INTERNATIONAL LABOUR REVIEW

VOL. XV. No. 2. FEBRUARY 1927

The New German Labour Protection Bill

by

Dr. Johannes FEIG

Ministerial Councillor in the Federal Ministry of Labour

The Bill on Labour Protection which has just been published and is at present under discussion in Germany has been in preparation for some considerable time, and embodies the result of long study and deliberation by Government and other experts. It marks an important stage in the progress of German labour legislation. A committee was appointed in 1919 to prepare materials for a complete Labour Code, in accordance with the terms of the new Constitution. For reasons of expediency the Committee has found it necessary to submit to the Reichstag separate measures on various subjects which called for immediate regulation, and legislation has already been adopted on works councils, employment exchanges, conciliation, and labour courts. The present Bill deals with labour protection, including safety and hygiene, hours of labour (with special regulations for women and young workers and for night work in bakeries), the weekly rest, the closing of shops, and labour inspection. The most urgent, and the most important, part of the Bill is that dealing with hours of work, as the provisional regulations of the Hours of Work Order of 1923 give rise to serious objections from various quarters. The provisions on this subject are in general agreement with those of the Washington Hours Convention, the Bill being in fact intended to make possible the ratification of this and certain other international Conventions.

Much of the Bill necessarily repeats the provisions of existing legislation, co-ordinated, unified, and often improved, but there are many important innovations. The publication of the Bill has been awaited with much interest, not only in Germany, but in other countries as well, and readers of the Review *will undoubtedly welcome the following authoritative and detailed account of this important measure.*

HISTORICAL SURVEY

THE history of German social policy may be divided into four periods. The initial period of labour protection began with a Prussian Children's Protection Act of 1839 which was

modelled on British legislation for the protection of children during the period 1802 to 1833. In the Industrial Code of the North German Confederation of 1869, later on the Industrial Code of the German Empire, certain regulations for the protection of children and young persons were made general, to which further regulations for the protection of women were added by an Amending Act of 1878. The second period was introduced by the Imperial Message of 17 November 1881 announcing the enactment of workers' insurance legislation. This was the period of Bismarck's social welfare policy. The Circular issued by the Emperor William II in February 1890 inaugurated the third period, during which labour protection was reinforced (by the Act of 1891), while at the same time the workers were given a larger share in social administration (on workers' committees and in industrial or commercial courts). The Workers' Protection Act of 1891 introduced regulations on Sunday rest and additional safety regulations, and extended the protection of young persons and women by the fixing of a maximum working day and prohibition of night work. Subsequent laws added provisions on shop closing, and the maximum working day in unhealthy undertakings, strengthened the regulations for the protection of children, and introduced measures for the protection of home workers. The fourth period is that of the social policy formed under the influence of the war, the demobilisation, and the revolution. Its characteristic feature is the principle of the equal rights of employers and of workers, which is realised in practice by the full recognition of the trade unions, the privileged legal status conferred on collective agreements, and the establishment by public law[1] of bodies for the representation of labour within the undertaking. At the same time a considerable step in advance has also been made in the field of labour protection; formerly this had been limited mainly to women, young persons, and children, but now, with the statutory introduction of the 8-hour day, it covers also adult males.

Although the introduction of the 8-hour day was an outcome of the Revolution, only Orders were issued for the purpose, the fundamental idea being merely to provide for the period of transition

---

[1] In Germany, public law (*öffentliches Recht*) is the body of law governing the relations between the state and the subject, in contradistinction to private law (*Privatrecht*), which governs the relations between individuals as such. Rights and duties under public law must be enforced by state. [*Translator's note.*]

from a war to a peace economy. These were the Demobilisation Orders of 23 November 1918 on the hours of work of industrial workers, and of 18 March 1919 on salaried employees. Owing to the transitional nature of these Orders the drafting of a definitive Bill was immediately undertaken. A draft Bill on the hours of work of industrial workers was laid before the Federal Council and the Federal Economic Council in August 1921, and a similar draft on the hours of work of salaried employees in May 1922. The Federal Economic Council had submitted its report in the spring of 1923, when the events in the Ruhr shattered the very foundations of the already much weakened economic structure of Germany. The disastrous economic situation produced a general conviction that revival would be impossible if the rigid regulations of the Demobilisation Orders were not relaxed at least temporarily. A new Bill was consequently drafted and submitted to the Reichstag in October 1923; but before the Reichstag had succeeded in coming to a decision, on 17 November 1923, the period of validity of the Demobilisation Orders expired.

