its social policy, and may even have to prepare for the amendment of the Treaty. Moreover, all sorts of social issues are raised by the prospect of a six-country general Common Market and Euratom.

All these organisations are awaiting a lead from us, the oldest and the most political of the European Assemblies. They are looking to us for encouragement.

Furthermore, it depends on us whether the workers regard our Organisation as a support and an ally or whether, faced with a lack of understanding, they succumb to the temptation, which we can never dismiss from our minds, to turn to the East, where a national type of Communism is in process of formation.

The workers are united in wanting a really bold Charter. If we accept the draft we have been discussing today, they will all co-operate in implementing it, improving it and making it effective. If we continue to vacillate, it is to be feared that they will turn away from us, which would be a deplorable development, for it would prevent us from achieving our common aim: the establishment of a united Europe.

There in lies the deep significance of this debate which, if we are to be consistent, should give Europe both a social constitution—the Charter—and a social structure—the organic association of employers and workers. We have worked out a method of proceeding perfectly adapted to the erecting of the keystone to the system: by which I mean the Social Representative, in the first phase, and the European

1. The Official Report of the ceremonial presentation of the Assembly's European Prize to the Rev. Father R. P. du Rivau, which took place during the suspension of the Sitting, will be found on page 527 below, at the end of the Official Report of the 25th Sitting.

M. Heyman (continued)

Commissioner for Social Affairs in the second.

The beginnings of a socially organised Europe, the confidence of employers and workers, the independence of our Organisation, in close co-operation with the International Labour Organisation and inter-governmental and other competent organisations—such are the things we stand to gain by the proposal which we are now asked to adopt.

With so much at stake, is there any political interest so overriding, any tradition so venerable, any procedural difficulty so formidable, as to frighten off politicians like yourselves who are all here to promote the general welfare which surely consists in social harmony and prosperity for all men and all nations?

THE PRESIDENT (Translation). — I call M. Tonic, Rapporteur of the Committee on General Affairs.

M. TONCIC (*Austria*) (Translation from German). — Mr. President, Ladies and Gentlemen, it appears from the present state of negotiations on a European Social Charter that agreement in principle has been reached on a whole series of points while there is still a great difference on certain important questions. The idea or opinion that the Council of Europe should attempt to co-ordinate the social legislation of the individual member countries and to improve the social protection of workers and employees in Europe will certainly meet with general approval. Thus it is a question of drawing up an agreement which shall, in the social field be the counterpart of the European Convention on the Protection of Human Rights and Fundamental Freedoms.

In the course of the negotiations carried on for several years it has, however, become evident that it was easier to reach agreement on human rights and fundamental freedoms than on a Social Charter. In the discussions held today it has especially become clear that we have to distinguish between two basic problems, namely social rights as such, that is to say a code of social rights, and the implementation or, to put it more correctly, the instruments for the implementation of such a code.

The Committee on General Affairs of the Consultative Assembly was entrusted with this subject in the spring of 1956 because there

were differences of opinion concerning the nature of such a code between the two committees who had been chiefly concerned with this question. The Committee has, in general, adopted this code of social rights in the same form as agreed upon in principle six months ago between the Social and Economic Committees of the Assembly.

Discussion has revealed general agreement on breaking down this subject into two parts, the one summarising certain principles in a preamble and the other giving detailed definition. The problem involved in the second part, however, is to see how Governments of member countries of the Council of Europe are likely to react to this very detailed definition of social rights.

I think all of the Representatives present here have recognised the dangers facing us: first, the danger that a detailed and, I may say, ideal code of social rights will be considered by Governments to be going too far and will, therefore, not be ratified; secondly, the danger that, for the purpose of obtaining the required ratification, it may be drawn up in too general and too colourless terms. It will, therefore, be up to the Committee of Ministers and its experts to take the final decision on this important point.

Although a positive picture can, nevertheless, be drawn in this whole matter, views concerning the realisation of the Social Charter continue to be greatly at variance. The Committee on General Affairs has tabled the two proposals to appoint a European Commissioner and to establish a consultative Chamber which shall be at the service of the Consultative Assembly. The Committee hoped in this new way to bridge the gap between the divergent tendencies. It should be said, moreover, that the previous appointment of a European Commission by the Council of Europe has been singularly successful: I refer to the excellent and most valuable work performed by M. Schneider as Commissioner on refugee problems.

The idea of a Chamber was taken up by the Committee because such a wish had been expressed by workers' organisations, and the Committee on General Affairs is convinced that the adoption of a European Social Charter against the workers' wishes would serve no purpose. The open opposition to these two proposals now shows, in fact, how extremely difficult it is in Europe to create overall European institutions.

M. Tonic (continued)

Yet we must recognise that, despite the complicated problems involved and the political importance of the theme, the Assembly stands united in its desire to establish a European Social Charter.

As Rapporteur of the Committee on General Affairs, I should like to say that in my view it is not so important how precisely the Council of Europe takes this great step forward as is the fact of actually taking that step. The Council of Europe has a great opportunity of which we are perhaps not all of us aware: in the field of social progress which is of such outstanding importance in our time, it has the opportunity of taking a first step on the way towards the unification of our continent, a step forward for which the rest of the world will deeply envy us.

THE PRESIDENT (Translation). — Thank you M. Tonic.

I call M. Federspiel, Chairman of the Committee on Economic Questions.

M. FEDERSPIEL (*Denmark*) (Translation). — Mr. President, the question which naturally arises when legislating in a new field is whether conditions have become sufficiently stabilised to enable a clear-cut system to be established.

The conception of the "Welfare State" has developed in our generation, growing out of a more modest idea: the system of social insurance. At a certain point in this process, we must stop to take stock of events, to define the aims of a policy in the making and to direct this policy into the channels most conducive to human happiness, prosperity and security.

The draft Social Charter which we are now debating is, manifestly, a sincere attempt to lay down the aims of the "Welfare State" and to steer our countries towards co-ordination of their social practices.

In my opinion, different levels of social achievement might warrant an agreement on social policy whereby our countries would be encouraged to make a concerted effort to raise the standard of living of the less developed member countries. On the other hand, there is a danger, as the text itself reveals, in immediately establishing a system of social rights liable to undergo continual change under the pressure of political and economic forces.

A definition of rights such as you will find in the draft Convention may even be instrumental in retarding social progress in the more advanced countries and, worse, in arousing false hopes and excessive demands in those countries whose economies can only afford to carry through a social plan on a long-term basis.

In several of our countries there is already public discussion of the limits of the "Welfare State". It is not a question of the material limits alone, but, above all, of the moral aspect. A community which got rid of all personal responsibility and threatened to undermine individual initiative would be indeed a weak one.

There is no simple answer. It is not enough to say: we shall call a halt to security schemes at a certain point in order to avoid moral degeneration. At no time in our history have political decisions or economic counter-measures been capable of arresting a popular movement once under way.

That does not mean that I am a fatalist. Political institutions still have an important task to perform, namely to guide the process of growth, to cut out the infected parts and nourish the living tissues.

In any attempt to define social rights—which I regard as premature—one must also stress the duties which go with these rights. That would appear to be a plain legal fact. Those who are entitled by law to claim a right must not forget that the community is none other than themselves, in other words, that they are under a natural obligation to put the community in a position to satisfy their claims.

For this reason, Mr. President, I consider that a Social Charter is incomplete without a statement of the duties which are the natural and inevitable complement to the social rights defined.

I do not want to go into the details of these points, for I discussed them at greater length during last year's debates.

To conclude therefore, Mr. President, I agree that the general question of a Social Charter should be expedited by our transmitting this text to the Committee of Ministers, but I am far from convinced that this text meets the needs of the kind of society to which we all look forward—a society governed by freedom and justice, prosperity and security.

25th Sitting

M. Moutet, M. Radius

THE PRESIDENT (Translation). — Thank you, M. Federpsicht.
I call M. Moutet.

M. MOUTET (France) (Translation). — Mr. President, Ladies and Gentlemen, I shall be brief and confine myself to the main reasons why we should vote for the draft Recommendation presented by the Committee on General Affairs.

For three years I have taken part in the discussions of the Committee on Social Questions and in the serious and often heated debates in this Assembly, in which we have done our best to lay down the essential social and economic rights which Governments should guarantee to their populations.

Our first draft was submitted to our Committee on Economic Questions, which sent it back to us with drastic changes of a kind which many of us found unsatisfactory.

Then the Committee on General Affairs took up the question and is sponsoring today's text. I am not going to dispute its competence; but the matter has been examined so often that, if we cannot settle it, we must at least make progress.

Long parliamentary experience has taught me that the democratic parliamentary system is essentially one of compromise. The question is whether the compromise now offered is acceptable. I believe it is— and shall therefore support it. The Report does not call for a vote on the Social Charter itself, but recommends the draft to the Committee of Ministers and its experts and, in so doing, passes on the results of your labours.

We shall doubtless have further occasion to examine a draft convention, and therefore to reconsider the Social Charter itself, but by then we shall at least have before us of a definite draft with the cardinal virtue of being a reality and thus being capable of improvement.

Thus, I find it difficult to understand why some of my political friends refuse to vote for it on the ground that it is inadequate, thus playing into the hands of those who do not want a Charter at any price and are trying to kill it.

M. RADIUS (France) (Translation). — May I interrupt you, M. Moutet?

M. MOUTET (Translation). — Certainly, provided your interruption does not cut into the time allotted to me.

THE PRESIDENT (Translation). — I call M. Radius, by courtesy of the speaker.

M. RADIUS (Translation). — Thank you for your kind permission, M. Moutet.

You are perfectly right to say that those who are unwilling to vote for the Charter or the Recommendation may well be playing into the hands of those who do not want a Charter at any price, but I should like to ask you one question: are many of your political friends prepared to reject it because they consider it inadequate?

My justification for asking you this question is that, when we voted on what we used to call the Dehousse Report, we had no such impression.

M. MOUTET (Translation). — I cannot say whether there are many of them; I have not counted them; but I do know that some of them, being very young, have an uncompromising outlook (*Laughter*).

Your Assembly, having proclaimed the human rights which guarantee our fundamental freedoms, has now set itself the task of building up Europe on a basis of social justice.

Political rights may provide the means of satisfying demands for the social betterment of mankind, but the freedom of one who has no place in society because he finds his right to work neither respected nor protected is an exceedingly precarious one if it can be said to exist at all.

This progress towards social justice, which requires that every European nation should do everything within its power to safeguard social and economic rights, provides us with our first reason for voting.

The other reason, which is of special significance to us in France, is that those States which have shouldered the burden of a comprehensive social security system should not be penalised, or at least placed at a disadvantage, in international economic competition.

In a country like ours such quasi-taxation is a heavy load on the economy. Now there can be no stable Europe without a certain levelling up of conditions of production, and hence of social charges, as between all the nations of which a united Europe is to be composed.

The present draft is far from perfect. It is only half-heartedly accepted by representatives of some of the most highly qualified workers' organizations, who notice what is missing more than what is there. It is their function to make demands and to regard any

M. Moutet (continued)

improvements secured not as a final goal, but as a fresh point of departure.

One can understand their attitude, but I am sure that the working masses who are following our work realise that we are struggling to better their circumstances and their future.

For some nations the draft Charter does not even mark a step forward. It falls far short of what some of them have had the courage to put into practice, sometimes at the risk of compromising their economy.

We ourselves have tried to introduce certain changes into the draft to give fuller satisfaction to the claims of the workers—not always with success. I have particularly protested against the idea that reforms should be introduced by means of progressive improvements. In fact I am rather afraid of this concept of progressive change, which many Governments will interpret in the manner of certain diplomats who, when urged to act, reply: we must wait and see without delay.

Resistance first crystallised around the plan to set up an Economic and Social Council, which appeared to be a complete stumbling-block.

The present compromise consists in the creation of a European Social Chamber with neither the same authority, the same continuity, nor the same membership.

At all events, the experts will now have to work, whether they like it or not, in the light of our work and our debates in committee and in public. We shall certainly have to consider a new draft in some form or other; but the Recommendation as it stands has undeniable merits.

It recommends examination of a Social Charter which is attached. **This Charter sets out the objectives to be attained; it guarantees the right to work in fair and stable conditions; it ensures State protection when work is unobtainable, by benefits at a minimum subsistence level; it protects women and children in employment; it points the way to the progressive participation of employees in management; it safeguards for the working class these defensive weapons which the latter has already secured in many countries, but which are withheld by some nations claiming to be its defenders, namely, the right to form and join trade unions and the right to strike.**

The draft calls for a minimum standard of social security, the protection of health, compulsory education, equal opportunities for all to attain the highest level of culture, and equality of social rights, regardless of sex or race.

The speeches of my Assembly colleagues from overseas have not passed unnoticed.

In this struggle to improve the human lot, let us not hesitate to vote for the draft now before us; let us get away from inertia and inconclusive argument.

I look forward with all my heart to the day when I shall have the privilege, if I survive long enough as a Representative to your Assembly, to attend a ceremony like the one which was held in that splendid Roman palace, when the heads of all the European Governments solemnly recorded their accession to our Convention on Human Rights.

My whole political life, as a Member of Parliament and a Minister, has been conditioned by this concern for the betterment of the lot of mankind, and I should like to attend such a ceremony.

I have a feeling that, when the Council of Europe has succeeded in its attempts to heal the sufferings, misfortunes and the hardships of mankind, it will one day receive due recognition from future generations.

But let us make haste! To those who talk of deferring the decision on the pretext of improving the draft—though it might be a way to wrecking it—I would quote once again that fine saying of Mirabeau's, so appropriate to a debate on the lot of mankind:

“ You ask for respite, but misfortune allows no respite.”

THE PRESIDENT (Translation). — I call M. Radius.

M. RADIUS (*France*) (Translation). — Mr. President, Ladies and Gentlemen, for the fourth time our Assembly is called upon to discuss the Social Charter. I do not know whether many members feel that we have made notable progress in this matter. I think we are coming to a standstill, and that it is high time to get out of the rut we have fallen into. I am very much afraid that this is also the impression of our work formed by the public.

At our April Session I gave fairly definite support to one of the two views then put for-

M. Rørding (continued)

ward. All the arguments have already been advanced on both sides; now is not the time to revert to them, but rather to sum up the present state of our work.

After studying the documents and listening to my honourable friends, I feel that as a result of three years' work we can now draw certain conclusions. We all profess the same desire to produce a European Social Charter. What divides us is a question of method, and especially a certain confusion which has continually increased as the debates have proceeded and opinions have hardened. I shall therefore confine myself to a brief examination of these conclusions, and perhaps it may then appear to some of us that the breach which has gradually opened between the different schools of thought can easily be filled in.

We are all agreed that the time has come for the Council of Europe to draw up and promulgate a European Social Charter, which will be not merely a declaration of a few vague principles, but a formal recognition of rights—a real Charter of social progress in Europe.

We wish this Charter to be as perfect as possible. On this point, too, we are all agreed. The present draft is only a working document—a useful basis it is true, but susceptible of many improvements. That is what we tell the Committee of Ministers when we say that the Assembly is keeping the present text under consideration and asks the Committee of Ministers to entrust the drafting of the final text to its Social Committee.

It is obvious that in drawing up a final text based on our draft the Social Committee is bound to improve that draft and round it off.

We all agree that the Council of Europe should maintain the closest possible contact with the International Labour Office when putting this Charter into effect. Hitherto, we have been content merely to say that this is necessary; but in the present draft we have found a formula that will make the collaboration active and effective, by enabling the International Labour Office to be in contact with a competent official of the Council of Europe, and will allow us to keep the implementation of the Charter on a European basis and supervise it as closely as possible.

All these safeguards will be provided by the appointment of the European Commissioner for Social Affairs.

I also believe that none of us wishes to exclude the representatives of the social groups—specifically workers and employers—from the social policy of the Council of Europe.

We all recognise that it is not enough for groups to be associated merely by a consultative status. Several of us, M. Heyman and M. Federspiel in particular, have said so in this Assembly. Once the Social Charter has been drawn up and ratified, it is difficult to see how we can exclude from its scope—in other words from the social policy pursued by the Member States of the Council of Europe—the people whom it will primarily concern.

Lastly, it must be made quite clear that we do not intend to practise an outmoded paternalism in Europe; hence the present draft must affirm that the Assembly and the Social Commissioner can rely on a Social and Economic Charter—since that is the name now given to the proposed instrument.

I shall not repeat my reasons for believing that the International Labour Organisation is incapable of undertaking this task. I would not have states that opinion if I. L. O. had a truly European, tripartite permanent body.

If it had, we could certainly consider entrusting such a body with the implementation of the Charter, which would greatly simplify the task of the European Commissioner and make a Social Chamber unnecessary; but, quite apart from the drawbacks of Soviet participation in the International Labour Office, on which I do not wish to dwell, that agency neither possesses any such body nor is likely to possess one for a long time to come.

This is not the time for waiting or negotiation. What public opinion expects of the Council of Europe is action.

Those few considerations suggest that the apparent disagreement between members of this Assembly relates only to the Commissioner's powers and the method of associating the social groups in the social work of the Council of Europe.

Although this disagreement is of secondary importance it is nonetheless real; but it happens to affect the present draft very little. For the draft lays down nothing final which would preclude certain solutions and call for the adoption of others.

Nobody is opposed to the Social Charter, and it can be formulated from the present

M. RADIUS (continued)

draft. The appointment of a European Commissioner for Social Affairs would provide the most effective possible means of collaboration with the International Labour Organisation.

The Assembly retains its right to be consulted on the drafting of the final text, since the Committee of Social Experts will be assisted by a Special Representative, who will represent the Assembly.

I am among those who wished the Charter to be bolder and to be more forcefully implemented, and who wanted to set up a real European Economic and Social Council.

We have made many concessions and that perhaps justifies me in appealing to those who may be making final agreement impossible by refusing a few concessions that are really very slight.

We now have three amendments before us. There is M. Heyman's, which has my sympathy, though, in order to be conciliatory I am willing to support the amendment tabled by MM. Edwards, Strasser, Birkelbach, Broughton, Hackkerup and Molter, as it really represents a middle position reconciling the two tendencies.

To sum up, the opposition to the form of association with the Council of Europe which the Social and Economic Chamber would provide for the social groups, rests only, I think, on national traditions or a few special points of view, which certainly deserve respect but ought to give way before the general interest and the importance of what is at stake.

Could we not all realise that the Council of Europe, which has now reached the crossroads, needs to show that it has not lost its sense of responsibility, and that, in the face of the new wind that has recently been blowing from the East, it is capable of gaining the confidence of the workers and of representing for them the pledge of freedom, progress and social justice.

THE PRESIDENT (Translation). — I must remind Representatives that we still have to hear eleven speakers in the general discussion. I therefore ask them, in the interests of all, to keep their speeches as close as possible to the times they have indicated to the Chair.

I call M. Fens.

M. FENS (Netherlands) (Translation). — Mr. President, Ladies and Gentlemen, the unforgettable ceremony of the unveiling of the European window last Sunday showed us why M. Paul Lévy read out the Protocol in Dutch and, indeed, in remarkably good Dutch. It is because Dutch is one of the official languages of European organisations.

Mr. President, you will certainly ask me the reason for this linguistic introduction if I am going to speak on a social question. Here is the answer: I very much regret today—especially today—that my mother-tongue is not one of the official languages of this Assembly. And why should I regret it? Because today I have some rather serious things to say to you, Ladies and Gentlemen; because I am determined to try to explain to you the extremely serious situation we are in, and to convince you that our decision on the draft Recommendation concerning a European Convention on Social and Economic Rights will be of vital importance for the prestige of this Assembly, not only with the Committee of Ministers, but—and this is the crucial point—with the mass of European workers. Are we to give them bread, or only stones?

How am I to tell you of my very grave anxiety in my unfortunately inadequate French? I must crave your indulgence in the matter.

THE PRESIDENT (Translation). — You do not need it.

M. FENS (Translation). — You are very kind, Mr. President.

Having said that, I should like to ask the almost classic questions: Where do we stand? What position have we reached?

Before we do anything else we must make up our accounts. So let us look at our debit and credit entries as they now stand; then we can see how the accounts balance.

If we follow the past history which explains the balance of our accounts, including Document 536, on which I warmly congratulate M. Toncic, the Rapporteur, we shall find some phases worth noting. Let us, first, make a distinction between the question whether we were prepared to accept a European Social Charter and the question whether we were prepared to accept an Economic and Social Council.

M. Fens (continued)

To take the European Social Charter first, on 23rd September 1953 the Assembly adopted Opinion No. 5, in paragraph 2 of which it accepted the principle of the elaboration of a "European Social Charter" which should define the social aims of Member States of the Council of Europe and serve as a guide for all future activities of the Council in the social field. In May 1954 the Committee of Ministers stated that it would endeavour to draw up such a Charter. Thus, Ladies and Gentlemen, both our Assembly and the Committee of Ministers agreed in principle on the need for a European Social Charter. I do not think there is a single member of this Assembly who is opposed to such a Charter.

The Committee on Social Questions went to work under the energetic chairmanship of M. Heyman, and in October 1955 submitted to the Assembly, for approval, a draft for a European Social Charter and a European Economic and Social Council (Document 403).

Was that the first time an Economic and Social Council had been suggested? Certainly not, Mr. President, for the Assembly asked for the institution of such a Council on 17th January 1953 in Resolution No. 26 which provided that :

"An Economic and Social Council shall be set up, with consultative functions, representing the fifteen Member States of the Council of Europe."

This Council was to form a link between the Fifteen and the Six.

I therefore refuse, Mr. President, to join with those who sing in canon the refrain that the Committee on Social Questions invented the Economic and Social Council—as the result of an ill-considered brain wave. We all had a part in its invention. Moreover, the first time the Committee on Social Questions proposed such a Council was in April 1955—over two years after our Assembly had agreed to it in principle.

Ladies and Gentlemen, the Economic and Social Council has become the cardinal point of our discussions in committee and in the Assembly.

There is no need to remind you of the

confusion which reigns in the documents. In October 1955 Document 403 was issued: the formal text of an Economic and Social Council formed part of the Social Charter.

In April 1956, after exhaustive discussions in the Committees on Social Questions and on Economic Questions, Document 488 appeared. It did not include an Economic and Social Council, but recommended that an Economic and Social Conference be convened—although that was not provided for by the Charter but was a reference to a recommendation to the Committee of Ministers.

Later, my friend M. Bichet and several other Representatives tabled an amendment which again proposed an Economic and Social Council. Thereupon the Assembly referred the whole question—in my opinion very wisely—to the Committee on General Affairs.

It must be admitted, Mr. President, that this action was very painful to many of us. For it made us realize that neither the Committee on Social Questions nor the Committee on Economic Questions was capable of submitting to the Assembly a draft European Social Charter calculated to win the approval of the majority.

We must accept the consequences. The Assembly relieved the essentially competent committees of the duty of submitting a draft European Social Charter, not because this was outside the competence of the committees but, I repeat, because they had not been able to agree on a draft acceptable to the majority of the Assembly.

Now, Ladies and Gentlemen, let us not play at prestige, which is an unprofitable game unworthy of those who desire social peace for Europe. Let us consider the draft Recommendation submitted to us by the Committee on General Affairs as the final compromise between the different ideas advocated in the two committees and in this Assembly. Let us take this Document 536 as an entirely new basis for realizing our aims on the European social plane.

As an Assembly, we have asked the Committee on General Affairs to arbitrate. We now have its judgment before us. Let us not hesitate to accept it and let us be careful not to impair the essential part of the recommendation, which says that the Assembly recommends that the Committee of Ministers establish a

M. Fens (continued):

convention on social and economic Rights on the basis of this draft Document 539.

To those who have any doubts about the meaning of the words "on the basis of" I say, read again, carefully, paragraphs 5, 6 and 7 of the preamble, in which the Rapporteur explains his committee's point of view with remarkable lucidity.

What will be the consequences if we fail to agree on the basis of the Convention? Are we to send the Ministers the whole mass of papers, including the avalanche of documents exchanged on this subject and the conflicting opinions expressed on it? Can we send the Ministers this indigestible hotchpotch, telling them that they have only to take it as the *pièce de résistance*—as the guide for drafting a European Convention on Social and Economic Rights?

I repeat, we have one single basis, provided by the Committee on General Affairs after thorough and serious consideration.

I have no objection to the Ministers taking account of the comments made during the public debates, even with regard to Parts II and III of the Charter. But I must emphasise that I wish to see the Ministers accept the draft European Convention on Social and Economic Rights as a basis.

Mr. President, what would be the fate of these contradictory documents without a basic text, which some of us wish to send to the Committee of Ministers? I am afraid that one fine day they would find their way into the Committee's wastepaper basket, and that would simply be the end of our prestige with the Committee.

How would the future European Social Charter look then, if it were still contemplated? There might perhaps be a poor anæmic little baby, fed on the tinned food of bureaucratic rationing, whereas we should so much have liked to see a child grown healthy and chubby on the diet rich in vitamins prepared for it by experienced parliamentary cooks. *(Laughter.)*

And yet, Mr. President, what is much worse is that we have promised the European worker a Social Charter. He is therefore justified in having built his hopes on a European Social Constitution. It may be that tomorrow—and this is the best that could happen—European workers will ask us to account for our failure—for our lack of the necessary flexibility to work together for the common cause of the nations and of human society.

But what is much more probable is that tomorrow the workers will see in our failure the failure of the European idea itself—and that then these millions of disappointed Europeans will turn their backs on European unity. Let us be quite clear what that means: they have asked for bread and received not even stones. Nothing: nothing at all!

THE PRESIDENT (Translation). — I call Mme. Weber.

Mme. WEBER (Federal Republic of Germany) (Translation). — Mr. President, as every thing we say here is brought to the attention of the Committee of Ministers, I propose to speak on other matters besides the Recommendation.

It is clear from the previous speakers' remarks on the political situation today that Representatives from all the Council of Europe countries are unanimous in their desire for a united Europe. No one can prophesy when this will come about. But the most earnest efforts are being directed towards this goal, both by leading personalities and by popular movements in the various countries.

The Council of Europe is working for a common market; it is discussing a common political purpose; it is trying to clarify relations between East and West. But this work alone is not enough.

The countries of the Council of Europe must conclude a convention co-instituting a Social Charter. For more than three years the Council of Europe's Committee on Social Questions has been working on a draft Social Charter. The Committee on Economic Questions has stated the economic principles involved. The two committees were unable to agree. So we now have before us, in Document 539, a new draft Social Charter by the General Affairs Committee.

I am prepared to accept all the economic and social improvements proposed in this document that are applicable to the various sections of the population. The highest aim of social policy is the development of human personality, but all social measures must also respect the integrity of the family and the responsibility, in their subsidiary role, of the social organisations. Social policy is, in the last analysis, a highly important responsibility of the State, which has to carry it out either

Mme. Weber (continued)

directly or in co-operation with local authorities and voluntary organisations.

I shall now revert to Part I of the document. I do not intend to refer to matters which concern the masses. The working masses have always been taken into consideration, and rightly so. I come from the Rhenish-Westphalian industrial region and have been active in the Ministry for Social Affairs, so I can claim some knowledge of these problems.

But it is from a woman's point of view that I want to touch once more on a few points on which we can all agree. I have the impression—and M. Birkelbach has raised the point too—that we spend all our time on points of discussion. Thus an atmosphere is engendered here which, especially as a woman, I deplore. Here I have nothing to say to the family organisations, which have prepared a memorandum but, to my regret, have spoken only of institutions. They ought rather to have referred to the plans we are making for the family. I say this in the hope that our discussion may take on a different tone.

I am glad to see that provision is made for the protection of the family, because the family is the foundation of society and of the State. In every country there should be equalisation funds to lighten the burden, particularly on large families; fiscal and housing measures should take into account the special position of the family.

The voluntary organisations should set up institutions such as marriage guidance centres; they should introduce holiday schemes for mothers and families and arrangements for domestic and family help. This section of the Social Charter needs expanding.

In view of what is going on in Russia, and of what we Germans know is happening in our East zone, I repeat: for the coming Europe the preservation of the family is a task of paramount importance. The family must not be saddled with an unnecessary burdens.

Adequate protection must be provided for all working mothers before and after confinement. Social institutions of every kind must help working mothers, and especially widows, with children to look after. In this section, just as I said of the previous one, there must be stronger emphasis than there has been on the active responsibilities of the voluntary organisations.

The provisions dealing with the protection of children and young persons are of special social importance. Every child has a right to education and care. If parents are guilty of persistent neglect, there must be specified persons and institutions to intervene in the interests of the children's physical, mental and spiritual well-being. In this field, too, voluntary work is very important.

Women, children and young persons need special protection at work. They must be protected against physical, spiritual and moral harm. Child labour must be absolutely prohibited. Young persons must receive adequate vocational training and reasonable holidays. There may be differences of opinion on certain points, but the main body of these social measures should, as a result of the Social Charter, become a common heritage for all European countries.

I should like to make a reservation with regard to a provision of a political nature. The right to strike should not be granted to such people as civil servants, doctors, the police or soldiers, because it would be incompatible with the essential nature of their professions.

The Social Charter raises a complex of economic and social problems which I do not propose to discuss in detail. I am of the opinion, however, that a number of provisions in Part I need to be re-examined from the point of view of their compatibility with the economic and social order of individual Member States.

Part II of the document recommends the appointment of a Social Commissioner to promote the implementation of the Social Charter. Certainly it is desirable that the forces making for social progress in Member States should be set in motion, but does this have to come about through the agency of a Social Commissioner? The Consultative Assembly itself ought to take this work in hand.

My remarks refer to a permanent Social Commissioner. On the other hand, I fully support the suggestion, embodied in several recommendations, that an *ad hoc* Commissioner is needed immediately.

Nor can I agree that a Social Chamber should be set up. There should not be a Social Chamber growing up side by side with the Council of Europe. As far as possible, the Council of Europe should itself perform all the necessary tasks. Rather than a Social Chamber, I prefer the proposal in Document 488

Mme. Weber (continued)

of an International Conference, which would embrace a European Conference.

I should like to associate myself here with what M. Birkelbach said: we must not quarrel because some of us want a Social Chamber and others do not, or because some reject the idea of a permanent Commissioner while others want one. After these three years of preparation we must argue our case in a genuinely responsible spirit, in a responsible manner without regard to national points of view; for we have carefully studied the European issues involved.

Finally, I should like to express the hope that the Committee of Ministers will before long succeed in establishing a European Social Charter. I know, Mr. President, that a common social foundation for all Member States would be a contribution to the unity and social contentment which are my aim.

One last word: I sincerely hope that we shall come to an agreement. It must be possible to find a basis among the various amendments proposed, which I do not want to go into now. We wish to see Europe go ahead in the varied fields I have mentioned. But above all we want Europe to make progress in the matter of social harmony.

THE PRESIDENT (Translation). — I call M. Haekkerup.

M. HAEKKERUP (*Denmark*). — M. Heyman made a very vigorous and interesting speech this afternoon in which he described the historical development of the discussions which we have had in the Committee on Social Questions and the Committee on Economic Questions, between the Committees, and so on. I do not intend to go into that discussion, although I would remind you of what you already knew—that for more than three years we have sincerely and thoroughly discussed these problems. I therefore understand those who say that it is now time to stop the discussion and to act.

But it is more important to take the right form of action than to take a decision to act, and I doubt whether this solution which has been proposed by the Committee on General Affairs is the right solution. The discussions

between the Committee on Social Questions and the Committee on Economic Questions did not produce a solution to our problems about the Social Charter. I think it was left to the Committee on General Affairs to try to find a solution. What we have before us now is a very remarkable piece of work, but it is not a solution which would enable the Assembly to unite behind the proposal—and that, I think, is deplorable.

If you take the Report, you will find in it a proposed Social Charter with methods of implementation, but we are not here today to take a decision upon that proposal—not in form, at least. It is in the Report only as an Appendix. We can, of course, discuss it, but we cannot amend it, we cannot change it, we cannot approve it and we cannot disapprove it. It is simply put there as an Appendix to this Report, as Exhibit I in this Report.

What we can discuss and decide upon is the draft Recommendation, but, in fact, if we take a decision upon the draft Recommendation as it is now proposed, we take in reality a decision upon the concrete proposal of a Social Charter and the instruments of implementation of that Charter. We do that because paragraph 1 in the Recommendation is a recommendation to the Committee of Ministers to

“establish a convention on social and economic rights on the basis of this draft.”

If we accept this Recommendation to ask the Committee of Ministers to develop a Social Charter on the basis of this draft, it will certainly mean that, although they will be allowed to change some details, the main line will be that now outlined in this document, which we are not allowed to amend. This means that they have to accept those broad lines and that the main features of a future Social Charter, which we shall certainly get back from the Committee of Ministers for discussion and decision at some time, will be limited within those broad lines. In reality, we are allowed to take a decision upon the document as a whole but are not allowed to amend the document nor the draft European Convention on Social and Economic Rights.

To my mind, that is a most unhappy way to deal with this proposal here and now. I do not intend to enter into a discussion of the content of the draft proposal for a European Convention,

M. Hackkerup (continued)

but I should like, nevertheless, to explain that it seems to me that the Committee on General Affairs has not been able to improve what we were not able to do really well in either the Committee on Social Questions or the Committee on Economic Questions. I think, even, that the proposal from the Committee on General Affairs is worse.

When you are drafting such a Social Charter, you are faced with two possibilities. One is that you can make it a Charter in which you state the minimum rights which you want to have accepted in the various member countries.

I understood from the Rapporteur's speech this morning that he sees this draft Recommendation for a Social Charter as something in the social field which is equal to the Declaration of Human Rights. That is not so. The Declaration of Human Rights which we have accepted is not only an instrument which is enforceable, with quite concrete rights which the individual persons in our countries can demand their own Governments to fulfil, but there is, to implement it, an organ established by this Assembly and by the Committee of Ministers, and even a tribunal from which it is possible to get a final decision.

There is nothing like that in this Social Charter. There are no specific rights which we can really implement and explain to the common man in our member countries so that he can go to his Government and say: "You have ratified this Convention. I therefore want this and this." I should have preferred us to have worked out a Social Charter in that sense.

The other possibility is to work out a Charter in which we draw up some ideals and social aims which we want Governments to strive to realise over a period of years—to draw up, so to speak, a programme for future social policy. If that is the intention of this document, it is absolutely too modest. What has really happened is that we have a document, which falls between two stools—one a real Social Charter and the other a programme for the future. This is merely a declaration of good intentions—but not good enough intentions.

I say that even to my friend M. Moutet, risking the chance that he will once more tell the Assembly that I am one of those people who are too young really to know what is the

right thing to do. I shall answer him by saying that we who belong to the younger generation are probably the ones who will be alive when something of this sort is realised, so we may be more interested in it than the older ones and therefore may not always agree with what have told us today.

I think, therefore, that especially when we move from Part I to Parts II and III we shall find a group of proposals which I, at least, am not able to accept. I am not allowed to vote upon that officially. Therefore, I am left with only one possibility. If I want to express my discontent with the document, I am left only with the possibility of voting against the draft Recommendation, unless it is agreed to delete from it the words "on the basis of this draft." If it is agreed to leave out those words, it means that we shall not be voting upon the whole document. It means, in reality, that we shall not be voting upon something with which we are very discontented. My main wish, therefore, is that we should reach an agreement to leave out the words "on the basis of this draft."

There are two more proposals in the Recommendation to which I want to draw attention. Paragraph 2 a) is worded in a way which I, for my part, can accept, but 2 b), in which it is proposed to appoint a Special Representative of the Council of Europe, I cannot agree to. I do not think that it is a very good or sensible idea. What will be the task of this Representative? It is said that he will press for the establishment of the Convention. The Committee thinks that

"the Representative would in particular be responsible for continuous co-ordination between Member Governments on the one hand and international organisations on the other."

This may mean that we decide here to appoint a person whose real task will be to lobby our national parliaments and Governments.

To my mind, that is not an acceptable form of work for this Assembly. In any case, I think it necessary that the wording relating to the task of this Representative should be changed. I ask Representatives and you, Mr. President, to try to foresee how the Governments will feel when they see that this Representative is just there to "lobby" them. I am sure most members of the Governments concerned will say, "We know your purpose, so you do not need to come, my dear friend,"

M. Hacklerup (continued)

and that will be even worse than if we do not appoint any Special Representative.

Because of these two main criticisms which I have about the document, I would prefer that we delete paragraphs 1 and 2, b) of the Recommendation. We have discussed this matter in the Committee on Social Questions and have realised that other people with other opinions want to have the Recommendation accepted. In order to try to find a compromise, we have worked out a proposal which is now before you as Amendment No. 2. In this proposal we have tried to find a compromise. If those who are for the wording of the present proposal will agree to leave out the words "on the basis of this draft" we shall be prepared to accept a modified form of Representative. This is a true compromise, and I think that it would be better if we could accept this compromise now rather than, later on, proceed to a vote where we may risk not only losing the various amendments but also the Recommendation itself. If we risk losing the Recommendation as a whole, with or without the amendments, the Assembly will be in a worse situation than we have ever been in on this matter. It must be the duty of us all to try to avoid that situation.

As we know from the Committee on Social Questions and the Committee on Economic Questions, it is quite probable that the Assembly will not give a two-thirds majority to the Recommendation. Therefore, I sincerely hope that our friends who have an opinion opposite to mine will once again reconsider the offer of a compromise, which we have repeated here in the Assembly with Amendment No. 2.

If that is not the case, if we cannot get M. Tomic, the Rapporteur, M. Heyman or M. de Menthon to say that they are willing to accept our Amendment, I, for my part, shall be forced to vote for Amendment No. 1, as proposed by members of the Committee on Economic Questions, and I shall advise my friends to do the same. If this Amendment is rejected by the Assembly, I can only advise them to vote against the Recommendation.

I really feel—and I hope that Representatives will understand what I say and take it in the spirit in which it is said—that it would be a very unhappy situation if we were forced to vote like that. It is not because we are

against a Social Charter: it is not because we do not want to have a Convention ratified by our Member Governments: on the contrary, we wish to have it. We wish to have a Convention which we can get ratified. That is why we are trying to improve the document, as we see it. We hope that we shall not be forced to vote against the Recommendation.

I will finish by saying that I hope that the speakers following me, like some of those who have already spoken so heartily and strongly from my point of view, will convince our friends on the other side of the table that it is better to get an agreement than to have what is to my mind a continual and rather ridiculous fight.

THE PRESIDENT (Translation). — I call Mr. Broughton.

Mr. BROUGHTON (*United Kingdom*). — I wish to open my remarks by stating that it appears to me that a large majority of Representatives in this Consultative Assembly want a Social Charter for Europe. That has been made clear in the speeches to which we have listened today and also in the speeches to which we listened last April. I would go so far as to say that in my view the Consultative Assembly of the Council of Europe earnestly wished to see a Social Charter in operation. I stress that point because I think it is important that it should be understood, that, if I or any other Representative should criticise either the draft Charter itself or the means of its implementation, it does not necessarily follow that we are in the least opposed to the idea of a Social Charter for Europe. I hope that there will be no misunderstanding on that point.

Today's debate has shown that there is not yet general agreement on a draft Charter. One Representative has described it as "not yet ripe for implementation." Another has said that it should be altered to allow a reasonably wide interpretation of some clauses. The Chairman of the Committee on Social Questions has himself tabled an amendment, and I suggest that that means that he is not satisfied with the draft Charter as it is presented to us today.

Most of us are far from satisfied with the draft Charter. That is the position at the moment. The Rapporteur, M. Tomic, who

Mr. Broughton (continued)

so ably opened our debate today, advises that the latest draft—that is, Document 536—which we are now considering should go to the Committee of Ministers for them to improve upon it. I agree with that line of action, but I am not so happy about all the recommendations of the Committee on General Affairs which accompany that proposed policy. For example, the Committee on General Affairs recommends that the Committee of Ministers should establish a Convention on Social and Economic Rights on the basis of this draft. That suggests that the Committee of Ministers may consider themselves bound to establish a convention purely on the basis of this draft without taking into account any other proposals. I firmly believe that a broader basis is required.

It is for that reason that I have been willing to sign Amendment No. 2 which stands in the name of my friend, Mr. Edwards, and which was referred to this morning by M. Strasser. In that Amendment it is recommended to the Committee of Ministers that they should

“ establish a European Convention on Social and Economic Rights taking into consideration ”—I repeat, taking into consideration—“ this draft and the observations and suggestions made during the debates in public session, in this matter. ”

I wish to refer briefly to the second part of the Amendment. My colleagues and I who have signed the Amendment agree to the appointment of a Special Representative, if that is acceptable to the Assembly as a whole. I would point out that this Special Representative is not the same as the European Commissioner referred to in Part II of these draft proposals. This Special Representative is one whom I envisage as a person of high standing who would work in close co-operation with I. L. O. and other competent inter-governmental organisations, trade unions and employers' organisations and all other competent organisations enjoying consultative status.

My opinion is that such a person would help the Committee of Ministers to proceed with this important work on this Charter and thereby help to bring their deliberations to fruition. After listening to the speech of M. Haekkerup, which was most ably delivered,

I would be prepared to accept some slight alteration of Amendment No. 2 to provide for a modified form of the Representative.

I ask the Assembly to bear in mind that three years have been spent on this Social Charter. I know that many Representatives are anxious that a Charter should be ratified by the Assembly and brought into operation as speedily as possible, but I ask them to contain their impatience. After all, if the Assembly approved of a Social Charter which could not be implemented by all the Governments, then I fear that it would bring the work of the Assembly into disrepute.

The draft which we considered in April was unsatisfactory. The draft that we are now considering is also unsatisfactory. Agreement has not been reached. I hope that the Assembly will send these draft proposals to the Committee of Ministers in accordance with the recommendations of Amendment No. 2 or a modification thereof.

As M. Haekkerup said, it might well be possible to arrive at a compromise on the second part of Amendment No. 2. This, I believe, is the best way of giving Europe a Social Charter acceptable to all our Governments.

Mr. EDWARDS (United Kingdom). — Will you permit me, Mr. President, to ask my honourable friend a question?

THE PRESIDENT (Translation). — Yes.

Mr. EDWARDS. — I wonder whether he will be good enough to tell me in which precise way he thinks this Amendment should be changed. He recognises that the Amendment standing in my name is an attempt to reach an agreement. It does not represent my view, but it is an attempt at conciliation, and I should be interested to know precisely how he would suggest my Amendment should be changed so as to command the approval of the people who so far have not budged at all.

Mr. BROUGHTON. — That is certainly a difficult question to answer. I should like to refer my right honourable friend to the speech which preceded mine, in which it was pointed out that, if we elect a Representative to carry out these duties in the way that is proposed in Amendment No. 2, he might on

Mr. Broughton, Mr. Edwards, M. Haekkerup, the President, Mr. Nigel Nicolson 24th October 1955

Mr. Broughton (continued)

occasions find himself in a somewhat invidious position. I think that if we were to consult together it might be found possible to suggest appointing a Representative whose duties may be, shall I say, less clearly defined than they are in this Amendment, thereby allowing the Representative more latitude in the performance of his important duties.

Mr. EDWARDS. — I thank my honourable Friend.

THE PRESIDENT (Translation). — I call M. Haekkerup.

M. HAEKKERUP (*Denmark*). — I have a question which I should like to ask M. Broughton. Is he aware that my remark about the Representative referred to the Representative proposed in paragraph 2 (b) of the draft Recommendation of the Committee on General Affairs? The task of this Representative has already been changed in the Amendment standing in the name of Mr. Edwards and myself. If further changes are necessary, I am prepared to consider the question.

THE PRESIDENT (Translation). — I call Mr. Broughton.

Mr. BROUGHTON. — I thought I had made it clear that the Representative proposed in Amendment No. 2 is an entirely different person from the Commissioner who is proposed in Part II of the draft Convention. But I understand that there are members of this Assembly who are not disposed to approve of a Representative such as we have recommended in our Amendment, and, if that presents a difficulty, then, as I said before, I think we might arrive at some compromise as to the Representative's duties.

THE PRESIDENT (Translation). — The incident is closed. Ladies and Gentlemen, we still have to hear six speakers in the following order: MM. Nigel Nicolson, Bengtsson, Kalenzaga, Hellwig, Even and Jones.

I call Mr. Nigel Nicolson.

Mr. Nigel NICOLSON (*United Kingdom*). — We would all have wished that we could send

forward to the Ministers a document upon which we were all agreed, and for which we were all prepared to fight; but, of procedural that has not proved possible. It is a regrettable humiliation that our Assembly has had to confess failure. But in our procedural quarrels about the exact methods by which we should pass on this Document to the Ministers, I think we have rather lost sight of the real issues at stake.

It was M. Haekkerup's speech which, in my opinion, brought the debate right back to the central issues. You will remember that he asked us whether we wanted a Charter and a mechanism attached to it which would make it possible for any private individual to come to Strasbourg with his complaint, and to obtain justice over the head of his own Government, or whether we wanted a Charter which would simply be a statement of the social aims to which all our countries aspire.

In his opinion, and in mine, the first is not possible and is not suggested by the present document. Also in his opinion, but here I strongly disagree with him, the document that we had to have, to quote his own words, was "too modest a declaration of good intentions". He would like something much stronger and much more far-reaching, and, to tell the truth, I can still find in this document certain promises which we are asked to make in the names of our peoples which are almost impossible to undertake honestly. I refer, for example, to the suggestion in Section G (c) that it is the duty of a Government to protect the small savings of the people. I shall not go into long arguments which can be developed around that point. It seems to me, however, not only politically dangerous, but actually unkind to delude our peoples into imagining that what they have lost by inflation shall be made good to them. All of us know that economically it is absolutely impossible; and in one or two ways like that—not so very many—the body of the Charter itself could be considerably improved.

The real point on which I wish to follow M. Haekkerup is this. What powers are we giving, if we pass this document or give it our general blessing, to implement the Charter? The question of the power of implementation is absolutely essential to the whole of this document, and it is shirked. When I say it is shirked, I am basing that accusation upon phrases that are allowed to creep in which

Mr. Nigel Nicolson (continued)

suggest that in some way or another the Council of Europe, acting through one body or the other, will have the power to force Governments to introduce these measures. I refer to phrases such as that which occurs on page 30, of the Report :

" It is unnecessary," it says, " as yet to go into the methods enabling the Commissioner to fulfil his responsibility of ensuring that the Charter is implemented. "

What does that mean? Does that mean that at a later stage we shall have to consider whether we shall put political power, sovereign power, supra-national power into the hands of this Commissioner or possibly the Chamber itself? If that is to be considered at a later stage, surely we should be given some indication of what is in mind. But, in fact, we all know perfectly well that it is virtually impossible that any Government will grant such powers to the Chamber, to the Commissioner, or to the Council of Europe. If the Chamber is to come into existence it can simply be a consultative body within a Consultative Assembly, and all that it can give is second-hand advice to the Ministers, who are under no obligation, except one, to carry it out—and that one exception is the power of moral pressure which a place like this can exert even upon the greatest Power.