In virtue of an Emergency Powers Act the Government was then in a position to issue Orders on certain matters with the force of law. This power was used to issue an Hours of Work Order on 21 December 1923, which with a few slight amendments reproduced the Bill previously submitted to the Reichstag. This Order restored the Demobilisation Orders with certain important modifications; but although it thus reintroduced the principle of the 8-hour day, much wider exceptions than before were allowed. Above all, the right was granted, within certain limits and on certain conditions, to fix longer hours by collective agreement. In the absence of a collective agreement an extension of hours might be sanctioned by the authorities. At first, advantage was taken of this right in no small measure, so that the working day was often extended by collective agreement to 9 or 10 hours. In the severe crisis caused by the culmination of inflation, the shocks to German industry due to the occupation of the Ruhr, and the stabilisation of the currency, an urgent task, at first regarded as only transitional, was thereby fulfilled. But in fact, although the Hours of Work Order of 1923 is still in force, there has been a tendency towards reduction of the hours actually worked. According to trade union statistics there was a substantial reduction of actual hours from May 1924 to November 1924 and to November 1925. According to the official statistics of collective agreements, on 1 January 1925 10.9 per cent. of the workers covered had a

regular working week of over 48 hours, but considerably more than half that number were engaged in agricultural undertakings, to which the Hours of Work Order does not apply. In spite of this tendency, and in spite of the abolition of the two-shift system in blast furnaces and coke ovens by an Administrative Order issued under the Hours of Work Order in January 1925, the demands of the workers for the amendment of the Hours of Work Order became more and more insistent. The Government too could not remain blind to the need for amendment; and the intention to introduce legislation for this purpose was notified by the Federal Minister of Labour, Dr. Brauns, in the *Reichsarbeitsblatt* for 1 September 1924.

The Basis of Revision

In examining the hours of work regulations with a view to their revision it was impossible not to consider whether they should be adapted to the provisions of the Washington Convention on the 8-hour day. On the one hand, the workers claimed this adaptation as a minimum, and desired the ratification of the Convention; the employers, on the other, although friendly towards the principle of the 8-hour day, demanded much greater flexibility than is provided in the Convention. In all other countries too this question has of late years been the subject of heated controversy, sometimes leading to express refusal to ratify, as in Switzerland and Sweden. Other countries maintain that their legislation is consonant with the provisions of the Convention and have ratified, either unconditionally, like Czechoslovakia and Belgium, or, like Austria and Italy, on condition that other countries also ratify. Finally, France is also contemplating conditional ratification.

It was particularly difficult for the German Government to decide the question of ratification. For the Treaty of Versailles, and the agreement for its application known as the Dawes Plan, have imposed exceptional burdens on Germany which can in no way be compared, as has sometimes been done, with the expenditure on reconstruction of any other party to the Treaty, Germany's burdens are far greater; above all, they do not profit the nation, but represent an economic loss for which there is no counterbalancing fresh supply. It is therefore not very clear why in other countries the opinion has sometimes been put forward that it is precisely Germany which hould set the example in the matter

of ratifying the Washington Convention; while on the other hand it is easy to understand that in Germany itself there was, and still is, serious opposition to ratification, not only among employers but far beyond their ranks. The opposition can be overcome only if there is a general conviction that although excessive hours may perhaps increase output temporarily, yet this is impossible in the long run without injuring the strength of the nation and therefore ultimately also the efficiency of industry.

On the whole, the 8-hour day is probably the best from the economic standpoint too. Yet it must be remembered that a reduction in hours in accordance with the Washington Convention will necessitate certain changes, especially where an undertaking working continuously has to change over from the two-shift to the three-shift system; and further, that such changes must obviously be felt more now than in a period of rising prosperity like that in Germany before the war. In spite of all this the German Government has repeatedly declared that in drafting the new Bill it will bear in mind the possibility of ratification, but any attempt to lengthen hours of work in the more important competing countries must of course make it much more difficult to maintain this standpoint. Recent instances are the adoption in Great Britain of the Act to increase the working day in mining, and in Italy of the Nine-Hour-Day Decree. The German Government has none the less kept to the views defined in the article by Dr. Brauns referred to above, according to which Germany will be prepared to ratify the Washington Convention if an agreement can be reached with the other States concerned on the difficulties of interpretation and on simultaneous ratification. Before the recent legislative measures taken by Great Britain and Italy, it seemed that the conditions so specified were very near realisation. The London Conference of Labour Ministers had satisfactorily settled various doubtful points of interpretation concerning the exceptions to the principle of the 8-hour day allowed in the Washington Convention. This was important for German legislation because, as will be clear from what has already been stated, Germany is no more able to do without a certain elasticity in the regulation of hours of work than is any other country that has introduced the 8-hour day.

The Extent of Revision

The course to be pursued by German legislation in the field of labour law is indicated in Article 157 of the new Federal Constitution, which states that: "Labour is under the special protection of the Reich. The Reich shall establish unified labour legislation." For the purpose of carrying this declaration into effect a committee of prominent experts was appointed as far back as 1919 to draft a unified system of labour law. This Committee has done important and valuable work, though chiefly on the law relating to contracts of employment and collective agreements. Its work on labour protection law, on the other hand, was still only in the preliminary stage when it was compelled by force of circumstances to recast its activities, and to hold meetings only of the smaller sub-committee, as occasion arose. It was also found that a Labour Code cannot be created at a single blow. Besides the difficulty and tediousness of parliamentary procedure, there was also the fact that special laws had to be passed to meet urgent individual needs. The only possible method was therefore to draft separate measures for each of the more important branches of labour law, which should subsequently form separate parts of the Labour Code, and to submit these to the legislature. In this way, after two important matters had already been dealt with in detail by separate Acts — the Works Councils Act and the Employment Exchanges Act — the Conciliation Order was issued, followed by the Labour Courts Act which has just been passed by the Reichstag, and now by the Labour Protection Bill, which was submitted to the Provisional Federal Economic Council and to the Federal Council on 1 December 1926.

The very title of this Bill shows that is is intended to cover the whole field of the protection of labour and not only the question of hours of work. The reasons were set out by Dr. Brauns in the *Gewerkschaftszeitung* for 10 October 1925. According to his account of the origin of the Bill, the first intention was to follow the French example in regard to hours of work and to enact only a short covering Act, leaving all the necessary administrative regulations to be dealt with in Orders for individual industries. It was found, however, that this method would be too slow. If the revised law were to provide a basis for ratifying the Washington Convention, the Orders for all branches of industry would have to come into force simultaneously, a result which could not

possibly be achieved at short notice, considering, for instance, that in France all the administrative regulations under the Hours Act of April 1919 have not yet been issued. It was therefore decided to include all the more important provisions in the Act, and to allow the procedure of special Orders only for conditions needing separate treatment. The work on the Bill further brought out the need not only of regulating the hours of work of adult workers, but also of including the special regulations restricting the hours or prohibiting the employment of women, young persons, and children; of defining the precise relationship between the hours of work provisions and the Sunday rest regulations, and therefore of including the latter; and finally, of including in the same Act the measures on the closing hours of shops and industrial undertakings intended to secure the enforcement of the regulations on hours of work and Sunday rest. As there were already in force certain regulations, dating back to before the war, affecting the hours of work of adult males, their object being the promotion of safety (the maximum working day in unhealthy undertakings), it followed that the safety regulations had also to be revised. All this led quite naturally to the scheme for a complete Labour Protection Act, which should co-ordinate in a single text the various measures on labour protection which are at present scattered in numerous Acts and Orders, and so abolish the many obscurities arising out of the existence of these Acts side by side.