What do we mean by this moral pressure? For it seems to me that moral pressure is the only instrument about which we can honestly talk. How would it work if Parts II and III were put into operation? You would have sitting somewhere in the building a Commissioner whose duty it would be to receive from the Member Governments reports upon the progress of their social legislation, reports which would then be assimilated and boiled down into a general report, submitted by the Commissioner to the Chamber, which set out, in tabular form perhaps, the state of implementation in our various Member States.

That report would then be considered by the Chamber of sixty and they would then be able to point, perhaps, to certain loopholes, certain deficiencies, in the social legislation of various of our States; and, naturally, it would be upon the poorest of them, the least economically developed, that this censure would bear most harshly. I ask the Assembly whether we intend to set up an organisation which can pillory one of our Member States simply

because it is unable, for many possible reasons, to carry out the promises contained in the first Part of the Charter.

How will this Chamber be competent to judge whether or not these countries have fallen down upon their obligations? Will it go to the countries concerned? Will it examine all the statistical evidence which emanates from the public offices of these countries? Will it make due allowance for the poverty of the country, for the inefficiency of its governmental machine, or perhaps for a decision of its Parliament not to devote the bulk of its income to projects of social reform but to choose, rather, to give priority to defence or economic investments?

All these things must be taken into account before it could ever be legitimate for a body such as this to censure one of our number, and I call in question whether the proposed composition of this Chamber entitles it to make such grave decisions. We read that one-third of the members are to come from the trade unions, one-third from the employers and one-third from all the other sectors of the community. Would it not be a little more sensible if, since, in the way that I have indicated, their duties will be to examine in detail the circumstances in each country, that examination should be made by men who are thoroughly competent to do so? What is the point of asking, say, the manager or the owner of a great shoe factory to debate and to pronounce upon the state of education in Greece or Iceland or Great Britain? How does he know what he is talking about? Will you get him here in any case? What attraction is there for a man in that position to leave his important business in his own country and come here to debate things about which he knows little, knowing in advance that nothing at all except anger can result from the debate?

I am afraid that it is inevitable that, with a composition like that proposed, the political divisions which already exist in every one of our countries between organised labour and less organised employers' associations must be reflected in the debates which will take place here, and I ask whether this is not a task better handed over to those who have no political affiliations whatever and below whose debates there will be no political undercurrents, and to ask them, in the calm and sanity of which experts are capable, to sort out whether a country is to blame or not.

But I do not think there should be a Chamber or a Commissioner. For the reasons which

Mr. Nigel Nicolson (continued)

I have given, I do not think it will work. I believe, on the contrary, that the real stimulus to our nations to put into effect the promises which we are here undertaking will be the determination of our leaders to improve the social lot of our people. The legitimate ambition of politicians is to gain power for themselves in order to do good to their people, and I think that it is upon that moral force, linked with personal ambition, that we should rely for the implementation of this Social Charter.

THE PRESIDENT (Translation). — I call M. Bengtsson.

M. BENGTSSON (Sweden). — The fact that we have before us today a draft Recommendation concerning a European Social Charter means that we have completed the first stage of one of the most important tasks that we have had to fulfil, the task of establishing an instrument designed to improve the living conditions of the peoples of Europe by the equitable sharing of both resources and burdens. Let us not forget that.

As a member of the Committee on Social Questions, I can testify that it has not been an easy task to draw up this Charter. In the face of considerable differences in the social structure of our various member countries, we have had quite a few rather thorny problems to tackle.

During this first stage of our work, we have had to settle certain questions of principle. One such question is whether we should establish a scheme for the immediate future or a long-term programme. If we choose the second alternative—a long-term programme—will it then be possible to establish a programme which will be capable of giving guidance to the countries which are more advanced in this field without discouraging those which are lagging behind in one respect or another?

These and other problems have caused many difficulties, but I think I can say that the draft Charter, as it is now before us, represents an acceptable compromise between various differing points of view. There is, however, one part of the draft text which I find it impossible to support. That is Part II and III dealing with the European Commissioner and Chamber. On that question, I wish to associate myself

with the critical remarks already made by a number of my colleagues, and I should like to support the Amendment submitted by M. Hellwig and others.

In our draft Charter there is one point which, in my opinion, is a matter for particular satisfaction, and that is the fact that it so strongly emphasises the importance of bringing about full employment. This is a matter for satisfaction because, as I see it, full employment is necessary for the establishment of higher social standards. It may be true that we have already taken a few steps in the direction towards full employment, but I think that there is much more to be done. I am convinced, however, that if Member States subscribe to the Charter and accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment, we shall have taken another big step towards a better Europe.

We are all aware of the fact that our efforts to achieve full employment will be up against considerable difficulties, not only because some countries may not have enough capital to enable them to make the necessary investments but also because some of us may shy away from the conception of a "planned economy". But here, as well as when we decide that our national income should be distributed in the form of salaries and social benefits, the question is, in the end, how much are we prepared to sacrifice in order to bring about social justice?

Since conditions have made it possible for us in my own country to maintain almost full employment for some time, I may be allowed to say something about the conclusions which we have reached when trying to enable all our citizens to earn their living in a freely accepted occupation. One conclusion is that unemployment can be eliminated only through the establishment of a planned economy which, as you all know, means the introduction of economic restrictions. Some people take the view that such methods must pave the way for Communism. I do not think so; on the contrary, I think it is a fact that unemployment and low social standards have thrown many people into the arms of Communism.

We have also had to take into consideration the obvious truth that if you want something you have to pay for it. In our draft Charter we want our Governments, among other things,

25th Sitting

M. Bengtsson, M. Kalenzaga, M. Hellwig

M. Bengtsson (continued)

to establish fair and stable conditions of work; to protect children and women against the moral and physical hazards of their work; to raise the social security systems in our countries to a satisfactory level, and to ensure the economic and social protection of family life.

But all these measures cost money, and to realise them means, in fact, that we have to accept higher taxes. But I should like to point out that bad social conditions and unemployment also cost money, and are very expensive at that. Twenty years ago there were many people in my country who raised objections against the introduction of social welfare measures, on the ground that they would make people reluctant to work and make them look to the Government for all kinds of assistance. To that I should like to say—and I am sure you all agree—that the man-in-the-street has proved to be much better than that. If you give him a fair chance he will do his best to be a good member of society.

Before I conclude, let me stress one more point. The aims of our Charter must be defined in such a manner as to make it easy for people to understand exactly what we are striving for. I think that people will understand us if we tell them that what we are aiming at is a Europe where every one of us can get a job, a Europe which will do her utmost to increase her production and raise her social standards. This calls for more co-operation and more social solidarity. I think that the European Social Charter, when it comes into force, will be a good contribution to such a development.

THE PRESIDENT (Translation). — I call M. Kalenzaga.

M. KALENZAGA (France) (Translation). — Mr. President, Ladies and Gentlemen, my purpose in speaking in this debate is not to give a long dissertation on the advantages and merits of the European Convention on Social and Economic Rights, but to enlarge upon what M. Laingo has said about the attractiveness of such an international instrument from the viewpoint of the overseas territories.

Because it is so attractive, Africa—to mention only one overseas territory—does not wish to intervene in the present controversy

on the degree to which this Convention could be applied. It is ware, however, of the tremendous shock that such a step may produce.

Moreover, the overseas territories, having long been associated with the work of the International Labour Organisation, are anxious that the Charter, the draft of which offers every guarantee, should be implemented in co-operation with this Organisation.

Lastly, the overseas territories ask to be represented in the European Social Chamber. To be associated with the implementation of such a progressive social policy would be an invaluable experience for our peoples.

For these reasons I would beseech members of the Assembly to keep uppermost in their minds the political significance of the Charter, and not be deterred by technical difficulties which can be left to the experts to settle.

Remember, my friends, when the time comes to vote that an imperfect but improvable text is always better than no text at all.

THE PRESIDENT (Translation). — I call M. Hellwig.

M. HELLWIG (Federal Republic of Germany) (Translation). — Mr. President, Ladies and Gentlemen, as the evening is so far advanced, it would be asking too much of Representatives to go over the details of the debate yet again. I had intended to state my views on various matters of substance rather than on institutional issues, and I regret that there is now no time to do so. I registered my name as a speaker in good enough time to justify the belief that I should be called earlier. I therefore reserve the right to return to essentials when I explain the amendment which I and others have tabled.

I should like once more to stress the fact that Document 536 contains a number of points which have not yet been adequately discussed by the Committee on Social Questions or the Committee on Economic Questions. Several speakers have already said the same thing, but with particular reference to the proposal to appoint a European Commissioner. I think, however, that some points not yet thoroughly discussed have also been inserted in Part I, which is concerned with none other than the nature of social and economic rights.

It will be enough if I mention as an example that, in Part I, G, (c) of the latest draft, the

M. Hellwig (continued)

Contracting Parties undertake to protect small savings. That is a provision of cardinal economic importance, on which the appropriate committee has not yet been able to state its views. I should like to ask the authors of the text where they propose to draw the line between small savings, which are to be protected, and larger savings which they do not think it necessary to protect. This passage alone shows clearly how little thought has been given to the implications of points inserted as amendments to the earlier Document 488.

I refrain from pursuing the matter further at the moment—but I intend to return to it when I explain the grounds for my amendment.

THE PRESIDENT (Translation). — I call Mr. Even.

M. EVEN (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, for three years the Consultative Assembly has been trying to frame a European Social Charter. It has made a real effort to find a way. The Social Charter is intended to bring social betterment to the working people of our countries and also to lay down uniform principles for a social policy to be pursued in common. This is not the place to go into the whole subject of the Social Charter and its contents, so I shall confine myself to a few essential points.

One of the first social requirements is necessarily the provision and guarantee of a livelihood for our working people. Unemployment, especially in the coming years, may be the scourge of the modern economic system. It is a very hard fate for men with the will and the ability to work to be unable to earn a living, to be overcome by fears for their life and existence and hence to acquire an inferiority-complex.

The Social Charter talks of the right to work. This right can best be assured by an efficient and thriving economy. An efficient, thriving economy is also a necessary condition for a reasonable level of real wages, sound social legislation and the acquisition of property by the workers.

In my opinion, we shall have taken a notable step forward if we succeed in creating a Common Market. Without a Common Market, I am

sure the Social Charter for which we are striving cannot be implemented. So we must not relax our efforts to create it.

The working people must have their rightful place in the economic system and in the concerns in which they work. Industrial life is not concerned only with materials, but also with millions of human beings. The Social Charter speaks of co-management, which is a principle we support. But it must not mean transferring functions, still less doing away with the employers' responsibilities. If that is what is wanted, then the answer is a socialised economy or co-operative industries.

The provisions for protecting the health of the working people are to be welcomed, likewise those for increased benefits in respect of illness, unemployment and old age.

I also accept the right to strike but we should not like to see it extended to all sections of the population. I agree with M. Birkelbach that the trade unions must remain free from State control and Government influence.

Unlike several earlier speakers, I support the proposal for a Social Chamber. If it is given definite and limited tasks, it could be useful. On this point I find myself in agreement with my friends from the International Federation of Christian Trade Unions, who are also in favor of a Social Chamber.

At the same time, I do not believe that rejection of the Social Chamber would make the whole Social Charter worthless or jeopardise the social progress of Europe in general.

It is to be hoped that the valuable efforts of this Assembly will soon be rewarded by the establishment of a Social Charter which will bring great benefits to the working people of our countries and draw our peoples closer together.

THE PRESIDENT (Translation). — I call Mr. Jones.

Mr. JONES (*United Kingdom*). — When I gave notice early this afternoon that I wished to take part in the debate I did so because of something which occurred during the excellent speech, so far as its delivery was concerned, of the Rapporteur; but since then another incident has taken place. Therefore, I am glad that I put down my name.

25th Sitting

Mr. Jones, the President, Mr. Edwards

Mr. Jones (continued)

I want, on behalf of myself at any rate, to protest most vigorously against the completely unreal exhibitionism that we got between 9.40 and 10 o'clock tonight. It was completely unreal and not characteristic of the rest of the debate. I have sat through the debate from beginning to end, and I suggest that what took place during that short time was a complete travesty of the way in which the rest of the debate has gone. I want to protest that if we are to televise the proceedings of this Assembly...

THE PRESIDENT (Translation). — My friend, none of us is supposed to pass judgement on the tone of speeches made in this Assembly.

Mr. EDWARDS (*United Kingdom*). — On a point of order. I should like to submit that it is perfectly in order for any speaker to refer to what other speakers have said. I ask you to reconsider your ruling because, if it is maintained, it means that my friend Mr. Jones cannot refer to any of the speeches made during the television session. That would be an impossible position.

THE PRESIDENT (Translation). — I think we are at cross purposes. Mr. Jones's remark referred to the somewhat exhibitionist nature of certain speeches made at a given moment.

Each speaker must decide for himself what points he will raise. We may criticise his views, but we may not, I repeat, pass judgment on the tone of speeches.

I call Mr. Jones.

Mr. JONES. — Naturally, I accept your ruling, Mr. President, but I thought that at least I was entitled to call attention to the fact that the whole of the speeches made during that television broadcast were in favour of the Charter, whereas, as a matter of fact, the majority of the speeches made today have been against it. I concede that there was one conditional speech. I make my personal protest.

Now I come to the other point which caused me to decide to speak today. When I listened to Mr. Nicolson...

THE PRESIDENT (Translation). — Allow me to answer your objections. Those who

spoke at the time to which you refer were chosen by the Bureau as representative of each of the main Assembly committees.

I should also like to point out that at least one of them appeared to express views at variance with the others.

Mr. JONES. — That I fully accept, but if we are to portray the proceedings of this Assembly to the public outside, then at least we ought to portray them with speeches for and against any subject. I make no complaint about the selection of the speakers; I am not protesting because I was not selected; I did not expect to be selected; but I believe that the Bureau should try to get a balanced view in a debate if it is to go out to the public.

Now I wish to make reference to what was said by Mr. Nigel Nicolson. I think that he got to the kernel of the situation. He said that the Assembly must not delude our people, and I believe that he is right. I believe that earlier today M. Fens said that the working classes of Europe were looking forward to a Social Charter. I think that they are, but it would be the height of folly to lead them to believe that the document which we are discussing is likely, in its present form, to give them what they would be led to expect by some of the speeches made in favour of the Charter this afternoon and this evening.

Therefore, however disappointing it is to this Assembly, it is better not to endeavour to persuade the people of Europe that they can get this sort of thing on a platter until we have drafted a Charter which is capable of application, and which will be applied by the Governments concerned within a reasonable time. I suggest that Mr. Nigel Nicolson was right when he said earlier that we ought not to delude our people. If the Council of Europe is to survive, if it is to expand and to progress, it must face the realities of the situation.

This brings me to the point that caused me this afternoon to put my name down to take part in the debate. It was a statement made by the Rapporteur, M. Toncic, when he sought to justify the establishment of a European Chamber and a European Commissioner because, in fact, they were European institutions. If anything is likely to bring this European idea into disrepute in Europe, it is to attempt to seek to multiply the organisations already in existence.

Mr. Jones (continued)

May I call the attention of the Assembly to something which is stated on page 29 of Document 536? It is under the European Social Charter and reads:

"The Committee has chosen the name Chamber:

—because it is a new name in the Council and does not invite comparisons with other organs existing or contemplated;

—because it is an apt description for a specialised consultative organ".

Does anybody really believe that words of that kind are going to lead the people of Europe into not seeking to make a comparison between the work that this Chamber will or will not be able to accomplish, and the already well-established organ we have in the International Labour Organisation?

It seems to me that there is sufficient work in Europe without duplicating an organ which is already well established, which has a reputation in Europe and which, with all its vast experience and machinery, can do the job, very much better than a newly-established organisation.

I do not want to go into the details tonight, but in this document there is shown what the International Labour Office can do, what it has done, and what it will do. There is also a statement that we ought not to rely on the International Labour Organisation because, in fact, it is a world-wide organisation, and has within it—and this was repeated by the Rapporteur this afternoon—countries in Eastern Europe, countries in Asia and countries in other parts of the world. But have not the supporters of this idea heard of regional conferences called by the International Labour Office? Have they not appreciated that it is possible for the I. L. O. to convene a conference, naming the sixteen Member States of the Council of Europe as the countries to be convened, and that it can use the experience, the machinery and the organisation of the International Labour Office in order to accomplish this task?

In a very well-documented speech this afternoon, Dame Florence Horsbrugh put the position of my country very well indeed. We are proud in Great Britain of the work which we have been able to accomplish in the social field since 1945. But I would counsel this Assembly to remember what Mr. Corish, the Minister for

Social Welfare in Ireland, said this morning. We could only proceed as fast, he said, as our resources would allow us. He believed that this Charter was asking member Governments to go too far and too fast. There is nobody in this Assembly who does not want to see the establishment of a Social Charter at the earliest possible moment. Of course we do; but we have to remember that we have to carry Governments very largely with us in this regard, and much more important is the fact that we have to carry the other organisations with us.

I should like to call attention to the draft Recommendation. It, first of all, asks the Committee of Ministers to establish a Convention on Social and Economic Rights on the basis of this draft. Then it goes on to say:

"And for this purpose

(a) work in close co-operation with competent inter-governmental organisations, trade unions and employers' organisations, and all other competent organisations enjoying consultative status."

In a document which was circulated today there is contained the text of a letter received by the President of the Assembly from M. Schevenels, the General Secretary of the International Confederation of Free Trade Unions. I submit, as one who has played some little part in this organisation in previous years, that it is the most powerful trade union organisation in the world, and I respectfully suggest that, without the co-operation of that organisation, no Social Charter in Europe is likely to be successful. If the reference to the Committee of Ministers is to be made on the basis of this document, then, in the light of what M. Schevenels has said in this communication, can we expect to get the co-operation of the International Confederation of Free Trade Unions?

I should like to call attention to what M. Schevenels says. There has been some misapprehension this afternoon, and I would crave the indulgence of the Assembly to delay Representatives a few moments by reading a fairly lengthy extract from this letter, because it has been suggested in one or two quarters during the debate that some trade unions have changed their ground about the Social Charter. In fact, when the International Confederation of Free Trade Unions agreed and accepted the idea of this kind of organisation, it was described as an Economic

Mr. Jones (continued)

and Social Council with responsibilities in both directions. I now crave the indulgence of the Assembly to read this extract:

"The chief appeal of this Charter to our organisations lay in the institution of an Economic and Social Council, and particularly in the economic competence of that Council. Our European free trade unions attach great importance to the establishment of a European institution in which the workers' representatives could effectively take part, on an equal footing with employers and Governments, in the study of the economic questions confronting Europe, and make their own contribution to the solution of those problems. The free trade unions were delighted, a few years ago, by the Council of Europe's announcement that it proposed to establish such an Economic and Social Council. They regarded the social activities of such a Council as a secondary consideration, since the International Labour Office has the necessary competence and experience to deal with these questions at European regional conferences, limited to the Member States of the Council of Europe. The Economic and Social Council would therefore not be required to deal with social questions, except in cases where the International Labour Office was unable, for some reason, to settle them. As already explained, however, our chief interest in the Economic and Social Council lay precisely in its economic powers. The present draft, however, deliberately strips the "European Social Chamber" of all economic powers. True, it contains an occasional reference to the 'implementation of the European Convention of Social and Economic Rights'; but elsewhere it is made clear that the Chamber and, incidentally, the Commissioner, will be responsible for promoting the fulfilment of the social policy of the Council of Europe"

Then it concludes by saying that they could not accept this Charter so far as Parts II and III are concerned. They make certain reservations on some of the implications in Part I. It is too late in the night for me to attempt to deal with the details of those, and they have been fairly well exhausted, but I wanted to call the Assembly's attention to two things: first, that we are liable to bring ourselves into disreput-

ate in Europe if all we seek to do is to waste our time in creating separate organisations and new institutions to duplicate work which is already being done effectively, and in creating an individual who, in the words of preceding speakers, will, with the Chamber, try to act as a "pressure-group" on the Governments of the sixteen Member States;

Lastly, but certainly not least, if we are to implement this Social Charter and its provisions—and we all want it implemented at the earliest possible moment—we cannot possibly do it unless we carry with us the good will and the enthusiasm of the trade unions in the member countries. I can hardly believe that Walter Schevenels, as General Secretary of the I. C. F. T. U., would send a communication of this kind without the authority of his organisation, of which the General Secretary of the British Trades Union Congress happens to be the President. Without the co-operation of that organisation, this project is doomed to disappointment before it starts.

We ought not to try to delude the people of Europe into believing that we can give them this Charter until we have perfected the organisation. It may well be that we have already discussed it for three years, but it would be better to discuss it for a further three years and to get a perfect instrument than to try to mislead the working classes of Europe.

THE PRESIDENT (Translation). — Thank you, Sir. I call Mr. Edwards.

Mr. EDWARDS (United Kingdom). — A few moments ago, Mr. President, I raised with you a point of order, and I think that at the time I probably misunderstood your ruling. If I did, you must forgive me. I trust that if one comments on any speeches made tonight, one is in order. But you have said, as I understand it, that we are not to discuss the arrangements for the particular period of the debate when television was in operation.

We are, of course concerned in the Social Charter with matters of the greatest importance. In places in Europe tonight, probably, men and women are dying for some of the rights we are discussing. I wonder whether we are not perhaps a little unreal. For the struggles in Hungary are our struggles, and all too often we behave as though they were not. Wherever men and women have met

Mr. Edwards (continued)

together in political communities they have always been interested in their rights. These have taken many forms. Some have looked to the State—in Common Law or in Statute Law. Some have looked to the Church, or to the trade unions.

Many of our difficulties in the discussions that we have derive from the fact that we have different traditions and different ways of looking at things, and therefore we are not likely, because we are different, easily to reach a common mind on these things. In my opinion, therefore—and this has taken up a good deal of my time in the last days—it is important to try, if we can, to reach a level of agreement within which we can have our differences of tradition or our national attitudes, and upon any group that declines to try to make this kind of compromise must rest the blame if the Social Charter in the end does not get a two-thirds majority.

M. FEDERSPIEL (*Denmark*). — Hear, hear.

Mr. EDWARDS. — I listened, of course, with particular interest to the speeches which were made by the Rapporteur, and by the Chairman of the Committee on Social Questions. They were necessarily limited in time, but they had already, I think, said to the Assembly what they had to say, and they must therefore be forgiven for having said nothing new tonight.

But when I turn to the other people who spoke, I am not so sure about it. I will not say much to M. Federspiel, except to say that it was unusual to hear him speaking French when, of course, he speaks English better than the English, but my chief difficulty arises with M. Moutet, and I do not suppose that I should have asked for the Floor but for what he said. He is a Socialist and a comrade of mine. We Socialists pride ourselves on speaking at least for a very substantial section of the trade union movement, and he will forgive me if I say that I thought it extraordinary that he could make a speech without developing the point of view of the trade union movement. He was asked about it. He said, "Of course, the trade unions have certain reservations". Mr. Jones has already shown how severe those reservations are, and it would

be unfortunate if it went out to those people who see television that M. Moutet was in any sense of the term speaking for the Socialist group. Indeed, I think it would be very difficult indeed to find another Socialist who would give the unqualified support which he gave to the draft Recommendation in front of us.

I thought it was my duty to make this plain, but I would end where I began. We are not discussing trivialities. We are discussing things of the greatest importance. My own personal view, let me admit, is not very far removed from that of M. Hellwig, but I would go an enormous way to meet those who hold a different view if I had any hope whatever of securing, in the end, the necessary majority of this Assembly to pass all our work to the Ministers with such suggestions as we can make.

I have an amendment down. Doubtless I can say something about it when it comes forward. Tonight I would say of it only that I believe that if at this moment of time M. Heyman and some of his friends would move just that little step towards us, I could say here and now that two-thirds of the Assembly would vote for that Amendment. But the concessions cannot all be on one side, and I cannot take the responsibility, either for my own group or for the people with whom I have negotiated, of making myself responsible for a proposal for a Special Representative to advance this cause unless there is some concession on the other side. I say with all the seriousness I can command that I shall regard it as the greatest tragedy if, when we come to the vote on Friday, we find ourselves in the position that nothing that anyone proposes can secure a two-thirds majority.

I do not doubt the sincerity of other people. Everybody must have his own views. We do our duty as we can, according to our lights. For my part, speaking seriously, I would say that I believe that this is the way in which we can perhaps get agreement. If people do not accept this view, I shall not complain, but I give it to the Assembly for what it is worth, and I would remind the Assembly that all the time that when we are dealing with these things, we are dealing with the stuff of politics. As I said at the beginning, we are dealing with the very thing for which, in some parts of Europe tonight, people will physically be fighting. Let us go to our beds with that thought in our minds.

25th Sitting

M. Moutet, the President, M. Radius, Mr. Jones

M. MOUTET (*France*) (Translation). — Mr. President, since I am implicated, I beg leave to reply.

THE PRESIDENT (Translation). — I have marked you down to speak and will call you shortly.

In the meantime, Ladies and Gentlemen, I should like to straighten out a small misunderstanding, and I am sure Mr. Edwards will agree to this.

Just now Mr. Jones stated, if I understood the interpreter correctly, that he regarded the four speeches given at the beginning of the evening Sitting as verging on exhibitionism. In my capacity as President I pointed out to Mr. Jones, in a friendly way, that this sweeping judgment, not on the facts or ideas put forward by the speakers, but on the general tone of their speeches, seemed to me out of order.

I do not think that my ruling calls for any comment.

A further point was raised: that of the choice of speakers earlier this evening. I would ask you, first of all, to remember that this choice was not an arbitrary decision on the part of the President of the Sitting, it was made by the Bureau, with every endeavour to observe the strictest impartiality. M. Heyman spoke as Chairman of the Committee on Social Questions and M. Toncic as its Rapporteur. You will no doubt agree, Ladies and Gentlemen, that it was quite normal to invite the Chairman and Rapporteur of the Committee on Social Questions to speak. I would add that the Rules of Procedure authorise them to intervene at any point in the debate.

Two further speakers had to be chosen. The Bureau, first, selected a speaker whom it knew would be strongly opposed to the Committee's recommendations, for he has made no secret of his opinions on this subject. I refer, of course, to M. Federspiel, who did, I believe, make several criticisms and reservations.

The Bureau finally decided that after a member of this persuasion had spoken, a fourth speaker should present the opposite case, fully approving the conclusions of the General Affairs Committee. The person so appointed was M. Moutet. It seems to me, therefore, that the Bureau's selection, made with scrupulous regard for impartiality, cannot fairly be criticised.

As regards the last question raised by Mr. Edwards, namely whether M. Moutet spoke on behalf of his group and interpreted its views correctly or otherwise, allow me to say that this is not a matter which I am competent to judge.

With that, Ladies and Gentlemen, I consider the incident to be finally closed.

I call M. Radius.

M. RADIUS (*France*) (Translation). — My reason for intervening, Mr. President, was that I wanted to ask a question of my friend Mr. Jones.

He has hotly defended the attitude of the International Confederation of Free Trade Unions. Does he also share its views on the Economic and Social Council?

THE PRESIDENT (Translation). — I call on Mr. Jones to reply to M. Radius's question.

Mr. JONES (*United Kingdom*). — Since the question is addressed to me, I would say that I do. If a Social and Economic Council had been proposed, I could well understand the views of the International Confederation of Free Trade Unions. As has been said, they were in favour of a Social and Economic Council because, in fact, there were economic problems to be discussed, and it would have provided an opportunity for the trade unions as such, to put their point of view, together with the employers and the Governments.

Those who did me the honour of listening to what I had to say on another matter yesterday will recollect that I complained to the European Conference of Ministers of Transport that, whereas they had accepted other organisations, they had merely permitted the International Transport Workers' Federation to send them a communication. The I.C.F.T.U. would, in a Social and Economic Council, however, be entitled to debate the economic problems of Europe on an equal basis.

But the present Social Charter confines the work, by and large, to social conditions. The I.C.F.T.U. take the view, as I do, that, with their long experience and built-up machinery, a regional conference under the aegis of the International Labour Office would be able to do that job much better and more effectively than any new organisation.

THE PRESIDENT (Translation). — I call M. Moutet.

M. MOUTET (*France*) (Translation). — I never thought my speech would raise such a storm of protest.

I expressed my own views and those of what we call in France "the European Left-Wing Socialist Movement", which supports, in particular, the ratification and immediate implementation of the ILO Labour conventions, the conclusion of European collective agreements, the preparation of a European Code of Social Security and the adoption of a European Social Charter affirming the right to work and defining the general principles on which the social legislation of European countries should be based.

Those were the views I put forward. I cannot see, therefore, what there was in my speech to arouse such protests.

I added, however, that I was a believer in compromise at the proper time and if the offer is acceptable.

Perhaps I was misunderstood by certain friends with whom I am in the utmost sympathy. Perhaps they were slightly upset by my reply to an unexpected question.

I said that colleagues with whom I had discussed the matter led me to believe that they would accept nothing without the Economic and Social Chamber. I concluded that, because of their comparative youth—this is not a reproach, I wish the same could be said about me—they were uncompromising in their attitude.

I was merely generalising, and no offence was intended.

M. STRASSER (*Austria*) (Translation). — I feel that cannot be aimed at me.

M. MOUTET (Translation). — Why not? The shot seems to have gone home. (*Laughter*).

I even heard qualified trade union representatives answering questions on the subject, and the way I interpreted their replies was that they have resigned themselves to the adoption of this Social Chamber.

Admittedly, I may not have got their statements quite right, but despite my age I am

quick-witted enough not to misconstrue such utterances. Had I not heard these statements, I should have refrained from interpreting the views of the trade union representatives. That is my reply and that is all there is to it.

I would add that I agree with our friend who thought that I. L. O. could meet the case. But, as I am in favour of compromise, I am ready to vote for your amendments and accept your statements on this point, which I do not regard as vital.

But if your amendments are rejected, I shall vote for the proposal now before us, again in a spirit of compromise.

I ask my Socialist friends to do likewise.

That is an exact statement of my position.

Consequently, although my speech may have been somewhat too emotional—and I am sorry that time has not had a more moderating effect—I cannot see why it caused such strong reactions.

THE PRESIDENT (Translation). — I call M. Heyman, Chairman of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, just a very few words. I merely want to inform our friend that we, too, are very much aware of our responsibility at the end of this debate.

He may rest assured—and I am grateful to him for recognising it—that we have presented our case with all sincerity. I do not doubt for a moment that the same applies to him, but, to come to the point immediately, I think that the worst disaster would be to adopt no recommendation at all.

Thus, as my friend Mr. Edwards so rightly said, it will be essential to explain next Friday the precise implications of the amendments now tabled.

In view of the late hour, I shall not embark upon this discussion now, but I have the distinct impression, for instance, that the implications of the amendment tabled by me have been completely misinterpreted. Let us then return to the subject later.

I will just add this: after hearing the many speeches of this lengthy sitting, you may be sure that, whatever happens, we shall hear

M. Heyman (continued)

in mind the views and arguments put forward. And I, for one, do not despair or eventually reaching an agreement.

THE PRESIDENT (Translation). — I call M. Tonic, Rapporteur.

M. TONCIC (*Austria*). — Mr. President, you will surely understand that, despite the late hour, the Rapporteur has some final remarks to make on the discussion which has taken place. I have the impression that a lot of objections and worries—for example, the worry of Mr. Jones—could have been avoided if the speakers had read more carefully the draft Convention and the remarks made by their colleagues.

For example, Mr. Jones gave the impression that he had some objections to the speeches during the television broadcast. Perhaps I might remind him that, if he reads my speech carefully, he will find that I did not even defend my own Report. I tried to speak quite objectively, so I am not in the list of those speakers who expressed themselves in favour of the Report during the television broadcast.

Secondly, if Mr. Jones had carefully read my Report, he would have noticed that I spoke about a regional conference of the I.L.O. I am perfectly well aware that there is such an institution, and I gave my opinion about it.

It seems to me that some speakers did not take account of one very important point in the draft Convention, namely, Article 13, which speaks expressly about the fact that the Convention has to be realised step by step. This meets, for example, the objection of Mr. Corish and Mr. Jones. We could have avoided some discussion if we taken into consideration much more the remarks which have been made by our colleagues.

Some of the speakers said that both the Committees concerned had not the chance to express their view about some parts of the draft Convention, for example Parts II and III. This is not true. Of course they had the chance, and they expressed their views. If some people did not express their views, that is not the fault of the Committee on General Affairs.

Mr. Edwards spoke about a slight drifting

away from some decision of his group which was shown in the speech of M. Moutet.

Mr. EDWARDS (*United Kingdom*). — No.

M. TONCIC. — I confess that such a thing happens in other groups.

THE PRESIDENT (Translation). — I call Mr. Edwards to put a question to M. Tonic.

Mr. EDWARDS. — I should like to correct the Rapporteur. I did not suggest in any way that M. Moutet was not perfectly entitled to say what he wanted to say. I did not suggest that he had infringed a decision of the group. It is for him to say. It would have been unkind of me to have suggested anything of that nature. All I said was that it must be understood that he was not speaking on behalf of the group. He would agree with me. I should like to make that plain.

M. TONCIC. — Then M. Birkelbach spoke about the danger to the organisation of trade unions. He spoke about the draft Convention and said that it could even be a danger to the social development of more advanced States. I draw the attention of M. Birkelbach to Article 19 which says:

“Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.”

If the right of the trade unions is guaranteed by the laws of the respective countries, such a danger does not exist.

Then we received the impression—it was expressed this morning by one speaker and again this afternoon, though not in such a decisive form—that the Convention was not the work of experts, that it was drafted far away from the work of experts. This is not true. Those who read the documents will see that there are cited and quoted all the international bodies and international Conventions which were the basis of the Draft Convention that is before the Assembly. So all the

M. Toncic (continued):

experts who worked on those Conventions worked indirectly on this draft Convention.

I very much admired the speeches of M. Haekkerup and Mr. Nigel Nicolson. M. Haekkerup drew the attention of the Assembly to a very important point, namely, the possible parallel between the Rome Convention and this Charter. A parallel can be found only as regards the code of rights and not as regards the ways of implementation. An organ like the Commission on Human Rights, which is provided for under the Rome Convention, is, under present circumstances and may even be in future, not possible in our attempt to implement a Social Charter.

When the Council of Europe decided years ago to take over the task of drafting a Social Charter, it would appear that it was too great a burden. We are now suffering from the strain of such a great burden. I said the other day that the Council of Europe was rather like a baby who has eaten rump steak, beans and potatoes and then has the greatest difficulty in digesting them. This is the basis of all the difficulties.

I should like to say a word to Mr. Edwards. I see things absolutely of the same spirit as he is, and I, personally, will do my utmost to come nearer to the suggestions which Mr. Edwards made. I am, personally, convinced that we shall find a basis upon which we can agree when it comes to the question of voting at Friday's Sitting.

THE PRESIDENT (Translation). — Ladies and Gentlemen, I would remind you that the list of speakers was closed at 5 p.m. However, MM. Federspiel and Strasser have asked to speak. I am quite prepared to give them the floor but I would ask them to be very brief.

I call M. Federspiel.

M. FEDERSPIEL (Denmark). — One of the remarks made by M. Toncic in his reply called to my mind a horrible suspicion, which was further nourished by a recollection of an earlier reference in the debate, a reference which had already been made in an unfortunate Press conference, that the reason this matter was referred to the Committee on General Affairs was that the two previous Committees failed to come to an agreement. I should like to place on record that Document 488, which was before this Assembly, was accepted by both Committees.

The suspicion that was brought to my mind was this. The Rapporteur referred to certain precedents, and I believe that what he was referring to were certain Latin-American experiments in social policy, drafted in the form of Conventions but never carried into effect, which were to form the basis of this document before us. I should like to ask whether the Committee on General Affairs has ever studied, paragraph by paragraph, the document which is now before us.

M. TONCIC. — You are only partly right. I will read those different Charters.

M. FEDERSPIEL. — That is not the point. Has the Committee on General Affairs gone through the document before us, paragraph by paragraph, and has it been approved?

M. TONCIC. — Which document do you mean? Document 536?

M. FEDERSPIEL. — The draft Convention.

M. TONCIC. — Yes, of course the Committee on General Affairs examined it. You also asked about the Conventions that I mentioned before. There is the draft Convention on Economic, Social and Cultural Rights drawn up by the United Nations Human Rights Commission. There is the United Nations Universal Declaration on Human Rights. Then there is a European Convention, and the Geneva Declaration, on the Rights of the Child. When you refer to the Latin-American experiment, you probably mean the Philadelphia Declaration, but I do not know whether it is a Latin-American Declaration. There is also the American Declaration of the Rights and Duties of Man, and the Inter-American Charter of Social Guarantees.

THE PRESIDENT (Translation). — I call on M. Strasser to make a brief observation.

M. STRASSER (Austria) (Translation from German). — Mr. President, our friend, and, I believe I may say also, my friend, M. Montet has called me a relatively and absolutely young member and, if I understand correctly what he said, he declared in this connection that I had said on some occasion that I could not vote for this Charter, or rather for this recommenda-

25th Sitting

*M. Strasser, M. Tonic, the President**M. Strasser (continued)*

tion, if the Charter did not include an Economic and Social Council.

I think there must have been a misunderstanding in a hurried chat somewhere over a coffee and when no interpreter was present. At no time and in no place have I stated that I could not vote for this recommendation if the Economic and Social Council were not included therein. Actually I said—and this is in line with several declarations made tonight—that I could not vote for this recommendation, should the attempt to find a compromise as contained in Amendment No. 2 fail. That is what I say to M. Moutet.

In concluding I should like to ask our rapporteur a question: is he prepared in the interest of the Charter, to adopt Amendment No. 2?

THE PRESIDENT (Translation). — I call on M. Tonic to answer that question.

M. TONCIC (Translation from German). — I wish to reply, for reasons of convenience, in the language in which the question was asked. The questioner obviously overestimates the power of a rapporteur. For, in order to do something like this, he must first get into touch with the Committee whose rapporteur he is. But I have already answered this question in part, for I replied to Mr. Edwards that I, personally, will do everything possible in order to arrive at a common accord.

M. STRASSER. — May I put another question to the Rapporteur?

THE PRESIDENT (Translation). — I call M. Strasser.

M. STRASSER (Translation from German). — Then I should like to ask M. Tonic whether he is prepared to recommend to the Committee to which he belongs that it should adopt the Amendment?

THE PRESIDENT (Translation). — I call on M. Tonic to reply to the speaker.

M. TONCIC (Translation from German). —

Thank you, Mr. President, the recommendation is already the expression of a certain view, and before doing this, I must first report to the Committee.

I regret, moreover, that I am forced to be impolite to the questioner, because, if I face the front, I show him my back and, if I turn towards him, I show my back to the microphone and to the President! *(Laughter.)*

THE PRESIDENT (Translation). — Purely on the basis of the speeches we have heard here, the debate seems to me complex enough. If we begin to quote speeches and remarks made elsewhere, I am very much afraid we shall never finish.

I therefore declare the debate closed.

I would remind the Assembly that, as we decided at the morning Sitting of Monday, 22nd October, voting on the amendments and texts relating to the Social Charter will take place next Friday, 26th October, at 3 p.m.

7. Date, time and Orders of the Day of the next Sitting

THE PRESIDENT (Translation). — I propose the Assembly hold its next Sitting today, Thursday, 25th October, at 10 a.m. with the following Orders of the Day:

1. Relations between the Consultative Assembly and national Parliaments—debate on the Report of the Committee on General Affairs, Doc. 576, and Votes on the draft Resolution and draft Orders;

2. Relations between the Consultative Assembly and the Assembly of Western European Union debate on the Report of the Bureau of the Assembly, Doc. 541, on relations between the Consultative Assembly and the Assembly of the Western European Union, and on the Report of the Committee on Cultural and Scientific Questions, Doc. 573, on co-ordinating the cultural activities of the Council of Europe and of Western European Union, and Vote on the draft Recommendation.

Are there any comments?...

The Orders of the Day of the next Sitting are settled accordingly.

Does anybody else wish to speak?...

The Sitting is closed.

(The Sitting was closed at 12.10 a.m. on Thursday, 25th October.)

**7. European Social Charter
and proposal for the instituting
of a Social and Economic Chamber**

*(Debate and Vote on the Amendments
to the Draft Recommendation in the Report
of the Committee on General Affairs, Doc. 556,
on the establishment of a European Convention
on Social and Economic Rights,
and Vote on the Draft Recommendation)*

THE PRESIDENT (Translation). — The next item in the Orders of the Day is the debate and vote on the amendments to the draft Recommendation in the Report of the Committee on General Affairs containing a draft European Convention on Social and Economic Rights, and the vote on the draft Recommendation, Doc. 536, and amendments.

I would remind you that the General Debate was closed at the end of Wednesday night's Sitting.

The Assembly will not be asked to vote on the draft European Convention itself but only on the draft Recommendation.

We shall now debate the three amendments which have been tabled. The first speaker will be the Rapporteur of the Committee, M. Toncic, followed by the authors of the three amendments, MM. Edwards, Hellwig and Heyman.

I call M. Toncic, Rapporteur.

M. TONCIC (*Austria*). — The Committee on General Affairs met this morning to discuss Amendments Nos. 1, 2 and 3, and I have to report that the Committee accepted Amendment No. 2 with unanimity, there being three abstentions and no votes against. That is the Amendment submitted by Mr. Edwards. I should like to add that I, personally, support that Amendment.

THE PRESIDENT (Translation). — The next speaker will be M. Heyman, followed by M. Hellwig and Mr. Edwards.

I call M. Heyman.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, I am quite prepared to take the floor, though, frankly, I should prefer to have spoken in the presence of Mr. Edwards.

THE PRESIDENT (Translation). — Lord Layton wishes to speak on a point of order.

Lord LAYTON (*United Kingdom*). — Mr. President, you said that you would take these Votes at 11 a.m. It is not yet 11 a.m.

THE PRESIDENT (Translation). — According to the clock it is two or three minutes past eleven. It is impossible to conduct proceedings with such mathematical precision.

Moreover I have just been informed that the necessary steps have been taken to notify members of the Committee on General Affairs, who will be here at any moment.

Perhaps M. Hellwig would be willing to speak at this stage? I see that he would.

I call M. Hellwig, mover of Amendment No. 1.

M. HELLWIG (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, Amendment No. 1, tabled by myself and a number of my colleagues, was prompted by the fact that the draft Convention on the European Social Charter has not been re-discussed in this Assembly and that we have had to abandon the idea of drafting the text in its final form on the basis of this debate. This was explicitly stated in the explanatory memorandum and was repeatedly emphasised by various speakers during the debate of the day before yesterday.

In view of this, an attempt was made to state in Amendment No. 1 that this draft should not be the sole basis for the Convention to be presented by the Committee of Ministers and its Committee of Experts, but that attention should also be paid to the views expressed here in the course of our debate. To ensure that they should be given the utmost consideration, paragraph 1 of the amendment sought to make it clear that this material should be used only as a working basis and not as a rigid formula.

The idea of paragraph 2 of the amendment we have tabled was that the drafting of a

M. Hellwig (continued)

European Social Charter and of the Convention appertaining to it should go forward in collaboration with all the competent international organisations. But, in this second paragraph—and here is the essential difference between our amendment and the draft Recommendation of the Committee on General Affairs—we dropped the proposal for the appointment of a Representative of the Consultative Assembly.

Mr. Edwards and a number of his colleagues have now tabled a second amendment, the first paragraph of which is essentially the same as my amendment. Although paragraph 2 of Amendment No. 2 makes explicit provision for a Special Representative of the Consultative Assembly, it, nevertheless, makes it clear that he will represent the Consultative Assembly of the Council of Europe in relations with the International Labour Organisation and the other international organisations concerned.

I am in agreement with this clarification of the functions of our Assembly's representative for it represents a distinct improvement upon the former draft Recommendation.

On the assumption that with Mr. Edwards' amendment the draft Recommendation will secure a two-thirds majority in the Consultative Assembly, I am prepared to withdraw my first amendment, so as to leave the way clear for the motion of my colleague Mr. Edwards.

THE PRESIDENT (Translation). — *Amendment No. 1 is withdrawn.*

I call M. Heyman, mover of Amendment No. 3.

M. HEYMAN (*Belgium*) (Translation). — May I say at once that I, too, shall withdraw my amendment to clear the way for a unanimous vote on the Recommendation.

In reply to the appeal for a compromise made to us the other night by Mr. Edwards, I should like to explain our attitude and say why we are prepared, after the withdrawal of M. Hellwig's amendment and mine, to support Mr. Edwards' amendment, which may be taken as a fair reflection of the views of the various groups in this Assembly. In this connection, I wish to thank our British friend for his scrupulousness the day before yesterday in acknowledging that our amendment was based on sincere conviction.

Our amendment went far towards meeting the wishes of those who disliked the wording of paragraph 1 of the text of the Committee on General Affairs, which reads as follows :

“ Recommends that the Committee of Ministers :

1. Establish a convention on social and economic rights on the basis of this draft; ”

In the knowledge that the Committee on General Affairs, at its Vienna meeting, had approved this text by 13 votes to nil with 5 abstentions, it was reasonable to assume that the text faithfully reflected the views and intentions of all groups represented on that Committee.

But now we find that certain objections have been raised in the Committee, and indeed in the Assembly, to the use of the words “ on the basis of ”. I do not want to go into the reasons for these objections, which I consider to be unjustified, but I must say that it was in a pure spirit of compromise and in the hope of disarming all criticism that we proposed this wording and subsequently added my amendment.

Frankly, I was somewhat taken aback to hear it said that this wording seemed inconsistent with the practice of transmitting recommendations to a higher authority.

Surely, Ladies and Gentlemen, that is the normal procedure in our parliaments. When our Assembly transmits a committee report to the Bureau or the Committee of Ministers, it is clearly understood that they are not bound to accept the text, this being no more than a working document and a basis for discussion.

Remember what happened with the draft Convention on Human Rights and other documents transmitted by us to the Committee of Ministers.

As I was saying, we have endeavoured to reach a compromise, for, besides asking the Committee of Ministers to base its work on the draft Recommendation of the Committee on General Affairs, we request it to bear in mind the comments and suggestions made in public debate.

We go still further in the drafting of Parts II and III of the Appendix, which deal with the Social Chamber and the implementation of the Convention. But I need not dwell on this point.

M. Heyman (continued)

I am disappointed that our approach to the subject has not won support, but I am sincere when I say that, although I share the conviction of some of my colleagues that our version was the best, I shall be pleased if our compromise secures the majority required for adoption of the texts before us.

Mr. Edwards has made a conciliatory gesture in the opposite direction, for his amendment closely resembles ours by accepting the appointment of a Special Representative to work in close co-operation with the International Labour Organisation.

Paragraph 2 of his amendment, which, by the way, we accept, amounts to exactly the same thing as paragraphs 2 and 3 of the text of the Committee on General Affairs. The wording may be different but the purpose is the same.