The term "labour protection" (*Arbeitsschutz*) — the term formerly used was generally "workers' protection" (*Arbeiterschutz*) — is taken to cover the whole body of legislation which in the public interest imposes obligations on the employer in relation to his workers, the fulfilment of these being secured by the means established by public law: labour inspection, compulsion, and penalties. Labour protection is subdivided into (*a*) industrial protection or safety, i.e. the regulation of the manner in which workers may be employed; (*b*) the protection of hours of work, i.e. the regulation of the hours in which an occupation may be pursued or not; and (*c*) the protection of contracts, i.e. the regulation of the obligations of the employer under public law with respect to the contract of employment[1]. The Labour Protection Bill does not deal with this last group of regulations; the provisions in question are in fact so closely related to the law of contract that for reasons of expediency they are better dealt with in that

[1] Cf. KASKEL.

connection, and they were accordingly included in the Bill on contracts of employment drafted by the Committee for the unification of labour law. The whole body of measures in the first two subdivisions of labour protection, on the contrary, is included in the Bill, with two limitations. In the first place, the special domain of the protection of home workers is excluded. The regulation of the conditions of home work requires such special measures that the general provisions on labour protection are almost inapplicable. For this reasons pecial regulations have been in force in Germany since 1911 in the form of the Home Workers' Act, which was considerably extended in 1923 by the introduction of the principle of minimum wage rates. This most important feature of the protection of home workers, however, forms part of the protection of contracts, which, as already explained, is to be kept separate from the Labour Protection Act. Secondly, the Labour Protection Bill in principle contains the law only so far as it applies to all workers, although on certain points exceptions may be necessary for salaried employees or specified categories of these employees; it does not contain special regulations for separate occupational groups. According as their conditions call for wholly or only partly separate regulations, special occupations are either wholly or partly excluded from the scope of the Labour Protection Bill. The chief total exclusions are those of domestic service, agriculture, and shipping; mining is partially excluded, a special Mining Act being in preparation.

Fundamental Principles of the Bill

The new Labour Protection Bill is obviously based on existing German law, which it endeavours to co-ordinate, unify, and improve. In particular, improvement of the regulations on hours of work was essential. The Hours of Work Order was issued as a transitional measure in conditions of emergency and allowed very far-reaching facilities for exceptions; this character of the Order had to be modified. Above all, the regulations in their final form could not continue to allow the unlimited right to extend hours by collective agreement. Labour protection is the last subject to be made a pawn in negotiations between the parties to collective agreements, because then the measure of protection is determined by the relative power of the parties at a given moment. On the other hand, in cases in which it must be recognised that

exceptions from the law are necessary, these exceptions must not be made conditional on the success of negotiations between the parties. That this has not led to greater inconvenience in Germany is probably due to the fact that an award of the statutory conciliation authorities which has been declared binding has the same force as a collective agreement. It is thus always open to a party which fails to obtain the conclusion of an agreement to appeal to the conciliation authorities, and so to arrive at a " compulsory agreement " that will take the economic necessities into account.

Further, some limit had to be placed on the far-reaching powers of the authorities with respect to the granting of exceptions, and in particular on a certain provision of the Hours of Work Order which can be explained only by the particular circumstances of 1923. According to this provision an employer is not liable to a penalty for permitting or accepting " voluntary overtime ", provided that such overtime is due to special circumstances and is of a temporary nature, is not worked as a result of the employer's exploitation of the difficulties or inexperience of the worker, and does not obviously involve danger to health. In practice this provision, which obviously removes the liability to penalty in many cases of contravention, and so prejudices the observance of the Order, has recently led to abuses in the form of an increase in overtime. For this reason, when the Labour Protection Bill was submitted to the Federal Economic Council and the Federal Council, the trade unions, and after them the political parties, were led to consider whether the existing Order ought not at once to be amended on this and certain other points.