This amendment recommends

"close co-operation with the competent inter-governmental organisations, with international trade unions and employers' organisations and other competent organisations enjoying consultative status".

I am quite sure that this is what Mr. Edwards has in mind.

The Committee on General Affairs states that it is necessary immediately to appoint a Special Representative of the Council of Europe to promote the establishment of this Convention. For this purpose, the Representative will be responsible for co-ordination between the Member Governments and international organisations.

Mr. Edwards, for his part, proposes the immediate appointment of a Special Representative to work in close co-operation with the International Labour Organisation and other competent intergovernmental organisations, the international workers' employers' organisations and all other competent organisations enjoying consultative status.

This is exactly the same thing.

Should the paragraph be worded: "On the basis of this draft..." as proposed in the Committee's text, or "...having regard to this draft "...", as proposed in our colleague's

amendment? That is the only difference there is.

I am sure, my friends, that both of us have no other desire than to achieve positive results.

That was what I hoped to do by submitting my amendment, which was worded with a view to respecting all shades of opinion, while satisfying the aspirations of every group.

I would respectfully urge, Mr. President, that you ask the Bureau to inform the Committee of Ministers of our efforts to reconcile all schools of thought, and lose no time in transmitting, to the Committee of Experts, the text as amended by Mr. Edwards, so that we need not wait two or three years for concrete results.

We strongly urge that the Committee of Experts examine the draft at the earliest possible date, so that by 1957 we may see the fruits of our endeavours to draft a Social Charter, which I am convinced will be warmly welcomed by the whole working population — employers and workers alike. It is vital that we should be able to tell them here and now that we are at last doing something to achieve this great social aim.

I therefore ask the Assembly first to adopt Mr. Edwards's amendment, and then to give unanimous approval to the Recommendation as amended in the light of our debate.

THE PRESIDENT (Translation). — *M. Heyman's amendment is withdrawn. I call Mr. Edwards to support his amendment.*

Mr. EDWARDS (*United Kingdom*). — I would ask your forgiveness, Mr. President, and the forgiveness of the Assembly, for not being in my place when this matter was first called this morning; but I was in another place upstairs trying to help in the solution of problems which will be presented to the Assembly this afternoon.

I speak this morning not in a personal capacity but in my capacity as Chairman of one of the political groups. I have for many days now had to devote a great deal of my time to the question of the European Social Charter. It is not a matter upon which I pretend to be an expert, nor is it a matter in which I should, personally, have intervened but for my feeling that there was a very great risk that we should

Mr. Edwards (continued)

find ourselves, at the end of very many years' work, in a position where we were unable to reach an effective conclusion at all. It was very clear from preliminary discussions with a number of people that there were very many different views.

There were two matters in particular which were causing serious concern. There was, first of all, a feeling on the part of a number of Representatives that they could not commit themselves precisely to a text. There were Representatives who felt differently about one part of the Report and others about another part.

Secondly, there were Representatives who were not at all enamoured of the proposal for a Special Commissioner. Somehow or other one had to try and bring all these points of view together.

The Amendment in my name tries to meet the two major difficulties that I encountered and will, I trust, be found acceptable by two-thirds, if not the whole, of the Assembly.

I am extremely grateful to M. Heyman for agreeing to withdraw his Amendment, which, after all, I understood was an Amendment not only for himself but for his group. I am grateful to M. Hellwig and his colleagues for agreeing to withdraw their Amendment, and also to the Committee on General Affairs and the Rapporteur for accepting the Amendment in my name at this stage.

We are concerned with an important matter. We are in the closing stages of work which it has taken us very many years to do and which has taken very many people a great deal of time. The two things which I regard as important are, first, that all our work should now be passed to the Committee of Ministers, who will have in front of them whatever we have done, however good or bad it may be; they will have the final text as presented by the Committee on General Affairs as our last document. Secondly, they will further be asked to appoint someone who will see that this work goes forward without delay.

I believe that this represents a point of view which can command the approval of the Assembly and I would hope that, however strong their feelings may be on some aspects, Representatives will, nevertheless, feel that in the last resort they ought not to attempt to prevent this work now going from us to the

Committee of Ministers. I hope that at the end of the day we shall find that all our colleagues are in substantial agreement on a matter which may not suit any of them personally but which, I think, collectively, ought to suit us very well.

Mme WEBER (*Federal Republic of Germany*) (Translation). — I should like to explain my vote, Mr. President.

THE PRESIDENT (Translation). — I call Mme. Weber.

Mme. WEBER (Translation). — I simply wish to make a statement with reference to my vote. I am voting in favour of Mr. Edwards's amendment because I want the recommendation to obtain a two-thirds majority and hope that the Social Charter will thus come to fruition. I join with M. Heyman in hoping that the Ministers and their experts will very soon present us with a Social Charter.

THE PRESIDENT (Translation). — From the point of view of procedure the situation is quite clear.

MM. Hellwig and Heyman have each withdrawn their amendment. The only one which remains under discussion is Amendment No. 2, tabled by Mr. Edwards, which asks that paragraphs 1 and 2 of the draft Recommendation be deleted and that after the words: "recommends to the Committee of Ministers", the following two paragraphs should be inserted:

"1. to establish a European Convention on social and economic rights taking into consideration this draft and the observations and suggestions made during the debates in public session, in this matter; and

2. in order to advance this aim, to appoint without delay a Special Representative who shall work in close co-operation with I. L. O. and other competent intergovernmental organisations, trade unions and employers' organisations, and all other competent organisations enjoying consultative status."

I put the amendment to the vote by show of hands. May I remind you that the majority required for the adoption of the amendment is an absolute majority of the votes cast...

The amendment was adopted unanimously with 5 Abstentions.

The President (continued)

I shall now put to the vote by roll-call the Recommendation as a whole, as modified by Mr. Edwards' amendment.

I shall read it out:

"The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, as also in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953), in which it expressed its support for the proposal to conclude a European Social Charter which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

After study by its competent committees,

Keeps under consideration as a matter of importance the draft European Convention on Social and Economic Rights prepared by those committees; and

Recommends that the Committee of Ministers:

1. establish a European Convention on Social and Economic Rights, taking into consideration the present draft and the observations and suggestions made during the debates in public session in this matter; and,

2. in order to advance this aim, appoint without delay a Special Representative who shall work in close co-operation with I.L.O. and other competent intergovernmental organisations, international employers' and trade union organisations and all other competent organisations enjoying consultative status."

The draft European Convention on Social and Economic Rights is appended.

Under Rule 35 of the Rules of Procedure the majority required in this case is two-thirds of the votes cast.

The roll-call will begin with the name of Mr. Boland.

Voting is open.

(A vote by roll-call was taken).

THE PRESIDENT (Translation). — If anyone else wish to vote...

Voting is closed.

The result of the ballot is as follows.

Number of votes cast.	85
Ayes	84
Abstentions.	1

A two-thirds majority has been obtained, and the draft Recommendation is adopted. (Applause.)

The Recommendation will be published as No. 104.

(The list of those who voted will be found in Appendix II).

(M. Boggiano Pico, Vice-President of the Assembly, replaced M. Dehousse in the Chair.)

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

EIGHTH ORDINARY SESSION

RECOMMENDATION 104 (1956)¹
*concerning a European Convention on
Social and Economic Rights*

The Assembly,

Considering that the European Convention on Human Rights has established an international guarantee for the protection, in the Member States of the Council of Europe, of the principal civil and political rights proclaimed in the Universal Declaration of Human Rights of 10th December 1948;

Considering that it is desirable to conclude a further instrument designed to promote or ensure the exercise of the economic and social rights set out in the said declaration, as also in the draft Covenant on economic, social and cultural rights prepared by the Commission on Human Rights of the United Nations;

Recalling its Opinion No. 5 (1953) in which it expressed its support for the proposal to conclude a European Social Charter which would define the social aims of the Member States and serve as a guide for the future activities of the Council of Europe in the social field;

Noting that the Committee of Ministers has approved the proposal to conclude such a Social Charter and has entrusted the task of preparing it to the governmental Social Committee;

¹ This Recommendation was adopted by the Assembly at its 28th Sitting, on 26th October 1956 (see Doc. 536, draft Recommendation presented, on behalf of the Committee on General Affairs, by M. Tončić).

Recommendation 104

After study by its competent committees,

Keeps under consideration as a matter of importance the draft European Convention on Social and Economic Rights prepared by those committees; and

Recommends that the Committee of Ministers :

1. establish a European Convention on Social and Economic Rights, taking into consideration the present draft and the observations and suggestions made during the debates in public session in this matter; and,
2. in order to advance this aim, appoint without delay a Special Representative who shall work in close co-operation with the I.L.O. and other competent intergovernmental organisations, international employers' and trade union organisations and all other competent organisations enjoying consultative status.

APPENDIX

Draft European Convention on Social and Economic Rights

The Governments signatory hereto, being members of the Council of Europe,

Considering that,

Have agreed as follows :

PREAMBLE

Principles and Objectives of Social Policy

The object of this Convention, or Social Charter, is to promote a progressive improvement in the well-being of the nationals of the High Contracting Parties by a continuous raising of living standards and by the equitable sharing of resources and burdens, in order to ensure the dignity of man affirmed in the European Convention of Human Rights.

Recommendation 104

To this end the High Contracting Parties hereby proclaim their determination to pursue the following objectives of social policy.

1. Realising that the standard of living depends primarily on economic conditions, the High Contracting Parties will endeavour to promote the steady expansion of production and trade among themselves, full employment, the fair distribution of resources and sharing of burdens, and the stability of their economies.

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

3. 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.

4. The High Contracting Parties recognise that the family is of basic social and moral importance to society. They consider one of their aims and responsibilities to be to create or maintain such conditions as will protect the family and facilitate the discharge of family responsibilities. They will endeavour to take all appropriate measures to assist the individual and the family to adjust themselves to modern social and economic conditions.

5. The High Contracting Parties, whilst encouraging the fullest discharge of individual and family obligations towards children, accept the responsibility of taking measures to protect the health and welfare and ensure the education of all children and young persons regardless of family circumstances. They recognise that motherhood should be protected whether the mother is legally married or not.

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 particip-

Recommendation 104

ation in the management and the profits of the undertaking by which they are employed.

8. The High Contracting Parties regard it as a duty deriving from the most elementary principles of human solidarity that they should organise assistance for 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, nationality, national or social origin, or political or other opinions.

10. The High Contracting Parties will endeavour to ensure that the full benefits of the measures set out in this Convention are extended to all groups and sectors of the population.

11. The High Contracting Parties consider themselves collectively responsible for the economic expansion of their metropolitan underdeveloped areas, and bound to develop them by all means within their power.

12. 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 local populations and, where appropriate, with qualified international organisations.

13. 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.

14. The High Contracting Parties recognise that the effective enjoyment by all of the benefits set out in this Convention depends not only on the action of the public authorities in ensuring the rights of individuals, but also on the action of individuals in discharging their duties towards other individuals and to the community in which they live.

15. The High Contracting Parties recognise that the welfare and prosperity of each of them depend on the welfare and prosperity of them all. Although the planning and implementation of social policy are essentially the concern of national, regional or local authorities, they consider that its full achievement depends, and will increas-

Recommendation 104

ingly depend, on closer co-operation between them, so that social and economic rights may be ensured at a European as well as at the national level. For this purpose, they will endeavour, by means of joint consultation, to harmonise by stages their economic policies and their social legislation and practice, and to make the social and economic rights set forth in this Convention applicable in the territory of each for the nationals of all.

It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis.

PART I

Economic and Social Rights

Article 1

The High Contracting Parties recognise the following rights and undertake to take action, both jointly and severally, to ensure progressively the full exercise of these rights, in particular by adopting or promoting the measures defined in connection with each of these rights :

A. The right to work

1. With a view to ensuring the exercise of this right, the High Contracting Parties

(a) recognise that everyone should have an opportunity to earn his living in a freely accepted occupation;

(b) accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of productive employment through the pursuance of policies which will ensure adequate opportunities for work, such as, for example, the fixing of national employment targets, the preparation of national manpower budgets, and the establishment of long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation;

(c) undertake to :

(i) establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions and those aiming solely at the protection of children, adolescents and women against

Recommendation 104

the risks inherent in certain prescribed occupations;

(ii) protect effectively the right of the wage-earner freely to choose any available occupation;

(iii) establish or maintain both general and specialised free employment services;

(iv) promote vocational guidance, training, and rehabilitation.

B. The right to fair and stable conditions of work

1. With a view to ensuring the exercise of this right, the High Contracting Parties undertake to secure for every worker, insofar as these measures are not put into effect by means of collective agreements or in any other way :

(a) safe and healthy working conditions, defined by laws or regulations and guaranteed by effective labour inspection;

(b) protection against arbitrary dismissal, as also prohibition of dismissal on account of maternity, military service, and similar circumstances;

(c) reasonable notice of dismissal;

(d) the establishment of a minimum wage-fixing machinery in all fields not covered by regulations or collective agreements;

(e) equal pay for equal work,

(f) a reasonable working week, to be progressively reduced to a 40-hour week, subject to essential adjustments for certain professions, with special rates for over-time;

(g) a minimum of two weeks' annual holiday with pay and guaranteed weekly rest periods;

(h) the possibility of retirement at the age of 65, at the latest, with a pension ensuring a reasonable standard of living.

2. The High Contracting Parties undertake to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates and tribunals.

Recommendation 104

C. The right of children, adolescents and women to special measures of protection in their employment

1. With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to take all necessary steps, insofar as these measures are not put into effect by means of collective agreements or in any other way, so that

(a) the employment of child labour of under 14 years of age, and the employment of adolescents and women in work which is physically or morally injurious shall be punishable by law;

(b) persons of under 16 years of age who are still subject to compulsory education may be employed only in such work as will not deprive them of their education;

(c) the working day of persons under 16 years of age shall be in accordance with the needs of their development and particularly with their need for vocational training;

(d) adolescents shall be entitled to not less than three weeks' annual holiday with pay;

(e) expectant mothers shall be granted leave with pay before and after childbirth up to a total of at least 12 weeks.

2. The High Contracting Parties *undertake* to ensure the strict implementation of measures taken in pursuance of paragraph 1 above, in particular by the introduction of joint labour inspectorates.

D. The right of workers to be consulted on the management of the enterprise by which they are employed

With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to establish or maintain organs of joint management and/or to take other measures enabling workers to share in the life and general management of the enterprise by which they are employed, insofar as these measures are not put into effect by means of collective agreements or in any other way.

E. The right to strike

The High Contracting Parties *recognise* the right to strike.

They *undertake* to encourage the use of

Recommendation 104

agreed machinery for the settlement of labour disputes.

F. The right to form and join trade unions

With a view to ensuring the exercise of this right, the High Contracting Parties *undertake* to grant workers every opportunity to form local, national or international trade unions and to join trade unions of their choice, for the protection of their economic and social interests, subject only to the limitations set out in paragraph 2 of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ⁽¹⁾.

G. The right to a proper standard of living

With a view to ensuring or promoting the exercise of this right, the High Contracting Parties *undertake* to :

(a) promote the conditions in which adequate supplies of basic necessities will be made available at prices within the reach of all;

(b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderately priced dwellings complying with satisfactory standards of comfort and hygiene.

(c) protect small savings.

H. The right to Social Security

With a view to ensuring the exercise of this right, the High Contracting Parties :

1. *undertake* to raise their social security to a satisfactory level, basing themselves on the standards laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury and disease resulting from employment, family benefits, maternity benefits,

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".

Recommendation 104

invalidity benefits and survivors' benefits.

2. recognise the principle whereby social security and social and medical assistance shall be made available on the territory of each Party to the nationals of the other Parties, as provided in the European Interim Agreements on Social Security and the European Convention on Social and Medical Assistance;
3. will take steps for the adjustment of social security benefits to meet any currency depreciation.

1. The right to a high standard of health

With a view to ensuring the exercise of this right, the High Contracting Parties will take all appropriate measures, directly or in co-operation with local authorities and competent private organisations

(a) to ensure the reduction of infant mortality and provision for the healthy physical, mental and moral development of the child;

(b) to improve nutrition, housing, sanitation, health education, recreation and other environmental health factors;

(c) to prevent epidemic, endemic and other diseases;

(d) to organise services and facilities so that all may be assured of effective medical attention in the event of sickness.

1. The right of the family to social and economic protection

With a view to ensuring the exercise of this (these) right(s) the High Contracting Parties undertake, directly or in co-operation with local authorities and competent private organisations, to

(a) foster and protect the family as a fundamental unit of society;

(b) make available or encourage the provision of the following facilities and advantages:

(i) the grant of allowances based on the number of children;

(ii) cheap loans for the founding of homes;

Recommendation 104

(iii) preferential allocation of housing to families and persons wishing to marry, and rent reductions for low-income families with many children;

(iv) allowances to families whose breadwinners are subject to military service;

(v) tax reductions related to the size of the family;

(vi) organisation of home help services.

*K. The right of mothers and children
to social and economic protection*

With a view to ensuring the exercise of this right, the High Contracting Parties undertake, directly or in co-operation with local authorities and competent private organisations

(a) for the protection of mothers :

(i) to provide the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;

(ii) to provide directly or in collaboration with appropriate voluntary organisations a sufficient number of maternal and infant welfare centres;

(iii) to extend particular protection to widows supporting children.

(b) for the protection of children :

(i) to establish or maintain specialised organs with powers to prevent the neglect of children;

(ii) to ensure that every minor is provided with a guardian and that guardianship is regulated by law;

(iii) to provide special services for homeless children and young persons who are physically or mentally handicapped, and for juvenile delinquents.

*L. The right to social and cultural
aid and guidance*

With a view to ensuring the exercise of this right, the High Contracting Parties undertake to:

(a) promote or maintain, directly or in collaboration with local authorities and appropriate voluntary organisations, social welfare services for aid and guidance to the individual in industrialised society;

(b) secure the provision of free legal

Recommendation 104

advice and assistance to those who need it.

M. The right to education

With a view to ensuring the exercise of this right, the High Contracting Parties

1. undertake to make primary education compulsory and free;
2. will introduce measures

(a) to make facilities for secondary education in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;

(b) to ensure a basic education for those persons who have not received or have not completed their primary education;

(c) to make university and other higher education accessible to all.

3. will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

PART II

A European Commissioner and Chamber

Article 2

A European Commissioner for Social Affairs shall be appointed and a European Social Chamber set up within the framework of the Council of Europe.

Article 3

(a) The Commissioner shall be responsible for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the European Convention on Social and Economic Rights.

(b) The Commissioner shall be nominated by the Consultative Assembly and appointed by the Committee of Ministers.

(c) The Commissioner shall be appointed for a period of three years.

Article 4

(a) The Commissioner may deal with any

Recommendation 104

question falling within his competence.

(b) The Commissioner shall receive from the High Contracting Parties any necessary assistance relating to questions falling within his competence.

Article 5

(a) The Commissioner may submit to the Consultative Assembly draft recommendations.

(b) He shall be entitled to address the Consultative Assembly at his own request.

(c) He shall give the Consultative Assembly an account of his activities whenever the Assembly so desires.

Article 6

(a) The Chamber shall be responsible, acting in a consultative capacity, for promoting the fulfilment of the social policy of the Council of Europe and, in particular, the implementation of the present Convention on Social and Economic Rights.

(b) It shall consist of 60 members, one third representing the employers, one-third the workers and one third the other sectors of the community.

(c) It shall be convened by the Consultative Assembly at least once a year and may also meet whenever convened by its President.

Article 7

The Chamber shall be a deliberative body at the disposal of the Consultative Assembly.

Article 8

(a) The Consultative Assembly may request the opinion of the Chamber on any question within the competence of the Chamber, in particular concerning draft recommendations submitted to the Assembly by the Commissioner.

(b) The Chamber shall reply to these requests by opinions adopted by simple majority.

Article 9

(a) The Chamber may on its own initiative adopt resolutions to the Consultative Assembly drawing attention to the political, social, economic and cultural implications of questions within its competence.

Recommendation 104

(b) Acting by absolute majority, it may also submit for adoption by the Consultative Assembly draft recommendations to the Committee of Ministers.

Article 10

The 20 seats allotted to each category shall be allocated according to nationality as follows :

- Iceland, Luxembourg, the Saar ⁽¹⁾, Austria, Belgium, Denmark, Greece, Ireland, Norway, the Netherlands, Sweden, Turkey : 1 seat
- France, the Federal Republic of Germany, Italy, the United Kingdom : 2 seats

Article 11

(a) The representatives of the employers and workers respectively shall be appointed by their respective Governments, in accordance with the procedure laid down by the latter, from lists submitted to them by the appropriate national employers' and workers' organisations. The number of candidates shown on these lists shall be twice that of the number of representatives to be appointed.

(b) The representatives of the other sectors of the community shall be appointed by their respective Governments in accordance with procedure laid down by the latter. They shall be chosen from among governmental experts, representatives of consumers, independent economic activities and social and cultural activities.

(c) The members of the Chamber shall be appointed every three years.

(d) The members of the Chamber shall not be bound by any mandate or instruction.

Article 12

(a) The Commissioner shall be assisted by the Secretariat-General of the Council of Europe.

(b) The Chamber shall be assisted by the Office of the Clerk of the Consultative Assembly.

(c) Expenditure relating to the Commissioner and to the Chamber shall be borne by the Council of Europe.

1. This provision is based on the present state of affairs as regards the Saar within the framework of the Council of Europe.

Recommendation 104

PART III
Implementation of the Convention

Article 13

(a) The High Contracting Parties agree to the establishment of a programme designed to ensure the implementation of the Convention by stages.

(b) This programme shall be drawn up by the European Commissioner for Social Affairs and decided on by the Committee of Ministers of the Council of Europe after the opinion of the Consultative Assembly has been obtained.

Article 14

The High Contracting Parties undertake to submit to the Commissioner and the Consultative Assembly annual reports concerning the progress made in the execution of the programme referred to in the preceding Article.

These reports shall also indicate any difficulties or other factors which may have prevented the States concerned from carrying out their obligations.

They may, where appropriate, reproduce in full or in part the reports which the High Contracting Parties have previously submitted to the International Labour Organisation on the same points.

Article 15

Bearing in mind the reports referred to in Article 14, the Commissioner may make recommendations to the Committee of Ministers and, if necessary, intended for a Government directly concerned, in order to secure from that Government the fulfilment of its obligations under the Convention.

Article 16

The Commissioner shall periodically submit to the Consultative Assembly a full report on the progress made in implementing this Convention.

Article 17

(a) The Commissioner may deal with any question connected with the observance of the rights and the fulfilment of the obligations recognised in the Convention, except

Recommendation 104

(i) where this question is the subject of a complaint before the International Labour Office, when the procedure provided for in Articles 24 and 26 of the Constitution of the International Labour Organisation is applicable.

(ii) in cases governed by the provisions put into force by the I.L.O. concerning the freedom of trade unions.

(b) The Commissioner may invite the Government or Governments directly concerned to submit such comments as may be thought necessary.

Article 18

Agreements shall be concluded by the Council of Europe with European and international organisations competent in economic, social and cultural matters, in particular the I.L.O. and O.E.E.C., to ensure close co-operation with these organisations in the implementation of the present Convention.

PART IV

Final Provisions

Article 19

Nothing in this Convention shall limit or derogate from any of the economic, social or other human rights which may be ensured under the laws of any High Contracting Party or under any international agreement to which it is a party.

Article 20

(a) 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 Convention, 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.

(b) 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. The Secretary-General shall in turn inform the High Contracting Parties.

Recommendation 104

Article 21

Any High Contracting Party may propose amendments to this Convention in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the High Contracting Parties any amendments so proposed, which shall then be considered by the representatives of the High Contracting Parties on the Committee of Ministers and submitted to the Consultative Assembly. Any amendments thus approved shall be transmitted to all signatory Governments and shall enter into force as soon as all the High Contracting Parties have informed the Secretary-General of their acceptance.

Article 22

(a) A High Contracting Party may denounce the present Convention as far as it is concerned 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.

(b) A High Contracting Party which shall have ratified the present Convention and shall not have availed itself of the right of denunciation within the period laid down in paragraph 1 above, shall be bound thereby for a further period of five years, whereupon it may denounce the Convention as far as it is concerned on the expiry of each successive five years period.

Article 23

(a) This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

(b) The present Convention shall enter into force after the deposit of eight instruments of ratification.

(c) As regards any signatory ratifying subsequently, the Convention shall come into force on the date of the deposit of its instrument of ratification.

(d) Any country not a member of the Council of Europe may accede to this Convention under conditions laid down by the Committee of Ministers and approved by the Consultative Assembly.

Recommendation 104

(e) The Secretary-General of the Council of Europe shall notify all the Members of the Council of the entry into force of the Convention, 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 24

(a) Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.

(b) The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.

(c) The provisions of this Convention shall be applied in such territories, with due regard, however, to local requirements.

Article 25

The French and English texts of this Convention shall be equally authoritative.

SECOND PART

DOCUMENTS OF THE SOCIAL COMMITTEE AND OF THE COMMITTEE OF MINISTERS

Section I

Documents of the Social Committee

(January/November 1956)

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 30th January 1956.

Restricted
CE/Soc (56) 4

SOCIAL COMMITTEE

(Third Session)

EUROPEAN SOCIAL CHARTER

(RIGHTS RELATING TO EMPLOYMENT
AND WORKING CONDITIONS)

R E P O R T

prepared by the Social Division of the
Research Directorate on the basis of
the replies from Governments to the
Questionnaire drawn up by the Social
Committee

INTRODUCTION

1. Terms of reference of the Secretariat

The Social Committee decided, at its Second Session, to ascertain by means of a Questionnaire (1) addressed to the Member Governments the extent to which certain specified rights relating to employment and working conditions had been given effect in the various Member countries, by legislation or otherwise. The purpose of this study was to facilitate the determination of the form and contents of the envisaged European Social Charter in so far as rights relating to employment and working conditions are concerned.

(1) The text of the Questionnaire is reproduced in Appendix I to this report.

The Secretariat was instructed to analyse the replies and to prepare a synthesis, as well as a preliminary draft of the articles of the Charter which would fall within the above mentioned field.

2. General remarks on the replies

Replies have been received from the following countries: Belgium, Denmark, France, Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway, Saar, Turkey, United Kingdom.

One of the replies arrived in July 1955; two in August; three in September; one in October; one in November; two in December, and two in January 1956.

It appears that the question concerning "Just conditions of work" has been regarded by several Governments as too vague and overlapping with other more specific questions. Some have preferred, under that heading, to deal with questions of wages.

The specific questions, and the replies to them, are also partly overlapping. Thus, the replies to the question concerning safe and healthy working conditions often refer to special measures for children, young persons and women, although these groups are covered by special questions.

The question concerning leisure has been differently understood by different Governments. By the right to leisure some understand only the right to time off from work, while others understand it in the sense that the State (or others) should provide various facilities for spare time and vacation activities.

Some Governments have considered that all the articles of the Charter should have a declaratory form only (although some of the articles would cover fields which even in these countries are regulated by law). Other Governments have made a distinction between declaratory and binding articles, and one has stated that it has replied on the assumption that the Charter will have two parts, one containing binding provisions and another composed of declarations of principles. (It should be noted in this connection that the Consultative Assembly as well as the international trade union movement are strongly in favour of making the Charter binding to the greatest possible extent.)

Many Governments have, as requested in the Questionnaire, proposed additions to the list of rights relating to employment and working conditions, as well as new groups of rights to be considered. A synthesis of these proposals will be found in Part III of this report. There is, however, a number of other rights to which reference is made in other international instruments (see Doc. SG/R (55) 4 rev.) and which are not mentioned by any of the Governments. A simple list of such rights is set out in Appendix II to this report.

3. Relation between the Social Committee and the Consultative Assembly. Questions of procedure.

At its Second Session, the Social Committee was informed that the Consultative Assembly on its side had instructed its Committee on Social Questions to submit a draft text of a Social Charter to the Assembly at the First Part of its Seventh Session. The Social Committee expressed some concern about this, and the question was raised whether the Assembly could be induced to abstain for the time being from adopting a text which from its own point of view would be final and irrevocable. In the Supplementary Report to its Sixth Report to the Consultative Assembly, the Committee of Ministers gave expression to this concern, and added:

"The Committee of Ministers considers it important - as pointed out by the Social Committee - that the draft text for a Social Charter now being prepared by the Committee on Social Questions of the Assembly, and to be submitted to that body in the course of the second part of its Seventh Session, be transmitted to the Social Committee before final adoption by the Assembly."

The Committee on Social Questions submitted to the Assembly a draft Social Charter - Doc. 403 of October 1955⁽¹⁾ - which contained provisions for a European Economic and Social Council⁽²⁾ composed of representatives of employers, workers and other interests. This Council would have the task of supervising the implementation of the Charter.

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(1) This document has been submitted to the Social Committee.

(2) Proposals for the creation of such a Council have been under consideration for a long time, but they have not before been linked with the envisaged Social Charter.

The Committee on Economic Questions raised certain objections against the draft Charter contained in Doc. 403, and particularly against the idea of linking the Charter with the Economic and Social Council, see Doc. 407 of October 1955.(1)

The Assembly debate that followed indicated that the Assembly would welcome a European Social Charter, although the actual draft submitted to it met with considerable criticism.(2)

The debate led to the adoption of the following Order of the Assembly (Order No. 79 of 26th October, 1955):

"The Assembly,

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.

(1) This document has been submitted to the Social Committee.

(2) A separate print of the report of the Assembly debate has been submitted to the Social Committee.

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."

The two interested Committees have subsequently contacted one another in order to establish a common agreed text to use as a basis of discussion with the representatives of the Social Committee. These efforts have not succeeded so far, but the Committee on Economic Questions adopted a text which will be submitted to the Committee on Social Questions in March 1956.

The Joint Meeting of representatives of the Social Committee and of the Assembly is scheduled to take place on the 18th April, 1956, provided that the two Assembly Committees concerned have made sufficient progress in their work by that date.

4. Plan of the Report

Analysis of replies: In order to facilitate the study of the replies of Governments to the Questionnaire, the Secretariat has prepared a very condensed analysis which is arranged by rights, and the purpose of which is to answer, so far as possible, the following questions in regard to each separate right:

- (a) Which Governments would admit this right as a binding provision?
- (b) Which Governments would admit it as a declaration of principle?
- (c) What is the position as regards discrimination on various grounds in the exercise of this right?
- (d) What are the main contents of the right?

This analysis has, for practical reasons, been issued as a separate paper under the symbol CE/Soc (56) ADDENDUM II.

Part I of the Report proper should have contained draft Articles based on the above-mentioned analysis. In view of the Joint Meeting which will take place between representatives of the Social Committee and of the Assembly, the Secretariat has considered it premature to prepare precise draft Articles. Instead, Part I contains - in respect of each right included in the

Part II contains a synthesis of the proposals made by the Governments for new rights or groups of rights to be included in the Charter.

Fairly detailed summaries of the replies of the Governments concerning the ten rights included in the Questionnaire are contained in Addendum I to the Report, which, because of its considerable volume, is distributed as a separate document.

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- (1) The I.L.O. has itself prepared a document showing the relation between the draft Social Charter contained in Doc. 403 of October 1935 and various ILO Conventions and Recommendations as well as provisions of the ILO Constitution. This paper may be made available to the Social Committee.

P A R T IE L E M E N T S F O R D R A F T I N GTHE RIGHT TO WORKInclusion in other international instruments:Universal Declaration of Human Rights, Article 23:

"Everyone has the right to work."

United Nations Draft Covenant on Economic and Social Rights, Article 6:

"The right to work ... the fundamental right of everyone to the opportunity ... to gain his living by work."

American Declaration of the Rights and Duties of Man, Article XIV:

"Every person has the right to work"

A number of international organisations are under their statutes pledged to work for full employment, such as: the United Nations, the I.L.O., the International Monetary Fund, O.E.E.C.

Inclusion in national Constitutions:

Denmark: Any restraint of the free and equal access to trade not based on the public weal shall be abolished. (Art. 74)
Efforts should be made to afford work to every able-bodied citizen on terms that will secure his existence. (Art. 75)

France: Everyone has the duty to work and the right to obtain employment. (Preamble).

Ireland: The State shall, in particular, direct its policy towards securing: 1. That all citizens (all of whom, men and women equally, have the right to adequate means of livelihood) may through their occupation find the means of making reasonable

Iceland: No restriction on the freedom of trade. (Art. 69).

Italy: The Republic recognises the right of all citizens to work, and promote conditions that render this right effective. It is the duty of every citizen ... to develop some activity or function which contributes to the material or spiritual progress of society. (Art. 4).

Luxembourg: The law guarantees the right to work and assures to every citizen the exercise of this right. (Art. 11).

Norway: It is incumbent upon the State authorities to take steps with a view to enabling every able-bodied person to earn his livelihood by his work. (Art. 110).

Federal Republic of Germany: All Germans have the right freely to choose their trade or profession, place of work and place of vocational training. (Art. 12).

Saar: Human labour shall enjoy the protection of the State. Every person according to his ability shall have the right to work, and, without prejudice to his personal freedom, it shall be the duty of every person to work. (Art. 45).

Turkey: The right to ... work ... forms a part of the rights and liberties of Turkish citizens. (Art. 70).

In connection with the envisaged revision of the Belgian Constitution there is a strong trend to include social rights, and among them the right to work.

Replies of Governments:

(a) Inclusion as obligation or declaration?

Obligation: Luxembourg.

Declaration: Belgium, Denmark, France, Federal Republic of Germany, Italy, Netherlands, Norway, Saar, Turkey, United Kingdom.

No indications: Greece.

(b) Contents of the right:

The main measure referred to is an overall economic and social policy intended to secure full employment. There is also the maintenance of employment services and the provision for vocational guidance and training. The Netherlands Government mentions a machinery entirely directed towards the employment of workers who have lost their jobs, by placing them in public works. There are also special services to provide employment for vulnerable groups, such as particularly the physically or mentally handicapped of various types. Moreover, there are certain measures for the individual guarantee of employment: prohibition of dismissal of for example women who are absent from work because of childbirth; persons who do their military service, etc. There are also measures against arbitrary dismissal in general, provision for indemnities in case of dismissal, priority for dismissed workers to obtain jobs if the same undertaking needs more workers, etc.

On the other hand, there are "negative measures", i.e. the absence of any restrictions on the right to work (except in so far as access to certain professions may be conditioned by certain prescribed requirements concerning education or training, and that certain types of work may, for the purpose of protection, be forbidden for women and young persons.

Finally should be mentioned the provisions for unemployment insurance or assistance:

(c) Discrimination:

The right to work is generally restricted to nationals. Foreigners need special permits which may be difficult to obtain and limited in time and to certain jobs. This situation will however be influenced by the European Establishment Convention.

ILO instruments of interest in this field:

1. Unemployment Convention, 1919 (No. 2), Article 2:
Obligation to establish a system of free public employment agencies under the control of a central authority.

2. Employment Service Convention, 1948 (No. 88): Obligation to ensure maintenance of free public employment service, as an integral part of the national programme for achievement and maintenance of full employment.

3. Employment Service Recommendation, 1948 (No. 83): It provides, i.a. that the employment service should make continuous or special studies on:

- (a) the causes and incidence of unemployment;
 - (b) the placement of particular groups of applicants for employment, such as juveniles;
 - (c) factors affecting the level and character of unemployment;
 - (d) the regularisation of employment;
- etc.

This Recommendation also calls for the establishment of an annual national manpower budget.

4. Placing of Seamen Convention, 1920 (No. 9)

5. Migration for Employment Convention, 1949 (No. 97)

6. Unemployment (Agriculture) Recommendation, 1921 (No. 12)

7. Unemployment (Young Persons) Recommendation, 1935 (No. 45)

It concerns, i.a. special employment centres for those between 18 and 24; special public works for unemployed young persons, and placing services for juveniles.

8. Public Works (National Planning) Recommendation, 1944 (No. 73)

It advocates that Governments should prepare long-term development programmes which can be accelerated or slowed down in accordance with the employment situation in different parts of the countries.

The ILO has also adopted several instruments with a view to securing individual guaranteed of employment, see e.g. Chapter I of Doc. CE/Soc (55) 17.

The Economic and Social Council of the United Nations has given much attention to the full employment problem, and the Consultative Assembly of the Council of Europe has, in close connection with the ECOSOC action, adopted three Recommendations on the subject. Among the proposals contained therein are: Fixing of national "full employment targets"; reports from all Member Governments on their general domestic policies concerning full employment and economic stability; international collaboration in reducing undesirable fluctuations in international trade and payments; co-operation to prevent the spread of depression and unemployment from one country to others, and to maintain a steady flow of capital, etc.

Inclusion of the Right to Work in the Social Charter:

Obviously, no Government would undertake as an obligation to provide work for every applicant. The most important part of an article dealing with the right to work must be an undertaking on the part of the Governments to direct their economic and social policies towards the maintenance of a high level of employment. Thus, the United Kingdom Government in its reply to the Questionnaire states that "The Government accepts as one of its primary aims and responsibilities the maintenance of a high and stable level of employment, and pursues policies designed to create opportunities for work and promote conditions in which the right to work may be effectively exercised."

The Charter should not, however, attempt to define in detail what sort of policies shall be pursued, since - as pointed out in Doc. 407 - the same type of policy may not always be the right one even in one single country, not to speak of the difference between the countries.

On the other hand it would be possible to agree on certain general indications, both from the national and from the international point of view, since otherwise the article would be without any substance. Thus, the reply of the United Kingdom referred to above mentions the maintenance of expenditure and demand at an optimum level; the satisfactory distribution of industries; the maintenance of stable prices and wages, and measures to facilitate the mobility of labour.

In addition to a general statement on these lines, the article might oblige Governments to establish national manpower budgets as recommended by the ILO, and to fix national employment targets as recommended by the ECOSOC. Regard should also be had to the ILO Recommendation on public works, calling for long term development programmes.

Of great importance is the international aspect of the question, and the Charter could not fail to stress this aspect and give some indications of its nature. The Social Charter should be a European Charter, and not simply a collective statement of what a number of Governments will do individually and independently of one another. Some indications could be found in the Assembly Recommendations on Full Employment (1), such as exchange of information on policies pursued; collaboration in reducing undesirable fluctuations in international trade and payments; collaboration to prevent the spread of depression and unemployment from one country to another, etc. In this connection, the article might also state the intention of the Governments to strive towards a greater international freedom of circulation of manpower.

Apart from general policy statements of the above nature, the article on the right to work might also deal with the following questions:

- (a) Freedom from restrictions on the right to work, except those needed to protect the standard of certain professions, and those necessary to protect women and young persons.
- (b) Efficient employment services (2).

(1) Rec. No. 25 (1950); Rec. No. 5 (1951) and Rec. No. 10 (1951).

(2) The OEEC has adopted certain standards concerning employment services, including the creation of consultative committees of workers and employers, see "Informations Sociales", Vol. XII, No. 3.

- (c) Vocational guidance and training (1).
- (d) Individual guarantee of employment (prohibition of dismissal in certain cases; general protection against arbitrary dismissal; indemnities, etc.) (2).
- (e) Special measures to obtain employment for persons in certain vulnerable groups (invalids, aged, etc.) (3)

The above measures should only be referred to in general terms in the Charter.

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With regard to the possible effect of a statement of economic and social policies, attention should be drawn to the reply of the Italian Government concerning the right to work. Having quoted the Article of the Italian Constitution embodying the right to work, the reply states that this Article does not create direct and precise obligations, but it indicates the limit of the freedom of action which public organs have under the Constitution.

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- (1) See ILO Recommendation No. 57 on Vocational Training, 1939; Recommendation No. 87 on Vocation Guidance, 1949, and Recommendation No. 88 on Vocational Training of Adults, 1950, as well as other specialised Recommendations.
 - (2) See Chapter I of Doc. CE/Soc (55) 15.
 - (3) If this should not be included in a chapter on social security. ...

THE RIGHT TO JUST CONDITIONS OF WORK

Inclusion in other international instruments:

Universal Declaration of Human Rights, Art. 23

".... right to just and favourable conditions of work"

United Nations draft Covenant, Art. 7

Ditto.

American Declaration of the Rights and Duties of Man, Art. XIV:

".... the right to work under proper conditions"

Inter-American Charter of Social Guarantees; Art. 2 (b):

".... the right to fair working conditions"

Inclusion in national Constitutions:

Four Constitutions make references to fair conditions of work in the sense of fair remuneration.

Denmark: Efforts shall be made to afford work ... on terms that will secure (his) existence. (Art. 75)

Ireland: Citizens shall, through their occupation, find the means of making reasonable provision for their domestic needs.

Italy: Workers are entitled to a remuneration which ... in any case is sufficient to secure for him and his family a free and worthy existence.

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Saar: Working conditions shall be such as to guarantee the welfare, dignity, family life and cultural aspirations of workers. (Art. 47)

Replies of Governments (1):

(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Saar.

Declaration: Belgium, France, Federal Republic of Germany, Netherlands, Norway, Turkey, United Kingdom.

No indication: Denmark, Greece, Italy.

(b) Contents of the right:

Some Governments have under this heading listed certain rights concerning working conditions which were not referred to in the Questionnaire. Some have dealt with questions of wages only. Others have stated that it is superfluous to include in the Charter a general provision for "just conditions of work", since this would overlap with the specific provisions covering various aspects of the conditions of work.

(c) Discrimination:

There is frequently a discrimination between men and women as regards wages, but there seems to be a clear tendency towards equality.

Inclusion in the Charter:

If the various specific rights mentioned in the Questionnaire, and particularly if a number of the other rights suggested by Governments (2) are included in the Charter, it would seem superfluous to include "just conditions of work" as a separate provision.

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(1) Belgium and Luxembourg have dealt with the question of fair wages under this heading.

(2) See Part II of this Report.

RIGHT TO FREE CHOICE OF EMPLOYMENT

Inclusion in other international instruments:

Universal Declaration of Human Rights; Art. 23:

".... the right to free choice of employment"

United Nations draft Covenant, Art. 6:

".... the right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts"

Philadelphia Declaration of the ILO, Annex II (a):

".... the right of all human beings to pursue their material well-being in conditions of freedom"

American Declaration of the Rights and Duties of Man; Art. XV:

".... the right of every person to follow his vocation freely, in so far as existing conditions of employment permit"

Inter-American Charter; Art. 3:

".... the right of every person to engage in his occupation and to devote himself to whatever activity suits him. Freedom to change employment"

Inclusion in national Constitutions:

Italy:

It is the duty of every citizen, subject to his own choice, to develop some activity (Art. 4)

Federal Republic
of Germany:

All Germans have the right freely to choose their trade or profession, place of work and place of vocational training. (Art. 12)

Saar:

.... without prejudice to his personal freedom it shall be the duty of every person to work. (Art. 45)

Replies of Governments:(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Norway, Saar.

Declaration: Belgium, Denmark, Federal Republic of Germany, Italy, Netherlands, Turkey, United Kingdom.

(b) Contents of the right:

Most Governments see this only as an aspect of the right to work. Its implementation is assured in a "negative" way, through the absence of restrictions. In certain special cases the free choice of employment may be limited by the existence of obligatory labour services or by provisions to the effect that persons receiving unemployment allowances or public assistance are obliged to accept any suitable work offered to them.

(c) Discrimination:

The free choice of employment is generally limited to nationals. This limitation may be stricter than in the case of the right to work itself, since an alien may have a permit to work, limited to a special job.

Inclusion in the Social Charter:

The consensus of the replies of the Governments to the Questionnaire appears to be that free choice of employment could be included in the Charter in close connection with, and as an aspect of, the right to work. No separate article would be needed. In argument in favour of devoting a special article to this right would, however, be that while the right to work must most probably take the form of a declaration only, Governments might undertake in binding form to guarantee that there shall be free choice of employment to the extent that work is available.

RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Inclusion in other international instruments:

United Nations draft Covenant; Art. 7 (a):

".... the right of everyone to safe and healthy working conditions"

Philadelphia Declaration of the ILO, Annex III (g):

".... the right of workers to adequate protection of life and health in all occupations"

Inter-American Charter, Art. 30:

"The State should take adequate measures to ensure healthful, safe and moral conditions at places of work."

Replies of Governments:

(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands, Saar.

Declaration: Belgium, France, Federal Republic of Germany, Norway, Turkey, United Kingdom.

No indication: Denmark, Greece, Italy.

(b) Contents of the right:

The Governments' replies to this question go into some detail in describing regulations and laws dealing with various aspects of the protection against industrial accidents and professional diseases. They may be grouped roughly as follows:

1. General measures relating to the working rooms.
(Lighting; space; ventilation; removal of dust, fumes, gases and filth; fire prevention)

2. Measures relating to the installation of machinery in general and dangerous machinery in special.
3. Measures concerning various facilities in connection with the place of work (canteens, showers and lavatories, etc.)
4. Measures relating to medical equipment. (Examination rooms, first aid facilities, doctors.)
5. Medical examinations before employment (young persons and persons in certain types of work). Follow-up examinations.
6. Measures to prevent contagious diseases and professional diseases (silicosis and pneumoconiosis).
7. Special risks,
 - (a) Certain types of work: stevedores, stonecutters, work in caissons, mines.
 - (b) certain machinery, etc., radiation.
 - (c) dangerous materials or objects (heavy, bulky), explosives.
8. Morals.
 - (c) Discrimination:

The only discrimination is in the sense of a special protection of certain groups.

ILO instruments of interest in this field:

The ILO has adopted a large number of Conventions, Recommendations and Resolutions and undertaken a large number of studies relating to this subject. It would lead very far and probably serve no useful purpose to mention them in detail here. They may, however, be grouped as follows:

General: General Recommendation of 1929 on prevention of industrial accidents; general Recommendation of 1953 on protection of workers' health.

Certain types of work: Construction; transport; dockers; seafarers; work in caissons; mines, danger of radiation.

Dangerous machinery.

Dangerous substances: white phosphor; lead, etc.

Heavy and bulky objects.

The worker: prohibition of certain types of work by women and young persons; standards of hygiene; information on the dangers and their prevention; medical inspection, etc.

Detailed standards of safety and hygiene are laid down in the "Model Code of Safety Regulations for Industrial Establishments for the Guidance of Governments and Industry".

Inclusion in the Social Charter:

Obviously, the Charter could not go into detail. On the other hand, however, the term "Safe and healthy working conditions" is rather vague, and it might be desirable to substantiate it to some extent. Thus, the Governments might for example undertake to lay down rules with legal force concerning the protection of the safety and health of workers of the same type as the ILO Model Code. There should be special rules for dangerous or unhealthy occupations. Moreover, Governments might undertake to carry out a general preventive action and, above all, to maintain effective labour inspection.

THE RIGHT TO REASONABLE LIMITATION OF WORKING HOURSInclusion in other international instruments:Universal Declaration of Human Rights, Art. 24:

"Everyone has the right to reasonable limitation of working hours"

United Nations draft Covenant, Art. 7 (c):

".... reasonable limitation of working hours"

Philadelphia Declaration of the ILO, Annex III (d):

"A just share of the fruits of progress in regard to ... hours ... of work to be ensured for all."