As regards the unification of labour protection measures, the chief thing to be done was to restore the right relationship between the protection of women and young persons and that of adult male workers, the introduction of the 8-hour day having made the difference between the two very small. Further, the difference in the degree of labour protection based on the size of the undertaking had to be set aside, and the relations between the general provisions on hours of work and the Sunday rest regulations had to be more clearly defined.

In general, the end in view in the drafting of the Bill was to make the greatest possible protection of the workers compatible with the unquestioned requirements of industry. These requirements being very strongly influenced by the conditions of international competition, it follows that there was a general desire to adapt

German legislation wherever possible to international agreements relating to labour protection. The Bill is therefore intended to make it possible to ratify various Conventions, in particular that on the 8-hour day. In fact, the readiness of Germany, in principle, to ratify under certain conditions was declared by the Government as early as September 1924, a declaration to which subsequent Governments have repeatedly referred. In the German view, however, ratification is impossible until German legislation has been brought into agreement with the Convention to be ratified. This means that the Labour Protection Act must be passed by the Reichstag, and also that no amendments can be allowed which make ratification impossible. The ratification of the Hours of Work Convention is further dependent on the adoption of a Mining Act to regulate the hours of underground miners, which is now being drafted. After that, ratification by Germany may be expected, subject to ratification by the other chief industrial States as well.

Contents of the Bill

The Bill is divided into seven parts. The first contains provisions on its field of application, the definition of the term " worker ", and the persons responsible for the administration of protective regulations. The second part deals with industrial safety. The third, and most important, contains the provisions on hours of work; it is further subdivided into four, the first subdivision containing the general provisions, the second those on increased protection for women and young workers, the third those on the prohibition of night work in bakeries, and the fourth the administrative provisions. The fourth part deals with Sunday rest, the fifth with the closing hours of shops, the sixth with labour inspection, and the seventh with the enforcement of the Act, in particular the powers of the authorities, the date at which it comes into force and expires, and the effects on existing law. The Bill contains all the more important legal principles, but delegates the power to issue administrative regulations on individual points to the Federal Minister of Labour, and sometimes to other central Federal or State authorities. An important group of such regulations are those intended to define more closely some of the terms contained in the Act; for instance, agriculture, higher salaried employees, officials. In making these definitions the Federal Minister of Labour is to consult a permanent committee, the Federal

Committee for Labour Protection, which will consist of four representatives of the Federal States, appointed by the Federal Council, and four employers and four workers, appointed by the Federal Economic Council. For the other administrative regulations the Federal Council will as a rule be consulted, and in all more important cases the employers' and workers' organisations must previously be heard.

Industrial Safety

The second part of the Bill lays down principles concerning the employer's duty in the matter of protecting the worker against industrial risks, similar to the provisions contained in the legislation of most countries. The employer must equip his undertaking and organise the work in such a way that the workers are protected against risks to life, health, and morals, in so far as the nature of the undertaking allows, and if he employs young persons and women he must take further special measures for their protection.

In pursuance of the general principles laid down for safety and hygiene the Federal Minister of Labour may issue Orders defining the conditions to be fulfilled by specified types of undertaking. More than twenty such Orders are already in existence, and they will continue to form one of the most important sources of labour protection. In individual cases, the safety provisions are to be enforced in accordance with instructions issued by the labour inspection authorities, either under the Act itself or under the proposed Orders. Penalties may be imposed for failure to observe the regulations. In case of serious danger to the workers, observance may be enforced by closing down the undertaking, or, if the continuation of the work is essential in the public interest, the necessary measures may be carried out by the authorities at the expense of the employer. As these regulations may involve the taking of measures which may prove costly or interfere with the working of the undertaking, provision is made for appeal procedure for the employer.