Inter-American Charter, Arts. 12 and 16:

"The ordinary effective work period should not exceed 8 hours a day or 48 hours a week. Not more than 6 hours a day or 36 hours a week for persons under 16 years of age."

Inclusion in national Constitutions:

Italy: The maximum duration of the working day shall be defined by law. (Art. 36)

Replies of Governments:(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands, Saar.

Declaration: Belgium, France, Federal Republic of Germany, Norway, Turkey, United Kingdom.

No indication: Denmark, Greece, Italy.

(b) Contents of the right:

Working hours vary considerably according to occupation and according to the groups of workers concerned (women and young persons have generally shorter working hours). In some occupations it is particularly difficult to have fixed hours of work because of the nature of the work itself (agriculture, navigation, domestic work, etc., and undertakings which depend on such sources of power as wind or water or which depend upon the season). Longer hours are usually worked in hotels, restaurants, theatres and the like. Even where there are fixed rules for working hours, a large number of exceptions are authorised, such as for preparatory work, work in undertakings using materials likely to deteriorate rapidly, work which must go on without interruption, emergency work, etc.

The most general rule, particularly in industry, is 8 hours a day and 48 hours a week.

In the United Kingdom law and regulations deal only with the limitation of working hours for women, children and young persons. Otherwise, the question is left entirely to the workers' and employers' organisations to be settled through collective agreements. The normal weekly hours are 44 or 45.

In Belgium the 45-hour week will gradually be introduced.

In many cases provisions are made for midday breaks. There are also regulations concerning payment for overtime work.

(c) Discrimination:

The only discrimination exercised is based on considerations of protection of certain groups. (The fact that working hours often are different in different occupations can probably not be regarded as discrimination in the sense of the word used in this Report.)

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ILO instruments of interest in this field:

1. Hours of Work (Industry) Convention, 1919 (No. 1; General rule: 8 hours a day and 48 a week.
2. Hours of Work (Commerce and Offices) Convention, 1930 (No. 30): 8 hours a day and 48 a week (may be differently arranged, provided that hours of work in any day do not exceed 10).
3. Hours of Work (Coal Mines) Convention, 1935 (No. 46): 7 3/4 hours a day (from entering the cage in order to descend till leaving the cage after re-ascending).
4. Hours of Work (Road Transport) Convention, 1939 (No. 67): 48 hours a week.
5. Hours of Work (Sheet Glass) Convention, 1934 (No. 43): Average working hours must not exceed 42 per week.
6. Hours of Work (Glass Bottle Works) Convention, 1935 (No. 48): 42 hours per week.
7. Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51): Average working hours must not exceed 40 hours per week.
8. Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61): 40 hours per week.

There are also a number of other Conventions and Recommendations concerning working hours on board ships, in fishing and in inland navigation.

Of special interest is Convention No. 47 of 1935 on the Forty-Hour Week. This is the first attempt of the ILO to secure general approval of the principle of the general 40-hour week. No European Government has ratified it. (The only ratification obtained so far is that of New Zealand.) Nevertheless this Convention is interesting as an indication of the trend of the ILO efforts.

A Government ratifying the Convention would declare its approval of:

- (i) the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence, and
- (ii) the taking or facilitating of such measures as may be judged appropriate to secure this end.

Moreover, the ratifying Government would undertake to apply this principle to classes of employment in accordance with the detailed provisions prescribed in such of the later chapters of the title (i.e. the title of the International Labour Code dealing with the reduction of hours of work) as apply to that Government by reason of its ratification of the corresponding international labour conventions.

This Convention is interesting also from another - formal - point of view. The International Labour Office considered originally that the convention form was inappropriate in the case of the 40-hour week, since it was a question of a declaration of future policy. The ILO proposed therefore that this principle should be embodied in a Resolution of the Conference. But the Conference itself preferred to express the principle in the solemn form of a Convention.

Already in 1933 and 1934 unsuccessful attempts were made to secure the adoption of general conventions for the reduction of hours of work in industry and commerce.

Again in 1939 proposals were put forward to reduce working hours to 40 (alternatively 44) hours a week in industry as well as in commerce and offices, and to an average of 42 5/8 hours in coal mines. These proposals were postponed sine die.

However, the question was taken up again by the ECOSOC at the initiative of the American Federation of Labour and referred to the ILO. In 1954, the International Labour Conference adopted a Resolution inviting the Governing Body to instruct the Director-General to prepare a general report on the question of the reduction of hours of work, including information on the actual situation in the various countries as well as an examination of the repercussions of a reduction of hours of work. The Governing Body was further invited to consider, in the light of the said report, what further action might be taken.

At its 130th Session (November 1955), the Governing Body was informed that the report of the Director-General would be completed at the end of 1955.

At the same Session, the Governing Body took note of a letter from the Belgian Government, the main points of which were the following:

Far from paralysing the economy of the countries concerned, the reduction of working hours hitherto carried out has generally contributed to promoting economic expansion, and has represented substantial social progress.

The workers' and employers' organisations in Belgium have concluded an agreement "to bring into operation in an orderly and methodical manner and by stages, the 45-hour week, spread possibly over five days without endangering the stability of undertakings and of the national economy."

The Governing Body should consider the advisability of convening at the earliest possible date a technical tripartite conference on the question of reducing working hours. It may be an advantage to study the question by major geographical areas.

Inclusion in the Charter:

The provision must evidently be very flexible. It is not possible to go into detail in prescribing daily and weekly working hours, and particularly one cannot fix the authorised exceptions from the general rule. On the other hand it would be vague and without any substance to use only the term "reasonable limitation of working hours". In view of the undeniable trend towards shorter working hours, which will be accentuated by the use of atomic energy and automation one should provide for progressive reduction in working hours and perhaps fix as an aim the 40-hour week. One might object that it would be unwise to fix any exact figure and that this in the future may even appear to act as a brake on the development. That danger could, however, easily be avoided by a procedure for regular revision of the Charter.

The provision might further broadly indicate the nature of the circumstances in which longer hours may be authorised, as well as the cases in which working hours should be shorter than the normal such as for young workers.

The question of the reduction of the working hours is closely linked with the question of pay. The gradual reduction of the working hours to 40 a week must be carried out without any reduction of the total wages of the workers. A Resolution to this effect was also adopted by the International Labour Conference in 1935 in connection with the adoption of the 40-hour week Convention (1).

The Article dealing with working hours might also contain a provision for extra pay for overtime (like several ILO Conventions concerning hours of work), if such a provision should not be included in a possible article dealing with fair wages.

The principle of daily breaks during the working day might also be included.

THE RIGHT TO WEEKLY REST WITH PAY

Inclusion in other international instruments:

Universal Declaration of Human Rights, Art. 24:

".... the right to rest"

United Nations draft Covenant, Art. 7 (c):

".... conditions of work, including rest"

American Declaration of the Rights and Duties of Man, Art. XV:

"Every person has the right to leisure time"

Inter-American Charter of Social Guarantees, Art. 13:

"Every worker has the right to a weekly paid rest period."

(1) International Labour Code, Vol. II, p. 4.

Inclusion in national Constitutions:

- France: It (the Nation) guarantees to all ... rest and leisure. (Preamble)
- Italy: Workers are entitled to a holiday once a week ... (Art. 36)
- Luxembourg: The law organises the ... rest of workers ... (Art. 11)

Replies of Governments (1):(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands.

Declaration: Belgium, Federal Republic of Germany, Norway, Turkey, United Kingdom.

No indication: Denmark, France, Greece, Italy.

The Government of the Saar does not wish to include the weekly rest with pay in the Charter even as a declaration of principle.

(b) Contents of the right:

A distinction must be made between the principle of a weekly rest as such and the principle of paid rest.

In almost all countries there are provisions of some kind for a weekly rest, which may not necessarily be on a Sunday. Even where the weekly rest is provided for by law or regulations, it does not apply to all branches of activity. Moreover there are exceptions in the case of necessary work; force majeure, etc. In some countries there are, in addition to provisions for a weekly rest, provisions for periodical breaks during working hours, an afternoon off per week, etc.

(1) It is not always quite clear whether the replies refer to the weekly rest with pay or only to weekly rest as such.

With regard to the question of pay during the weekly rest period, the United Kingdom Government remarks that the idea of a weekly paid rest period is related to a system whereby the weekly wage is regarded as related to the week as a whole and not to the hours actually worked. "Where the agreed rate of wages is expressed in terms of a rate per hour, it would be unrealistic to maintain that the weekly wage should be calculated by multiplying the hourly rate not only by the hours worked but also by some additional number of hours representing the day of rest."

In Luxembourg, only persons whose wage is calculated on a monthly basis are entitled to paid weekly rest. The Netherlands Government states that there is no provision for pay during the weekly rest, but wages are so fixed as to suffice for the worker and his family also during the day of rest. In Turkey, undertakings covered by the Labour Act must grant 1/2 day's pay for days of rest and public holidays. Some Governments state that there is no provision for pay during the weekly rest period, and the Government of the Saar does not want to include the principle of a weekly paid rest in the Charter even in a declaratory form.

(c) Discrimination:

The rule concerning weekly rest is usually more strictly applied in the case of women and young persons. Certain occupations may be excepted from the rules.

ILO standards of interest in this field:

1. Weekly Rest (Industry) Convention, 1921: Provides for a period of rest comprising at least 24 consecutive hours in every period of seven days, if possible to be granted simultaneously to the whole staff of the undertaking, and to coincide with the days already established by tradition and custom.

2. Weekly Rest (Commerce) Recommendation: Provides for the same period of weekly rest. (The question of weekly rest in commerce and offices has been placed on the Agenda of the 1956 International Labour Conference).

Inclusion in the Charter:

It seems to be clear that the right to weekly rest must be included. On the other hand, judging from the replies, it would not be possible to refer to weekly rest with pay. There might, nevertheless, be a provision to the effect that wages should be so fixed as to assure the necessary means for the worker and his family to enjoy the weekly rest. See in this connection the reply of the Netherlands Government.

It might be of interest to mention in this connection that Article #8 of the Constitution of the Saar provides that workers shall be paid for these holidays which are fixed by law.

THE RIGHT TO LEISURE

Inclusion in other international instruments:

Universal Declaration of Human Rights: Art. 24:

"Everyone has the right to leisure".

United Nations draft Covenant, Art. 7 (c)

".... conditions of work, including ... leisure".

American Declaration of the Rights and Duties of Man, Art. XV:

"Every person has the right to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit."

Inter-American Charter, Art. 29:

"States should promote and provide for recreational and welfare centres that can be freely used by the workers."

Inclusion in national Constitutions: As for the right to weekly rest.

Replies of Governments:(a) Inclusion as obligation or declaration?

Obligation: None.

Declaration: Belgium, France, Federal Republic of Germany, Luxembourg, Norway, Turkey.

No indication: Greece.

The Government of the Saar is against inclusion of this even in the declaratory form. The other Governments did not give any specific reply to this question.

(b) Contents of the right:

Some Governments have taken the term leisure in the sense of free time only (reasonable limitation of working hours or weekly rest).

Others describe various types of leisure time activities and facilities organised by private initiative as well as by public organs. In no case does it appear that there are legal provisions for leisure. In some cases the activities of private organisations are subsidised by public authorities. The Saar Government expressly states that the right to leisure should not be included in the Charter.

ILO instruments of interest in this field:

Utilisation of Spare Time Recommendation, 1924.

(I)

- (a) Measures should be taken to prevent workers from having recourse to additional paid work (by securing their standard of living through ordinary work.)
- (b) Spare time should be as continuous as possible.
- (c) Transport facilities should be available.

II.

- (a) Individual hygiene should be encouraged by provision for public baths, swimming pools, etc.
- (b) Legislative measures should be taken or private initiative encouraged to fight against abuse of alcohol, against gambling, as well as against tuberculosis and venereal diseases.

IV.

- (a) Improvement of domestic economy and family life (gardens, poultry keeping, etc.)
- (b) Organisation of games and sports, etc.
- (c) Extension of education (libraries, lectures, courses, etc.)

Moreover, the Advisory Committee on Recreation at its first session (1949) adopted a resolution concerning the leisure time of young persons (i.e. organisation of facilities for the utilisation of spare time, particularly when towns are being planned or reconstructed. Exchange of information, etc.)

Inclusion in the Charter:

It would seem desirable not only to use the term "leisure" but to indicate to some extent its meaning. The Charter might thus, inter alia, give some reference to the desirability of developing contacts between young persons of different countries by the encouragement of travel abroad, etc. cfr. Assembly Recommendation No. 81 (1955).

THE RIGHT TO HOLIDAYS WITH PAYInclusion in other international instruments:Universal Declaration of Human Rights; Art. 24:

"Everyone has the right to ... periodic holidays with pay".

United Nations draft Covenant, Art. 7 (c)

" ... the right to ... periodic holidays with pay".

Inter-American Charter, Art. 15:

"Every worker who has to his credit a minimum of service rendered during a given period shall be entitled to paid annual vacations".

Inclusion in national Constitutions:

Italy: Workers are entitled to ... paid annual holidays. (Art. 36)

Saar: Every worker shall be entitled to holidays with pay (Art. 48).

Replies of Governments:(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands, Saar.

Declaration: Belgium, Federal Republic of Germany, Norway, Turkey, United Kingdom.

No indication: Denmark, France, Greece, Italy.

(b) Contents of the right:

In some countries the regulation of holidays with pay is left to collective agreements, either wholly or partly. However, all countries have systems of paid vacations in some way and all want it to be included in the Charter. The Belgian laws on this subject do not apply to servants and to persons employed in family undertakings.

The duration of the holidays vary as a function of three main factors:

- (1) Period of Service
 - (a) qualifying period
 - (b) duration of holidays increasing with service period.
- (2) Size of undertaking
- (3) Personal criteria (age, disablement)
- (4) Type of work.

The minimum duration applied under legislation seems to be six working days (Netherlands, but this applies only to workers not covered by collective agreements or binding wage regulations). In Belgium, the minimum varies with the age of the adult worker. In Luxembourg the minimum is 8 days, but during 5 years of service the duration increases to 18 days in bigger firms and 12 days in smaller. In Germany and the Saar the minimum is 12 days. In the United Kingdom the duration is two weeks, and in Norway 18 working days.

(c) Discrimination :

The only discrimination exercised appears to be in the sense of longer holidays for young workers.

ILO instruments of interest in this field:

1. Holidays with Pay Convention, 1936 (industry, construction, transport, mines, commerce, post and telecommunications, administrative services, press, hospitals, hotels, etc.) After one year of service, the worker is entitled to at least 6 days paid vacation (12 days for persons under 16 years (1)). The pay during holidays shall include cash equivalent of remuneration in kind.

2. Holidays with Pay Recommendation, 1936:

Interruptions caused by sickness or accident, family events, military service, exercise of civic rights, changes in management or intermittent involuntary unemployment should not be counted in considering the continuity of service. The service must not necessarily be with one employer. The duration of holidays should increase by regular stages.

The holiday should so far as possible be continuous, and arrangements should be made for more advantageous holiday schemes for young workers and apprentices.

3. Paid Vacations (Seafarers) Convention, 1949: For masters, officers and radio operators the holidays shall be 18 working days for each year of service, and for members of the crew 12 days.

4. Holidays with Pay (Agriculture) Convention, 1952: It provides that workers employed in agricultural undertakings and related occupations shall be granted an annual holiday with pay after a period of continuous service with the same employer. The length of the vacation is not indicated, but in the Recommendation of the same date, a minimum of one working week is mentioned. The competent authority should consider the possibility of making more favourable provisions for workers under 18 years. For workers under 16 the holidays should be two working weeks.

(1) The Resolution concerning the Protection of Children and Young Persons adopted by the International Labour Conference in 1945 advocates that this should be increased to 16 years.

5. Holidays with Pay Recommendation, 1954 (No. 98) advocates a duration proportionate to the period of service of at least two weeks after one year's continuous service with the same employer, excluding public and customary holidays, days of weekly rest and days of sickness.

The 1954 International Labour Conference also adopted a Resolution calling for the placing on the Agenda of another session of the Conference the question of holidays with pay, with a view to revising the 1936 Convention or the adoption of a new Convention.

The 1954 Conference also adopted a Resolution on utilisation of holiday facilities, advocating the adoption of measures to provide a maximum of relaxation for workers during their paid holiday (change of surroundings, open air life, transport arrangements, savings schemes, etc.) The ILO Committee on Recreation adopted already in 1938, during its first Session, a series of very interesting Conclusions concerning holiday facilities for workers, see International Labour Code, II, p. 154.

Inclusion in the Charter:

The Charter should provide for at least two weeks of holidays after one year of continuous service, which need not necessarily be with the same employer. It should be made clear that public and customary holidays, absence caused by sickness and other forced absence (e.g. military service) should not be counted as holidays. There should be longer holidays for persons under 18 years of age, and for all workers in certain prescribed occupations which are considered to be particularly dangerous, exerting or unhealthy. The duration of the holidays should increase by stages in relation to the period of service with the same employer.

If this is not better dealt with in a special Article on leisure, there should also be provisions for the utilisation of holidays, including facilitation of international travel.

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS
RIGHT TO PROTECTION

Inclusion in other international instruments:

Universal Declaration of Human Rights, Article 25 (2):

"Childhood is entitled to special ... assistance".

United Nations draft Covenant, Art. 10 (2)

"Special measures of protection ... should be taken on behalf of children and young persons, who should not be required to do work likely to hamper their normal development."

ILO Declaration of Philadelphia; Annex III (h):

" the right to provision for child welfare ..."

American Declaration of the Rights and Duties of Man, Art. VI:

"The child must be protected against every form of exploitation."

./.

Inter-American Charter. Art. 16:

"The authorities may authorise the employment of persons of less than 14 years of age, and of those who, having reached that age, are still subject to the compulsory education laws of the country, when such employment is essential to their own maintenance, or that of their parents or brothers and sisters, provided that the minimum compulsory education requirements are met."

Inclusion in national Constitutions:

- France: It (the Nation) guarantees to all, and notably to the child ... protection of health. (Preamble).
- Ireland: The State shall endeavour to ensure that the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter a vocation unsuited to their sex, age or strength (Art. 45).
- Italy: The Republic shall protect the employment of minors by special regulations, guarantee them equal pay for equal work and specify the minimum age of employment. (Art. 37).
- Saar: Special legal protection shall be given to ... young persons (Art. 47).

Replies of Governments:(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands, Norway, Saar.

Declaration: Belgium, Federal Republic of Germany, Turkey, United Kingdom.

No indication: Denmark, France, Greece, Italy.

(b) Contents of the right:

Most replies indicate in a fairly detailed way the special measures of protection taken in favour of children and young persons.

The age of admission to work is of course of particular importance in this connection. The Belgian reply indicates 14 years

as the general limit. The Dutch reply states that it is 14 for boys and 15 for girls. In the United Kingdom the general age of admission to all full-time industrial employment is 15 years, while in France and the Saar the age is expressed in terms of the termination of obligatory school attendance. It is 14 in Denmark and 15 in Norway.

The most important measures of protection during employment are the following: shorter working hours; more ample provision for rest periods (weekly rest and vacations); prohibition up to a certain age of certain particular fields of work regarded as too heavy or dangerous or unhealthy or involving moral risks; prohibition or strict limitation of nightwork and overtime work; special rules for safety, health and welfare concerning work where children and young persons are involved; medical examination; protection of attendance of school or vocational training course, etc. The Turkish reply states that time spent at school is regarded as working hours. The Italian reply states that under the Italian Constitution minors are guaranteed the same wages as adults for work of equal value.

In some cases, measures of protection like those mentioned above do not apply to agriculture and some other branches of activity.

In any case, exceptions may be made from the rules of protection, particularly for the purposes of vocational training.

Children and young persons are considered to comprise persons up to 18 years in most countries. There are usually various stages between the lowest age of admission to work and the age of 18.

(c) Discrimination:

There is in some cases a distinction between age groups and also between the sexes, in order to secure a particular protection to the youngest and to girls.

ILO instruments of interest in this field:Relating to minimum age of employment:

1. Industry: Convention, 1937: 15 years, except for family undertakings which are not dangerous for life, health or morals. A higher age must be fixed for dangerous undertakings in general.

For countries that have only ratified the corresponding Convention of 1919, the age is 14 years.

2. Agriculture: Convention, 1921: Children under 14 years of age may not be employed save outside school hours, and the employment must not prejudice their school attendance.

3. Non-industrial employment in general: Convention 1937: Children under 15 years (or over 15 but still bound to attend primary school) must not be employed in work coming under the Convention (employment other than industrial or agricultural, except seafishing, work of educative nature, family undertakings and domestic work). The age must be higher as regards dangerous work. Children of 13 years may, outside school hours, do light work not prejudicing health, morals or school attendance, but not for more than two hours per day in case of a child under 14 years.

For States that have only ratified the corresponding Convention of 1932, the age is 14 years instead of 15 and 12 instead of 13.

4. Family undertakings: Recommendation, 1937: Minimum age legislation should, so far as possible, be applied also to such undertakings, even when they do not fall in the category of dangerous undertakings.

5. Special rules apply to trimmers and stokers, as well as to workers in coal mines.

It should be noted that in the Resolution concerning the Protection of Children and Young Persons which the International Labour Conference adopted in 1945, it advocated that the school-leaving age and the age of admission to employment should be 16 years, see International Labour Code, Vol. II, p.8 and p.11.

It further proposed that no child of school age should be allowed to work during school hours, whether on his own account, for his parents, or for an employer. Exemptions permitting the employment of school children outside school hours should be eliminated as soon as possible.

Relating to medical examinations:

1. Industry: Convention, 1946: Persons under 18 years shall not be employed unless pronounced fit after thorough medical examination. Until 18 (or 21 if high health risk is involved) examinations shall be undertaken at least once a year.

2. Non-Industrial Occupations: Convention, 1946: As for industry.

A Recommendation of 1946 lays down rules for the scope of the medical examination and measures to be taken for persons not fully fit for employment.

Relating to night work:

1. Industry: Convention, 1948: Persons under 18 years must not be employed in night work, except as provided for in the Convention.
2. Non-industrial occupations: Convention, 1946: Children under 14 who are admissible for employment and those over 14 still subject to full-time compulsory school shall not be employed during the night for at least 14 consecutive hours. (12 hours where required by local conditions). 12 consecutive hours of rest is required for other young persons between 14 and 17.
3. Agriculture: Recommendation, 1921: There should be ten consecutive hours' rest for children under 14, and nine hours for those between 14 and 18.
4. Special rules apply to bakeries (Convention, 1925)

Relating to unhealthy work:

Convention, 1921: Employment of men under 18 and all women is prohibited in any painting work of industrial character involving the use of white lead.

Relating to holidays:

Convention, 1936: Persons, including apprentices, under 16 years of age are entitled to longer annual holidays with pay (12 working days as against 6 for adults).

Relating to vocational guidance and training, placing, etc.:

1. Vocational Guidance Recommendation, 1949: Special provisions should be made for programmes suitable for young persons.

2. Employment Service Convention, 1948, Art. 9: Special arrangements for juveniles shall be developed within the framework of the employment and vocational guidance services.

3. Vocational Training Recommendation, 1939: Although dealing with vocational training in general, this Recommendation provided specifically for prevocational preparation for young persons and technical and vocational education at the school level.

4. Apprenticeship Recommendation, 1939: It lays down the principles to be taken into account in connection with apprenticeship. Amongst others it states that young persons should not enter apprenticeship as long as they are subject to compulsory school attendance, and only after medical examination, including testing of mental aptitudes. A Resolution adopted by the Advisory Committee on Juvenile Employment in 1949 advocates that apprentices should be permitted to follow supplementary courses during working hours, and that time spent at such courses should be regarded as paid working hours.

5. Unemployment (Young Persons) Recommendation, 1935: The national system of public employment exchanges should include special local and central arrangements for placing of juveniles, including a vocational guidance department. The Recommendation lays down detailed rules for the establishment of special vocational training centres for the young, etc. It should be compulsory for unemployed juveniles to attend continuation courses providing a combination of general and vocational education.

Relating to protection against danger:

Various Industrial Committees of the ILO have laid down in Resolutions principles for the special protection of children and young persons in coal mines, in inland transport and in construction. A committee of experts has also made recommendations concerning the protection of young domestic workers (International Labour Code, Volume II, p. 253).

Relating to leisure time activities:

The Advisory Committee on Recreation adopted in 1949 a Resolution concerning the utilisation of leisure time of young persons. The responsibilities of public authorities should include the provision of adequate accommodation and facilities, particularly when cities or towns are being planned or reconstructed, and the encouragement of organisations providing for leisure-time activities of young persons.

The above mentioned Resolution of the 1945 International Labour Conference concerning children and young persons - which has been called the International Children's Charter - contains a number of rules relating to hours of work, night work, rest periods and holidays, industrial safety and hygiene, moving of loads, wages, etc. which are intended to secure a special protection for the young.

Inclusion in the Charter:

The following aspects should at least be covered:

1. Age of admission to employment: At present it would hardly be possible to fix the general age for admission to employment in industry and most non-industrial occupations higher than 15 years. The Charter might, however, provide for a progressive increase of this age until 16, in harmony with the International Children's Charter. Special rules might apply to agriculture. Special, stricter rules should apply to certain occupations, considered to be dangerous, unhealthy or strenuous. This should be prohibited until the age of 18.
2. The principle that work shall not interfere with education, including vocational training.
3. The organisation of vocational guidance and training.
4. Special placement services.
5. Reduced hours of work. The working week should, in accordance with the International Children's Charter, not be more than 40 hours. Time spent at vocational training courses should count as working hours and be paid as such.

6. Special protection against night work and work on holidays as well as over-time work.
7. Longer holidays with pay than adults (the International Children's Charter mentions 12 working days, but 18 for persons employed in particularly exacting work).
8. Special measures of protection against industrial injury.
9. Special health protection (strict rules of medical examinations, etc.)
10. Organisation of apprenticeship.
11. Facilities for leisure time activities (if this will not be included in a separate Article on the right to leisure.)

EMPLOYMENT OF WOMEN

RIGHT TO PROTECTION

Inclusion in other international instruments:

Universal Declaration of Human Rights, Art. 23 (2):

"Equal pay for equal work".

United Nations draft Covenant, Art. 7 (b) (i):

"Equal remuneration for work of equal value".

Art. 10 (1):

"Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and after childbirth".

Philadelphia Declaration of the ILO, Annex III (j)

"The assurance of equality of vocational opportunity."

Inter-American Charter of Social Guarantees, Art. 18:

"Night work is forbidden for women in industrial establishments, whether public or private, and work that is hazardous or injurious to health."

Art. 33:

"Every working woman shall be entitled to leave with pay for a period of not less than 6 weeks before and 6 weeks after childbirth; to keep her job, and to receive medical attention for herself and the child and financial assistance during the nursing period."

Inclusion in national Constitutions:

France: "The law guarantees to women equal rights with men in all domains." (Preamble)

Italy: "Their (working women) conditions of employment must allow for the discharge of their essential family functions and must provide mothers and children with special and adequate protection".
(Art. 37)

"Working women have the same rights as men and are entitled to equal pay for equal work."
(Art. 37)

Fed. Rep. of Germany: "Every mother has a claim to the protection and assistance of the community".
(Art. 6 (4)).

"Men and women have equal rights".
(Art. 3.)

Saar: "Men and women shall receive the same payment for the same work and performance".
(Art. 47).

Replies of Governments:

(a) Inclusion as obligation or declaration?

Obligation: Luxembourg, Netherlands, Saar.

Declaration: Belgium, Federal Republic of Germany, Norway, Turkey, United Kingdom.

No indication: Denmark, France, Greece, Italy.

(b) Contents of the right:

The measures referred to by the Governments comprise the following: Absence from work during a certain period before and after childbirth; time off for nursing and (in case of bigger undertakings) provision for a nursing room; protection against dismissal on the grounds of absence caused by childbirth; equal pay for equal work; right for women who are also housewives to a day off per month in order to look after their homes; higher age limits than for men concerning admission to certain types of employment; complete prohibition of certain types of work (such as e.g. underground work in mines); special assurance of the weekly rest; prohibition of or restrictions on night work and work on Sundays and holidays; special measures for rest during the working hours (provision of seats for women employees in shops, for example); special protection against dangerous work.

(c) Discrimination:

There is no discrimination.

ILO instruments of interest in this field:

1. Maternity Protection Convention, 1952 (No. 103): This applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home. The period of maternity leave shall be at least twelve weeks, and shall include a period of compulsory leave after confinement. This latter period shall in no case be less than six weeks. If a woman is nursing her child, she shall be entitled to interrupt her work for this purpose at a time or times to be prescribed by national law. Such interruptions shall be regarded and paid as working hours. A woman may not be dismissed while she is on maternity leave.

(The Maternity Protection Convention of 1919 and the Recom-

2. Maternity Protection Recommendation, 1952: Where necessary to the health of the woman, and wherever practicable, the maternity leave should be fourteen weeks. Night work and overtime should be prohibited for pregnant and nursing women, and their working hours should be so planned as to ensure adequate rest periods. Employment of a woman on work prejudicial to her health or that of her child should be prohibited during pregnancy and up to at least three months after confinement. A woman ordinarily employed at work defined as prejudicial to health should be entitled, without loss of wages, to a transfer to other work.

3. Night Work (Women) Convention, 1948: Women, without distinction of age, shall not be employed during the night in any industrial undertaking, other than family undertakings. Exceptions may be made in case of force majeure and in respect of materials subject to rapid deterioration. Nor does the Convention apply to women in higher positions or to those employed in health and welfare services and not doing manual work.

(This Convention covers the Conventions of 1919 and 1934 of the same title).

4. Night Work of Women (Agriculture) Recommendation, 1921:
Steps should be taken to regulate night work of women in agriculture so as to ensure to them a period of rest compatible with their necessities and consisting of not less than 9 hours, which should, when possible, be consecutive.

5. Underground Work (Women) Convention, 1935: No women, whatever her age, shall be employed on underground work in any mine.

6. White Lead (Painting) Convention, 1921; Art. 3: The employment of all females shall be prohibited in any painting work of an industrial character involving the use of white lead

7. Lead Poisoning (Women and Children) Recommendation, 1919: Women ... should be excluded from employment in certain other processes involving lead or zink ores.

8. The International Labour Conference adopted in 1955 two Resolutions calling for further studies respectively of the part-time employment of women and the employment of women having dependent young children. Improved maternity protection was advocated.

9. In 1951, the Building, Civil Engineering and Public Works Committee adopted a Resolution calling for measures prohibiting the employment of women (and children) on work sites in jobs requiring strength beyond their physical powers.

Inclusion in the Charter:

The following aspects should at least be covered:

1. Maternity leave, at least equivalent to the corresponding ILO Convention (1).

(1) The social security aspects of maternity, including medical care, will presumably be dealt with in another Part of the Charter.

2. Right to and facilities for nursing.
3. Protection against dismissal. (If this is not included in the Article on the Right to Work).
4. Prohibition of night work and underground work as well as other types of unhealthy, dangerous and particularly exacting work.
5. Equal pay for equal work (if this is not to be covered in a separate Article on fair wages.)
6. Housewives' right to time off in order to look after the home.
7. Restriction on overtime and work on Sundays and holidays.

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REMARKS ON THE FUTURE WORK AND THE NATURE OF THE CHARTER

1. Obligatory and declaratory provisions:

The Social Charter will eventually appear as a result of a collaboration between the Social Committee and the Consultative Assembly. The Assembly has stressed that the Charter should, as far as possible, be of a binding nature, and the Committee of Ministers has instructed the Social Committee to consider particularly to what extent it could contain binding provisions. This will presumably become one of the main issues in the consultations between the representatives of the Assembly and of the Social Committee. It is difficult at present to form a clear opinion on the position of the Governments as a whole in this respect. Belgium, the Federal Republic of Germany, Turkey and the United Kingdom have not admitted any binding provisions, even in fields usually covered by legislation, such as particularly the protection of children, young persons and women, and industrial safety and hygiene. Luxembourg, Netherlands and Saar have gone far in admitting binding provisions. In respect of Denmark, France, Greece and Italy, no conclusion can be drawn.

If the Charter were to be a declaration of certain principles only, those who favour a binding document would consider it to have little independent value and could not, as intended by the Committee of Ministers, be complementary to the European Convention on Human Rights.

2. Broad statements or detailed provisions:

This question is closely linked with the question mentioned under 1 above. In case the Charter is based on broad statements, such as particularly the right to work, the Governments will have difficulties in accepting any binding obligations. If, however, one analyses the various rights, one will find that most of them including even the right to work, have elements in respect of which most Governments would probably have no difficulty in accepting obligations. Thus the maintenance of adequate employment services and the provision of vocational training may be seen as elements of the contents of the right to work.

3. Combined provisions (aims and guaranteed minimum standards):

Certain Articles of the Charter might combine a statement of principle in rather broad terms and a list of well defined rights in regard to which the Governments could undertake obligations. The standards laid down in the detailed provisions should be worked out with due regard to corresponding standards of the ILO. The European Social Charter could hardly contain provisions at a lower level than those included in ILO Conventions. On the other hand, the Charter might include things which the ILO has adopted as Recommendations only.

4. Extension to all groups of the population:

Many of the ILO standards in the field of employment and working conditions apply only to certain groups of workers. They often exclude agricultural workers, domestic servants and some others. In certain cases, other and lower standards apply to such groups. Obviously many standards or rules which apply to industrial workers cannot simply be copied in the case of other groups, because of the very nature of the work of those other groups. On the other hand agriculture and some other groups have lagged behind in the social struggle simply because they are weaker and less organised. The Social Charter should, therefore, oblige the Governments to strive to extend the same rights to all groups of the population, so far as practicable.

5. European nature of the Charter:

As already mentioned in connection with the right to work, the Charter should be a European document, inciting and obliging the Governments to a joint effort to reach certain common aims for the good of all. This would link the Charter with the general social programme of the Council of Europe, which calls for a harmonisation of social legislation and practice and the abolition of discrimination on grounds of nationality, as well as with the general trend in Western European, or at least Continental, policy towards greater economic and social unity and even the creation of a common market.

CE/Sec (56) 4

P A R T IISYNTHESIS OF THE REPLIES TO QUESTIONS I AND III (1)QUESTION I: NEW RIGHTS TO BE ADDED TO OR DELETED FROM THE LIST OF RIGHTS RELATING TO EMPLOYMENT AND WORKING CONDITIONS

1. Right to a fair wage
Proposed by: Belgium, Denmark and Turkey.
2. Minimum wage
Proposed by: Greece and Turkey.
3. Equal pay for equal work
Proposed by: Belgium and Turkey.
4. Extra pay for night work and over-time
Proposed by: Turkey.
5. Protection of wages
Proposed by: Greece, Luxembourg and Turkey.
6. National holidays with pay
Proposed by: Luxembourg.
7. Protection against the consequences of unemployment
Proposed by: Denmark and the Federal Republic of Germany.

(1) Question I deals with rights to be added to or deleted from the list of rights relating to employment and working conditions. Question III deals with new groups of rights. The distinction between these questions is, however, not always quite clear, and this is reflected also in the replies.

8. Notice of dismissal
Proposed by: Luxembourg.
9. Work and supervision of apprentices
Proposed by: Luxembourg.
10. Labour inspection
Proposed by: Turkey.
11. Employment service
Proposed by: Greece.
12. Right to strike
Proposed by: Italy and Turkey.
13. Workers' education
Proposed by: Greece.
14. Relations between workers and management
Proposed by: Luxembourg and Turkey.
15. Workers' right to take part in the management of undertakings
Proposed by: Italy and Netherlands.
16. Special protection of the infirm
Proposed by: Greece.
17. Contract of work
Proposed by: Greece and Turkey.
18. Establishment of distinction between different categories of workers
Proposed by: Greece.

The Danish Government proposed that the Charter should refer to "weekly rest", rather than "weekly rest with pay".

QUESTION III: NEW GROUPS OF RIGHTS

1. Social security
Proposed by: Belgium, Greece, Netherlands, Turkey and the United Kingdom.

2. Maintenance of migrants' social security rights
Proposed by: Italy.
3. Migration
Proposed by: Greece and Italy.
4. Right of migrant workers to special protection
Proposed by: Belgium.
5. Health questions
Proposed by: United Kingdom.
6. Right to join trade unions
Proposed by: Belgium, Greece, Italy and Netherlands.
7. Right to organise and to collective bargaining
Proposed by: Denmark and Greece.
8. Vocational guidance and training
Proposed by: Federal Republic of Germany, Italy and Luxembourg.
9. Settlement of labour disputes
Proposed by: Italy and Turkey.
10. Organisation of professions
Proposed by: Greece.
11. Full employment
Proposed by: Turkey.
12. Protection of the family
Proposed by: Federal Republic of Germany.
13. Protection of the needy
Proposed by: Federal Republic of Germany.
14. Protection of motherhood and childhood
Proposed by: Turkey.

The Danish Government proposed that it should be left to the Social Committee to decide what other groups of rights or principles should be included in the Charter.

APPENDIX IQUESTIONNAIRE

CONCERNING RIGHTS RELATING TO EMPLOYMENT
AND WORKING CONDITIONS ENJOYED BY LAW AND
CUSTOM IN MEMBER COUNTRIES OF THE COUNCIL
OF EUROPE

Introduction

With a view to the establishment, at the instruction of the Committee of Ministers of the Council of Europe, of a European Social Charter, the Social Committee of the Council has decided to ascertain what economic and social rights are enjoyed by law and custom in the Member countries. Although this study will eventually be extended to cover the whole field of rights that could be embodied in the Charter, the Committee considered that it should proceed by groups of related rights, beginning with those relating to employment and working conditions.

The Committee decided to include the following rights or principles in this first part of its study: (1) (2)

Right to work
Just conditions of work
Free choice of employment
Safe and healthy working conditions
Reasonable limitation of working hours
Rest (the right to a weekly paid rest period)
Leisure
Holidays with pay
Employment of children and young persons
(Right to protection)
Work by women (Right to protection, including protection of motherhood)

-
- (1) See Part I of document SG/R (55) 4 which is submitted together with this Questionnaire.
- (2) The term "rights or principles" is used in order to indicate that the Charter may cover both individual enforceable rights and principles that govern social policy without corresponding to such rights.

QUESTION I

Please add to the above list any related right or principle which you wish to see included in the Social Charter and delete any right or principle which you consider unsuitable for inclusion.

QUESTION II

Please complete the attached detailed Questionnaire separately in regard of each right or principle which you wish to include in the Charter.

QUESTION III

Please indicate what other groups of rights or principles you think might be considered for inclusion in the Charter and in regard to which specific questionnaires would subsequently be established.

SPECIMEN
 QUESTIONNAIRE TO ASCERTAIN THE NATIONAL
 POSITION IN MEMBER STATES IN REGARD TO
 /here insert the appropriate right or
 principle - e.g. JUST CONDITIONS OF WORK/

1. (1) Please indicate whether effect is given in your country to the above right or principle
 - (a) by legislation,
 - (b) by administrative regulations or administrative action,
 - (c) by collective agreement(s) between organisations of employers and workers.
 - (d) by other means (please specify)
 - (e) by a combination of any of those methods.

(2) Are further provisions envisaged (e.g. projected legislation)?
2. Please describe the scope and main provisions of the relevant legislation, administrative regulations, collective agreements, etc., with reference to the texts where appropriate.
3. If any distinctions are recognised in the application or enjoyment of the right or principle on grounds of nationality, of sex, or other grounds, please give details.
4. What means are available for dealing with complaints by individuals or by organisations concerning the non-observance of legislative or other provisions, or concerning interference with the free enjoyment of the right or principle (e.g. recourse to the Courts, complaint to a Government Department or inspectorate)?

5. Please specify any other means employed to ensure observance of the relevant provisions of laws, agreements, etc., relating to the right or principle. (e.g. systematic or other inspection by the appropriate authorities).
6. Please say, if, in the opinion of your Government, this right or principle might appropriately find a place in a Social Charter
 - (a) as a right or principle of a declaratory character
 - (b) as a right or principle of an immediately binding character.
7. Please add any general comments or information which you consider useful.

APPENDIX II

LIST OF RIGHTS INCLUDED IN OTHER INTERNATIONAL INSTRUMENTS WHICH ARE NOT COMPRISED EITHER BY THE QUESTIONNAIRE OF THE SOCIAL COMMITTEE OR BY GOVERNMENT PROPOSALS FOR NEW RIGHTS OR GROUPS OF RIGHTS (1)

1. Right to pursue material wellbeing and spiritual development. (Philadelphia Declaration)
2. Adequate standard of living.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration)
3. Food, clothing, housing.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter)
4. Social services.
(Universal Declaration)
5. Annual bonus.
(Inter-American Charter)
6. Share in profits.
(Ditto)
7. Protection of children born out of wedlock.
(Universal Declaration)
8. Compulsory free education.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration)

(1) See Doc. SG/R (55) 4 Revised.

9. Secondary and higher education.
(U.N. draft Covenant)
10. Technical education.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter)
11. Parents' rights to choose the type of education for their children.
(Universal Declaration; U.N. draft Covenant)
12. Right to participate in cultural life and enjoy the arts, etc.
(Universal Declaration; U.N. draft Covenant, American Declaration)
13. Protection of scientific, cultural or artistic production.
(Universal Declaration)
14. Technical and economic assistance for the rural population.
(Inter-American Charter)
15. Right to abolition of all discrimination.
(U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter)

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 13th March, 1956.

Restricted.
CE/Soc (56) 6

Cr. Fr.

SOCIAL COMMITTEE:

(Third Session)

EUROPEAN SOCIAL CHARTER AND EUROPEAN

ECONOMIC AND SOCIAL COUNCIL.

Memorandum by the International Confederation of Christian Trade Unions for the attention of the Chairman and Members of the Social Committee of the Council of Europe.

Subject: The European Social Charter
The European Economic and Social Council.

The International Confederation of Christian Trade Unions has the honour to submit the present Memorandum to the Chairman and Members of the Social Committee of the Council of Europe for the session opening at Strasbourg on 17th April 1956.

The purpose of this Memorandum is briefly to run over, for the benefit of the Social Committee, some of the main arguments already put forward by the I.F.C.T.U., both by word of mouth and in writing, for as speedily as possible giving the finishing touches to a draft European Social Charter which would provide for the establishment of a European Economic and Social Council and be liable to early ratification by the States Members of the Council of Europe.

Being firmly of the belief that this written Memorandum cannot act as a substitute for personal contact between the Members of the Social Committee and an I.F.C.T.U. observer - which we consider essential for the proper exercise of the Confederation's consultative status with the Council of Europe - the I.F.C.T.U. Secretariat draws attention in this connection to its "Memorandum on the possibility and desirability of co-operation between the Social Committee of the Council of Europe and the International Confederation of Christian Trade Unions" of 13 October 1955, which the Members of the Social Committee no doubt have in their possession. The present Memorandum is thus simply an introductory document, which by its very nature calls for expansion and spoken comment."

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I. European Social Charter

At the present stage of the endeavours to attain European integration in the economic field, which cannot be successful without social integration being achieved at the same time, a European Social Charter would appear to do three things that are of urgent and imperative importance:

- (1) Lay down the foundation and broad guiding principles of a European policy in the social field;
- (2) Achieve a progressive bringing into line of social legislations at the highest level, by:
 - a. progressively extending to the workers of all the countries of free Europe, and in particular of the Member countries of the Council of Europe, the basic privileges enjoyed by the workers in the countries furthest advanced in that field (France, the Scandinavian countries and the United Kingdom);
 - b. progressively eliminating the discrepancies in social legislation between the Member countries of the Council of Europe, such discrepancies being harmful to the economic development of the countries with the most highly developed social legislation, which cannot withstand the competition of the others, and consequently retarding the economic integration of Europe;

- (3) Make a practical gesture which would prove to the workers that European integration will not be effected against their interests and that they can safely hope for and support it.

In order that the Social Charter may achieve these ends the I.F.C.T.U. asks:

- (1) That the Social Charter should not merely be an affirmation of principle, but that its provisions should bind, under conditions to be determined, the States-Members of the Council of Europe and should serve as a guide for their domestic legislations.

Accordingly, while not being modelled on the national legislations, which would make the Charter pointless and redundant, these provisions must amply take into account their variety and peculiar characteristics;

- (2) That, in accordance with the recommendation of the President of the Consultative Assembly (Part 2 of the Seventh Session), the international organisations representing the workers should be associated with the work of all the organs of the Council of Europe which are considering or will consider the draft Charter. It is unthinkable that a European Social Charter should be prepared without those it primarily concerns being associated with all stages of its preparation.

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II. European Economic and Social Council.

The free organisations of workers in Europe, Christian and other, have already officially pronounced in favour of a European Economic and Social Council. As far as the Christian trade union organisations are concerned, the main reasons for their doing so are as follows:

- (1) There are at present in Europe several inter-governmental bodies dealing with the economic aspects of European integration, but so far there is no co-ordinating body to study and take care of the social problems of integration;
- (2) In no European body do the workers at present have a really satisfactory status. The workers cannot agree to the economic problems being dissociated from their end results and social implications, and they want a body created with which they would be fully associated and which would give them safeguards, failing which safeguards they will be obliged to express reservations regarding the spirit in which European inter-

- (3) The organised workers enjoy ample recognition in Europe at the national level and in the vast majority of European States are represented in the institutions which determine the economic and social policy of their respective national authorities. They want to retain and extend this recognition at the international level and believe that the Economic and Social Council constitutes a real safeguard of their doing so;
- (4) The powers of the European Economic and Social Council will not be confined to labour problems alone and will extend to fields beyond the competence of other international bodies, and in particular, of the International Labour Organisation. Moreover, since these bodies, and the International Labour Organisation in particular, do not possess regional instruments covering the Member countries of the Council of Europe, they are ill equipped to shoulder the tasks which will devolve on the European Economic and Social Council.

In view of the foregoing, the I.F.C.T.U. wishes to make two further observations:

- (1) The question of the Economic and Social Council is closely linked with that of the Social Charter, which presupposes the existence of a supervisory body to implement it;
- (2) As things stand it is a matter of creating, not a new European body, but a special advisory body within the Council of Europe.

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Concluding this Memorandum, the I.F.C.T.U. wishes to state that the attitude it is adopting was decided upon by its Committee on European Questions and approved by the XIIth Congress of the I.F.C.T.U. held in December 1955. Thus it expresses the view of all the national and international trade organisations affiliated to it in Europe.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 27th April 1956

Restricted
CE/Soc (56) 7
Or. Eng.