An innovation of considerable importance relates to the so-called protection of machinery. The Federal Minister of Labour may prescribe that certain forms of machinery and equipment may not be traded in or used unless they satisfy the conditions he has laid down for the protection of life and health. The scope of these measures may be restricted to home trade. In Germany, the obligation imposed on manufacturers of machines not to sell

them without proper safety appliances has hitherto been based only on voluntary agreements in the engineering industry. If only on account of its greater flexibility, the method of agreements will still be preferred, but the Federal Minister of Labour's power to issue Orders provides a means of bringing a certain pressure to bear for the conclusion of such agreements. It is to be hoped that reciprocal international arrangements will be made for extending these provisions to foreign trade.

Hours of Work

The most important part of the Bill is that dealing with hours of work. It begins by postulating the principle of the 8-hour day and the 48-hour week, and applies this maximum not only to employment in the undertaking itself, but also to work given out for performance at home, and to the aggregate hours of work done for all the employers by whom a worker may be employed. It is obvious that the principle of the 8-hour day demands a number of exceptions, such as are found not merely in the Washington Convention, but also in the legislation of all countries which have adopted the principle. In the German Bill the intention is to limit these exceptions as closely as possible, so that although at first sight it may seem as if the principle had been much undermined, yet the careful definition of the exceptions is in fact intended to prevent the unnecessary contraventions that might occur if the wording of these provisions were too general.

A fundamental exception to the 48-hour week in the Bill, as in the Washington Convention, is that a 56-hour week, including Sundays, is allowed for work involving continuous processes. The other exceptions may be placed in two groups: those allowing a different distribution of the hours of work, while maintaining an average working week of 48 hours, and those in which an actual extension of hours is allowed.

For the unequal distribution of hours of work seven different cases are distinguished, so as to take advantage of the various exceptions allowed by Articles 2 (*b*), 2 (*c*), and 5 of the Washington Convention. The cases are as follows:

(1) Redistribution of hours within the week to make up for shorter hours on one working day, usually Saturday;

(2) Concentration of all the hours on five working days;

(3) Work in several shifts, in which case the maintenance of the average hours over a period of three weeks is sufficient;

(4) Unequal distribution of hours, owing to the particular nature of the undertaking or the work, over a period of 90 days;

(5) Compensation for hours lost owing to local (not statutory) holidays, but such hours to be made up within a short period;

(6) Compensation for hours lost owing to special circumstances in the undertaking or a department of the undertaking, such circumstances being taken to mean serious stoppages such as those caused by fire, but possibly also those due to labour disputes, and the hours to be made up within a somewhat longer period;

(7) Unequal distribution of hours of work throughout the year for seasonal industries.

In all cases the daily and weekly extension of hours is limited, the usual maxima being 2 hours a day and 12 hours a week. Moreover, the extension must be based on an agreement, as a rule a general agreement (collective or works agreement), and only in exceptional cases on an individual contract of employment. In most cases the agreement also requires official sanction.

The Bill makes provision for four important cases of actual extension of hours of work. This is allowed (*a*) for preparatory or complementary work, (*b*) for essentially intermittent work or work consisting largely of periods of mere presence on duty (*Arbeitsbereitschaft*), (*c*) for overtime in cases of urgent necessity, and (*d*) in cases of emergency. These are the cases in which extension of hours of work is allowed by Articles 6 (*a*), 6 (*b*), and 3 of the Washington Convention.

The provisions relating to preparatory and complementary work refer as a rule to work performed not by the whole staff of the undertaking, but only by individual workers. The prolongation is limited sometimes to two hours, sometimes to one hour, and in one case — that of serving the last customers before closing the shop — to 20 minutes.