SOCIAL COMMITTEE

(Third Session)

Preliminary Draft of Articles for Possible Inclusion in a European Social Charter

Working Paper submitted by the United Kingdom Delegation

The Governments signatory hereto, Members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention on Human Rights and the Protocol thereto the Member States of the Council of Europe agreed to secure to their peoples the civil and political rights and freedoms therein specified;

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of their peoples;

Have agreed as follows:

ARTICLE 1.

The Member States, signatories of this Charter, accept as an aim of policy to be pursued by all appropriate means both national and international in character the attainment of conditions in which the rights and principles set forth herein may be realised.

ARTICLE 2.

Everyone has the right to earn his living by work which he freely accepts.

To the end that this right may be effectively exercised the signatory Governments will endeavour to maintain a high and stable level of employment and, by providing adequate employment services and vocational guidance services, to assist in the realisation of the aim that all may have the satisfaction of employment in the occupation best suited to their capabilities and aptitudes.

ARTICLE 3.

Everyone has the right to just conditions of work, remuneration which ensures a reasonable standard of living, reasonable limitation of working hours, and annual holidays with pay.

The exercise of this right may be realised by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

ARTICLE 4.

Everyone has the right to adequate protection of life and health in all occupations.

With a view to the effective exercise of this right, adequate labour inspection services should be maintained by the competent authorities.

ARTICLE 5.

Women and children and young persons are entitled to special protection in order that they may not be employed in work unsuited to their sex, age or strength.

COUNCIL OF EUROPE
 —————
 CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 8th May, 1956

Confidential
 CM (56) 65

COMMITTEE OF MINISTERS

REPORT OF THE SOCIAL COMMITTEE

(Third Session)

C O N C L U S I O N S (1)

The Social Committee held its Third Session at Strasbourg from April 24th to 27th, 1956. The list of members and observers participating in the Session is contained in Appendix I. The Agenda adopted by the Committee is set out in Appendix II.

The meeting was opened by the Director of Research of the Secretariat-General of the Council of Europe.

The Committee then elected M. J. DOUBLET (France) as Chairman and Mr. G. C. Veysey, C.B. (United Kingdom) as Vice Chairman.

European Social Charter

Following the Second Session of the Committee, the Governments had been requested to reply to a Questionnaire for the purpose of rendering it possible for the Committee to ascertain to what extent and in which form the following rights relating to employment and working conditions had been recognised in the various Member countries, and whether they might appropriately be included in the Social Charter in a declaratory or a binding form:

Right to work
 Just conditions of work
 Free choice of employment
 Safe and healthy working conditions
 Reasonable limitation of working hours
 Rest (the right to a weekly paid rest
 period)

Leisure

Holidays with pay

Employment of children and young persons
 (Right to protection)

Work by women (Right to protection,
 including protection of motherhood).

The Committee had before it a documentation prepared by the Social Division of the Secretariat-General, based on the Governments' replies to this Questionnaire - Doc. CE/Soc (56) 4 with four Addenda. While the Addenda contained summaries and an analysis of the replies, the document proper gave a synthesis of the replies, including certain proposals concerning the contents of the Charter.

The Committee also had the opportunity of acquainting itself with the draft Social Charter prepared by the Committee on Social Questions and the Committee on Economic Questions of the Consultative Assembly and embodied in Doc. 483 which was submitted to the Assembly at the First Part of its Eighth Session.

The United Kingdom Delegation submitted to the Committee a preliminary draft text of the part of the Charter corresponding to the field covered by the above-mentioned Questionnaire, i.e., rights relating to employment and working conditions (Doc. CE/Soc (56) 7). This draft was used as a basis for the discussion, together with Doc. CE/Soc (56) 4 and Doc. 483 of the Assembly.

After discussion, Doc. CE/Soc (56) 7 was referred to a drafting committee composed of representatives of Belgium, the Federal Republic of Germany, Greece, the Netherlands and the United Kingdom.

After consideration of the report of the drafting committee, the Social Committee adopted provisionally the text set out in Appendix III(1), and recommended that it should be referred to the Governments for further consideration and comment.

A certain number of delegations considered that this text could with advantage be considerably further developed. Several members of the Committee stressed that the text should particularly set out in detail the contents of rights which are already recognised and enjoyed in the great majority of the Member countries of the Council of Europe.

Certain delegations have suggested amendments to some of the Articles prepared by the drafting Committee, and it was understood that their views should be recorded in the Report. They are contained in Appendix IV.

(1) This text includes the rights covered by the Questionnaire, except for the right to leisure which it was decided not to include specifically.

105

In the above-mentioned Questionnaire, the Governments were further requested to state their views as to the desirability of including in the Charter other rights, not referred to in the Questionnaire. The proposals of the Governments concerning other rights which might be included in the Charter are set out in Appendix V.

After a general discussion of the proposals with a view to the establishment of an additional questionnaire, the Committee set up two working groups - one to deal with the proposals relating to the right to social security and the protection of the needy, and another to deal with other questions.

At the recommendation of the former working group, which was composed of some members of the Social Committee who were also members of the Committee of Experts on Social Security, the Social Committee came to the conclusion that it would not be necessary to include the question of social security and assistance in the new Questionnaire in view of the work already undertaken by the Committee of Experts on Social Security in connection with the preparation of the draft European Code of Social Security. Appropriate Articles on the subject of social security and social assistance should be incorporated in the draft European Social Charter, including a reference to the desirability of eliminating obstacles to the free circulation of manpower arising out of social security legislation.

The Secretariat was instructed to prepare the necessary draft Articles for the next Session of the Committee.

The following further decisions were taken:

(a) The problem of workers' education should not at the present stage be included in a new Questionnaire. The term was difficult to define, and since the Committee was informed that the Report which the Director-General of the I.L.O. will submit to the 1956 Session of the International Labour Conference will furnish a basis of discussion of problems of this nature, the Committee considered that the Governments might, if they so wished, come back to the question at a later stage.

(b) All questions relating to public health should be referred to the Committee of Experts on Public Health with a view to the proper formulation of the precise questions to be included in a future Questionnaire concerning rights in this field which might be included in the Charter.

The Committee then adopted the new Questionnaire which is included in Appendix VI. The Governments should be requested to reply to this Questionnaire before the 1st August, 1956.

The Committee postponed until the next Session the consideration of a list of rights which are included in various international instruments relating to economic and social rights, and which were not covered by the first Questionnaire prepared by the Social Committee, nor referred to in the proposals of the Governments concerning other rights which might be included in the Charter. This list is set out in Appendix VII to this Report.

Meeting between representatives of the Social Committee
and representatives of the Committee on Social Questions
and the Committee on Economic Questions of the Assembly

In view of the fact that the work of the Social Committee on the Social Charter had not yet reached a sufficiently advanced stage, the Committee considered it preferable that this meeting should take place only after the next Session of the Committee. The Committee would, however, not object to a meeting at an earlier date if this were considered necessary. The following members were invited to represent the Social Committee:

M. Doublet (France) Chairman.
Mr. Veysey (United Kingdom) Vice Chairman
M. Geller (Federal Republic of Germany)
M. Psaras (Greece)
M. Carloni (Italy)
M. Kringlebotten (Norway)

Mr. Veysey explained that in view of the constitutional position of the United Kingdom, his participation might have to be limited to any preliminary meetings of the group held before the meeting with the representatives of the Assembly.

APPENDIX ILIST OF MEMBERS AND OBSERVERS
PARTICIPATING IN THE SESSION

Belgium	M. WALLIN	Secretary of the Private Office of the Minister of Labour and Social Welfare.
	M. A. DELPEREE	Economic and Social Adviser to the Ministry of Labour and Social Welfare.
	Mme. C. GILON-PICHAULT	Department of International Relations, Ministry of Labour and Social Welfare.
Denmark	M. J. BONNESEN	Chief of the International Relations Division, Ministry of Social Affairs.
	M. VEJLBY	Assistant Chief of the International Relations Division, Ministry of Social Affairs.
France	M. J. DOUBLET	Director General of Social Security, Ministry of Labour and Social Security.
	M. DERUELLE	Diplomatic Secretary, Ministry of Foreign Affairs.
Fed. Rep. of Germany	M. GELLER	Ministerial Director, Ministry of Labour.
	Dr. G. SCHEFFLER	Ministerial Director, Ministry of the Interior.
	Dr. H. KNOLLE	Ministerial Director, Ministry of Labour.
	M. F. THOMAS	"Referent"
Greece	M. A. PSARAS	Director General of the Ministry of Social Welfare.
	M. N. THEODOROU	Chief of the Section of Housing and Workers' Leisure, Ministry of Labour.

Ireland	Mr. W. A. HONOHAN	Assistant Secretary, Department of Social Welfare.
	Mr. W. KELLY	Assistant Principal Officer, Department of Industry and Commerce.
Italy	M. CARLONI	Inspector General, Ministry of Labour.
Luxembourg	M. G. van WERVEKE	Secretary General of the Ministry of Labour.
	M. F. GRULMS	Secretary of Archives
Netherlands	M. T. M. PELLERHOFF	Chief of the Interna- tional Affairs Division, Ministry of Social Affairs and Public Health.
	M. J. J. M. GILDENS	State Labour Office, Ministry of Social Affairs and Public Health.
	M. H. B. ELDERING	Labour Protection Section, Ministry of Social Affairs.
Norway	M. A. KRINGLEBOTTEN	Secretary General of the Ministry of Social Affairs.
	M. B. ULSAKER	Director in the Ministry of Municipal Affairs and Labour.
Saar	M. APPEL	Counsellor, Director of Social Affairs, Ministry of Labour and Social Welfare.
	M. CONSTANTINI	Assistant.
Sweden	M. W. BJORCK	Director General, Paymaster General's Office.
	M. E. BERGLIUS	Director General, Royal Social Board.

Turkey	Dr. Esat SIBAY	President of Research Council, Ministry of Labour.
	M. N. SARI	Member of Research Council, Ministry of Labour.
United Kingdom	Mr. G. C. VEYSEY, C.B.	Under-Secretary, Ministry of Labour and National Service.
	Mr. J. G. ROBERTSON	Principal, Ministry of Labour and National Service.
Austria	Mlle. E. RABL	Assistant to the Permanent Representative to the Council of Europe.

OBSERVERS

I.L.O.	M. P. BLIMONT	International Organisations Division I.L.O., Geneva.
O.E.E.C.	M. L. LAMBERT	Head of the Manpower Division.
Western European Union	M. E. JACCHIA	Head of the Social Division.

APPENDIX IIAGENDA ADOPTED BY THE COMMITTEE

1. Opening of the meeting by the Secretary-General or his representative.
2. Election of Chairman and Vice-Chairman.
3. Adoption of the Agenda.
4. Adoption of the Minutes of the Second Session.
5. European Social Charter:
 - (a) Report based on the replies of Governments to the Questionnaire concerning rights relating to employment and working conditions;
 - (b) Examination of the work of the Consultative Assembly concerning the Social Charter;
 - (c) Plan of further work.
6. Vocational training (possibility of concluding a European Convention on the exchange of trainees):
 - (a) Examination of a Working Paper containing a report of the I.L.O. as well as information of the experience of the Brussels Treaty Powers and the Nordic countries in the field of exchange of trainees;
 - (b) Examination of a note on the problem of illiteracy.
7. Reduction of chancery dues.

Examination of a report on the activities of the Manpower Committee of the O.E.E.C. in this field.
8. Examination of requests for consultative status with the Council of Europe, referred to the Social Committee by the Committee of Ministers:
 - (a) International Association of Vocational Guidance (continued discussion);

- (b) European Youth and Childhood Office (Bureau européen de la Jeunesse et de l'Enfance).
 - (c) International Union of Family Organisations.
9. Examination of a memorandum from the International Confederation of Christian Trade Unions concerning the utilisation of the consultative status.
 10. Preliminary examination of new matters, referred to the Social Committee by the Committee of Ministers:
 - (a) Uniform regulations regarding security of employment;
 - (b) Standardisation of safety precautions in industry;
 - (c) Agricultural labour problems.
 11. Any other Business.
 12. Time, Date and Place of next Meeting.

APPENDIX IIIDRAFT ARTICLES COVERING RIGHTS RELATING TO
EMPLOYMENT AND WORKING CONDITIONSArticle 1 (1)

The Member States, signatories of this Charter, accept as an aim of policy to be pursued by all appropriate means both national and international in character the attainment of conditions in which the rights and principles set forth herein may be realised.

Article 2

Everyone has the right to earn his living by work which he freely accepts.

To the end that this right may be effectively exercised the signatory Governments will endeavour to achieve and maintain a high and stable level of employment and, by providing adequate free public employment services, vocational guidance and adequate opportunities for training, to assist in the realisation of the aim that all may have the opportunity of working in the occupation best suited to their capabilities and aptitudes.

Article 3

All employed persons have the right to just conditions of work (2), reasonable limitation of working hours, weekly rest and reasonable annual holidays with pay.

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- (1) This article was included in the draft text presented by the United Kingdom Delegation - Doc. CE/Soc (56) 7, referred to in the body of the Report. It was not discussed by the Committee at this stage, but it was decided to include it in the Report, on account of its general character which would have a bearing on the other articles.
 - (2) The question of remuneration, to which the original draft of this Article referred, must be taken up on the basis of the replies to the new Questionnaire.

The exercise of this right may be realised by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Article 4

All employed persons have the right to adequate protection of life and health in their work.

Article 5

All children and young persons have the right to a special protection with a view to ensuring that they are not employed in work which is physically or morally injurious or otherwise unsuited to their age or which would prejudice their education or training.

Article 6

All employed women have the right to a special protection and particularly expectant or nursing mothers.

Article (1)

With a view to the effective exercise of the rights referred to in Articles 3, 4, 5 and 6, adequate inspection services should be provided by the competent authorities.

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- (1) This Article should be included at the end of the present part of the Charter, and as the replies of Governments to the new Questionnaire referred to in the body of the Report may lead to the inclusion of other Articles in this part, its number was left open.

APPENDIX IVREMARKS MADE BY CERTAIN DELEGATIONS CONCERNING THE
DRAFT ARTICLES CONTAINED IN APPENDIX III

The remarks are grouped under the Articles to which they refer.

Article 2, paragraph 2:

- (a) The following ideas might be included (see Doc. CE/Sec (56) 4, p. 12)
- (i) Freedom from restrictions on the right to work, except those needed to protect the standard of certain professions, and those necessary to protect women and young persons.
 - (ii) Individual guarantee of employment.
 - (iii) International co-operation for the purpose of a European employment policy. (Belgium)
- (b) The article should render it possible to apply certain restrictions to the right to work in certain occupations (bakeries, restaurants, etc.) for public health reasons. (Greece)
- (c) The term "employment services" might be replaced by "labour exchanges". (Ireland)
- (d) Reference should be made to educational services. (Denmark)
- (e) The planning of public works should be mentioned as a means of maintaining full employment. (Sweden and Netherlands)

In connection with the discussion of Article 2, the following specific points were separately considered:

Limitation of working hours

The Belgian Delegation was in favour of a flexible clause providing for a gradual limitation of working hours.

The Danish Delegation stated that although working hours were not fixed by legislation in Denmark, a flexible clause might be inserted in the Charter, provided that this instrument would take the form of a declaration.

The French Delegation could also accept a clause of this nature.

Annual holidays with pay

The following Delegations could accept precise provisions determining the duration of the annual holidays:

Belgium, Denmark, Italy, Luxembourg, Netherlands, Norway, Sweden.

Article 3, paragraph 1

- (a) Remuneration should be proportional to the quantity and quality of work and sufficient to assure an existence in freedom and dignity for the worker and his family. (Italy)
- (b) The Article should be more detailed and contain provisions for the following:

The right to a fair guaranteed wage, protected by law and fixed on the principle of equal pay for equal work.

The right to a reasonable working week to be progressively reduced to a forty-hour week, subject to certain exceptions necessitated by the nature of the work, without the total pay of the wage-earner being reduced thereby.

The right to special rates for overtime.

The right to a weekly rest period.

The right to paid public holidays.

The right to a minimum paid holiday of twelve working days after one year's continuous employment, and the right to additional holidays for workers engaged in dangerous or unhealthy occupations. (Belgium, Greece, Luxembourg)

- (c) The Article should provide for workers to share the fruits of increased productivity, not necessarily in the form of increased wages, but also other advantages, such as shorter working hours. (Norway)
- (d) The Article should provide for:
- (i) Maximum weekly and daily working hours and the desirability of tending towards a progressive reduction of the weekly working hours to the extent that the increase of productivity and other factors influencing the length of working hours permit of such reduction.
 - (ii) Weekly rest of at least 32 hours.
 - (iii) Paid holidays of at least 2 weeks for adults and 3 weeks for young workers.
 - (iv) Labour inspection to control the application of the provisions concerning hours of work and weekly rest. (Netherlands)
- (e) Impossibility of renunciation of the rights referred to in the Article, except with regard to weekly rest and annual holidays with pay. (Italy)

Article 3. paragraph 2

"Statutory wage-fixing machinery" should not apply to wages in general but only to minimum wages. (Italy)

Article 4

- (a) The Article should refer also to protection against moral danger. (Netherlands)
- (b) The Article should cover all who work, even independently. (Denmark, Norway)

Article 5

- (a) This Article should contain the following specific provisions:

- (i) Minimum age of admission to employment (15 years in general and a higher age for employment in dangerous or unhealthy occupations).
- (ii) Longer paid vacations than those of adults.
- (iii) Prohibition of night work.
- (iv) Medical control up to the age of 21. (Belgium)
- (b) The Article should be based in Article 3 of the draft Charter contained on Doc. 458. (France)
- (c) Prohibition of all kinds of employment of children under 14 years of age, and prohibition of night work by young workers. (Netherlands, Italy)

Article 6

- (a) The Article should provide that women should not be prevented by their work from fulfilling their function in the family. (Italy)
- (b) The Article should include provisions for maternity leave and prohibition of night work. (Belgium)
- (c) There should be prohibition of dismissal because of maternity absence. (Belgium, Greece)
- (d) The Article should be more detailed and include provisions on the lines of those proposed under this right in Doc. CE/Soc (56) 4. (France)

Last (un-numbered) Article

- 3. (United Kingdom)

APPENDIX VPROPOSALS OF GOVERNMENTS CONCERNING THE
INCLUSION IN THE CHARTER OF RIGHTS NOT
MENTIONED IN THE FIRST QUESTIONNAIRE.NEW RIGHTS TO BE ADDED TO THE LIST OF
RIGHTS RELATING TO EMPLOYMENT AND WORKING
CONDITIONS

1. Right to a fair wage
Proposed by: Belgium, Denmark and Turkey.
2. Minimum wage
Proposed by: Greece and Turkey.
3. Equal pay for equal work
Proposed by: Belgium and Turkey.
4. Extra pay for night work and over-time
Proposed by: Turkey.
5. Protection of wages
Proposed by: Greece, Luxembourg and Turkey.
6. National holidays with pay
Proposed by: Luxembourg.
7. Protection against the consequences of unemployment
Proposed by: Denmark and the Federal Republic of Germany.
8. Notice of dismissal
Proposed by: Luxembourg.
9. Work and supervision of apprentices
Proposed by: Luxembourg.
10. Labour inspection
Proposed by: Turkey.

11. Employment service
Proposed by: Greece.
12. Right to strike
Proposed by: Italy and Turkey.
13. Workers' education
Proposed by: Greece.
14. Relations between workers and management
Proposed by: Luxembourg and Turkey.
15. Workers' right to collaborate in the management of undertakings
Proposed by: Italy and Netherlands.
16. Special protection of the infirm
Proposed by: Greece.
17. Contract of work
Proposed by: Greece and Turkey.
18. Establishment of distinction between different categories of workers
Proposed by: Greece.

NEW GROUPS OF RIGHTS

1. Social security
Proposed by: Belgium, Greece, Netherlands, Turkey and the United Kingdom.
2. Maintenance of migrants' social security rights
Proposed by: Italy.
3. Migration
Proposed by: Greece and Italy.
4. Right of migrant workers to special protection
Proposed by: Belgium.

5. Health questions
Proposed by: United Kingdom.
6. Right to join trade unions
Proposed by: Belgium, Greece, Italy and Netherlands.
7. Right to organise and to collective bargaining
Proposed by: Denmark and Greece.
8. Vocational guidance and training
Proposed by: Federal Republic of Germany, Italy and Luxembourg.
9. Settlement of labour disputes
Proposed by: Italy and Turkey.
10. Organisation of professions
Proposed by: Greece.
11. Full employment
Proposed by: Turkey.
12. Protection of the family
Proposed by: Federal Republic of Germany.
13. Protection of the needy
Proposed by: Federal Republic of Germany.
14. Protection of motherhood and childhood.
Proposed by: Turkey.

APPENDIX VI
QUESTIONNAIRE

CONCERNING SOCIAL RIGHTS ENJOYED BY LAW AND
CUSTOM IN MEMBER COUNTRIES OF THE COUNCIL OF
EUROPE

Please complete the attached detailed Questionnaire separately in regard to each of the following rights or principles which you wish to include in the Social Charter:

1. Individual and collective rights and principles connected with the existing system of worker/management relations, in particular:
 - (a) association and collective action;
 - (b) collective bargaining;
 - (c) joint consultation and other means of collaboration between workers and employers;
 - (d) provision for settlement of labour disputes.
2. Right of the disabled to rehabilitation and resettlement, whatever the cause and nature of the incapacity.
3. Right of nationals of member countries to access to employment in other member countries.
4. Right of migrant workers to protection and assistance.
5. Provision of facilities for vocational guidance and training.
6. Rights relating to wages including: right to a fair wage; minimum wage; equal pay for equal work; extra pay for night-work and overtime; protection of wages; public holidays with pay; relation of wages to family responsibilities; relation of wages to increasing productivity, and notice of dismissal.

7. Rights relating to the family including protection of the family and protection of motherhood and childhood with the exclusion of questions relating to health.

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SPECIMEN QUESTIONNAIRE TO ASCERTAIN THE NATIONAL POSITION
IN MEMBER STATES IN REGARD TO (here insert the appropriate
right or principle)

1. Please give a brief description of the means by which and the extent to which effect is given to this right or principle.
2. If any distinctions are recognised in the application or enjoyment of the right or principle on grounds of nationality, of sex, or other grounds, please give details.
3. What means are available for dealing with complaints by individuals or by organisations concerning the non-observance of legislative or other provisions, or concerning interference with the free enjoyment of the right or principle (e.g. recourse to the Courts, complaint to a Government Department or inspectorate)?
4. Please specify any other means employed to ensure observance of the relevant provisions of laws, agreements, etc., relating to the right or principle. (e.g. systematic or other inspection by the appropriate authorities).
5. Please say, if, in the opinion of your Government, this right or principle might appropriately find a place in a Social Charter.
 - (a) as a right or principle of a declaratory character
 - (b) as a right or principle of an immediately binding character.
6. Please add any general comments or information which you consider useful.

APPENDIX VII

LIST OF RIGHTS INCLUDED IN OTHER INTERNATIONAL
INSTRUMENTS WHICH HAVE NOT COVERED EITHER BY
THE QUESTIONNAIRE OF THE SOCIAL COMMISSION OR BY
GOVERNMENT PROPOSALS FOR NEW RIGHTS OR GROUPS
OF RIGHTS

1. Right to pursue material wellbeing and spiritual development. (Philadelphia Declaration).
2. Adequate standard of living.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration)
3. Food, clothing, housing.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter).
4. Social services.
(Universal Declaration)
5. Annual bonus.
(Inter-American Charter).
6. Share in profits.
(Ditto)
7. Protection of children born out of wedlock.
(Universal Declaration)
8. Compulsory free education.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration).
9. Secondary and higher education.
(U.N. draft Covenant).
10. Technical education.
(Universal Declaration; U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter).

11. Parents' rights to choose the type of education for their children.
(Universal Declaration; U.N. draft Covenant).
12. Right to participate in cultural life and enjoy the arts, etc.
(Universal Declaration; U.N. draft Covenant, American Declaration).
13. Protection of scientific, cultural or artistic production.
(Universal Declaration).
14. Technical and economic assistance for the rural population.
(Inter-American Charter)
15. Right to abolition of all discrimination.
(U.N. draft Covenant; Philadelphia Declaration; American Declaration; Inter-American Charter).

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 29th August, 1956

Restricted
CE/Soc (56) 12
Or. Fr.

SOCIAL COMMITTEE

Draft summary of the discussions during the Third Session (1)

The Director of Research first welcomed members attending the Third Session of the Social Committee, particularly the member for Austria and observers from the international organisations, and then, on behalf of the Secretary-General of the Council of Europe, gave a brief account of events since the Committee's last meeting.

After receiving the report of the Second Session, the Committee of Ministers had informed the Consultative Assembly of the Social Committee's fear that the Assembly might adopt a draft Social Charter while the Social Committee itself was preparing another draft.

Furthermore, in October 1955 the Assembly's Committee on Social Questions had submitted to it a complete draft Social Charter, which included the creation of an Economic and Social Council for Europe to implement it. (Doc. 403).

The Assembly however did not approve this draft.

After further study the Economic and Social Committee by making mutual concessions succeeded in drawing up another draft (Doc. 488) in which the Economic and Social Council disappeared and the Social Committee was responsible for implementing the Charter

(1) Prepared on the basis of the shorthand verbatim report of the Session.

But when discussions on the new draft opened, during the Assembly Session in April last, an amendment to re-introduce the Economic and Social Council was immediately tabled.

As there was no time to explore the question more thoroughly the Assembly decided, by a large majority, to refer the draft and the amendment to the Committee on General Affairs for exhaustive study in liaison with the Economic and Social Committees.

To counter the fears of the Social Committee and the Assembly that they would be duplicating work a joint meeting was considered. Although the Committee of Ministers had postponed this meeting to a more convenient date it would be advisable during the present meeting to nominate Committee representatives for the joint meeting.

The Director of Research again drew attention to the wish expressed by trade union federations with "A" consultative status to send observers to follow the work on the Social Charter.

The question of older workers was also adjourned to a later date by agreement with the Chairman of the Second Session for lack of adequate documentary material at the moment.

The next item on the agenda was the election of a Chairman and Vice-Chairman. After the Director of Research, Mr. Veysey (United Kingdom) and M. Pellinkhof (Netherlands) had reminded the meeting of the system of rotation adopted at its previous session, M. J. Doublet (France) was elected Chairman and Mr. G.C. Veysey, C.B. (United Kingdom) Vice-Chairman.

On taking the chair, M. DOUBLET (France) thanked the Committee for the honour paid to him and to his country. He then passed to item 9 of the Agenda - the utilisation of consultative status by international trade union federations as being a question that should precede their discussions. (Doc. CE/Sec (55) 13).

Examination of the first part of the draft Charter

THE CHAIRMAN proposed that a comparative examination should be made of Doc. CE/Soc (56) 4, Doc. 488 and the British draft, Doc. CE/Soc (56) 7.

Mr. VEYSEY (United Kingdom) made two introductory remarks on the general idea and intention of his document. First, it was merely a working document based on a careful study of the Government replies. It had been drafted in a declaratory form to comply with the Governments' wishes, but in certain parts it went so far as to declare an intention, in the belief that the Governments might agree to it.

Of course he was only referring to the first chapter of the Charter. In his opinion the last questionnaire had been very useful, so he thought it essential to ask the Governments to answer another, concerning the new rights to be included in the Charter.

He again emphasised that the present draft was only a working document which could be amended as the Committee wished. After amendment the draft should be sent to the governments for comment, and only then could the final version be drawn up. For the time being it would be enough if the draft were put into sufficiently good shape to send to the governments.

M. CARLONI (Italy) considered that whether or not the Charter was to be obligatory was a fundamental matter which must be decided before anything else. The British draft was based on the declaratory principle, but human rights had been talked of for so long that the European community should have an obligatory Social Charter if it really wished to make any progress.

Again, while he completely agreed with Article 2, he would like to amend the penultimate line of the second paragraph, replacing "have the satisfaction of employment" by "seek employment in the occupation best suited to their capabilities and aptitudes", in order to cover every type of work.

Mr. VEYSEY (United Kingdom) said that he had adopted the declaratory principle not from personal preference but because it corresponded with the ideas of the majority of the Governments (see Addendum II to Document CE/Soc (56) 4).

M. WALLIN (Belgium) thanked Mr. Veysey and said that the Belgian Government had also expressed a preference for a declaratory Charter. But he did not think this principle implied that the Charter should be drafted in very vague terms. The principles adopted by Mr. Veysey would not require a State to carry out any research whatever. He also proposed that the United Kingdom Representative should go into further detail in his draft.

To begin with, he would like to retain the Assembly draft, which asserted the need to ensure technical qualifications in certain occupations and to impose restrictions for the protection of adolescents, children and women against the risks inseparable from some types of employment. Everyone knew that in relations between the strong and the weak, freedom oppressed and the law protected. Why not therefore introduce this exception to the complete freedom affirmed in Article 2?

Individual guarantees of employment should be included in Article 2 because of late years this right had been the subject of urgent demands by the unions.

Lastly, the notion of international collaboration on employment policy should be affirmed in Article 2. In future no European State would be able to consider employment problems from the angle of national interest alone as had too often been done in the past.

The wording of the first paragraph of Article 2 seemed to Mr. HONCHAN (Ireland) excellent, but in the second paragraph he would like to replace the expression "endeavour to maintain a high and stable level of employment" by "endeavour to achieve or maintain a high level", for full employment was not a reality in all countries. He also wondered whether it was essential to speak of "adequate employment services and vocational guidance services" (English version), in view of the differences in situation from one country to another. He agreed with M. Carloni about improving the end of the sentence "that all may have the satisfaction of employment in the occupation suited to their capabilities and aptitudes."

M. WALLIN (Belgium) wished to point out that there could no longer be any doubt about the meaning of the term "employment services" as there was an international Convention on the subject. Lastly he asked Mr. Veysey if he would agree to the word "adequate" being replaced by "free public".

Mr. VESEY (United Kingdom) thought it was for the Committee to decide whether the proposed amendments should be adopted. Some of them seemed acceptable, for instance, "high level of employment", "free public services". Perhaps "adequate" could also be retained in view of the situation in countries like Ireland.

With regard to international collaboration in this sphere - a problem also raised in a number of other Articles - could it be considered that Article 1, which obliged Member States to enforce the Charter by appropriate national or international means, was sufficient to ensure such collaboration?

M. BONNESEN (Denmark) hoped that vocational guidance was included in vocational training as it was essential to be able to train for one's job if one was to choose it freely as stated in Article 2.

M. BEXELIUS (Sweden) thought that paragraph 2 of Article 1 of the Assembly draft should be adopted because it mentioned public works to meet a changing employment situation. Apart from this the British draft seemed to him excellent.

M. PELLINKHOF (Netherlands) would also like vocational training to be mentioned at the same time as vocational guidance. Still he thought, like M. Bexelius, that public works to stabilise the level of employment should be mentioned.

THE CHAIRMAN then asked the Committee to decide upon the method it would follow in considering the different amendments.

M. GELLER (Federal Republic of Germany) wished to explain his Government's views on Article 2. It was prepared to accept the Article as it stood but would not object to certain amendments.

But it did not seem to him essential to provide for a programme of public works. Public works could of course be undertaken, but a person could not be forced to find employment on them because everyone had the right to choose his work freely. The Committee should therefore not go into detail, but keep to general principles.

M. BEXELIUS (Sweden) thought M. Geller was doubtless right in saying that the situation with regard to employment and unemployment could vary from one country to another.

But from the point of view of the unemployed he still thought it would be very helpful if it were recognised in an international charter that the best weapon against unemployment was not unemployment assistance but a programme of public works providing employment in the best conditions.

M. WALLIN (Belgium), however, thought that if public works were retained as an employment policy there was no reason not to continue the list of means of avoiding unemployment, which would then become too detailed. The reason he personally wished the reference to employment services to be more detailed was merely that the individual right which they covered should not be confused with the obligation imposed on a government to guarantee employment - the right of an unemployed worker to a free public labour exchange. But as the tendency in other parts of the Charter was towards a declaration he did not think workers' rights would be strengthened by listing the various means of ensuring employment.

Mr. VEYSEY (United Kingdom) also thought it preferable to keep to general terms. However, the question of procedure raised by the Chairman claimed his attention at the moment. He suggested that the observations made by delegations on the various Articles should be recorded in the Minutes so that the draft could be sent to the Governments accompanied by the observations, thus enabling them to comment on both. This procedure would simplify the work of the Committee, which could then revise the Articles rapidly, retaining only the suggestions made by the Governments.

M. KRINGSLEBOTEN (Norway) agreed with M. Baxelius on the public works programme. But if this method of ensuring employment was accepted, he feared the Committee would have to embark on a lengthy and difficult enumeration of the various other methods. He too favoured a very general formula like that proposed by the British delegation.

THE CHAIRMAN said that the question of procedure had to be settled first. The Committee had two alternative methods before it, Mr. Veysey's and his own.

M. WALLIN (Belgium) wondered whether Mr. Veysey's method was the best. The Governments were asked to send in further comments on the drafts made by the Assembly, the United Kingdom Secretariat and other delegations. Then the Committee, after the Secretariat had sorted out these further comments, would find itself faced with an even greater mass of documentary material.

It would be better for the Committee to begin by drafting a few Articles. Of course it was impossible to draft a text at such a large meeting but a few members should be asked to form a Drafting Committee. Then the governments could be sent a single draft based on the amended British draft - the Social Committee's draft.

M. SIBAY (Turkey) supported the Belgian proposal.

Mr. VEYSEY (United Kingdom) explained that he had suggested a formula to simplify the Committee's work, but if it preferred M. Wallin's suggestion he would do his best to collaborate.

M. BEYELIUS (Sweden) did not think it necessary for the Committee to spend its time drafting a text at a plenary meeting. The delegations should make their comments, after which the whole matter could be referred to a Working Party.

M. GELLER (Federal Republic of Germany) thought that the Committee should express its precise wishes so that the Working Party knew exactly what to include in the draft. Mr. Veysey had rightly stressed the fact that his proposal was in keeping with the views expressed by the majority of the Governments. Perhaps this majority opinion could be adopted as the expression of the Committee's wishes. That would allow the draft to take definite form.

THE CHAIRMAN observed that the Committee was agreed on not sending a new mass of documents to the governments. It was therefore essential to produce a draft based on the British document but considerably amended; up to the present the amendments suggested did not seem to raise any major difficulties. Before reading out the various comments he reminded M. Geller that Article 12 of the Rules of Procedure of Committees of Government Experts laid down that "the Committee shall not take decisions by voting.....". He next observed that there had been no comments on the first paragraph of Article 2.

Nor had there been any criticism of M. CARLONI's amendment to the second paragraph, replacing "employment in the occupation best suited...." by "work in the occupation best suited....".

No objection had been raised to M. WALLIN's suggestion to introduce the idea of "individual guarantee of employment".

M. WALLIN had again asked for some mention of international collaboration, but he seemed to be satisfied by Mr. VEYSEY's statement that the wording of Article 1 allowed the Charter to be interpreted in this sense.

It had later been agreed to insert the qualification "free public" between the words "adequate services".

The Netherlands delegation had thought that "achieve" should be inserted before "maintain" and there had been no objection. The only difficulty was to know whether to mention all the means of maintaining full employment or only some of them. That was an important question and the differences of opinion should be recorded in a footnote to the amended version of Article 2.

M. WALLIN (Belgium) then reminded the meeting that he had proposed to refer to restrictions on complete freedom, while M. PELLINKHOF (Netherlands) pointed out that the meeting had forgotten the Danish amendment, seconded by the Netherlands, which would mention occupational guidance services and training services together.

A drafting Committee was then constituted, composed of Mme. GILON-PICHAULT and MM. GELLER and THEODOROU. The CHAIRMAN again suggested that delegates should in future submit their amendments in writing in order to make work easier.

He then passed to Article 3, "Just conditions of work", which laid down the principle in the first paragraph, and in the second stated legal methods of implementing it.

Mr. HONCHAN (Ireland) proposed that the word "everyone" should be replaced by "everyone who works" so that this right would apply to a man working on his own, a small farmer, etc.

M. CARLONI (Italy) supported Mr. Honchan's amendment and suggested that the words "every worker" should replace "everyone".

He then asked what was meant by "a reasonable standard of living."

Also he thought the duty of working as well as the right to work should be mentioned; for this reason he suggested the following wording: "the worker has the right to.....remuneration proportionate to the quantity and quality of his work....".

And as the position of workers with families to support must also be taken into consideration, he asked that Article 2 should end with the words "...and in every case sufficient to ensure a free and dignified existence for himself and his family".

Mme. GILON-PICHAULT (Belgium) confirmed that the Belgian delegation agreed to retain the various rights proposed in the first paragraph of Article 3 but would like them more precisely defined, as, for instance, the right to fair and guaranteed remuneration; the right to special rates for overtime; the right to a minimum holiday of 12 working days, etc.

THE CHAIRMAN then pointed out that the first question to be settled seemed to be whether the term "everyone" or "every worker" should be used.

M. ULSAKER (Norway) saw no reason why the term "every worker" should not be used instead of "everyone", but wondered whether the expression "reasonable limitation of working hours" could not be changed to some phrase advocating an improvement in the worker's life step by step with increased productivity. The standard of living could be raised by other means than wage increases, for instance, by longer holidays. He therefore thought the drafting Committee might find some more suitable wording.

M. GELDENS (Netherlands) proposed that the first paragraph should contain a statement of principle (as in the preceding Article) and then set out in detail some rights such as reasonable limitation of working hours. The question of a weekly rest was closely bound up with hours of work, and he thought a rest of at least 32 hours should be stipulated.

The Netherlands delegation also wondered whether it was wise to go into further detail about wages. For paid holidays the Charter should stipulate 12 working days for adults and 3 weeks for young persons. Working hours should be controlled, preferably by an adequate service of inspectors.

M. CARLONI (Italy), while recognising that the Norwegian and Dutch proposals were very reasonable, wondered whether it would not be preferable to keep to general terms even in this field. The fact was that in some countries like Italy, where there was a great deal of unemployment, increased productivity was utilised to create new types of employment. For this reason it did not seem advisable to go into details. Nor was he sure whether in Article 3, it was necessary to introduce the principle of inalienability, i.e., to prohibit all workers to renounce these rights.

M. VAN WERVEKE (Luxembourg) personally hoped that Article 3 would only apply to wage-earners, whose rights he considered adequately protected by the general formula in the British draft adequate, while he also found the Belgian, Italian and Netherlands amendments entirely justified. That was why he asked that these amendments be adopted, particularly those relating to family rights, for which the Luxembourg Government had approved not a merely declaratory, but an obligatory, formula.

THE CHAIRMAN observed that the meeting had not decided unanimously or even by a majority whether Article 3 should apply to everyone, or only to wage-earners. All the amendments except M. Carloni's seemed to apply to wage-earners only. Could not the question of family allowances be omitted from this Article as it appeared in other clauses mentioned that morning? And should they not omit any mention of derogation from certain rights mentioned by M. Carloni. The very idea of a Social Charter seemed incompatible with his suggestion.

M. TENNFJORD then drew the Committee's attention to Article 21 in Document 488 which seemed to meet M. Carloni's last question.

Mr. VEYSEY (United Kingdom) thought most of these questions could be solved by adequate guarantees and was concerned at the number of amendments suggested. If the Committee went into all the details they would be encroaching on a field already covered by numerous international conventions and would be faced with a Social Charter containing provisions which many countries might not ratify. But if they carefully kept to general terms the Social Charter would have a better chance of being ratified by every country.

M. CARLONI (Italy) however stressed the importance of his proposal for a family wage. The Chairman had, it was true, mentioned the Social Security system, but unfortunately in some countries this did not include family allowances. That was why it seemed to him essential to include them in the Social Charter.

Mr. VEYSEY (United Kingdom) thought it would be better to hear the Government's views before including such a provision in the Charter.

THE CHAIRMAN considered M. Carloni's suggestion would be useful in France, where under present legislation family allowances were not included in wages. He reminded Members that they had not decided between "wage-earners" and "everyone" for Article 3. If they decided in favour of "everyone", Mr. Veysey's proposal seemed to him the better choice. In any case that was a preliminary question which had to be settled.

The Netherlands, Belgian and Greek delegations were agreed that Article 3 should be limited to wage-earners, so there seemed to be a majority in favour of thus limiting the Article. In that case the meeting could perhaps try to go into some details. At present it had before it amendments by Mme. Gilon-Pichault, M. Kringelbotten and M. Carloni.

M. HONCHAN (Ireland) asked whether the Committee really intended to send the Governments this questionnaire on wages. If that was the intention, it would be difficult to draft Article 3 beforehand. As for family protection, that seemed to him an important wages question.

Mr. VEYSEY (United Kingdom) reminded the meeting that the Working Party of which he was Chairman had left the question of wages in abeyance until the plenary meeting. The present discussion had revealed that it would be useful to know the Governments' reactions and he therefore agreed that it should be postponed.

THE CHAIRMAN observed that there was some suggestion of adjourning the question.

M. THEODOROU (Greece) accepted the British draft and agreed with Mr. Veysey that a questionnaire should be sent to the Governments if details about wages were to be added to the Charter.

THE CHAIRMAN then asked the Committee whether it wished to mention wages in the next questionnaire; wages would then be included in the questions which had been postponed by the Committee when studying the first part. The questions raised by MM. Carloni, Kringelbotten and Mme. Gilon-Pichault would also have to be sent to the drafting Committee, as well as point 8 on notice of dismissal linked to wages.

Mme. GILON-PICHAULT recalled that among M. Wallin's proposals had figured individual guarantees of employment, and in particular the prohibition of dismissal without notice.

The Committee then passed to the reasonable limitation of working hours and annual holidays with pay.

M. GELLER (Federal Republic of Germany) entirely agreed with the British draft on these questions. Moreover, his country could not ratify a Charter fixing maximum working hours, for there was so far no legislation on the subject, which was primarily one for negotiations between the employers and the trade unions.

Mme. GILON-PICHAULT (Belgium) wanted a flexible formula stipulating the right to a gradual decrease in working hours without necessarily fixing a limit. This was especially necessary because the Committee's views would one day be compared with those of the Assembly, which had already voted in favour of some such formula.

M. BONNESEN (Denmark) explained that in Denmark and Germany this question was left to employers and workers. However, his Government might perhaps agree to some fairly flexible, non-obligatory, formula, and thus satisfy the Assembly at the same time. Perhaps Document 488 could be used as a basis for the clause.

THE CHAIRMAN pointed out that France would favour a limitation on working hours, but a majority of the Committee seemed to prefer very loose wording on the lines of the British draft.

M. THEODOROU (Greece) agreed with the Chairman's interpretation of the position but suggested that the phrase "limitation of working hours in accordance with the economic conditions in each country" might be inserted without imposing any obligation.

THE CHAIRMAN said that if there were only to be very general provisions he did not see the advantage in having provisions of a progressive nature. And as M. Theodorou wished to delete the whole phrase referring to "reasonable limitation of working hours", he presumably had the majority of the Committee with him. Incidentally, this phrase included certain details, unlike that relating to holidays with pay. He asked that those terms should be more precisely defined.

Mme. GILON-PICHAULT (Belgium) considered that the Charter should provide a holiday of 12 working days for one year's continuous service which need not necessarily be with the same employer, and additional leave for unhealthy or dangerous jobs.

In the opinion of M. BEXELIUS (Sweden), a Charter which confined itself to a declaration of rights already in force was of questionable value. The Committee must not be content with a general formula but should go into some detail, for instance by laying down minimum standards in connection with the various rights.

THE CHAIRMAN then asked whether Mme. Gilon-Pichault's proposal, which also appeared in Document CE/Soc (56) 4, page 32, would not make too great a demand on the various States.

Mr. VEYSEY (United Kingdom) thought his Government could not ratify a Charter stipulating the number of days of holiday, as in Denmark this was settled between employers and the trade unions. The Committee must avoid the danger of introducing a formula which the governments could not ratify.

THE CHAIRMAN personally saw no advantage in stipulating the right to an annual holiday without giving any details.

M. BONNESEN (Denmark) was in favour of mentioning some limit to working hours.

M. GELLER (Federal Republic of Germany) again stressed the need to avoid excessive detail. Unlike the Swedish delegate, he believed a Charter drafted in general terms would carry considerable weight by providing evidence of the social progress achieved in member countries. The Charter should state the period of employment which would entitle the worker to an annual holiday, the length of which would have already been fixed. These legislative details should be left to the Governments of the different countries. Of course the Charter could still stipulate that workers should enjoy sufficient holidays to maintain good health but he personally did not subscribe to the idea of fixing the duration of paid holidays.

In reply to Mme. GILON-PICHAULT (Belgium), who asked the ILO Representative whether the Philadelphia Declaration gave no details on holidays, M. BLAMONT said there was no specific clause referring to them. M. BONNESEN, however, observed that international conventions did exist which declared a minimum holiday necessary.

M. ELAMONT agreed that there were conventions and recommendations on the subject, the latest being that of 1954. Details of these were given on pages 30-31 of Document CE/Sec (56) 4. He would not himself go into these details as Mme. Gilon-Pichault's question did not specifically refer to them.

M. KRINGLEBOTTEN (Norway) would have liked the Charter to indicate the length of paid holidays, particularly as in his country a period of 3 weeks was fixed for them by law. But from the discussion it seemed that the Charter could go no further than merely mention paid holidays. In that case it would be better to retain the text as it stood, for the idea of a reasonably long holiday would add nothing.

M. BEXELIUS (Sweden) was sorry to see the Committee confining itself to vague and general formulae. Should not the Charter contain a clause which could be considered the European standard? As Document CE/Sec (56) 4 showed, the Swedish Government had intended these various rights to be obligatory. If the other countries rejected this idea the Charter would not become the instrument that had been desired.

M. TENNFIJORD reminded the Committee that the Assembly wished the Charter to form part of a system of economic co-operation which would go as far as a general common market. Considered as in this context its whole value might be lost if it was limited to general terms.

THE CHAIRMAN thought that the present work would be rather pointless if the aim was merely to insert vague ideas in the Charter like a table of contents. He feared that the Committee's work would give an impression of futility. At least the Minutes should specifically note that the Committee was divided on whether to adopt the term "the right to annual holidays with pay" or a more precise definition.

It might also be noted in the Minutes that in some countries whose representatives for legal reasons objected to the length of the holiday being specified, there were paid holidays of a minimum length. He observed that in Mr. Veysey's draft there was no mention of the right to a weekly rest, while in Document CE/Sec (56) 4, pp.24-26, it was considered feasible to include this right in the Charter.

Mr. VEYSEY (United Kingdom) explained that he had not mentioned this right because he thought it was included in the general idea of "reasonable limitation of working hours".

M. VAN WERVEKE (Luxembourg) entirely agreed with the Chairman that the right to a weekly rest should be retained, but the weekly rest did not itself indicate any advance if it was not paid. He urged that the idea of payment be retained. Apart from that, he agreed with the Scandinavian delegates that the length of paid holidays should be specified. And, as the Committee was by no means unanimous on this point, he supported the Chairman's proposal that the difference of opinion be mentioned in the Minutes.

M. CARLONI (Italy) unreservedly supported M. van Werveke's proposal for a weekly rest with pay, and agreed with those members who had suggested some very flexible provision with regard to length of holidays. In Italy this was left to the trade unions.

As it was unfair to make further demands on people who had reached 65 years of age he proposed that the right to a pension at the maximum age of 65 should be included in the Charter.

THE CHAIRMAN thought this point should form the subject of an additional Article and, as the Article on work presented a number of difficulties, he asked that for the time being it should be confined to people's working life.

M. BEXELIUS (Sweden) explained that in his country workers were paid a regular rate for the hours worked but that there was no law providing for a weekly rest with pay. He could scarcely go farther than state the number of weekly hours of rest.

M. GELDENS (Netherlands) considered that, as workers were also alive on Sundays and did no work that day, there should be a close relationship between working hours and the weekly rest. The problem of holidays was a different matter for the employer could very easily give holidays without paying for them.

THE CHAIRMAN then asked whether it was necessary to refer to a weekly rest, as a reasonable limitation of working hours had already been mentioned.

M. GELDENS (Netherlands) considered it essential to mention it.

Mr. VEYSEY (United Kingdom) proposed that his draft should be amended to read "reasonable limitation of weekly and daily working hours...".

As the working day in all European countries was 8 hours M. SIBAY (Turkey) proposed it should be limited to this period by the words "not exceeding 8 hours". As annual holidays seemed to be given for a fortnight, could not this period be stated as a minimum?

M. CARLONI (Italy) urged that the weekly rest should be retained in the Charter as it was a public right. In his opinion there was a difference between reasonable working hours and weekly rest, because if the principle of an 8 hour working day, for instance, were introduced, the worker could always derogate from it by working overtime, but he could not renounce his weekly rest.

THE CHAIRMAN had the impression that there was no real opposition to the weekly rest. Reasonable working hours implied a weekly rest.

Mr. VEYSEY (United Kingdom) agreed with this interpretation. It was therefore unnecessary to specify a weekly rest, particularly as his Government did not make any reference to it.

M. SIBAY (Turkey) proposed that the working week should be limited to 48 hours.

M. CARLONI (Italy) then asked Mr. Veysey whether he agreed that the weekly rest was a right which could not be surrendered.

Mr. VEYSEY (United Kingdom) acquiesced, but considered that his draft took this right into account. However, if the Committee wished to refer to it more explicitly he saw no objection.

THE CHAIRMAN again pointed out that the right to leisure (Document CE/Soc (56) 4 page 27) was not mentioned in the British draft, but perhaps it was understood in the phrase "reasonable limitation of working hours".

M. CARLONI (Italy) thought it unnecessary to retain this right, as everyone should have the right to use his leisure as he thought fit.

M. THEODOROU (Greece) agreed with M. Carloni, but he wished to include the utilisation of spare time in the Charter.

M. GELLER (Federal Republic of Germany) entirely agreed with M. Carloni that the right to leisure need not be mentioned.

THE CHAIRMAN then pointed out that the idea of leisure could only be retained in the form suggested on page 27 of Document CE/Soc (56) 4, under (b), Contents of the Right, and by adopting I.L.O.'s recommendation on the utilisation of spare time. Should this suggestion finally be adopted or should leisure not be mentioned at all?

M. THEODOROU (Greece) pointed out that there were two I.L.O. recommendations on the subject.

M. GELDENS (Netherlands) explained that his Government, when replying to the Council of Europe questionnaire, had been unable to discover any difference between "leisure time" and "rest"; that was why he thought it unnecessary to mention the right to leisure.

Mme. GILON-PICHAULT (Belgium) was of the same opinion as the Netherlands delegation.

THE CHAIRMAN, observing that there seemed to be a majority in favour of complete freedom in the matter of leisure, passed to the second paragraph of Article 3.

M. CARLONI (Italy) proposed to delete the words "statutory wage-fixing machinery" and simply say that these rights "may be realised by voluntary collective agreement or other means suited to national conditions", in view of the fact that in his country wages were fixed by voluntary collective agreements.

THE CHAIRMAN presumed that the word "statutory" in the English draft was to be taken in its widest sense. Perhaps the French translation did not correspond with Mr. Veysey's ideas.

M. CARLONI (Italy) repeated that he only wished to have details on minimum wages.

THE CHAIRMAN said that in some cases the law raised matters of principle and certain wages were fixed by regulations. For instance, in France this was the case for home-workers, to prevent their being exploited.

M. BLAMONT (I.L.O. observer) explained that in I.L.O. the word "statutory" was taken to mean "resulting from decisions by official wage-fixing organs".

M. CARLONI accepted this new translation.

M. BONNESEN (Denmark) asked whether the idea of "voluntary", used in the English text to qualify collective agreements, was clear in the French text where the word did not appear.

Mr. VEYSEY (United Kingdom) explained that this word was constantly used in his country and in I.L.O.

In reply to the Chairman, M. BLAMONT said that in his opinion the word could not be translated into French.

The Committee then passed to Article 4, paragraph 1.

M. GELDENS (Netherlands) proposed to insert in the Charter the workers' right to protection from moral dangers which might arise from his work or occupation.

M. CARLONI (Italy) remarked that Article 3 raised the same problem as Article 4. Should it apply to all workers or only to wage-earners? He thought it should be limited to wage-earners.

M. PSARAS (Greece), on the contrary, considered that everyone had a right to adequate protection of health, as the Social Charter was a general one. Moreover, Article 10 of draft Document 488 went into details on the subject.

THE CHAIRMAN thought Article 4 should only apply to wage-earners, as the words "in all occupations" were added. Especially did he think so because it would be best to keep the same wording for Articles 2, 3 and 4. Article 10 of Document 488, on the other hand, implied everyone's right to health. The Charter could contain a special provision covering this last point.

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In reply to the Greek representative Mr. VEYSEY explained that he had not meant to limit the application of this Article. Unlike Article 3 it definitely covered self-employed workers. The protection of life and health could not be limited to wage-earners alone and in his opinion it was unnecessary even to mention this.

M. KRINGLEBOTIEN (Norway) entirely agreed with his Greek colleague. While Article 3 related only to working conditions and was therefore only applicable to wage-earners, Article 4 covered the protection of the life and health of the whole population. The health service in Great Britain and the social security laws in Norway did, moreover, protect the whole population without discrimination. The Social Charter, also, should provide for the protection of the whole population.

Mr. HONOHAN (Ireland) agreed with the Greek delegate when he said that the Charter was being drafted for the whole population, and with M. Carloni when he said that wage-earners must be protected, for the Committee must be realistic. It was no good maintaining the right to visit farm labourers, for instance, to see whether their conditions of work were good enough.

M. BEXELIUS (Sweden) had wished to make the same comment that Mr. Honohan had now made. However, he thought the Charter should aim at protecting the whole population, always on condition that this point was included in the part dealing with the whole population.

The Netherlands delegation had also concluded that Article 4 applied only to wage-earners as its second paragraph dealt with labour inspection. In Holland there was actually another health service to safeguard the health of the population in general.

In THE CHAIRMAN'S opinion the Article should be interpreted in such a way as to accord with the words "in all occupations". But if it were to be widely interpreted the second paragraph should be amended to read "adequate inspection services" instead of "labour inspection services". In France, for instance, there was an agricultural social inspection service, separate from the labour inspection service. In any case great care should be taken in wording this Article if the broader version were adopted.

M. CARLONI (Italy) considered that, as Article 3 applied only to wage-earners, in order to avoid confusion the Committee should explicitly retain the wider version of Article 4, at least if it was to be interpreted in a wide sense.

THE CHAIRMAN thought it essential to decide on the scope of the Article.

Mme. GILON-PICHAULT (Belgium) preferred the Article to be limited to wage-earners, and further suggested that the second paragraph should also appear in Articles 3, 4 and 5.

M. SIBAY (Turkey) expressed surprise that no distinction was made between heavy work and light work, for in some countries there was a great difference between the two classes of workers.

M. VAN WERVEKE (Luxembourg), proposed a compromise formula: "Everyone has the right to the protection of life and health in his work".

THE CHAIRMAN then asked whether the Committee wished to confine this form of protection to wage-earners or extend it to all workers.

M. BONNESEN (Denmark) considered that Article 3 referred only to wage-earners, for it would be impossible to lay down working conditions for the self-employed, while Article 4 could without difficulty, it seemed to him, be applied both to wage-earners and the self-employed.

Mr. VEYSEY (United Kingdom), after listening to the various remarks made by his colleagues, suggested that perhaps the present formula could be expressed in these words: "Every wage-earner has the right to protection".

THE CHAIRMAN thought it would be easier to obtain agreement on the new formula. Moreover, to include non-wage-earners would be perhaps inadvisedly rash after the Committee had shown so much reserve in other questions, particularly as legislation regarding accidents at work did not seem to cover in all countries the self-employed.

M. GELLER (Federal Republic of Germany) expressed surprise that the Committee wished to limit this right to wage-earners. True, extending it to everyone would mean that the second paragraph would have to be amended, as the right could no longer be limited to work covered by the labour inspection services. He therefore asked Mr. Veysey to find a broader formula covering all the services responsible for social security.

THE CHAIRMAN repeated that the Committee must make a choice.

M. THEODOROU (Greece) suggested that Article 4 be left aside for the moment with a view to including it in a general Article on the protection of the health of the whole population.

THE CHAIRMAN, however, hesitated to combine the two ideas, for there were special rights connected with labour inspection, such as entering factories, for instance, which were much wider than those attached to the health inspection service, in which, for instance, the home was inviolable.

M. THEODOROU (Greece) reminded the meeting that he had already suggested that paragraph 2 should be retained in order to meet the difficulties mentioned by the Chairman. It might be worded, for instance: "with a view to the effective exercise of the right of workers, in particular," or "of wage-earners".

In M. SIBAY's (Turkey) opinion the difficulties of Article 4 were primarily due to a disregard of principles. For the moment it should be restricted to workers because its subject was related to labour legislation in the different countries.

THE CHAIRMAN observed that the questionnaire answered by the Governments, which served as a basis for the British draft, only concerned wage-earners. If another question, such as the protection of health, arose while the British draft was under consideration, it should be inserted in the next questionnaire.

For the moment the question whether the health of the workers should be combined with the right to health in general had not been settled.

He therefore proposed that the Committee should adopt the same wording in Articles 2, 3 and 4.

The second paragraph of Article 4 could form a separate Article as Mme. Gilon-Pichault had suggested.

He was uncertain whether the term "labour inspection services" should be retained. As inspection services varied so much from country to country, perhaps some such wording as "inspection services should be maintained" might be adopted, or again "control should be ensured by adequate inspection services". It would therefore be the last Article of those adopted.

The Committee then passed to Article 5, Employment of women, adolescents and children.

THE CHAIRMAN suggested that the Committee might refer to the more detailed ILO Conventions in connection with "special protection".

Mme. GILON-PICHAULT (Belgium) proposed that there should be two separate Articles, one on the protection of children and adolescents at work, and the other on the protection of women at work. It would also be advisable to fix the age for starting work and to stipulate additional holidays for young workers, as well as to prohibit night work and provide for special health supervision up to the age of 24.

The Netherlands delegate also proposed an Article prohibiting the employment of children under 14 years of age.

M. CARLONI (Italy) considered the Article relating to women was incomplete; provision should be made for women's family duties and childbearing.

In reply to the CHAIRMAN, who asked whether there were any objections to Mme. Gilon-Pichault's and M. Carloni's proposals, Mr. VEYSEY wished to know whether the proposal was to have two Articles without discussing their content at the present stage.

THE CHAIRMAN said that the content of the Article on the protection of women had been mentioned; it was to stipulate that the work demanded of them should not be incompatible with motherhood.

Mme. GILON-PICHAULT (Belgium) considered that the protection of women should not be based primarily on their sex, as work unsuited to women was growing rarer and was virtually limited to very hard work such as that of miners.

One form of women's welfare should be guaranteed - the right to maternity leave, which appeared on pages 41 and 42 of Document CE/Sec (56) 4. Perhaps night work should be prohibited.

THE CHAIRMAN considered it usual to refer to maternity in such a document, and asked whether there were any objections.

Mr. VEYSEY (United Kingdom) said that at the present stage the only questions studied were labour conditions, and that more general questions should be left for other parts of the Charter.

THE CHAIRMAN, however, considered that it should be borne in mind that some work was incompatible with maternity; he therefore proposed to base Article 3 on Document 488.

M. SIEAY (Turkey) agreed that Article 5 of the British draft covered the subject adequately, as the labour laws in each country contained special Articles relating to women, children and adolescents.

THE CHAIRMAN said that M. Carloni's idea could be found in the last sentence of the first paragraph of Article 3, "to enable women to carry out their maternal duties", while it was not expressed in Article 5 of the British draft. In his opinion it should be inserted in the Charter.

Referring to a remark made by Mme. Gilon-Pichault he asked whether the Committee wished to retain the idea of special protection against dismissal.

If the Charter were to go into details, explained M. SIEAY, all special rights, such as nursing facilities, should be included.

M. BONNESEN (Denmark) was under the impression that a number of questions were connected with the protection of women, while the Charter only seemed to be concerned with their protection at work. Article 3 of Document 488 only dealt with one aspect of the question. Women should also be able to look after their children. There remained paragraph 2, which provided certain facilities to women after childbirth. No doubt the Belgian delegate was alluding to that.

THE CHAIRMAN suggested that the rights listed on page 42 of the English text of Document CE/Soc (56) 4 might be mentioned more briefly in order to produce a balanced document. So far no details had been given, and suddenly a detailed list was suggested.

M. SIBAY (Turkey) said the Committee should maintain uniformity in drafting the Articles.

THE CHAIRMAN proposed to include the women's right not to be employed on work unsuited to their sex or their strength. Nor should their work interfere with their duties as mothers.

Mme. GILON-PICHAULT (Belgium) considered it only necessary to protect their right to leave before and after childbirth. If a woman chose to work there was no need to give her special working conditions.

THE CHAIRMAN, however, was anxious that the idea of work unsuited to the female sex and to their strength should be retained, as well as the idea of work incompatible with a mother's duties.

M. THEODOROU (Greece) agreed with Mme. Gilon-Pichault that a mother who worked should not be given special protection, because it was impossible to go out to work and look after the home.

Unfortunately, replied THE CHAIRMAN, some women were obliged to reconcile these two duties. On the question of the age a child might start working, it would be difficult to omit this from the Social Charter, particularly as there were a number of international agreements on it.

In reply to M. SIBAY, THE CHAIRMAN said he was referring to the age for starting work other than night work or work in the mines.

In reply to M. SIBAY who asked whether 16 was the age agreed upon, M. BLAMONT said that the I.L.O. standards were laid down in the I.L.O. document comparing its own Convention with Document 403 (Document AS/Soc (7) 32). The 1919 Convention stipulated the age of 14, which was raised to 15 for industrial work when the Convention was revised in 1935, and to the same age for non-industrial workers in Convention No. 60 of 1937. Finally in 1945 a resolution was adopted raising the age to 16.

In reply to the CHAIRMAN's question whether the meeting agreed that a minimum age should be stated, the Belgian delegation proposed the age of 15.

Mr. VEYSEY (United Kingdom) feared that the Committee would again find itself in a difficult situation if it went into details. The I.L.O. Representative had already mentioned a number of instruments which created a complicated situation. It was difficult to choose amongst them without providing for a large number of exceptions. In his opinion it would be best to keep to general principles rather than specify a certain age which might make the Charter unacceptable by some countries.

M. CARLONI (Italy) thought that through being chary of going into details the Committee would end with a useless and superfluous social charter. Like the Chairman, he considered that fixing a minimum age for workers in the Charter was certainly a social question.

The Netherlands delegate recalled that he had already proposed 14 years as the minimum age, and he also thought night work for children should be prohibited.

M. BONNESEN (Denmark) supported Mr. Veysey's suggestion. He thought that no specific age should be stated in connection with the protection of adolescents, as no age limit was mentioned in other parts of the Charter.

M. GELLER (Federal Republic of Germany) was a little disturbed by the question M. Carloni had raised. In Germany an attempt was being made to amend the law on the protection of young persons, and the conclusion had been reached that no specific age could be stated without making a whole series of exceptions, such as, for instance, the case of little girls who went into ballet companies at the age of 5 or 6. Also, in order to avoid a cumbersome Charter, he entirely agreed with the views expressed by Mr. Veysey and M. Bonnesen.

Mr. HONOHAN (Ireland) expressed his agreement.

Without going into the subject of age M. KRINGLEBOTEN (Norway) said the employment of children should not interfere with their education. Nor should it be prejudicial to good behaviour or morality.

After these remarks the CHAIRMAN suggested that the Committee might take Article 3 of Document 488 as a basis; it was essential to go into some details with regard to children, even though the other Articles were of a general nature.

In any case the difference of opinion on this question should definitely be inserted in the Minutes and brought to the knowledge of the various Governments.

M. BLAMONT (I.L.O.) wished to explain his previous rather brief remarks on the three I.L.O. Conventions. There were, in fact, about 20 international agreements dealing with this question and some of them met the point raised by the Norwegian delegate.

Furthermore, if the Committee wished to go into the details of the various ages stipulated, he would remind it that the age fixed for agriculture was not the same as the age for industry.

THE CHAIRMAN observed that the discussion had reached a point at which the only course was to note delegates' divergent views in the Minutes.

He then proposed to insert in the Charter after the Articles examined the Article relating to control and inspection.

Examination of the Second Report of the drafting group
(Doc. CE/Soc (56) 9)

Mme. GILON-PICHAULT (Belgium) proposed that paragraph 2 of Article 2 be also drafted in French (text of Doc. CM (56) 63, Annex III, Article 2).

M. VAN WERVEKE (Luxembourg) suggested a small amendment to Mme. Gilon-Pichault's draft (not applicable to translation).

In Article 3, Mme. GILON-PICHAULT (Belgium) proposed to delete "employed persons" and insert "workers".

M. CARLONI (Italy) however thought that to adopt Mme. Gilon-Pichault's amendment would be to reopen a question which was supposed to have been settled.

When the CHAIRMAN suggested asking M. Blamont which term was used by I.L.O., M. CARLONI pointed out that the I.L.O. terminology could not be adopted as that body was solely concerned with wage earners.

THE CHAIRMAN, however, wished to know the terms used by I.L.O., because the Social Committee had agreed that the text only applied to wage-earners.

M. BLAMONT (I.L.O.) thought the Philadelphia Declaration contained the same wording as Article 4 of the Social Committee's draft. But the Philadelphia Declaration spoke of workers, not of wage-earners. Perhaps that came strictly within the

M. CARLONI (Italy) then pointed out that the Philadelphia Declaration formed part of the constitution of I.L.O. which by its statutes could deal only with employed persons. Thus there could be no confusion even if the word "workers" were adopted in place of "employed persons".

In the Social Committee's draft, however, the word "workers" might lead to some confusion.

THE CHAIRMAN finally proposed that with the Committee's consent the term "all employed workers" should be adopted.

Article 4 was amended accordingly.

M. BONNESEN (Denmark) asked the exact meaning of "adequate protection".

Mr. VEYSEY (United Kingdom) said he had in mind accidents which sometimes occurred through the fault of the victim and which he was not protected against. But he had not attached great importance to this term.

In Article 5, Mme. GILON-PICHAULT (Belgium) proposed to delete the word "education".

M. CARLONI (Italy) would prefer it to be retained because moral and civic education must be thought of as well as schooling, and children might be employed in work harmful to their moral education.

THE CHAIRMAN thought nobody would object to retaining the two terms, while M. THEODOROU (Greece) observed that "training" usually meant technical training.

THE CHAIRMAN was still uncertain whether the conditional or the future tense should be used in this Article, as there seemed some kind of implication in the use of the conditional tense.

Mr. VEYSEY (United Kingdom), after a discussion with the Working Party, said that in a declaratory document like the Charter the auxiliary verb "should" was used in English, as "shall" implied an obligation. He considered the English text correct as it stood.

THE CHAIRMAN remarked that in the first Articles of the French text the words a le droit (has the right) appeared, while Articles 5, 6 and 7 used the word devraient (should).

The use of different tenses might give the impression of a different intention, so that it would be better to use the same term ont droit (have the right) throughout.

M. VAN WERVEKE (Luxembourg) agreed with the Chairman that "shall" be used instead of "should". He also ventured to revert to Article 4 where the deletion of the word "adequate" left the Article too vague - "All employed persons have the right to protection of life and health".

THE CHAIRMAN then proposed the wording, "have the right to adequate protection of life and health in their work", which M. VAN WERVEKE found satisfactory.

M. CARLONI (Italy) recalled that definite provisions already existed for the protection of workers; he therefore thought the traditional wording should be adopted, and proposed that "adequate" be re-inserted.

As THE CHAIRMAN said he did not altogether understand the significance of this word, M. VAN WERVEKE explained that it occurred in the constitution of I.L.O.

Mr. HONOHAN (Ireland) suggested that Article 5 should read as follows: "All children and young persons have the right to a special protection."

THE CHAIRMAN suggested similar wording for Article 6, at the same time pointing out that the text was not final, as the Governments might always send in their observations.

Mr. HONOHAN (Ireland) asked that it be made clear that Article 6 referred to women at work. However, as the CHAIRMAN said that certain legislation provided for maternity leave, Mme. GILON-PICHAULT (Belgium) proposed the wording adopted in Doc. CM (56) 63, Appendix III, Art. 6.

M. PELLINKHOF (Netherlands) deduced from Article 7, as worded in Doc. CE/Soc (13) 9, that the granting of paid holidays should be controlled by labour inspectors. In his country paid holidays were at present subject to collective agreements. It would therefore be a little difficult for labour inspectors to exercise any control over them.

Mr. VEYSEY (United Kingdom) thought it was not intended that Article 7 should apply to Article 3, but only to Articles 4, 5 and 6.

M. PELLINKHOF (Netherlands) again explained that his delegation was most willing for labour works inspectors to check the number of hours worked and the weekly rest allowed, but not the paid holidays.

M. SIEAY (Turkey) did not understand the distinction made by the Netherlands.

M. CARLONI (Italy) preferred to retain the text as it stood, apart from substituting the word "enjoyment" for "exercise". The exercise of a right gave the idea of its exercise by an individual, and it would be strange if an inspector forced certain workers to demand the rights mentioned in Articles 3, 4, 5 and 6.

M. VAN WERVEKE (Luxembourg) would prefer the reference to Article 3 to be retained. Allowance must be made for the special situation in the Netherlands regarding paid holidays, but the reference to Article 3 could not be deleted without further restricting the scope of a Charter which had been drafted with so much difficulty.

Mr. VEYSEY (United Kingdom) reminded the meeting that when Article 3 was first examined there had been a second paragraph providing for the exercise of these rights to be guaranteed by voluntary collective agreements or minimum wage regulations, or other means appropriate to the country in question. As his Government would certainly wish to exclude the reference to Article 3 in Article 7, he proposed to reinsert the second paragraph of Article 3 which would avoid the need for any reference to it in Article 7.

THE CHAIRMAN considered that the two methods of control were not mutually exclusive. There could be both government control of contractual obligations and enforcement of them by the courts. It seemed difficult to exclude paid holidays from control by labour inspectors. As the present text was entirely provisional he suggested that it should be retained until the next session, so that in the meanwhile the Netherlands Delegate would be able to consider more suitable wording.

M. BONNESEN (Denmark) thought that the question was one of having an adequate inspection service, i.e. one conforming to the legislation in force in the various countries.

THE CHAIRMAN suggested that the present text be retained provisionally until it could be revised in the light of further Articles to be added later, and so that its provisional nature would be quite clear he suggested that it should be left without number.

Mr. VEYSEY (United Kingdom) did not find this solution altogether satisfactory, and asked whether the Chairman had definitely rejected the British suggestion of re-inserting the paragraph which had mysteriously disappeared from Article 3.

THE CHAIRMAN explained that there had never been any question of removing this paragraph.

M. CARLONI (Italy) thought that it would be best to leave each Government to enforce the rights which the Committee was establishing.

He might agree with Mr. Veysey's proposal with regard to a minimum wage.

THE CHAIRMAN considered it useless to discuss wages at that moment.

M. CARLONI (Italy) agreed with Mr. Veysey's proposal in so far as it also demanded legislation to fix a minimum wage.

In conclusion, the CHAIRMAN proposed that this question should be included in the unnumbered Article which would be revised in the light of the numbered Articles.

THE CHAIRMAN (1) then passed to the Working Party's proposals for new questions to be added to the questionnaire (Doc. CE/Soc (56) 9).

M. KRINGLEBOTTEN (Norway) said it was proposed to insert rights relating to wages including the protection of wages and public holidays with pay. He would like to have definitions of these terms.

Mme. GILON-PICHAULT (Belgium) suggested referring to the International Labour Convention for "protection of wages", as it gave clear definitions of the various methods of protecting wages.

(1) This part of the discussion took place under the chairmanship of Mr. Veysey.

THE CHAIRMAN said that public holidays were understood to be Christmas Day, Easter Monday, Ascension Day, and other public holidays.

M. KRINGLEBOTTEN (Norway) asked for further details on point 2, "Rights relating to the family, protection of the family".

M. TENNFJORD said that what might be considered family rights were set out in Article 11 of the draft contained in Doc. 488.

M. KRINGLEBOTTEN (Norway) then said that replying to the questionnaire would mean referring to all the legal provisions.

THE CHAIRMAN thought the questionnaire merely asked each Government to list the legal provisions in its own country.

In M. CARLONI's (Italy) opinion the questionnaire referred not only to the legal position, but asked the Governments whether they were prepared to include in the Charter the rights listed in it.

THE CHAIRMAN then passed to the last paragraph of Doc. CE/Soc (56) 9, which read, "The drafting group also considered the points included in Appendix II of Document CE/Soc (56) 4 ... /and recommended that/ these points might be considered at the next session", and asked the Committee whether it accepted these conclusions.

M. CARLONI (Italy) asked whether it would not be advisable to include the decisions on Social Security taken by the Drafting Committee and approved by the Social Committee.

THE CHAIRMAN thought the Sub-Committee had only submitted Recommendations and that the Social Committee had to take the decisions, which would appear in the Minutes.

M. CARLONI (Italy) having expressed his agreement, the CHAIRMAN announced that the discussion of the document was closed and passed to Item 12 of the Agenda.

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

Strasbourg, 5th February 1957

Restricted
 Corrigendum to
 CE/Soc (56) 12
 Or. Engl.

SOCIAL COMMITTEE

Draft summary of the discussions during the 3rd Session

Corrigendum

The Draft summary, that was the subject of Doc. CE/Soc (56) 12, was adopted by the Social Committee, during its 4th Session, subject to the following corrections :

The fifth paragraph should read as follows:

"M. Wallin (Belgium) thanked Mr. Veysey and said that originally the Belgian Government had also expressed its preference for the declaratory form. However, he considered that even the declaratory form does not imply that the Charter must be drafted in very vague terms. Thus, the principles proposed by Mr. Veysey were such that a State could not make any progress. He also proposed to the representative of the United Kingdom to complete his text with the indispensable precisions".

The last paragraph should read:

"M. Bonnesen (Denmark) proposed that vocational training be mentioned, as it was essential to be able to train for one's job if one was to choose it freely as stated in Article 2".

In the last paragraph, the last sentence should read:

"But to the extent that the tendency in other parts of the Charter, etc."

Page 26: In the second paragraph, the first sentence should read:

"A drafting Committee was then constituted, composed of Mme. Gilon-Richault and MM. Geller, Theodorou and Veysey."

Page 30: In the fourth paragraph from below, line 1 - 2, delete the words: "and Germany".

Page 34: *fifth* paragraph: delete the last eleven words of the paragraph "particularly to it".

Page 34: Delete last three words on the page "saw no objection" and substitute "would not press his point".

Page 38: Line 28 delete "wage-earner" and substitute "employed person".

Page 42: *third* paragraph delete third sentence of paragraph "It was difficult exceptions". In line seven of paragraph delete "certain" and substitute "particular".

Page 63: Lines 30 - 31: Delete "after a discussion with the working party".

OF EUROPE
 CONSEIL DE L'EUROPE

Strasbourg, 5th October 1956.

Restricted
 CE/Sec. (56) 11

BUREAU
 DES
 DOCUMENTS

SOCIAL COMMITTEE

(Fourth Session)

EUROPEAN SOCIAL CHARTER

Comments by Governments on Articles of the
 Draft Charter provisionally adopted by the
 Social Committee at its Third Session

At its Third Session, the Social Committee adopted in a provisional way certain draft Articles of the Social Charter relating to employment and working conditions. The Committee recommended that these draft Articles should be referred to the Governments for further consideration and comments.

In a letter of 15th May 1956, transmitting the Report of the Third Session of the Social Committee to the Governments, the Secretary-General drew the attention of the latter to this recommendation, with the request that possible comments be transmitted to him by 1st August 1956.

At the time of the preparation of the present document, eight Governments had either presented their comments or stated that they did not wish to present any comment at the present stage or that they had no remarks to make.

Although many Governments have not yet presented any comments, the Research Directorate has deemed it useful to prepare this paper now and to include any further comments in subsequent addenda.

The Government of LUXEMBOURG has stated that it does not wish at present to comment on the articles in question.

The Government of SWEDEN has made the following statement:

"As regards the preliminary draft of certain articles of the proposed European Social Charter, the competent Swedish authorities are not prepared, at this stage, to take a definite attitude to those articles. Should, however, the majority of the States Members of the Council of Europe decide in favour of a binding convention, the said authorities are prepared to examine carefully the final draft of the text." (1)

The Governments of the NETHERLANDS has stated that it has no remarks to make.

GENERAL REMARKS

The Government of BELGIUM has made the following remarks:

"At its Third Session, the Social Committee appointed by the Committee of Ministers of the Council of Europe continued its work upon the draft European Social Charter.

Since the Committee of Ministers has hitherto given the Social Committee no directives concerning the form, terms and purpose of the Social Charter, the Social Committee has been considering this question and the Governments have been invited, in connection with their study of each right, to give an opinion as to the form which the Charter should take.

Certain Governments are in favour of a declaration of principles, others of a binding instrument, and others again of an alternation of the two forms, according to the nature of the right to be guaranteed.

Whereas the work of the Social Committee has made no progress, the Consultative Assembly has by now prepared a draft Charter containing provisions binding upon the Governments side by side with statements of principles and objectives.

The Belgian Government believes that this problem has now reached a stage in the Council of Europe where the Social Committee should be given directives.

In its view, it is essential that the Social Charter should be a compulsory instrument binding upon the States, and not a mere declaration of principles.

Although the Committee of Ministers is doubtless not called upon to study the contents of the Charter in detail, it is of some importance that it should give the Social Committee guidance on the general nature of the rights to be included.

The rights guaranteed by this international instrument should be conceived in a liberal sense and should be sufficiently detailed to give a clear definition of governmental obligations and individual rights so that the provisions of the Social Charter may be an advance upon those contained in universal "Declarations" of the same kind".

The Government of DENMARK has made the following remarks

"The Ministry of Social Affairs can accept the draft articles relating to employment and working conditions contained in Appendix III. (1) However, we could moreover accept the more detailed provisions mentioned in the observations below to Appendix IV. (1)

As concerns the form and scope of the Social Charter, the Ministry of Social Affairs agrees to the point of view put forward by the Danish delegation at the Third Session of the Social Committee to the effect that various circumstances seem to call for some reservation as to the drafting of a Social Charter in the form of a Convention with obligatory provisions.

Whereas the adoption of international conventions in the social field in previous years might have the effect of creating greater harmonization between the legislations of the countries concerned and thus balancing disparities existing between them, at the present time other factors seem to be decisive for the development of labour and social legislation, in a region like Europe such as the bilateral and multilateral agreements concluded to facilitate migratory movements between the countries and the influence of the economic dependence resulting from international trade on social conditions.

Also the fact that the majority of governments have suggested in their replies to the Questionnaire on employment and working conditions that the provisions on these rights in a Social Charter be given a declaratory character, seems to support the view expressed above.

Should it be decided, however, to give the Social Charter the character of a convention with obligatory provisions, it would seem appropriate that the Charter contained a Preamble in which the Contracting Parties declared that the standards set forth in the following chapters of the Charter should be the aim of their social policy. When ratifying the Charter, a Contracting Party should then express its willingness to adopt the principles set forth in the Preamble and at the same time notify which of the particular provisions of the Charter it would undertake to comply with. In subsequent declarations a Contracting Party might thereafter notify that it would now undertake to comply with one or more of the other particular provisions

The Government of the Federal Republic of Germany has made the following remarks:

"The Federal Government welcomes the continuation of the work on a draft European Social Charter. The Social Committee's decision to embody in draft articles (Appendix III to the Report) the results of its very searching initial enquiry among Member Governments into "employment" and "working conditions" is particularly to be commended.

In the opinion of the Federal Government, moreover, the Social Committee very properly started from the idea that, in view of the differences between the juridical, economic and social systems of the 15 Member States of the Council of Europe, it seemed advisable simply to make declarations of principle, without establishing legally enforceable standards. The Federal Government considers that a Convention of this kind will meet with the agreement of all Member States of the Council of Europe. Nor are there any objections in principle to the substance of the seven Articles provisionally adopted."

DETAILED COMMENTS

Article 2

"Everyone has the right to earn his living by work which he freely accepts.

To the end that this right may be effectively exercised the signatory Governments will endeavour to achieve and maintain a high and stable level of employment and, by providing adequate free public employment services, vocational guidance and adequate opportunities for training, to assist in the realisation of the aim that all may have the opportunity of working in the occupation best suited to their capabilities and aptitudes."

DENMARK:

The Ministry of Social Affairs agrees to the proposal made by the Danish delegation at the Third Session of the Social Committee to the effect that in addition to the measures mentioned in the draft Article 2, paragraph 2, reference should also be made to educational services.

IRELAND:

It is considered that this Article should acknowledge the fact that the right to earn one's living by work freely accepted has always existed prior to and independently of the drawing up of this Charter, and also that it is not necessary at this stage to specify the machinery to be employed by Governments for the maintenance of a high and stable level of employment. It is accordingly recommended that this Article should be redrafted as follows:

"To the end that everyone may exercise his right to earn his living by work which he freely accepts, the signatory Governments will endeavour to achieve and maintain a high and stable level of employment and will assist, by means suitable to the circumstances of their countries, in the realisation of the aim that all may have the opportunity of working in the occupation best suited to their capabilities and aptitudes."

UNITED KINGDOM:

It is suggested that the words "adequate opportunities for training" be deleted and the words "assistance in training" be substituted.

This amendment is proposed in order to cover the position in those countries where, as in the United Kingdom, the provision of training is in general a responsibility of industry and not of the Government.

Article 3

"All employed persons have the right to just conditions of work (1), reasonable limitation of working hours, weekly rest and reasonable annual holidays with pay.

The exercise of this right may be realised by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

(1) The question of remuneration, to which the original draft of this Article referred, must be taken up on the basis of the replies to the new Questionnaire.

DENMARK:

Provided that the Social Charter will be given the form of a declaration, the Ministry of Social Affairs agrees to the proposal made by the Danish delegation that a flexible clause on a reasonable limitation of working hours should be inserted.

Furthermore, we agree to the proposal made by several delegations that a precise provision determining the duration of annual holidays should be inserted.

IRELAND:

Paragraph 1 of this Article is incomplete and it is considered that comment on paragraph 1 should be reserved until it is completed.

It is recommended that paragraph 2 be redrafted as follows:

"The signatory Governments recognise that the exercise of this right is, and will continue to be, realised in many cases by voluntary collective agreement. Where necessary and desirable, however, the signatory Governments may establish statutory machinery whereby the exercise of the right may be realised."

Article 4

"All employed persons have the right to adequate protection of life and health in their work."

DENMARK:

Article 4 should not cover employed persons only, but all who work, even independently.

Article 5

"All children and young persons have the right to a special protection with a view to ensuring that they are not employed in work which is physically or morally injurious or otherwise unsuited to their age or which would prejudice their education or training."

UNITED KINGDOM:

It is suggested that the last two words "or training"

This amendment is proposed because some young persons may, in fact, prejudice their chances of receiving training for employment by freely accepting unskilled work for which no training is required. Any attempt to prevent this situation arising, by legislative measures or other Government intervention, would be likely to infringe the provisions of Article 2.

Article 6

All employed women have the right to a special protection and particularly expectant or nursing mothers.

IRELAND:

This Article might be redrafted so as to obviate all possibility of conflict with the spirit of Article 41, 2° of the Irish Constitution, viz:

"The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home."

As redrafted it might read:

"Subject to the provision that the State shall endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home, all employed women have a right to special protection and particularly expectant or nursing mothers."

Last (un-numbered) Article

"With a view to the effective exercise of the rights referred to in Articles 3, 4, 5 and 6, adequate inspection services should be provided by the competent authorities."

IRELAND:

It is considered that it might be left to the Member States to make their own arrangements for the realisation of the rights or principles and that it is scarcely necessary to make special provision in the Charter for inspection services.

UNITED KINGDOM:

It is suggested that the words "as appropriate" be inserted after the word "provided". Her Majesty's Government would wish to reserve the right to comment further on this Article when the final drafting of the Articles in the present part of the Charter, which are to precede it, has been completed.

COUNCIL OF EUROPE
 CONSEIL DE L'EUROPE

Strasbourg, 22nd October 1956.

Restricted

Addendum I to
 CE/Soc (56) 14

BUREAU
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 DOCUMENTS

SOCIAL COMMITTEE

(Fourth Session)

EUROPEAN SOCIAL CHARTER

Comments by the Government of Italy
 on articles of the draft Charter pro-
 visionally adopted by the Social Com-
 mittee at its Third Session

Italian Permanent Representative
 to the Council of Europe

Strasbourg, 8th October, 1956

Sir,

I have the honour to reply to your letter D/5475 of 15th, May 1956, addressed to my Minister, in which you asked him to let you have any comments the Italian Government might care to make about the articles of the draft European Social Charter (Doc. CM (56) 63) concerning rights relating to employment and working conditions.

The Italian Government has no particular comments to make about the way in which the articles are worded.

My Government has, however, instructed me to transmit to you a few general remarks and a reservation about the articles in question as a whole.

First, as regards the general procedure followed by the Council of Europe in preparing the draft Social Charter, it would appear to be, in some respects, somewhat strange that the Consultative Assembly and the Committee of Social Experts of the Member States should have undertaken simultaneous and parallel consideration of the draft in question.

The drafts hitherto drawn up by the Assembly Committee provide, it is true, a useful basis for discussion. Generally speaking they cover all the ground and, while laying down precise limits to the rights granted to workers, they admitted the positive effects of these rights.

On the other hand, the draft being prepared by the Social Committee is limited to a broad statement of principles, which adds nothing to what has already been provided for in other similar declarations (the Universal Declaration of Human Rights approved by the U.N., the Philadelphia Declaration on the aims and objects of the I.L.O., etc.).

In these circumstances, the European Social Charter would be likely to become a useless and superfluous instrument, even harmful in so far as it did not cover all the declarations or principles recognised by the national constitutions of the Council's Member States.

The Italian Government considers that, in order that the new document may constitute real progress in the protection of human rights in the international sphere, it will be necessary for it to be legally binding in such a way as to guarantee the political effectiveness of the various declarations.

Having regard to the state of evolution of the European peoples and to economic and political requirements, the Social Charter should therefore be in the nature of an international obligation; it should not be limited to a mere acceptance of standards, but should also guarantee them by means of adequate instruments of protection.

In view of the foregoing considerations the Italian Government is obliged to confirm the reservation made by its representative in the Social Committee regarding the acceptance of the text of Social Charter as at present drafted by that Committee.

I remain, Sir,

Your obedient Servant,

Bombassei de Vetter

Permanent Representative

CONSEIL DE L'EUROPE

Strasbourg, 12th December 1956.

Restricted
Addendum II to
CE/Soc (56) 14

**BUREAU
DES
DOCUMENTS**

SOCIAL COMMITTEE

(Fourth Session)

EUROPEAN SOCIAL CHARTER

Comments by the Governments of Norway and Turkey
on articles of the draft Charter
provisionally adopted by the Social Committee
at its Third Session

Norway:

Article 1.

It will be seen from the reply to the questionnaire contained in the document CE/Soc (55) 11 that the Government of Norway is prepared to accept an arrangement under which certain rights or principles are established in the form of a convention, while other rights or principles can only be accepted as an aim of policy (in a declaration). The information so far available shows that rights and principles of a social nature have in the different European countries been given varying content and scope. Variations between countries are particularly pronounced as regards provisions for application, including the responsibility of the Government for application. If the Charter shall be directly binding for the Governments in relation to the citizens of their own countries, it must be expected that it may be difficult to find a formula for the various points of the social charter which will be generally accepted by member countries. This is borne out by the experiences of the I.L.O. as regards the adoption and ratifications of conventions. It therefore seems most realistic to aim at a Charter establishing rights and principles which Member States undertake to take

into account as an aim of policy.

Article 2.

Provided that the Charter shall express an aim of policy (be a declaration), Article 3 should be given an introduction, which might be worded in this way: "All employed persons have the right to just conditions of work and to share the fruits of increased production".

Article 6.

In recent years the view has prevailed in Norway that there should be no difference between women and men as regards work and working conditions except the special provisions concerning the aid of mothers. The Government of Norway would prefer that this Article be limited to maternity protection and must therefore express its reservations to a more general formula.

Turkey:

Sir,

In reply to your letter D/5475 of 15th May last, I have the honour to inform you that my Government has no objection to the drafting of the Articles dealing with the rights relating to employment and conditions of work as given in Appendix III of the Report of the 3rd session of the Social Committee (CM (56) 63).

As regards the form and the scope of the Social Charter, the Turkish Government considers, in view of the continual changes taking place in the matter of economic and social rights, which primarily depend upon the material resources of each country, that at this stage it would be inopportune to draw up a convention having compulsory provisions, and would suggest, therefore, that it should take the form of a declaration.

MEMORANDUM

Strasbourg, 8th October 1956.

EUROPEAN SOCIAL CHARTER

SUMMARY OF THE POLITICAL ASPECTS OF THE PROBLEM

SECTION I

DRAFTING PROCEDURE

(Preliminary question)

Method of drawing up international conventions in the social field. Special problem raised in this connection in the sphere of labour, which is largely left to free negotiation between employers', workers' and trade union organisations. Consequent desirability of their being associated in the drafting of international conventions as well as in their application.

System adopted by the I.L.O. (taking account of the foregoing considerations): tripartite principle (employers, workers and government representatives), the trade union organisations being directly concerned in the drawing up of Conventions. This has been the traditional system for almost 40 years.

System so far applied by the Council of Europe: drafting in two stages: (1) Committee of Ministers (Ministers' Deputies, Experts and senior government officials); (2) Consultative Assembly, exercising a supervisory rôle.

Disadvantages: inefficiency: the two stages inadequately co-ordinated for want of sufficiently frequent meetings between government representatives and of direct contacts between them and Assembly Committees; difficulty, at governmental level,

of considering problems from the standpoint of European interests as a whole, because the limited terms of reference of government representatives do not, generally speaking, permit of more than a comparison of national points of view. Trade union organisations not directly concerned in the drawing up of Conventions.

Effect of these disadvantages on the Social Charter: fundamental disagreement between the Social Committee and Assembly Committees, the Social Committee having so far been content with a purely declaratory instrument, the Assembly Committees being unanimously in favour of a document of a mandatory nature, in the form of a Convention.

Need for measures to be taken in the immediate future with a view to breaking this deadlock:

1. Appointment of a Special Representative of the Council of Europe (similar to the appointment of M. Schneider) who would be responsible for co-ordinating and encouraging the work of bodies entrusted with the task of drawing up Social Conventions, and for resolving disagreements (see below Section III, paragraph 5). System outlined in Doc. 536, draft Recommendation.

2. Convening of a European Conference on a tripartite basis to discuss, in accordance with the methods used by the I.L.O., the draft Charter drawn up by the Social Committee and approved by the Assembly (cf. draft Recommendation appearing in Doc. 488, second report of the Committee on Social Questions). Advantages of the Conference: it will enable members of the Social Committee - sitting as members of the "third third" (government representatives) - to hold discussions simultaneously with trade union representatives and other experts, following the example set by the I.L.O. (For the organisation of such a Conference, see below Section IV, paragraph 3 (c) and, for its composition, Section IV, paragraph 3 (c) (iii).) Additional advantage: the Conference could, if necessary, be convened by a simple Resolution of the Assembly thereby avoiding the delays involved in drawing up the Charter.

3. The measures referred to in (1) and (2) should be applied at once and, consequently, outside the framework of the Charter (see below Section II, paragraph 3). System outlined in the draft Recommendation in Doc. 536.

SECTION II

NATURE OF THE SOCIAL CHARTER1. Declaration or mandatory instrument?

Need for a mandatory instrument, binding on the signatory States, since purely declaratory documents in this field have lost all interest for the general public and are, moreover, liable to be mere "window dressing". Example provided by the United Nations: draft Covenant on economic, social and cultural rights, designed precisely to remedy the inadequacies of the Universal Declaration which has no binding force. Further example: the Bogota Charter. At all events, the European Social Charter must not represent a retrograde step as compared with the provisions of I.L.O. Conventions on the same subject, as these provisions are intended to become mandatory.

2. Nature and scope of the provisions binding on States signing the Charter:

- (a) Explicit recognition of fundamental rights in the social field. Nature and definition of these rights. Subjective rights? (Draft Charter in Doc. 403, draft Covenant of the United Nations, Bogota Charter.) "Objective" rights ("Reflex-Rechte")? (Draft Charter appearing in Doc. 488 and Doc. 536).
- (b) Concrete undertakings on social policy (draft Charters appearing in Doc. 403, Doc. 488, Doc. 536 as well as in the draft Covenant of the United Nations).

Character and scope of these undertakings: administrative, legislative and other measures to be taken gradually when the Charter is implemented, so that the Charter will have the character of a framework Convention or programme Convention (like the draft Covenant of the United Nations). Special programmes for implementation to be carried out in successive stages (Doc. 403, draft Charter, Part IV, Doc. 488, draft Charter, Part III, Doc. 536).

First concrete application of such a programme: European Social Security Code, to be applied as part of the implementation of the Charter. This system of a framework Convention or programme Convention is justified by the fact that the Charter, dealing as it does with the whole field of social policy, can only include provisions of a general nature.

- (c) Legal effect of social and economic rights. Link between the recognition of these rights by the signatory States and the undertakings to be entered into by them in respect of common social policy: recognition of social and economic rights in so far as such undertakings are entered into.(1) Reserve clause; (2) colonial clause.

3. Must the Social Charter give rise to new bodies?

Need for these bodies in order to ensure the implementation of the Charter: see below, Section III, paragraphs 1 and 5.

In view of the immediate need to appoint a Special Representative of the Council of Europe (and possibly to convene a tripartite Conference), the question whether provision for setting up these bodies should be made in the text of the Charter itself does not appear to be of prime importance. Their establishment by means of separate Resolutions does not, moreover, prevent their being subsequently brought under a Convention. (See also below Section IV, paragraph 3 (c)).

4. Open character of the Social Charter.

5. Desirability of a partial agreement to speed up the entry of the Charter into force.

-
- (1) It is clearly understood that the content of the undertakings in question, together with the specific rights connected with them, are not included in this summary of political aspects.
- (2) In view of the gradual nature of the implementation of the Charter, the reserve clause appears to be of only relative interest.

SECTION III

IMPLEMENTATION OF THE SOCIAL CHARTER

1. Procedure for implementation of the Conventions on social policy. Administrative, not legal procedure (unlike the implementation of the European Convention on Human Rights). Reason for this difference: intrinsic difference between social and economic rights and the majority of human rights in the traditional sense.

Starting point for implementation: submission of periodic reports by the signatory governments. System adopted by the I.L.O., the draft Covenant of the United Nations and the draft European Code on Social Security (cf. also Doc. 403, draft Charter Part IV, Doc. 488, draft Charter, Part III, draft Charter in Doc. 536). The procedure for investigation, supervision, conciliation and mutual assistance which this system implies demands certain machinery and a certain number of organs. As far as the system adopted by the I.L.O. is concerned these organs are: the International Labour Office and its Governing Body, the International Labour Conference and its Committee for the application of Conventions, together with the Committee of Experts for the application of Conventions and Recommendations. The implementation of an international Convention in the social field is far from being a matter for national governments alone.

Following the classic example of the I.L.O. the implementation of European Conventions on social policy in turn requires the creation of a certain number of institutions and organs. Here too, the implementation will be through institutions. Consequent need for a "replica" of the I.L.O. machinery at the European level. As far as the operation of this machinery and procedures is concerned, see below, paragraph 5 (b) and Section IV, paragraph 3 (c).

(c) At all events it is impossible to entrust the implementation of the Social Charter to the present Social Committee, composed of senior officials from the competent national Ministries (solution proposed in Doc. 488, draft Charter, Part III), since in that case the members of this Committee would become judges of their own actions as senior ministerial officials responsible for taking an active part in the application of the Charter in their respective countries.

2. As the Council of Europe in its present state, has no suitable machinery to ensure operation of the necessary procedures, the chief problem confronting the authors of the Social Charter is to find a way of filling this gap. Here, a choice has to be made between three general ideas:

(a) Setting up a European Labour Organisation.

(European I.L.O.)

Disadvantages: among others, overlapping; in view of the prestige and long experience of the I.L.O. and the fact that its work is partly concerned with the same field as the Charter, the reports to be submitted by the signatory States would, in the main, be the same in both cases. On the other hand it is necessary to hold a "European" solution in reserve, in case the structural changes in the I.L.O., at present under way, make it impossible to reach a satisfactory agreement between the Council of Europe and the I.L.O. Usefulness, in this connection, of the idea of a European Commissariat for Social Affairs, and that of a European Economic and Social Council. (see below paragraph 5 (a) and Section IV, paragraph 3 (a)).

(b) Entrusting the implementation of the Social Charter to the I.L.O.

Disadvantages: first, the fact that social standards in Europe vary enormously and are higher than those of the I.L.O. Conventions and, secondly, the risk of indirect interference by the States of Eastern Europe which are members of the I.L.O. in the social policy of member states of the Council of Europe. For the same reason, it would be difficult for the I.L.O. to set up a Western European Section.

(c) Mixed system

Implementation of the Social Charter by the Council of Europe in close co-operation with the I.L.O. and its organs. Need, in this case, to create within the framework of the Council of Europe a certain number of new bodies capable of organising this co-operation without infringing the Council's freedom of action. (See below paragraph 5, and Section IV, paragraph 3 c).

3. As solutions (a) and (b) are out of the question, at least for the present, the idea suggested in (c) should be adopted¹. For practical application see paragraph 5 below.

4. Present state of co-operation between the Council of Europe and the I.L.O.: 1951 Agreement: reciprocal information and documentation (Articles 1 and 2 of the Agreement); technical assistance (Articles 4-5); convening of tripartite regional conferences (Article 3)

1. In this connection see the statements by MM. Birkelbach, Corish and Harlem at the Sitting of the Assembly on 13th October 1955 (Official Report of Debates, 1955, pp.456, 436, 438).

Gaps in the Agreement

(a) Past experience, including experience convening the Social Charter, shows that the I.L.O. is noticeably hampered in its relations with the Council of Europe by the lack of coordination and unity of outlook between the bodies concerned (Committee of Ministers, Deputies, Social Committee, Social Security Experts and the various Assembly Committees). The different attitudes adopted by all these organs vis-à-vis the problem of the Charter seem to prevent the I.L.O. from finding an "effective correspondent" on this matter within the Council of Europe.

This gap would be filled by the appointment of a European Commissioner for Social Affairs, the appointment of a "Special Representative" of the Council of Europe being provided for in paragraph 3 of Article 1 of the Agreement, under the terms of which the two organisations may each appoint a representative to discuss questions of common interest.

(b) Under the terms of Article 3 of the Council of Europe - I.L.O. Agreement the Committee of Ministers may ask the Governing Body of the I.L.O. to convene tripartite regional conferences. Inadequacy of this provision: (1) it seems to exclude the convening of conferences, the composition of which departs from the tripartite formula in force in the I.L.O. (employers, workers and government representatives)¹; (2) under the system described in Article 3 the necessary collaboration of trade union groups in the formulation of European social policy would, in the last analysis, depend on the goodwill of the I.L.O. (complications are to be feared following a change in the tripartite structure of the I.L.O.); (3) by limiting this collaboration to "ad hoc" conferences not meeting periodically, like the International Labour Conference, the Agreement in question tends to place European trade union groups in a position of inferiority, as compared with trade union groups at world level; (4) the conference provided for in Article 3 will have no powers of decision (unlike the International Labour Conference), nor even the power to make recommendations. It is consequently necessary to revise Article 3 of the Agreement in question.

1. the formula for the composition of the "third third" used in Doc. 403, draft Social Charter Part III as well as in the Kalbitzer Report (Doc. AS/EC (7) 24 and in Doc. 536) is based on a very different concept.

5. Constituent elements of a solution based on the mixed system referred to above (paragraph 3 (c))

(a) Steering and co-ordinating body:

Office of the European Commissioner for Social Affairs (provided for in Part II of the draft Social Charter, Doc. 536). Duties of the Commissioner's Office - (i) within the Council of Europe: responsibility for coordinating and stimulating the social policy of the Council with particular reference to the Social Charter; European Commissioner's Office, the organ which, in a general way, directs the drafting and implementation of the Charter and under the auspices of which the other bodies referred to above will function. This can be compared with the rôle assumed by the Governing Body of the I.L.O. within the framework of social policy at world level. (ii) with a view to co-operation between the Council of Europe and the I.L.O.: Office of the European Commissioner the only "effective correspondent" providing for co-operation between the two organisations and protecting the interests of the Council of Europe in this connection. (See above paragraph 4 (a))

(b) Investigating and supervisory body Committee of independant experts.

In point of fact the procedure for investigation and supervision is the main factor in implementing the Charter: examination of the periodic reports from the participating governments; hearing, where necessary, of the representatives of the Governments directly concerned; comprehensive report to the European Commissioner. System in force in the I.L.O. in this connection; rôle of the Committee of Experts in the application of conventions and recommendations; rôle of the International Labour Conference and its competent committee.

Composition of the Committee of Experts.

(i) System described in Doc. 403: the European Commission of Human Rights taking over the rôle of the Committee of Experts. Disadvantages: members of the European Commission are not all sufficiently qualified as social experts. Unlike those of the I.L.O. Committee they do not possess long experience in this field.

(ii) System of the European Social Security Code: rôle of the Committee of Experts taken over by the existing Committee in the I.L.O. Disadvantage (pointed out by the Netherlands delegation to the Committee of Deputies and that of the Experts on Social Security): the I.L.O. Committee includes members from countries other than Member States of the Council of Europe; risk of interference by Eastern countries and other "anti-European" countries.

(iii) Mixed system: Committee of independent experts, half the members of which - nationals of member States of the Council of Europe - would belong to the I.L.O. Committee of Experts and the other half of which would be qualified members of the European Commission of Human Rights ¹ (application of Article 4 of the Council of Europe - I.L.O. Agreement).

Advantages of this solution: while safeguarding the independence of the Council of Europe this solution seems likely to provide it with the essential technical assistance of the competent services of the I.L.O. which are responsible for assisting the existing Committee of Experts and possess considerable experience of supervising the implementation of I.L.O. conventions as well as of the social legislation and practices of Member States of the Council, which are also members of the I.L.O. (application of Article 5 of the Agreement)

(c) Body for conciliation and mutual assistance.

European Commissioner, assisted:

(i) by the governmental Social Committee and/or

(ii) by a European social Conference (Chamber) as the consultation and technical assistance organ of the Council of Europe. The meetings of the Conference (Chamber) will be organised by the European Commissioner in close co-operation with the special representative of the I.L.O. along the lines explained above in Section 4 paragraph 3 (c).

¹ It should be noted that the Commission also includes certain social experts such as MM. Sørensen and Paal Berg who sit on the I.L.O. Committee as well.

SECTION IV

DEMOCRATIC SUPERVISION

Two fundamental aspects which should be distinguished:

1. Democratic supervision on a parliamentary basis exercised by the Consultative Assembly (political aspect).
2. Democratic supervision on a "trade union basis" (technical aspect).

1. Parliamentary supervision:

v Disadvantages of this supervision for the implementation of the Charter: lack of the proper technical machinery to provide for the examination and supervision of the voluminous technical reports periodically submitted by the signatory States in each of the specific fields laid down in the Social Charter.

2. Trade Union supervision:

- (a) Tripartite System of the I.L.O. (employers, workers and government representatives);
- (b) System of the E.C.S.C.: Consultative Committee composed of representatives of employers, workers and users.
- (c) System under which consultative status is granted by the Council of Europe to certain trade union organisations. Owing to the infrequent and piece-meal nature of the consultations in question, this system cannot be taken into account in a study on democratic supervision.

3. Solutions capable of meeting the deficiency in the framework of the Council of Europe

- (a) European Economic and Social Council (system put forward in Doc. 403). Assembly Resolution 23.
Disadvantages: the proposal in question attaches too little importance to the co-operation that is necessary - at least at the present moment - with the I.L.O., as there is a danger that the European Economic and Social Council will entirely supersede the I.L.O. at the European level (but see Section III, para. 2 (a) above).

Note: As it is solely a question of finding a means of filling the gap in the Council of Europe framework in the matter of implementation of the Social Charter, no criticisms have been included in this summary that go beyond the scope of this question. Such criticisms would be liable to confuse the issue, as was shown when the proposal in question was discussed in the Assembly (October 1955) and in Committee.

Other drawbacks: danger of conflicts over powers and of friction between the Economic and Social Council and the other two organs of the Council of Europe (the appointment of a European Commissioner would seem to be an effective remedy for this danger). The composition of the "third third" does not make possible simultaneous discussion with government representatives or members of the Social Committee. (See sub-section (c) (i) and (iii) below).

Advantages: the idea of an Economic and Social Council already realised in certain member countries at a national level, corresponds to the necessary extension of political democracy towards economic and social democracy. This development must not be left out of account in preparing the future structure of a united Europe, otherwise this structure is likely to fall behind the development of national social and economic structures. Other advantages (see also paragraphs 40-43 of the Explanatory Memorandum of Doc. 403): the proposed European Social and Economic Council represents an effective solution to the main problem as far as the Social Charter is concerned, namely that of the machinery necessary to ensure the elaboration and implementation of social policy at a European level (see Section III, para (i) above). Moreover, the draft in question, by providing the Council of Europe with an embryo "European I.L.O.", offers a satisfactory guarantee against the I.L.O. developing in a manner likely to jeopardise its close co-operation with the Council of Europe. (See Section III, para. 2 (a) and (b) above). Finally: a association of various social groups other than trade unions in the elaboration of social policy. Safeguarding of the general interests of the community, progress towards social and economic democracy.

- (b) Regional European tripartite Conference convened by the I.L.O. in accordance with Article 3 of the Council of Europe-I.L.O. Agreement (solution proposed in Doc. 488)
Disadvantages: inadequacy of Article 3 (see Section III, para 4 (b) above). Freedom of action by the Council of Europe is not guaranteed. In the absence of an organ for political liaison in the Council of Europe - its Secretary-General possessing no political powers - the organisation and work of the Conference are likely to depend solely on the I.L.O. Finally the complete lack of powers of the Conference itself which does not even have the right to make

Recommendations to the Council of Europe.⁽¹⁾ In order to overcome these disadvantages a third solution seems to be called for, namely:

- (c) European Social Conference (Chamber) periodically convened at successive stages in the implementation of the Charter.

Functions: to give advice in drawing up the programme for implementation submitted by the European Commissioner; discussion of the periodic reports from governments and the report from the Committee of Economic Experts which the Commissioner will submit, should the need arise, to the Conference for the purpose of arbitration and mutual assistance for the parties concerned. (See para (ii) below).

Meetings - summoned, as the Charter is progressively implemented, by the Commissioner, who would be empowered to act as the representative of the Council of Europe either by the Committee of Ministers or by the Assembly.

Organisation: by the Office of the European Commissioner in co-operation with the Special Representative of the I.L.O. (see Section III, para 4 (a) above). European Commissioner to act as President. For this purpose, revision of Article 3 of the I.L.O. Council of Europe Agreement along the lines referred to above in Section III, para 4 (b).⁽²⁾ Distribution of votes between the three "thirds".

Statute of the Conference: apart from certain general provisions in the Charter this Statute would be the subject of a supplementary agreement between the Council of Europe and the I.L.O. to be prepared by the Special Representative referred to in para 1 of Section I above.

Other possibilities to be considered for the composition of the Conference:

(1) The "third third" composed in accordance with the formula adopted in Doc. 403, in the Kalbitzer Report (Doc. AS/EC (7) 24) and in Doc. 536 (representatives from sections of the community other than employers' associations and workers' unions).

(1) Nor, moreover, to Member Countries of the I.L.O. as the Regional Conference has the power to address Resolutions only to the Governing Body.

(2) This revision should take the form of a supplementary agreement prepared and negotiated with the I.L.O. on behalf of the Council of Europe by the Special Representative referred to in para 1 of Section I above.

Advantages: see above, end of para. 3(a).

Disadvantages: as members of the governmental Social Committee do not take part in the Conference they have no opportunity - afforded by the tripartite formula of I.L.O. as well as under para. (iii) above - to hold direct discussions with employers' and union representatives, particularly in the matter of arbitration and mutual assistance for the application of the provisions of the Charter; complications and loss of time resulting from the system of separate meetings of the Conference and of the governmental Social Committee. These objections might be met by the adoption of the following solution:

(ii) Third third composed solely of government representatives.

Advantage: arbitration and mutual assistance could take place with employers and unions present. This is particularly useful where collective agreements and other social practices are concerned.

Disadvantage: other sections of the community have no representation at meeting of employers' and union delegates. The following proposal offers a remedy:

(iii) Third third composed of government representatives who are members of the Social Committee, these being accompanied, as they are at the International Labour Conference, by technical advisers chosen from among the independent representatives of the various sections of the community other than employers' and workers' organisations. Having been appointed by governments from lists presented by competent organisations, these advisers will be empowered to sit as substitutes for consideration of items on the Agenda affecting the sections of the community they represent. (Combination of the system described in Article 26, paragraph 2 of the draft Charter, Doc. 403 and that in force at the International Labour Conference). Not only is this solution likely to make possible simultaneous discussion with members of the Social Committee, it will also safeguard the interests of the different sections of the community other than employers' and workers' organisations (consumers, farmers and those engaged in independent social and economic activities).

(iv) Finally, yet another possibility should be noted, namely the "third third", composed wholly or in part of members of the Consultative Assembly.

Advantage of this proposal: it would enable parliamentary supervision and union supervision to be directly combined (see opening lines of Section IV above).

Disadvantage: it would entail a considerable increase in the membership of the Conference (difficult problems of distribution by nationality and political tendency). Moreover, the Assembly's right of supervision would seem to be fully assured by the periodic submission to it of a report drawn up by the European Commissioner on the process of implementation of the Charter and so drafted as to enable the Assembly to discuss its political aspects. In addition, the Assembly would receive periodical reports from the European Social Conference (Chamber).

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 25th September 1957

Restricted

CE/Soc/WP II (57) 3

SOCIAL COMMITTEE

(5th Session)

Working Party

appointed to prepare the Sixth Session
of the Committee
European Social Charter

Information Document

(Letter from the Secretary-General of the
International Confederation of Free Trade
Unions to the President of the Assembly
20th October, 1956)

23rd October, 1956.

N O T E

concerning the Draft European Social Charter
submitted
by the European Regional Organisation
of the I.C.F.T.U.
(Letter from the Secretary-General
of the European Regional Organisation
of the I.C.F.T.U.
to the President of the Assembly)

European Regional Organisation
of the
I.C.F.T.U.

Secretariat: W. Schevenels,
14, Boulevard Maurice Lemonnier,
Brussels.

Ref: SCH/JC/6500

Brussels, 20th October, 1956.

Professor Fernand DEHOUSSE,
President of the Consultative
Assembly,
Council of Europe,
STRAASBOURG.

My dear President,

I feel the time has come to inform you of the views of
the free trade union organisations of Europe on the latest

Copy to:
Mr. Dunstan CURTIS,
Acting Secretary-General,
Council of Europe

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draft of the European Social Charter, which also provides for the establishment of a European Social Chamber. In recent years we have been present as Observers, representing the free trade unions of Europe, at many meetings of the various committees of the Consultative Assembly which have been dealing with this matter. At the last meeting of the Committee on Social Questions we were told that it was desired to bring the discussion to an end and that a decision would be taken, one way or another, during the present Session of the Consultative Assembly.

However, before the Consultative Assembly reaches a final decision on the present draft, I would like to put before you the views of the free trade unions of Europe and ask you to bring them to the attention of the Assembly before the final vote is taken.

Despite numerous representations made by the observers who, on behalf of the free trade union movement, attended the meetings of the Committee on Social Questions, the Committee on Economic Questions and the Committee on General Affairs, we note with regret that certain Articles have been retained unchanged, although they are unacceptable to the free trade unions.

For instance, Article 1, section A, "The right to work", paragraph (d)(i), refers to establishing "the freedom from any restrictions on the right to work". This phrase can be interpreted in a manner extremely dangerous to workers, who consider that the collective agreements concluded between employers and the workers' trade union representatives should retain the right to impose certain restrictions, aimed chiefly at safeguarding employment and working conditions in the industry or profession concerned.

Paragraph (d)(ii) speaks of protecting "effectively the right of the wage-earner freely to choose any available occupation." This may be interpreted as binding the State to protect those who wish to take up occupations which have become available as the result of a strike. In other words, the State would be undertaking to provide work for black-legs or strike-breakers. But public opinion in most democratic countries and jurisprudence in some countries disapprove of efforts to break a legitimate strike undertaken with due respect for laws, regulations and trade union statutes. We are therefore unable to accept these two clauses in Article 1, section A of the Social Charter.

Article 1, section F, on the right to form trade unions, makes a reservation similar to that of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Our organisations put forward a categorical objection to this reservation when that Convention on Human Rights was being discussed and adopted. We reiterated this objection when the Social Charter was under discussion.

There are other points in Article 1 on which we put forward observations and requests for improvements, more particularly to bring them into line with the provisions of the International Labour Conventions on the same subject. We made these observations chiefly in the light of the last paragraph of the Preamble, which states that: "It shall be the aim of the High Contracting Parties to establish European standards of social welfare superior to those applied on a wider international basis". There is no doubt that this refers mainly to the International Labour Conventions of Geneva. We are, however, obliged to recognise that in more than one respect the standards proposed in the European Social Charter are lower than those already advocated and adopted for the whole world by the International Labour Office. This applies, among other things, to the age at which children may take up paid employment, to labour inspection, and to the minimum wage-fixing machinery. We should also have preferred an amended form of Article 1, section B, paragraph (e), on equal pay for equal work, which we regard both as over-simplified and too rigid and consequently bound to give rise, in practice, to endless controversy.

Despite these weaknesses and defects, we could have accepted the content of this Charter, while being resolved to pursue as soon as possible our efforts to improve it by means of amendments.

Unfortunately, Part II, which concerns the appointment of a European Commissioner and the institution of a European Social Chamber, renders the Charter unacceptable for the free trade unions of Europe. The reason for this is extremely simple: the chief appeal of this Charter to our organisations lay in the institution of an Economic and Social Council, and particularly in the economic competence of that Council. Our European free trade unions attach great importance to the establishment of a European institution in which the workers' representatives could effectively take part, on an equal footing with employers and governments, in the study of the economic questions confronting Europe, and make their own contribution to the solution of those problems. The free trade unions were delighted, a few years ago, by the Council of Europe's announcement that it proposed to establish such an Economic and Social Council. They regarded the social activities of such a Council as a secondary consideration, since the International Labour Office has the necessary competence and experience to deal with these questions at European regional conferences, limited to the Member States of the Council of Europe. The Economic and Social Council would therefore not be required to deal with social questions,

except in cases where the International Labour Office was unable, for some reason, to settle them. As already explained, however, our chief interest in the Economic and Social Council lay precisely in its economic powers. The present draft, however, deliberately strips the "European Social Chamber" of all economic powers. True, it contains an occasional reference to the "implementation of the European Convention on Social and Economic Rights"; but elsewhere it is made clear that the Chamber and, incidentally the Commissioner, will be "responsible for promoting the fulfilment of the social policy of the Council of Europe". Elsewhere, again, we are told that the Chamber may "adopt resolutions to the Consultative Assembly drawing attention to the political, social, economic and cultural implications of questions within its competence." This competence is clearly restricted, by the terms of Article 3, to the social policy of the Council of Europe, and the reference is only to implications.

It is chiefly these last considerations, concerning the Social Chamber, which preclude the free trade unions of Europe from approving and supporting the present draft Social Charter.

There is perhaps a way out of this situation enabling satisfaction to be given to the aspirations of the workers belonging to the free trade union movement of Europe. This is to follow the suggestion made by the Consultative Assembly in 1955, in its Reply to the Fourth Report of I.L.O.: namely, to request I.L.O., in pursuance of the Agreement between that organisation and the Council of Europe, to convene a tripartite regional conference to which the draft European Social Charter would be submitted for fresh examination.

At such a tripartite conference, those most directly concerned, namely, the workers, whom it is the purpose of the Social Charter to protect, could present their views on the contents of the Social Charter and on the establishment of the European Economic and Social Council.

This concludes the comments and observations which I felt it my duty to submit to you at the moment when the Consultative Assembly is preparing to take a final decision on these questions.

I am, etc.

signed: W. SCHEVENELS,
Secretary-General

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 26th October, 1956

Restricted
CE/Soc (56) 15

RESEARCH DIRECTORATE

Social Division

EUROPEAN SOCIAL CHARTER

Study of the nature, definition and legal scope of
social and economic rights

I

INTRODUCTION

The preparation of a European Social Charter raises many problems, chief among which is that of its legal scope. In the various draft Social Charters submitted to the Assembly in October 1955 and April and October 1956 (Docs. 403, 435 and 536) the Committees on Social Questions and General Affairs adopted a clear position in this matter, which accorded with the opinion of the Committee on Economic Questions. Taking their cue from the United Nations (Draft Covenant on Economic, Social and Cultural Rights prepared by the U.N. Commission on Human Rights), the Assembly Committees concerned unanimously agreed that a European Social Charter worthy of the name could not take the form of a mere declaration, but should

include a series of social obligations assumed by the signatory States and binding upon them.

Since - again following the precedent of the United Nations draft Covenant - these obligations should be equated with the social, economic and cultural rights which are their corollaries, the authors of the Social Charter are faced with the problem whether and to what extent the States which sign the Charter are likely to recognise these rights. The Research Directorate of the Secretariat-General believes that by including in the present study a review of the legal and technical considerations underlying the nature, definition and legal scope of these rights it may help the Social Committee to reach a decision in this matter.

II

REVIEW OF THE PROBLEM

Experience has shown that, broadly speaking, the guarantee of fundamental rights and freedoms can be based on two different schools of thought. The first, which applies more particularly to social and economic rights, is the concept known as "Verhaltensnormen" (Guiding principles).⁽¹⁾ It postulates the preparation of a set of precepts for the public authorities with a view to their taking certain measures of social policy. These precepts, far from being rules of positive law, are in the nature of principles or general directives, the application of which is left entirely to the authorities in question.⁽²⁾ In effect, this approach is much less relevant to the guarantee of fundamental rights and freedoms than to social policy.⁽³⁾ If this were the only

(1) See: Bentele, Das Recht auf Arbeit, Zurich 1949, p.74. Free translation from the German.

(2) See: W. Kaskel, Arbeitsrecht, Berlin, 1932.

(3) This approach is somewhat akin to that adopted by the International Labour Organisation when it drafted the Philadelphia Declaration of 1944, which was planned as a declaration of principles.

method of guaranteeing such fundamental rights and freedoms, the legal status of the individual might well be sacrificed to economic necessities and unlimited social and administrative State-control.

Secondly, fundamental rights and freedoms can be guaranteed by conferring a subjective right upon the individual. This concept also presupposes the existence of a number of principles and basic rules, but tends to enforce them by associating them with individual beneficiaries. This approach, which may be regarded as the individualistic method, is liable to go to the opposite extreme and treat all fundamental rights and freedoms as absolute rights, valid whatever the circumstances. (1) While the idea may be acceptable in the case of certain human rights as traditionally understood, it is nonetheless inapplicable to a large number of fundamental rights and freedoms, of which social and economic rights are in the forefront. As will be shown later, such a concept is contrary to the very nature of these rights.

There is, however, another method of guaranteeing and defining fundamental rights and freedoms, which lies halfway between the two above-mentioned extremes and avoids both the Scylla of social and economic State-control and the Charybdis of extreme legal individualism. The purpose of this method, known as the "method of anchoring legal principles in concrete measures", (2) is to start with a number of fundamental principles and general directives for the protection and development of the human personality and convert them into terms of positive law. Only, far from simply conferring an individual right or formulating a "guiding principle," the legal concept is turned into a rule of positive law by clearly defining and limiting it in the light of social and economic realities. Experience has shown that, if social and economic rights are to be effectively guaranteed, the principles underlying them must shed their absolute character; it follows, therefore, that the definition of these rights as positive rights must be based on a method which is both flexible and complex. It is this method that we shall attempt to apply below.

(1) This idea was already at the roots of the famous Turgot Edict of 1776, which declared the right to work to be inalienable and inviolable. See also: Brauer, *Das Recht auf Arbeit*, Jena, 1919, Chap. I, para. 2 (b) and Durand and Joussand, *du Droit du Travail*, Paris, 1947.

(2) As this theory originated in the Netherlands, the title has been freely translated from the Dutch. Cf. Dr. M.H. Teuben: *"Het Recht op Arbeid"*, Van Gorcum, Assen, 1955. Cf. also Jellinek: *"System der subjektiven öffentlichen Rechte"*, Freiburg i.Br., 1892; A.F. Utz: *"Das Recht auf Arbeit"*, *Archiv für Rechts- und sozialphilosophie*, Vol. XXV, pp. 350 and 361; M. Bentele: *"Das Recht auf Arbeit"*, Zurich, 1949 and M. Hauriou: *"Précis de Droit constitutionnel"*, Paris, 1929, p. 631.

When deciding, in its Special Message of 20th May, 1954, (Doc. 238, para. 45), to draw up a European Social Charter, the Committee of Ministers pointed out that the Charter would, in the social field, be "complementary to the European Convention on Human Rights and fundamental freedoms". In this connection, the Committee of Ministers apparently took the view that the Social Charter, far from being limited to a number of principles and general rules of social policy, should, like the European Convention on Human Rights, constitute a legal and political instrument whereby the signatory States would bind themselves to guarantee the freedom and free development of the individual in the social field.

As this guarantee relates to quite a different field from the European Convention on Human Rights and the obligations of the signatory States must therefore be considered from a very particular standpoint, there arises a political and legal problem which may be summarised in the following two questions:

1. Should the Social Charter contain an explicit affirmation of a number of social and economic rights?
2. Bearing in mind the legal nature of these rights, what form should this affirmation take? Should it be limited to the formulation of an individual subjective right or should it take a more complex form influenced by social and economic factors?

Before answering these questions, it seems worth while to review the various systems of definition adopted by the authors of recent Charters, Declarations and draft Covenants on social rights. We find that much of the content of recent social Declarations and Charters is generally devoted to an enumeration of social and economic rights, formulated in many cases as rights of the individual and therefore viewed by the public as subjective individual rights.

Such was the basis of the "Labour Charter" contained in Article 427, Section XIII, of the Treaty of Versailles (1919). The draft "Complément à la Déclaration des Droits de l'Homme et du Citoyen", drawn up in July 1936 by the French League for Human Rights, followed the same pattern, as apparently did the draft "New Declaration of Rights" prepared in January 1943 at the instigation of President Roosevelt by the United States Institute for the Planning of National Resources. Such too seems to have been the idea behind the "Inter-American Charter of Social Guarantees", drawn up at Bogota on 2nd May, 1948 (1), as well as behind the United Nations draft Covenant on Economic, Social and Cultural Rights submitted to the General Assembly on 4th December, 1954.

As the latter Covenant shows, a new terminology has gained currency, of which some of the most typical examples are the right to work, food, adequate clothing and housing, an adequate standard of living, social security and the highest attainable standard of health.

It is hardly surprising that this terminology should have been criticised - and rightly so - for losing sight of the fundamental difference between the above-mentioned rights and Human Rights as traditionally understood, namely such civil and political rights as the right to life, freedom, the respect of private and home life and freedom of thought, conscience and religion.

While, as a general rule, civil and political rights are those pertaining to man as an individual, regardless of the social and economic environment in which they are exercised, social and economic rights are affected by existing social and economic conditions. Furthermore, whereas civil and political rights can usually be guaranteed in a passive and negative way, that is by prohibiting their infringement by individuals or public authorities, social rights cannot so be guaranteed without some concrete and positive action on the part of the public authorities. (2)

It is obvious, therefore, that to define a social right as a subjective and absolute right of the individual is frequently inadequate. Indeed such a definition would be an empty and meaningless gesture and the exercise of the right in question would remain inoperative. To mention but one example, what is the use of recognising the right to work, in these terms, if the public authorities concerned fail to promote the exercise of this right by adopting full employment measures or if the risk of unemployment is not covered by a social security scheme?

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- (1) Also the American Declaration of the Rights and Duties of Man, of the same date and place.
- (2) Cf. G. Vedel: *Les Déclarations des Droits de l'Homme*, *Etudes*, July - August 1950, p. 77.

Furthermore, the traditional definition would inevitably involve risks. To confer these rights universally without adding the detailed explanations required by the particular context might very well create illusions and lead to promises which no State could make good. We might once more illustrate our point from the right to work: theoretically, it would not be a matter of surprise if unemployed persons took legal action against the State, in certain countries whose constitution recognises this right as subjective.

In point of fact, a large number of social and economic rights are not subjective individual rights in the strict sense. Although they undoubtedly come under the heading of the protection of fundamental freedoms, many of them are only partial rights in the legal sense. The individual beneficiary has no clear legal claim corresponding to the obligation laid upon the public authorities, enabling him to ensure the exercise of these rights. The legal benefits enjoyed by the individual as a result of recognition of these rights are frequently no more than the reflection of the concrete and constructive policy pursued by the public authorities in order that they may become a reality. That is why in legal treatises social and economic rights have received the title of "Reflex-Rechte" (reflected rights) (1), i.e. rights derived from an intricate legal and institutional system operating beyond the exclusive control of the beneficiaries.

There seems no reason, however, why these "incomplete" rights should not share in the fortunes of Human Rights properly so called. Indeed, such an assimilation can be justified by the position assumed by legal technique in general legal theory. It is common knowledge that this technique consists, inter alia, in ensuring the necessary adjustment between the general system of positive law and the legal concepts and phenomena arising from community life. To quote M. Gény's concise definition: "Legal technique is governed by general categories into which social realities are inserted" (2).

(1) Free translation from the German. See Jellinek: "System der Subjektiven Öffentlichen Rechte", Freiburg i.Br., 1892, p.69. Cf. also Vedel: op.cit., pp.70 et seq.

(2) F. Gény: Méthode d'Interprétation, Paris, 1924, p.464.

Since, however, the number of these general categories - one of which is the concept of "Human Rights" - is necessarily limited and it is therefore impossible to find a "category" to fit every legal phenomenon, legal technique is compelled to resort to expedients(1). Now assimilation is just such an expedient(2). When it is desired to fit into the general legal system a new legal phenomenon for which there is no ready-made classification or "scheme," it is not unusual for the phenomenon to be classified under a closely related title already in existence(3). Thus, if we apply this assimilation procedure to social, economic and cultural rights, there seems no objection to their being affirmed and recognised as fundamental human rights and freedoms - so long as it is remembered that they are not strictly Human Rights and that the legal position of the beneficiary differs from that of a beneficiary in the traditional sense of "rightful claimant".

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(1) As Renard has said: "Legal technique has so many tricks up its sleeve that it is seldom found at a loss".
Renard: *Le droit, la justice et la volonté*, Paris, 1924, p.177.

(2) Another is the method of legal fictions.

(3) One example is the qualified assimilation of the concept of the artificial person to that of the natural person. Others are the concept of implied contract, and the Anglo-Saxon legal doctrine of "constructive notice".

III

APPROACH TO DEFINING SOCIAL, ECONOMIC
AND CULTURAL RIGHTS

If a European Social Charter is to be effective, it should fulfil the following two requirements. Firstly, if it is to supplement the European Convention on Human Rights it must at all events match that Convention by including a set of fundamental rights and freedoms declared to be such by the signatory States⁽¹⁾. Secondly, and no less essential, it should provide a clear determination of the substance of those rights by the signatory States assuming concrete and positive obligations in their social policy⁽²⁾.

This two-fold aspect of the problem has been lucidly stated in one of the most important technical monographs dealing with the definition and legal scope of Human Rights, of which the following passage is an excerpt: (3).

"It is no easy task to transform the enunciations of principle in the Universal Declaration into legal rights under positive law. International codification presents the problem to what extent and degree these human rights should be defined and limited in order to establish positive and concrete standards which are yet acceptable to States with different legal, political and economic systems and with different conditions of social life."

Although on the world scale of the Universal Declaration there were virtually insuperable obstacles to solving this problem, it should be possible to discover a formula within the

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- (1) This was the view taken, for instance, by Mr. Corish, Irish Minister of Social Welfare, when he addressed the Assembly in October 1955 (Official Report, p. 435).
- (2) See von Westphalen-Fürstenberg: *Das Problem der Grundrechte in Verfassungsleben Europas*, 1935, pp. 9 and 10.
- (3) P. Drost: *Human rights as legal rights*, Leyden, 1951, p. 174.

framework of a European Social Charter without creating serious drawbacks. Starting with the idea explained at the beginning of Chapter II above (1), namely that fundamental rights are guaranteed by transforming their underlying principles into rules of positive law, a system of definitions could be worked out to provide an effective combination of the legal and social aspects which will determine the two-fold formula referred to above. Indeed, this result could be achieved if the Governments signing the Social Charter, could accept that their recognition of fundamental rights should be closely linked with the social obligations they agree to assume. In other words: social and economic rights should be recognised in the Charter to the same extent and degree as the obligations assumed by the signatory States in the definition of those rights, which obligations are expressly designed to guarantee and qualify their exercise.

To explain the system of definitions in question, let us refer to Article 1 of the draft Social Charter prepared by the General Affairs Committee, which has just been submitted to the Consultative Assembly at its October 1956 Session in the form of a draft European Convention on Social and Economic Rights (Doc. 536).

This Article embodies a series of specific rights, listed in sub-divisions A to M, and opens with the following general provision explicitly recognising these rights:

"The High Contracting Parties recognise the following rights and undertake to strive progressively, both jointly and separately, to ensure the full exercise of these rights, in particular by adopting or promoting the measures defined in connection with each of these rights".

There follow, in sub-divisions A to M, a number of concrete and positive pledges designed to ensure the exercise of each of these rights separately by the adoption or promotion of social measures appropriate to each case. We see, therefore, that the general provision of Article 1 combines in a single form of words both aspects of the problem of guaranteeing social and economic rights, as discussed in this study.

Perusal of sub-divisions A to M reveals that this solution takes full account of the theoretical and technical requirements which the drafting of a Charter of social and economic rights must fulfil. While the authors have unhesitatingly included an affirmation and explicit acknowledgement of these rights, they have avoided the pitfalls of an absolute and subjective definition as found in such phrases as "everyone has the right to ...", the drawbacks of which were pointed out in Chapter II of this study (2). Finally, the wording chosen has the advantage of keeping the legal scope of social and economic rights within reasonable bounds by closely linking it with the concrete obligations of social policy, set forth in sub-divisions A to M., which form the essence of the document.

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(1) See above, p. 9: "method of anchoring legal principles in concrete measures".

It may be of interest to compare this system of definitions with the one resorted to by the Social Committee, on the proposal of the United Kingdom delegation, when drafting the provisional text of certain Articles concerning employment and working conditions (Doc. CM (56) 63, Appendix III, and Doc. CE/Soc (56) 10, Appendix III).

The text proposed for Article 1 was a general provision worded as follows:

"The Member States, signatories of this Charter, accept as an aim of policy to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the rights and principles set forth herein may be realised".⁽¹⁾

There followed a number of social rights, defined in traditional terms:

"Everyone (all employed persons) has (have) the right to ..." etc.

Compared with the draft submitted to the Assembly (Doc. 536) this version is at once more restrictive and more progressive in its legal scope. It is more restrictive, inasmuch as the Social Committee seems to have refrained from any formulation of binding undertakings or explicit recognition of the rights set forth - omissions attributable to the fact that it has not yet reached a definite decision on the legal characteristics of the Charter. On the other hand, the Committee's text is more explicit than the Assembly's inasmuch as it presents social rights as subjective rights attached to the beneficiary as a person. In its use of the formula "everyone has the right...", which was deliberately avoided in the Assembly draft for the reasons of caution explained above, the Social Committee is in one sense in advance of the Assembly.

(1) It will be observed that Article 1 was not included in the text which forms an Appendix to Doc. CE/Soc (56) 10

To conclude the above analysis, it seems reasonable to ask whether the Social Committee would not find it valuable to go more thoroughly into the legal characteristics of the text when discussing it for the last time. In the first place, the contribution made by modern jurisprudence towards solving the problem of guaranteeing social rights, which this study has been at pains to explain, seems to justify a clear and definite stand on the binding nature of a Social Charter. Secondly, the fact that public opinion is becoming more and more indifferent to and weary of mere declarations and "rhetorical statements" also argues in favour of an unambiguous instrument capable of effective implementation thanks to a series of pledges by the signatory States. When resuming its work, the Social Committee might take account of these considerations and be guided by the following conclusions, offered as a summary of the study.

IV.

CONCLUSIONS

1. The European Social Charter is a political and legal document setting forth the fundamental rules intended to protect the social and economic freedom, dignity and security of the individual.
2. There is no reason why these rules should not be embodied in the Charter as a derivative of certain social and economic rights.
3. These rules might be defined under a dual system, comprising, on the one hand, an affirmation of the existence of the right from which each is derived and, on the other, a series of measures and standards of social policy governing the exercise of that right.
4. When affirming the existence of each right it would seem preferable to avoid the formula "everyone has the right...", thus evading the question of the individual beneficiary. On the other hand, the form of such affirmation will be that of explicit recognition by the signatory States and this will be embodied in a general provision covering all the rights set forth in the Charter.

5. Such recognition should be closely linked with the obligations to be assumed by the signatory States regarding the measures referred to under point 3; thus recognition of a given social or economic right could only be binding upon the States to the same extent and degree as the obligations they are willing to incur in its exercise.

6. This system of definitions could ensure a homogeneous and well-ordered European Social Charter in the form of a Convention on Social and Economic Rights.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 8th November, 1956

Restricted
CE/Sec (50) 19

S O C I A L C O M M I T T E E

(Third Session)

EUROPEAN SOCIAL CHARTER

(Draft text of certain articles
prepared by the Social Division)

Introduction

1. At its Third Session, the Social Committee instructed the Secretariat to prepare draft texts of certain articles of the Social Charter, based on the replies of the Governments to a Questionnaire concerning the following rights and principles:

- (a) Individual and collective rights and principles connected with the existing system of worker/management relations.
- (b) Right of the disabled to rehabilitation and resettlement.
- (c) Right of nationals of member countries to access to employment in other member countries.
- (d) Right of migrant workers to protection and assistance.
- (e) Provision of facilities for vocational guidance and training.
- (f) Rights relating to wages.
- (g) Rights relating to the family.

The replies received from Governments have been circulated in document CE/Soc (56) 13.

2. The Secretariat was also instructed to prepare draft articles concerning the right to social security and protection of the needy.

3. At its Third Session, the Social Committee adopted in a provisional way certain draft articles of the Charter corresponding to rights relating to employment and working conditions (Doc. CM (56) 63, Appendix III). Certain delegations, already during that Session, proposed changes in or additions to these articles, see Appendix IV to the same document. On the other hand it was understood that the preliminary draft articles should be reconsidered by the Governments, who were requested to comment upon them. The comments received from the Governments have been circulated in document CE/Soc (56) 14.

The Secretariat has considered it useful to prepare new draft texts of these articles, based on the remarks made during the Third Session and the comments of Governments.

4. In drawing up all these draft articles, the Secretariat has been faced with a considerable difficulty as a consequence of the uncertainty which still prevails with regard to the basic nature of the Charter. In qualifying the Charter as an instrument which, in the social field, would be complementary to the European Convention on Human Rights and Fundamental Freedoms, (1) the Committee of Ministers seems to have indicated that it should go beyond a mere declaration of principles. The Committee of Ministers has also instructed the Social Committee to consider in particular whether the Charter, in addition to general principles, should contain more definite provisions binding upon the signatories. (2)

5. The Social Committee as a body has so far indicated its preference for an instrument of a declaratory nature, drafted in very broad, general terms. The Consultative Assembly has taken a quite different view. It has drawn up a draft Social Charter which, apart from a number of general principles of social policy, is of a binding nature and which is worked out in considerable detail. (3) The International Confederation

(1) Special Message from the Committee of Ministers to the Assembly of 20th May, 1954, paragraph 45.

(2) Special Message, para. 46.

(3) Recommendation 104 (1956).

of Free Trade Unions and the International Federation of Christian Trade Unions have also strongly indicated their preference for a binding instrument. Certain Governments, particularly the Governments of Belgium, Italy and Sweden, which have made express statements to this effect, share the view that the Social Charter must contain binding provisions.

6. In these circumstances, the Secretariat has chosen to prepare the draft texts of some of the articles mentioned above in two alternatives, one of a declaratory nature and the other based on the assumption that some provisions at least should be binding. In an effort to clarify the sense in which rights in the social and economic field may be conceived as binding, the Secretariat has prepared a study of the nature of such rights and their formulation in legal terms.(1)

7. A strong argument used by the delegations who favour a declaratory instrument is that many important provisions of the Charter would deal with matters which are usually settled by collective agreements and with regard to which the Government have no right to intervene. This situation might be met by a provision, either in a general article or in the specific articles dealing with labour conditions, limiting the undertakings of the Governments to areas not covered by collective agreements. The latter of these alternatives has been used in the draft Charter of the Assembly. Thus, the article dealing with the right to fair and stable conditions of work, starts with the following phrase:

"With a view to ensuring the exercise of this right, the H.C.P. undertake to secure for every worker, insofar as these measures are not put into effect by means of collective agreements or in any other way:".... (Here follows an enumeration of rights).

(1) Doc. CE/Soc (56) 15.

This formulation appears, however, not to be quite clear. It might be construed to mean that even in fields covered by collective agreements, the Governments would be obliged to intervene if the collective agreements did not reach the standards laid down in the Charter. On the other hand it would evidently not be desirable that a Government could ratify the Charter even if social standards in the country lagged far behind the standards laid down therein, simply by referring to the fact that these conditions depend on collective agreements.

A possible solution might be to make ratification of the Charter dependent upon the fact that social conditions in a given country were equal to the standards, either through legislation or other public action or through collective agreements. (It might be added that even in fields covered by collective agreements, the Governments may exercise a considerable influence through their good offices in general and through the conciliation and arbitration procedures which exist in all countries).

8. Another provision which might be included in the Charter and which would render the ratification less burdensome is a provision to the effect that implementation of the Charter may be progressive. This is the case with the Assembly draft. It presupposes some machinery for planning programmes of implementation by stages and for control.

9. In drawing up the draft articles which follow, the Secretariat could hardly ignore the fact that the Consultative Assembly now has submitted to the Committee of Ministers the above mentioned draft Charter. It is true that the Assembly did not consider this text as final, since it recommended to the Committee of Ministers "to establish a European convention on social and economic rights, taking into consideration the present draft and the observations and suggestions made during the debates in public session, in this matter". However, the differences of opinion in the Assembly which led to this formulation, that was very carefully chosen, although bearing to some extent also on the substance of the draft, concerns much more the institutional and procedural aspects of it.

10. The draft articles contained in the present paper may be considered to be too elaborate, particularly as compared to those provisionally adopted by the Committee at its Third Session. It appears, however, from the remarks of certain delegations set out in Appendix IV to Doc. CM (56) 63, as well as from subsequent observations by certain Governments, that even some Governments who may not accept a binding instrument feel that the provisions of the Charter should be worked out in some detail.

In these circumstances, the Secretariat has considered it preferable to prepare somewhat elaborate texts, which may, with relatively small efforts, be redrafted on more general lines if the Committee so wishes.

PART IDRAFT TEXTS OF NEW ARTICLES CORRESPONDING
TO THE FIELD COVERED BY THE SECOND QUESTIONNAIRE

Individual and collective rights and principles connected with the existing system of worker/management relations.
(With particular reference to: (a) association and collective action; (b) collective bargaining; (c) joint consultation and other means of collaboration between workers and employers; (d) provision for settlement of labour disputes).

Considerations:

Among the Governments which have replied to the Questionnaire, there is a majority in favour of binding provisions concerning points (a) and (b) above. With regard to (c) and (d) the contrary is the case⁽¹⁾.

The following Member States have ratified ILO Convention No. 87 on Freedom of Association and protection of the Right to Organise: Austria, Belgium, Denmark, France, Iceland, Ireland, Netherlands, Norway, Sweden, United Kingdom.

The following have ratified Convention No. 98 on the Right to Organise and Collective Bargaining: Austria, Belgium, Denmark, France, Federal Republic of Germany, Iceland, Ireland, Norway, Sweden, Turkey, United Kingdom.

⁽¹⁾ It should, however, be stated, both in this connection and with regard to other rights, that two of the Governments which have indicated their wish to see the Charter established as a binding instrument had not, at the date of the preparation of this paper, replied to the Questionnaire.

Certain Governments have referred to these conventions and stated that the Charter should be in harmony with them.

There is no ILO convention on worker/employer consultation, but there is a Recommendation (No. 94 of 1952) concerning consultation and co-operation on matters of mutual concern not within the scope of collective bargaining machinery. There is also a number of resolutions of the Conference and other organs of the I.L.O. stressing the importance of such consultation and co-operation.

The term "collective action" should presumably be taken to mean or include strike. ILO conventions and recommendations contain no explicit recognition of the right to strike, but it is implicitly recognised for example in Recommendation No. 92 of 1951 on voluntary conciliation and arbitration, as well as in several Conclusions of the Governing Body Committee on Freedom of Association. The draft Charter of the Assembly contains express recognition of the right to strike.

Draft text. Alternative I (Declaratory):

See ILO Workers and employers have the right to form local, national or international organisations and to join national or international organisations of their own choice for the protection of their economic and social interests, subject only to restrictions prescribed by law in the interest 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 provision 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.

(2)

See ILO Conv. 98, Art. 5. The signatory Governments will endeavour to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

See Assem- bly draft, Art. 1, D. The signatory Governments will endeavour to encourage and promote the development and utilisation of organs of joint consultation and co-operation of workers and employers, both on the level of the undertaking and on the industrial and the national level.

See Assem- bly draft, Art. 1, E. Adequate machinery, including organs for conciliation and arbitration, should be set up for the settlement of labour disputes, whether the dispute is of a legal nature or a conflict of interest.

Workers and employers have the right to take collective action, including stoppage of work, in case a conflict of interest cannot be settled by the means referred to in the preceding paragraph.

Alternative II:

With a view to ensuring or promoting the exercise of the rights of workers and employers in their mutual relations, the H.C.P.

1. undertake to grant workers and employers every opportunity to form local, national or international organisations of their own choice for the protection of their economic and social interests, subject only to restrictions prescribed by law in the interest 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. National law shall not be such as to impair, nor shall it be so applied as to impair, this guarantee. This provision 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;
- See ILO Conv. 87, Art. 8 (2).

2. undertake to set up, where necessary, machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. undertake to grant workers and employers the right to collective action, including stoppage of work, in case a conflict of interest cannot be settled by the means referred to in paragraph 4 of this Article.
4. will endeavour to set up adequate machinery, including organs for conciliation and arbitration, for the settlement of labour disputes, whether the dispute is of a legal nature or a conflict of interest;
5. will endeavour to encourage and promote the development and utilisation of organs of joint consultation and co-operation of workers and employers, both on the level of the undertaking and on the industrial and the national level.

Right of the disabled to rehabilitation and resettlement whatever the cause and nature of the incapacity.

Considerations:

All the Governments who have replied to the Questionnaire prefer a declaratory provision. The replies refer to a wide range of measures, such as: Vocational training and special industrial rehabilitation courses, including the creation of special institutions for this purpose; training allowances and other forms of financial aid; special placing services; sheltered employment; obligation on the part of employers to employ a certain quota of disabled persons; conversion of certain installations so as to fit disabled persons; aid to purchase various surgical appliances, invalid carriages, etc. or for the establishment of independent business, as well as other forms of economic aid.

Chapter V of International Labour Recommendation No. 88 (1950) sets out certain principles for the vocational training of disabled persons, and Recommendation No. 99 (1955) deals with principles and methods for enabling disabled persons to prepare for, and have reasonable prospects of recovering and retaining, suitable employment.

Draft text:

See ILO Rec. 88, Arts. 26 and 27 Disabled persons have the right to rehabilitation and resettlement, whatever the origin and nature of their disability and whatever their age, insofar as medical and educational conditions permit and so long as there are reasonable possibilities of training and employment.

For this purpose adequate measures should be taken for the provision of training facilities, including special institutions where necessary.

Adequate measures should be taken for the placing of disabled persons in employment, such as special placing services, facilities for sheltered employment, and measures to encourage employers to admit disabled persons to employment.

Cash allowances and other forms of aid should be available to permit disabled persons in need of such aid to take advantage of existing training facilities or to purchase necessary surgical appliances or other equipment needed to enable them to carry out their work.

Right of nationals of member countries to access to employment in other member countries.

Considerations:

Certain Governments have seen this question partly as one of not preventing their own nationals from seeking employment abroad, and so far as this aspect is concerned, one Government would include it in the Charter in binding form. The same Government states that as regards the right to be assigned work abroad, it should not be included in the Charter in any form. Another Government states that Article 12 of the European Convention on Establishment should be sufficient in this field. The other Governments who replied, were of the opinion that the right to access to employment in other countries should be inscribed in the Charter in a declaratory form.

The Articles of the European Convention on Establishment which are of particular interest in this connection are:

Article 10

Each Contracting Party shall authorise nationals of the other Parties to engage in its territory in any gainful occupation on an equal footing with its own nationals, unless the said Contracting Party has cogent economic or social reasons for withholding the authorisation. This provision shall apply, but not be limited, to industrial, commercial, financial and agricultural occupations, skilled crafts and the professions, whether the person concerned is self-employed or in the service of an employer.

Article 12, which states that the rights mentioned in Article 10 shall be enjoyed without the restrictions of that Article by aliens who:

- (a) have been lawfully engaged in a gainful occupation in the country concerned for five years without interruption;
- (b) have resided lawfully in the country for ten years without interruption;
- (c) have been admitted to permanent residence.

However, the second paragraph of Article 12 weakens the article very considerably by allowing the Governments a great latitude to make conditions stricter.

The system established by the O.E.E.C. for the liberalisation of the circulation of manpower appears to go further and to be more precise than the above mentioned provisions. A Member of the O.E.E.C. shall raise no objections to applications from foreign workers if after a period of one month it has not been possible to fill a vacancy with a national worker. With regard to renewal of working permits, there is a distinction between cases where the foreign worker has been employed in the country during less than five years and cases where he has been employed for five years or more. In the latter case, renewal must be granted unless "imperative reasons of national policy necessitate an exception". In the former case, renewal may be refused for less strict reasons.

In general, all Member States apply some system of working permits for foreign workers, and the most the Social Charter could aim at, would presumably be a liberalisation of the rules governing the granting and renewal of such permits. Nor may one, in view of the fairly recent developments in this field both in the Council of Europe and in the O.E.E.C. expect that the Charter could lay down precise, detailed rules more liberal than those existing.

The term "access to employment" may be more or less strictly interpreted. Strictly speaking, as a technical term, it does not cover the free circulation of manpower in the sense that a worker may go to another country in search of employment. It covers only the situation where the worker is already in touch with a foreign employer who has a job for him. In the Social Charter it should, however, presumably be taken in the broadest possible sense. In order not to fall short of the European Convention on Establishment, the Charter should even apply to independent workers, the free professions, etc.

Draft text:

The Governments signatory to this Charter accept as an aim of policy the establishment of conditions permitting the nationals of any of them to engage in any gainful activity in the territory of any of the others, on a footing of full equality with the nationals of the latter, subject only to restrictions based on considerations of security, public order and public health.

To this end, the signatory Governments will endeavour:

- (a) to apply existing restrictions in a spirit of moderation;
- (b) to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
- (c) to strive, individually and collectively within the framework of appropriate international organisations, to liberalise and harmonise national regulations governing the granting of working permits to aliens, to increase the period of validity of such permits and to extend their validity to larger sectors of economic activity, as well as to reduce the periods of employment or residence required for the alien to obtain full freedom to engage in any gainful activity.

The signatory Governments will permit their own nationals to engage in gainful activity in the territories of other signatory Governments without restrictions.

Right of migrant workers to protection and assistance.Considerations:

Among the Governments who have replied to the Questionnaire, there is a large majority in favour of a declaratory provision in this case. One Government even wishes to restrict the principle to the field of social security. On the other hand, one Government states that if the definition of this right does not go beyond the contents of ILO Convention No. 97, the provision should be binding.

The following Member States have ratified ILO Convention No. 97 concerning Migration for Employment: Belgium, France, Italy, Netherlands, Norway, United Kingdom.

The contents of the right in question must presumably correspond to the basic provisions of this Convention. Whereas the Convention, however, by definition applies only to workers who are engaged by employers in a foreign country, the Charter might extend the protection and assistance also to independent workers, in so far as the measures in question are of such a nature that they can apply to independent workers. It should be recalled in this connection that the European Convention on Establishment, as well as the above draft article of the Charter concerning access to employment, cover also self-employed persons.

ILO Convention No. 97 provides, amongst others, for equality of treatment with regard to social security, and some Governments have stressed this point in their replies. Since the Social Charter will contain a special article on social security rights, and since it was understood at the last Session of the Social Committee that this article would cover the problem of equal treatment, there would be an overlapping if this question were dealt with also in the article on protection of migrant workers. On the other hand it would not be desirable to deal with equal treatment in the field of social security only in the article concerning protection of migrant workers, particularly if it is not agreed that the latter article should cover wider categories than wage earners. This might lead to a too restricted interpretation of the provision for equal treatment with regard to social security. For these reasons it is suggested not to refer to social security in the article on the protection of migrant workers.

Draft text, alternative I (Declaratory):

Migrant workers have the right to protection and assistance. With a view to the exercise of this right measures should be taken:

- See ILO
Conv. 97,
Art. 2 and
3.
1. to provide adequate and free services to assist migrants, particularly in obtaining accurate information, and to avoid misleading propaganda relating to emigration and immigration;
- Idem,
Art. 4
and 5.
2. to facilitate the departure, journey and reception of migrants, and to provide appropriate services for health control and medical attention;
3. to secure for migrants equal treatment with nationals in regard of the following matters:
- Idem,
Art. 6.
- (a) in so far as such matters are regulated by law or regulation, or are subject to the control or influence of public authorities:
- (i) remuneration and other employment and working conditions;
- (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
- (iii) accommodation;
- (b) employment taxes, dues or contributions payable in respect of employed persons, and
- (c) legal proceedings relating to matters referred to in this Article.
- Idem,
Art. 8.
4. to secure that migrants, subject to the completion of a reasonable period of employment or residence, are adequately protected against involuntary repatriation or expulsion;
- Idem,
Art. 9.
5. to permit, within legal limits, the transfer of such parts of the earnings and savings of the migrant as he may desire.
6. to extend the protection and assistance provided for in this Article also to self-employed migrants in so far as such measures apply to this category.

Alternative II:

With a view to ensuring or promoting the exercise of the rights of migrants to protection and assistance, the R.C.I.

1. undertake to provide adequate and free services to assist migrants, particularly in obtaining accurate information, and to take measures to avoid misleading propaganda relating to emigration and immigration;
2. undertake to adopt appropriate measures to facilitate the departure, journey and reception of migrants, and to provide appropriate services for health control and medical attention;
3. will endeavour to secure for migrants equal treatment with nationals in regard of the following matters:
 - (a) remuneration and other employment and working conditions;
 - (b) membership of trade unions and enjoyment of the benefits of collective bargaining;
 - (c) accommodation;
4. undertake to secure for migrants equal treatment with nationals in regard of the matters referred to in the preceding paragraph in so far as such matters are regulated by law or regulation, as well as in regard of the following matters:
 - (a) employment taxes, dues or contributions payable in respect of employed persons, and
 - (b) legal proceedings relating to matters referred to in this Article;
5. undertake further:
 - (a) to secure that migrants, subject to the completion of a reasonable period of employment or residence, are adequately protected against involuntary repatriation or expulsion;

- (b) to permit, within legal limits, the transfer of such parts of the earnings and savings of the migrant as he may desire;
- (c) to extend the protection and assistance provided for in this Article also to self-employed migrants in so far as such measures apply to this category.

Against both these alternatives one may raise the objection (amongst others) that in so far as other articles of the Charter apply to "everyone", or to "all employed persons", the article on migrants could be restricted to measures of protection and assistance for migrants as such. In that case it would not be necessary in the Article on migrants to provide for equality of treatment.

Provision of facilities for vocational guidance and training.

Considerations:

None of the Governments who have replied to the Questionnaire wish to include in the Charter a binding provision of this kind.

There is no ILO Convention concerning this matter, but several Recommendations, such as Rec. No. 57 on Vocational Training, No. 87 on Vocational Guidance, and No. 88 on Vocational Training of Adults.

In the article dealing with the right to work, the Social Committee has already included a reference to the provision of "vocational guidance and adequate opportunities for training". The corresponding article of the Assembly draft contains a similar provision (in binding form).

If the Charter should contain a special article on vocational guidance and training it appears obvious, therefore, that it should set out in some detail the nature and organisation of such guidance and training, and in that case it would be natural to base it on the main principles of the above-mentioned ILO Recommendations, which correspond to some extent with the description of the national services of this kind given in some of the replies of the Governments to the Questionnaire.

Draft text:

The signatory Governments recognise that the provision of adequate facilities for vocational guidance and training is essential, not only to the individual in choosing and exercising an occupation suited to his personal aptitude and likely to give him full opportunity for personal development and satisfaction, but also to society as a whole in putting available manpower to the best possible use, thus stimulating productivity and facilitating the maintenance of full employment.

With these aims in view, the signatory Governments will endeavour:

1. to provide or promote the provision of the following facilities:

See ILO
Rec. 87,
I, 1.

- (a) assistance to individuals in solving problems related to occupational choice and progress with due regard for the individuals' characteristics and their relation to occupational opportunity; such assistance to be available both to young persons, including school children, and to adults.

See ILO
Rec. 57.

- (b) technical and vocational education and training according to a general programme established in consultation with employers' and workers' organisations and adapted to suit the needs both of young persons who have not entered employment, and of adult workers, including theoretical and practical instruction in schools or institutions established for that purpose, as well as practical training during employment or in schools before employment where necessary;
- (c) a system of apprenticeship;
- (d) special facilities for retraining of adult workers where this is necessary as a consequence, particularly, of technological developments or of dislocations on the employment market;

2. to encourage the full utilisation of the facilities mentioned in this Article by appropriate measures, such as:
- (a) reducing or abolishing any fees or charges relating to vocational guidance and training;
 - (b) granting training allowances in appropriate cases;
 - (c) including in the normal working hours time spent on supplementary training courses during employment;
 - (d) ensuring, through adequate supervision, the efficiency of apprenticeship arrangements and the adequate protection of apprentices.

Rights relating to wages

Considerations:

Most of the rights or principles mentioned in the Questionnaire under this heading are included in various other international instruments.

Fair wages: The Universal Declaration of Human Rights (Art. 27) speaks of "the right to just and favourable remuneration", and the UN Draft Covenant on Economic and Social Rights includes, in Article 7, the right to fair wages.

Minimum wage: The right to a minimum wage is specifically referred to in the Philadelphia Declaration of the I.L.O. and in the Inter-American Charter of Bogota.

Equal pay for equal work: This right is included both in the Universal Declaration (Art. 23), the UN Draft Covenant (Art. 7) and in the Bogota Charter (Art. 2).

Extra pay for night work and over-time is specifically referred to in the Bogota Charter, Art. 12.

Protection of wages: Protection against attachment is included in the Bogota Charter, Art. 10.

Public holidays with pay: This right is also included in the Bogota Charter (Art. 14).

Wages in relation to productivity: Under the Philadelphia Declaration, workers shall have "a just share of the fruits of progress in regard to wages and earnings", and the Bogota Charter includes the right to annual bonus (Art. 9) and the right to a share in the profits (Art. 11).

Although the replies of the Governments refer to questions of wages as being generally within the scope of voluntary collective agreements, it appears that in many cases laws or regulations intervene. In France and the Saar there are legal provisions for a guaranteed minimum wage. Restricted regulations in this field also exist in Ireland (agriculture, apprentices and limited groups of other occupations) and Norway (home workers). Other countries have established wage fixing machinery for fixing minimum wages for certain workers. All the countries that have replied to the Questionnaire have legal provisions for the protection of wages, at least so far as a certain freedom from restraint is concerned. Six Governments state that they have legal provisions governing notice of dismissal. Laws or regulations govern the question of extra pay for night work and over-time in France, Ireland (night work in industry between 8 p.m. and midnight, as well as over-time), Netherlands (partially), Norway (over-time), Saar, Turkey.

Equal pay for equal work is guaranteed by Constitution in Italy and by law in Saar and Turkey.

Some statutory provisions concerning the right to public holidays with pay exist in Ireland (certain classes of workers), Saar, Turkey and the United Kingdom. A bill is in preparation in the Netherlands.

With regard to the inclusion of rights relating to wages in the Charter, the replies are not always clear, but there is in any case a majority in favour of including all the rights mentioned in the Questionnaire in a declaratory form. The Danish Government does not wish to include the right to a fair wage, the right to a guaranteed minimum wage and the right to wages in relation to increased productivity. The Government of Ireland does not wish to include the right to a minimum wage and the right to wages in relation to family responsibilities. On the other hand, the Governments of France, the Netherlands and Saar are ready to accept binding provisions concerning certain of the rights involved.

The main instruments adopted by the I.L.O. in the field of wages are the following:

- (a) Equal Remuneration Convention, 1951 (No. 100). It is ratified by Austria, Belgium, France, Federal Republic of Germany, Italy.
- (b) Minimum Wage Fixing Machinery Convention, 1928 (No. 26). It is ratified by: Belgium, France, Federal Republic of Germany, Ireland, Italy, Netherlands, Norway, United Kingdom.
- (c) Minimum Wage Fixing Machinery Recommendation, 1928 (No. 30).
- (d) Minimum Wage Fixing Machinery Convention (Agriculture), 1951 (No. 99). It is ratified by: Austria, France, Federal Republic of Germany, Netherlands, United Kingdom.
- (e) Corresponding Recommendation, 1951 (No. 89).
- (f) Wages, Hours of Work and Manning (Sea) Convention, 1949 (No. 93). This Convention provides, inter alia, for a basic monthly wage. It is not ratified by any Member of the Council of Europe.
- (g) Labour Clauses (Public Contracts) Convention, 1949 (No. 94). It deals with the protection of wages. It is ratified by: Austria, Belgium, Denmark, France, Italy, Netherlands, United Kingdom.
- (h) Protection of Wages Convention, 1949 (No. 95). It is ratified by: Austria, France, Greece, Italy, Netherlands, Norway, United Kingdom.

Draft text. Alternative I (Declaratory):

See Pre- All employed persons have the right to fair wages,
amble to sufficient in all cases to provide them and their
ILO Con- families with an independent and decent livelihood.
stitution,

and Art. To the end that this right may be effectively
36 of the exercised, the signatory Governments recognise the
Constitu- following principles and will, within the limits of
tion of their constitutional and national procedures,
Italy. endeavour to take appropriate steps to apply them
or encourage their application:

- (a) A minimum wage adjusted to the cost of living should be established, and it should be unlawful to fix individual wages at a lower level;
- (b) Work which at the request of employers is exercised in addition to normal working hours or at such hours that it is considered, under national regulations or practice, as night work, should be paid at increased rates, the increase to be at least 25 per cent of normal rates;
- (c) All employees should be entitled to their normal wages on recognised public holidays. Work exercised on such days should be paid at increased rates;

See Phila- (d)
delphia systems of payment or otherwise, to secure for
Declaration all employees a fair share of increased pros-
Annex, III perity resulting from increased productivity;
(d).

(e) Subject to systems of wage differentiation based on length of service or similar factors, no discrimination of whatever nature should be made in the fixing of wages. In particular, women should be entitled to the same wages as men for work of equal value.

See ILO Conv. No. 100 and No. 97.

See ILO Conv.Nos. 30 and 99 Appropriate minimum wage fixing machinery should be established for groups of employees not covered by collective agreements or subject to special wage regulations.

See ILO Conv.Nos. 94 and 95. Appropriate measures should be taken to ensure that wage-earners may dispose of the full amount of their wages, including, particularly, measures to restrict the right of employers to make deductions from the wages, as well as measures to protect wages, within prescribed limits, against distraint and against the consequences of the bankruptcy of employers.

Appropriate measures should be taken to protect employees against arbitrary dismissal, and to provide in all cases for a reasonable notice of dismissal.

Alternative II:

With a view to ensuring for all employed persons the right to fair wages, sufficient in all cases to provide them and their families with an independent and decent livelihood, the H.C.P., within the limits of their constitutional and national procedures,

1. will endeavour to establish a guaranteed minimum wage and to prohibit the fixing of individual wages at a lower level; to take measures, through appropriate systems of payment or otherwise, to secure for all employees a fair share of increased prosperity resulting from increased productivity, and to secure for all employees the right to normal wages on public holidays as well as pay at increased rates for work on such days;
2. undertake to:
 - (a) secure for all employees increased wage rates, the increase to be at least 25 per cent of normal rates, for work exercised at the request of employers in addition to normal working hours or at such hours that it is considered, under national regulations or practice, as night work;

./.

- (b) abolish discrimination of whatever nature in the fixing of wages, subject to systems of wage differentiation based on length of service or similar factors, and in particular to secure for women employees the same rates of wages as paid to men for work of equal value;
- (c) establish a minimum wage fixing machinery for groups of employees not covered by collective agreements or subject to special wage regulations;
- (d) ensure that wage-earners may dispose of the full amount of their wages, and, particularly, to take measures to restrict the right of employers to make deductions from the wages, and to protect wages, within prescribed limits, against distraint and against the bankruptcy of employers; and
- (e) take adequate measures to protect employees against arbitrary dismissal; to provide for a reasonable notice of dismissal, and to prohibit dismissal on the grounds of maternity or military service.

In the article on just conditions of work provisionally adopted by the Committee at its Third Session, a space was left open for a possible reference to rights relating to wages. In view of their basic importance, a separate article dealing with these rights may, however, be justified.

Rights relating to the family

Considerations:

Only one Government would favour the inclusion of such rights in the Charter in a binding form.

With regard to the nature of the rights or principles to be included under this heading, several Governments mention in their replies various social security benefits as well as measures to protect women in employment. In view of the fact that the Charter will contain a special article on social security rights, all measures of that nature should presumably be included in that article, and as regards protection during employment, the Committee has already adopted a provisional article for this purpose, and several delegations proposed to redraft that article in a more detailed form. It is suggested, therefore, that all measures of protection during employment should be included in that article as redrafted, see Part III of this paper.

Other measures mentioned in the replies are: Various forms of economic protection of the family, such as tax relief, ~~rent reduction~~, assistance to ~~conscripts'~~ families, advance payment by public authorities of maintenance allowances, etc.; establishment of maternity aid institutions for social counselling and legal and medical assistance; family counselling; general and special child welfare measures, including particularly care for orphans and for children in social or moral danger; guardianship; measures concerning adoption; protection of children born out of wedlock (equal legal position); general legislation regulating the relation between marital partners as well as between parents and children born in wedlock.

Since the legislation of the latter type is concerned with the legal position of marital partners and children in relation to one another, it falls presumably outside the scope of an article dealing with the rights of the family as such.

With regard to the other measures mentioned above, a distinction may be made between those which relate to the family as such and those which concern mothers and children irrespective of marital status and family relations. In view of this, and following the example of the Consultative Assembly, it is suggested to cover this field by two separate articles.

The right of the family to social and economic protection

Draft text, Alternative I (Declaratory):

See Art.1 (J) of the draft Charter appended to Rec.104 (1956) of the Consultative Assembly. The signatory Governments recognise the importance of the family as a fundamental unit of society. With a view to ensuring the economic and social protection of family life, the following measures should be taken, directly or in co-operation with local authorities and competent private organisations:

- (a) the grant of allowances in proportion to the number of children;
- (b) cheap loans for the founding of homes;
- (c) preferential allocation of housing to families and persons wanting to marry, and rent reduction (or reduction of interest on building loans) for low income families with many children;
- (d) allowances to families who need such assistance because the breadwinners are subject to military service;
- (e) tax reductions related to the size of the family;
- (f) organisation of home help services;
- (g) organisation of family counselling.

Alternative II:

1. The H.C.P., recognising the importance of the family as a fundamental unit of society, will endeavour to ensure the economic and social protection of family life.
2. They undertake to make available or to encourage the provision of the following facilities and advantages:
 - (a) to (g) as above.

The right of mothers and children to social and economic protection

Draft text, Alternative I (Declaratory):

See Art.1
(K) of the
draft Charter
appended
to Rec.104
(1956) of the
Consultative
Assembly.

Mothers and children, irrespective of marital status and family relations, are entitled to special protection. For this purpose the following measures should be taken:

For the protection of mothers:

- (a) provision for the necessary economic and other assistance during a reasonable period before and after childbirth, in all cases not covered by social security or otherwise;

- (b) establishment, directly or in collaboration with local authorities or appropriate private organisations, of a sufficient number of maternal and infant welfare centres, capable of providing social counselling as well as medical and legal assistance.

For the protection of children:

- (a) provision for general child welfare services;
- (b) provision for specialised organs with powers to prevent the neglect of children;
- (c) measures to ensure that every minor is provided with a guardian and to regulate guardianship by law;
- (d) establishment of special services, including appropriate institutions, for homeless children and young persons who are physically or mentally handicapped, and for juvenile delinquents and children in social or moral danger;
- (e) measures to protect the interests of minors in case of adoption;
- (f) measures to prevent legal discrimination against children born out of wedlock.

Alternative II:

1. The H.C.P. will take all necessary measures for the effective protection of mothers and children, irrespective of marital status and family relations, including the establishment or maintenance of appropriate institutions for the purpose.
2. They undertake, for the protection of mothers:
 - (a) and (b) as above, with the necessary change of form.
3. They undertake, for the protection of children:
 - (a) to (f) as above with the necessary change of form.

PART II

DRAFT TEXTS INTENDED TO COVER THE FIELDS
OF SOCIAL SECURITY AND SOCIAL ASSISTANCE

Considerations:

It appears from the conclusions of the Third Session of the Social Committee that these provisions should be based on the work undertaken by the Committee of Experts on Social Security and that a reference should be made to the desirability of eliminating obstacles to the free movement of manpower arising out of social security legislation.

It is obviously impossible in the Social Charter to enter into the details regarding provisions for social security. The most practical method is presumably the one adopted by the Assembly, which involves a reference to the European Code of Social Security. It is, however, not sufficient in a Charter which is intended to set the aims of social policy, simply to provide for the ratification of the Code, since such ratification can be effected on the basis of compliance with a limited number only of the nine branches of social security covered by the Code. Moreover, it should be taken into account that an instrument is in preparation which will embody standards considerably higher than those laid down in the Code.

Certain Governments stated in their replies to the question concerning rights relating to the family that social security benefits should be adjusted to family responsibilities. Such a provision might of course be included, but it should not be strictly necessary, because benefit rates are fixed in the Code in relation to so-called "standard beneficiaries" (for example a man with wife and two children), on the understanding that benefits should be higher for beneficiaries with greater family responsibilities.

With regard to the question of equal treatment as between nationals and aliens, the Assembly draft refers to the European Interim Agreements on Social Security. This is practical, but has the disadvantage that these agreements are of a provisional nature and may be replaced by another instrument.

Draft texts:

Social security:

Alternative I (Declaratory):

See Art. 1 (H) of the Charter appended to Rec. 104 (1956) of the Assembly.

Everyone has the right to social security. With a view to ensuring the exercise of this right, the social security systems of the signatory Governments should be raised to a satisfactory level, based on standards at least equal to those laid down in the European Code of Social Security for the following types of services: medical care, benefits relating to sickness, unemployment, old age, employment injury, family benefits, maternity benefits, invalidity benefits and survivors' benefits.

The signatory Governments should take steps, through the conclusion of appropriate bilateral and multilateral agreements, to ensure full equality of treatment with regard to social security rights as between their own nationals and nationals of other signatory Governments, as well as to provide for the maintenance of social security rights acquired or in acquisition by migrants, nationals of any of the signatory Governments.

Social security benefits should be fixed with due regard to the family responsibilities of the beneficiary. They should be adjusted to meet any currency depreciation.

Alternative II:

With a view to ensuring the exercise of the right to social security, the H.C.P. undertake to:

1. raise their systems of social security gradually to a satisfactory level, basing themselves on standards at least equal to those laid down in the European Code of Social Security for the following types of services: (enumeration as above).
2. take steps, through the conclusion, etc. (as above).
3. ensure that social security benefits are fixed with due regard to the beneficiary's family responsibilities and that they are adjusted to meet any currency depreciation.

Social Assistance:Alternative I (Declaratory):

Everyone without sufficient resources and not entitled to adequate benefits under a social security scheme should be granted the necessary means of subsistence and, in case of sickness, the care necessitated by his condition.

See Art. 7 (b) of the European Convention on Assistance.

Such assistance should be granted by any signatory Government also to nationals of any other signatory Government who are legally present in its territory, subject to prescribed procedures of repatriation. Such procedures should be applied with the greatest moderation and only where there is no objection on humanitarian grounds.

Alternative II:

With a view to ensuring the exercise of the right to social and medical assistance, the H.C.P. undertake:

1. to adopt adequate provisions by which every person who is without sufficient resources and not entitled to adequate benefits under a social security scheme be granted the necessary means of subsistence and, in case of sickness, the care necessitated by his condition.
2. to apply the provisions referred to in the preceding paragraph on an equal footing to nationals of the other E.C.F. legally present in their territories, subject to prescribed procedures of repatriation.
3. not to have recourse to repatriation except in the greatest moderation and then only where there is no objection on humanitarian grounds.

PART III

NEW DRAFT TEXTS OF THE ARTICLES PROVISIONALLY
 ADOPTED BY THE COMMITTEE AT ITS THIRD SESSION
 (BASED ON THE OBSERVATIONS OF DELEGATIONS
 AND GOVERNMENTS) (1)

Article 2: The right to work:

The Irish Government has proposed to draft this article in terms more general than those adopted provisionally by the Social Committee and to omit any specification of the machinery to be employed by Governments for the maintenance of a high and stable level of employment. On the other hand, several delegations expressed, at the Third Session of the Committee, the wish to see further details included in the text.

Draft text, Alternative I (Declaratory):

Everyone has the right to earn his living by work which he freely accepts.

Dutch and
 Swedish
 amendment.
 Irish am-
 endment.
 U.K. am-
 endment.
 Danish
 amend-
 ment.

To the end that this right may be effectively exercised, the signatory Governments will endeavour, inter alia through the establishment of long-term development programmes, including the planning of public works, to achieve and maintain a high and stable level of employment and, by providing adequate free public labour exchanges, vocational guidance and adequate assistance in or opportunities for training as well as appropriate educational services for workers, to assist in the realisation of the aim that all may have the opportunity of working in the occupation best suited to their capabilities and aptitudes.

(1) See Doc. CM (56) 63, Appendices III and IV, and Doc. CE/SOC (56) 14.

Belgian
and Greek
amendment

All restrictions on the right to work should be abolished, with the exception of those needed to protect the standard of certain professions, and those necessary to protect women and young workers, or for public health reasons.

Alternative II: (4)

With a view to ensuring the exercise of the right to work, the H.C.P.

1. recognise that everyone should have an opportunity to earn his living in a freely accepted occupation;
2. accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of [productive] employment [through the pursuance of policies which will ensure adequate opportunities for work, such as, for example, the fixing of national employment targets, the preparation of national manpower budgets, and the establishment of long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation];
3. undertake to:
 - (i) establish or maintain the freedom from any restrictions on the right to work, with the exception of those imposed by the need to assure the technical qualifications required in certain professions; those aiming solely at the protection of children, adolescents and women against the risks inherent in certain prescribed occupations, and those needed for purposes of public health.

(4) See Article 11 (A) of the draft Charter appended to Rec. 104 (1956) of the Assembly.

- (ii) protect effectively the right of the wage-earner freely to choose any available occupation;
- (iii) establish or maintain both general and specialised free employment services;
- (iv) promote appropriate educational services and vocational guidance, training and rehabilitation.

Article 3: Just conditions of work:

A large number of delegations proposed various additions to this article. Among these proposals there were several dealing with rights relating to wages. These proposals have been taken into account in the draft article on wages contained in Part I above.

This raises the more general question of the proper delimitation of the various articles. Thus, the above mentioned draft article on wages contains a provision for notice of dismissal as well as protection against arbitrary dismissal. These provisions might well have been included in the article on just working conditions. And the present Article 4 corresponds to what in the Assembly draft is included in the Article on just working conditions under the heading "safe and healthy working conditions".

Draft text, Alternative I (Declaratory):

All employed persons have the right to just conditions of work. To the end that this right may be effectively exercised, the following measures should be taken by all signatory Governments; in so far as these measures are not put into effect by means of collective agreements or in any other way appropriate to national conditions:

Dutch amendment to Art. 4.

1. Provision for adequate protection of life, health and morals during work;

Amendments proposed by the Delegations of Belgium, Denmark, France, Greece, Luxembourg and Netherlands.

2. Fixing of reasonable daily and weekly working hours, the working week to be progressively reduced, to the extent that the increase of productivity and other relevant factors permit, the aim being the establishment of the 40-hour week as a maximum, subject to essential adjustments for certain occupations, and without reduction of wages; (1)

3. Provision for a minimum of two weeks' (2) annual holidays with pay, and additional paid holidays for workers engaged in dangerous or unhealthy occupations as prescribed;

Belgian and Dutch amendment.

4. Provision for a guaranteed weekly rest period (of at least 32 hours).

Italian amendment.

Renunciation of the rights referred to in this Article should be without legal effect, except with regard to weekly rest and annual holidays with pay.

Alternative II:

With a view to ensuring the exercise of the right of all employed persons to just working conditions, the H.C.P. undertake to adopt the following measures, in so far as such measures are not put into effect by means of collective agreements or in any way appropriate to national conditions:

-
- (1) The European Regional Organisation of the International Confederation of Free Trade Unions adopted, at its Congress at Frankfurt in May 1956, a Resolution calling for the immediate or gradual reduction of the working week to 40 hours.
 - (2) The following Delegations could accept precise provisions determining the duration of the annual holidays: Belgium, Denmark, Italy, Luxembourg, Netherlands, Norway, Sweden.

(1) to (4) as above.

Renunciation of the rights referred to in this Article shall be without legal effect, except with regard to weekly rest and annual holidays with pay.

Article 4: Protection of life and health:

The contents of this article would be covered by point (1) of the above new draft of Article 3.

Article 5: Protection of children and young persons:

Several Delegations proposed the inclusion of various detailed provisions in this article. The corresponding article as drafted by the Assembly was referred to as a basis.

Draft text, Alternative I-(Declaratory):

All children and young persons have the right to a special protection against the physical and moral hazards of their work.

With a view to ensuring the exercise of this right, the following measures should be taken by all signatory Governments, in so far as these measures are not put into effect by means of collective agreements or in any other way appropriate to national conditions:

- | | |
|---|---|
| Amendments of Belgium, Italy and Netherlands. | 1. The minimum age of admission to employment should be 15 years, provided that children over 14 years of age may be employed in prescribed light work; |
| Belgian amendment. | 2. A higher minimum age of admission to employment should be fixed with regard to prescribed occupations regarded as dangerous or unhealthy. |

See Art. 1
(C) of the
draft appen-
ded to Rec. 101.

3. The employment of children under the pre-
scribed minimum age, as well as the employment
of children or young persons in work which is
physically or morally injurious should be
punishable by law;

- " -

4. Persons of under 16 years of age who are still
subject to compulsory education should not be
employed in such work as would deprive them
of their education;

- " -

5. The working day of persons under 16 years of
age should be in accordance with the needs of
their development and particularly with their
need for vocational training;

- " -

Belgian and
Dutch amend-
ment.

6. Employed persons of under 18 years of age
should be entitled to not less than three
weeks' annual holiday with pay;

Amendment of
Belgium, Italy
and Netherlands.
Amendment of
Belgium, Italy
and Netherlands.

7. Persons of under 18 years of age should not
be employed in night work;

8. Employed persons of under 21 years of age
should be subject to regular medical control.

Alternative II:

With a view to ensuring the exercise of the
right of children and young persons to a
special protection against the physical and
moral hazards of their work, the H.C.P. under-
take to adopt the following measures, in so
far as such measures are not put into effect
by means of collective agreements or in any
other way appropriate to national conditions:

(1) to (8) as above, with the exception that
the word "should" be replaced by "shall"
throughout.

Article 6: Protection of women:

The Delegations of Belgium, France, Greece and Italy proposed to draft this article in a more elaborate way. The French Delegation referred in this case to the suggestions contained in Doc. CE/Soc (56) 4 concerning the contents of this article.

The Irish Government has proposed an amendment which, in harmony with the Irish Constitution, would stress the principle that mothers should not be obliged by economic necessity to engage in labour to the neglect of their duties in the home. The purpose of this amendment would to some extent be covered also by the introduction to the proposed article dealing with rights relating to wages, where it is said that wages should be sufficient to provide employed persons and their families with an independent and decent livelihood.

Draft text, Alternative I (Declaratory):

See Irish amendment in Doc. CE/SOC (56) 14.

Subject to the principle that mothers should not be obliged by economic necessity to engage in work to the neglect of their duties in the home, all employed women, and particularly expectant or nursing mothers, have the right to a special protection in their work.

With a view to ensuring the exercise of this right, the following measures should be taken by all signatory Governments, in so far as these measures are not put into effect by means of collective agreements or in any other way appropriate to national conditions:

- See Art. 1 (C) of Assembly draft and Belgian amendment (night work)
1. The employment of women in work which is physically or morally injurious, including night work, should be punishable by law;

See Belgian amendment and ILO Conv. 103.

Belgian and Greek amendment.

Italian amendment.

2. Expectant mothers should be granted leave with pay before and after childbirth up to a total of at least 12 weeks;
3. Dismissal from employment on grounds of maternity absence should be prohibited.
4. Mothers who are nursing their infants should be entitled to sufficient time off for this purpose, such time to be considered as included in the working hours;
5. Women should not be prevented by their work from fulfilling their functions in the family.

Alternative II:

The H.C.P. recognise the principle that mothers should not be obliged by economic necessity to engage in work to the neglect of their duties in the home and will endeavour to attain conditions in which this principle may be realised. Women should not be prevented by their work from fulfilling their functions in the family. They should be granted at least one day off per month for this purpose.

With a view to ensuring the exercise of the right of employed women, and particularly expectant or nursing mothers, to a special protection in their work, the H.P.C. undertake to adopt the following measures, in so far as these measures are not put into effect by means of collective agreements or in any other way appropriate to national conditions:

(1) to (4) as above, with the exception that the word "should" be replaced by "shall" throughout.

The Committee decided at its Third Session to consider at its Fourth Session the rights listed in Appendix VII to Doc. CM (56) 63. It was further decided to include in a new Questionnaire the field of public health on the basis of a question to be drafted by the Committee of Experts on Public Health, and to consider the inclusion of "workers' education".

It is suggested to add to this list a question intended to ascertain to what extent Member States would be disposed to grant certain social and economic rights to refugees.

875

Section II

Documents of the Committee of Ministers

(November/December 1956)

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 29th November 1956

Confidential
Misc (56) 56

Cr. Eng.

EUROPEAN SOCIAL CHARTER

Explanatory Note by the
Secretariat-General

At their 42nd Meeting, the Deputies considered this question on a double basis:

1. Recommendation 104 of the Assembly.
2. Observations of the Belgian Government concerning the draft articles of the Charter provisionally adopted by the Social Committee.

In Recommendation 104, the Assembly recommends that the Committee of Ministers establish a European Convention on Social and Economic Rights, taking into consideration the draft appended to that Recommendation as well as the observations and suggestions made during the debates in public sessions of the Assembly. Moreover, the Committee of Ministers is invited to appoint without delay a Special Representative who shall work in close co-operation with competent governmental and non-governmental organisations in connection with the establishment of the said convention.

The Belgian declaration was to the effect that the Social Committee should be given more precise instructions concerning the way in which to direct its work on the Social Charter, the basic idea being that the Committee should not limit itself to a mere declaration of principles.

It appears therefore that two problems should be solved, if possible, before Recommendation 104 is transmitted to the Social Committee:

1. In which way and with which instructions should Rec. 104 be transmitted to the Social Committee?
2. Should a Special Representative be appointed, and in that case, what should be his functions?

oOo

The nature of the Charter

With regard to the first of the above questions, the natural point of departure would seem to be paragraphs 45 and 46 of the Special Message of the Committee of Ministers to the Assembly, of 20th May 1954.

These paragraphs read as follows:

- "45. Our Committee will endeavour to elaborate a European 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.
46. The preparation of the Charter would be entrusted to the Social Committee which would decide on the form and contents of the document and in particular consider whether in addition to general principles, it should contain more definite provisions binding upon the signatories."

It appears from this that what the Committee of Ministers had in mind was possibly something more than a mere declaration of principles.

The various Committees of the Assembly which have dealt with the matter, although having differing views on many points, all agreed that the Social Charter should be drawn up in the form of a real convention, binding upon the Governments. It appears, however, clearly from the draft convention appended to Rec. 104 that this does not mean that all the standards laid down in the draft convention would be immediately binding upon all the Governments. Nor does it exclude the realisation of these standards through other means than legislation, since the draft convention expressly recognises the implementation of the standards in question through collective agreements or other appropriate means.

The Social Committee on its side has hitherto provisionally adopted certain draft articles in a purely declaratory form and in very general terms. It should be noted, however, that several delegations to the Social Committee at its last session felt that this was not satisfactory. The provisions of the Charter should, in their view, be more detailed and precise, and they should at least to some extent be of a binding nature. And the Governments of Belgium, Italy and Sweden have, in their comments on the articles provisionally adopted by the Social Committee, made it clear that they favour the establishment of a binding convention.

If the Committee of Ministers should wish to support this point of view, the instructions to be given to the Social Committee might consist simply of a recognition in principle of the main lines of drafting followed in the draft convention appended to Recommendation 107, in so far as the articles of substance are concerned.

This would imply a binding nature of the Charter, but the difficulties of certain Governments in accepting such an instrument would be substantially reduced by the application of the following principles which are embodied in the draft presented by the Assembly:

1. Ratification of the Charter should not imply that its standards must necessarily be covered by legislation or other measures by public authorities. It would be sufficient that the standards in question are attained through collective agreements or any other means.
2. Implementation of the standards of the Charter need not be immediate, but may be attained by progressive stages, according to an agreed programme.

Appointment of a Special Representative

The Assembly has foreseen that the preparation of the Charter may necessitate close contacts with other organisations, particularly with the I.L.O. and the international workers' and employers' organisations. In this connection it should be mentioned that the Assembly has at various occasions expressed the view that the Charter should be submitted to a Tripartite European Conference when the draft text has reached a sufficiently advanced stage of preparation. The Assembly has also informed the Governing Body of the I.L.O. of its intention to recommend such a procedure. It appears from Recommendation 104 that it is with a view to facilitate contacts and procedures of this nature that the Assembly has recommended the appointment of a Special Representative.

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The exercise of this right may be realised by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Article 4

All employed persons have the right to adequate protection of life and health in their work.

Article 5

All children and young persons have the right to a special protection with a view to ensuring that they are not employed in work which is physically or morally injurious or otherwise unsuited to their age or which would prejudice their education or training.

Article 6

All employed women have the right to a special protection and particularly expectant or nursing mothers.

Article (1)

With a view to the effective exercise of the rights referred to in Articles 5, 4, 5 and 6, adequate inspection services should be provided by the competent authorities.

(1) This Article should be included at the end of the present part of the Charter, and as the replies of Governments to the new Questionnaire referred to in the body of the Report may lead to the inclusion of other Articles in this part, its number was left open.

A P P E N D I X

(Appendix III to Doc. CM (56) 65 -
Report of the Third Session of the Social Committee)

DRAFT ARTICLES COVERING RIGHTS RELATING TO
EMPLOYMENT AND WORKING CONDITIONS

Article 1⁽¹⁾

The Member States, signatories of this Charter, accept as an aim of policy to be pursued by all appropriate means both national and international in character the attainment of conditions in which the rights and principles set forth herein may be realised.

Article 2

Everyone has the right to earn his living by work which he freely accepts.

To the end that this right may be effectively exercised the signatory Governments will endeavour to achieve and maintain a high and stable level of employment and, by providing adequate free public employment services, vocational guidance and adequate opportunities for training, to assist in the realisation of the aim that all may have the opportunity of working in the occupation best suited to their capabilities and aptitudes.

Article 3

All employed persons have the right to just conditions of work (2), reasonable limitation of working hours, weekly rest and reasonable annual holidays with pay.

(1) This article was included in the draft text presented by the United Kingdom Delegation - Doc. CE/Soc (56) 7, referred to in the body of the Report. It was not discussed by the Committee at this stage, but it was decided to include it in the Report, on account of its general character which would have a bearing on the other articles.

(2) The question of remuneration, to which the original draft of this Article referred, must be taken up on the basis of the replies to the new Questionnaire.

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

EUROPEAN SOCIAL CHARTER

RESOLUTION (56) 25

(Adopted by the Committee of Ministers on 15th December 1956)

The Committee of Ministers,

CONSIDERING its undertaking, given in paragraph 45 and 46 of the Special Message of 20th May 1954 to the Consultative Assembly, to endeavour to elaborate a European 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;

CONSIDERING that the Social Committee, to which it assigned the task of preparing the Charter, submitted at the end of its third session a report which shows it has conceived the Charter as a declaratory instrument only with a series of provisions limited to the formulation of general principles;

CONSIDERING that a European Social Charter on these lines which does not contain specific provisions binding upon the signatory States is of doubtful value, since comparable international instruments such as the Universal Declaration of Human Rights already exist within the framework of the United Nations;

CONSIDERING that a measure of common action in the social field, and particularly the adoption of certain common social standards, is in conformity with the provisions of Article 1 of the Statute of the Council of Europe and would tend to reinforce the present trend towards closer economic co-operation in Europe;

HAVING TAKEN NOTE of Recommendation 104 of the Consultative Assembly and the draft Social Charter attached thereto :

INSTRUCTS THE SOCIAL COMMITTEE :

1. To direct its work in this field, in consultation with European employers' and trade union organisations, towards the establishment of a European Social Charter, taking into account the draft appended to Recommendation 104 of the Consultative Assembly and the deliberations of the Assembly;
2. To determine whether and, if so, how far, definite and detailed provisions binding upon the signatory States could be incorporated in the Charter, by providing for its implementation by stages and by recognising that this may be effected by means of collective agreements or other appropriate measures as well as by legislation;
3. To report to the Committee of Ministers on the results of its work by 1st July 1957, and to complete the drafting of the Social Charter by 31st December 1957;
4. To consider measures for the implementation of the Social Charter such as will enable employers' and trade union organisations to assist in supervising its implementation.