The cases of intermittent work, too, relate mostly to individual workers or very small groups of workers. In general, the Bill adopts the view that hours of work are to include not only the period of actual work, but the whole time during which the worker is at the employer's disposal. Somewhat different regulations, however, are, necessary for workers whose work is lightened by frequent and considerable interruptions; this distinction is also recognised in the Washington Convention. During the interruptions considered the worker is either not occupied at all, or has only to carry out certain minor duties of standing by and watching. It is impossible for the law to specify in advance all the cases in

which such intermittent work may occur; the Bill therefore merely enumerates certain more frequent cases, especially such occupations as are found in different branches of industry, and empowers the Federal Minister of Labour to define other similar cases by Order. The provisions so far cover fire-brigade and first-aid staff, persons employed in restaurants and cloak rooms, etc., if their employment is merely subsidiary in an undertaking working for other purposes — for instance, the members of a factory fire brigade are covered, but not those of a municipal fire brigade. For machine minders a distinction is made according as the machinery is used directly in the production of goods or not. It is assumed that a man who works at a manufacturing machine is fully occupied, whereas minding a power machine does not usually require continuous and close attention. But even here the provisions on intermittent work apply only if this condition is actually fulfilled in the individual case. Finally, the provisions apply to watchmen, porters, messengers, and the drivers of motor and other vehicles and their mates. The hours of all these workers may be extended to 10 a day and 60 a week, but the spread (working hours including breaks) must not exceed 12 hours a day. This latter provision does not however apply to the drivers of motor and other vehicles and their mates, for whom a minimum rest period of 8 consecutive hours is fixed instead.

The permission to work overtime in cases of urgent necessity may be granted in one of four different ways. The Bill itself allows overtime up to 60 hours a year. A further 240 hours may be allowed by collective agreement. In the absence of any regulations to this effect in collective agreements, the authorities — as a rule the labour inspection authorities — can also authorise up to 240 hours of overtime, but only if this is required in the public interest, and with the condition that the authorisation may be withdrawn and is made only for a specified period. Finally, under certain special conditions the Federal Minister of Labour may authorise a further extension of overtime, if this is already authorised by collective agreement, but only for a specified period and for individual branches of industry in which it is required in the public interest. Overtime may not exceed 2 hours a day and 12 hours a week. For loading and unloading ships and connected work in seaports, however, overtime of up to 3 hours a day may be allowed, with a yearly maximum to be fixed by the Federal Minister of Labour. In all cases of overtime for manual workers payment at a suitable extra rate is strictly enjoined. In

the absence of agreement to the contrary, an increase of 25 per cent., as provided in Article 6 of the Washington Convention, is considered suitable.

Finally, provision is made for the extension of hours of work in cases of emergency and in exceptional cases, of which a series of examples is given. These include work to be done on machinery or plant which cannot be postponed, the completion of processes whose interruption would endanger the result, and work for preventing the deterioration of raw materials or foodstuffs.

Protection of Women, Young Persons, and Children

The second subdivision of the third part of the Bill deals with the reinforced protection of women and young workers. Here it was possible on the whole to base the provisions on existing measures, which were, however, unified and extended in various respects. In particular, the protective regulations, which formerly mainly covered wage earners, are to be extended to salaried employees. Further, the age limit for the protection of young persons is raised from 16 to 18 years, and in the provisions on the protection of children the employer's own children are treated more like the other children he employs than formerly. Finally, the protection of motherhood is to be much improved. All these regulations will be in complete, or almost complete, agreement with the international Conventions on the employment of women, young persons, and children, so that after the Bill has been passed it should be possible to ratify the Conventions on the employment of women before and after childbirth, the employment of women during the night, and the minimum age for the admission of children to industrial employment. For the present it will not be possible to ratify the Convention on the night work of young persons, because, although the Bill agrees with this Convention in other respects, it still permits the night work of boys between 14 and 16 years of age in two special cases (in glass works and in iron and steel rolling mills and forges), so as not to endanger the future supply of skilled labour.

In Germany, night work is already prohibited for women and for young persons up to 16 years of age. This prohibition is now extended to youths between 16 and 18 years of age, and to all salaried employees under 18, but not to salaried women employees over 18, as they themselves have no wish for this. The night is

reckoned from 8 p.m. to 6 a.m., but where the work is performed in shifts. the period of prohibition for workers over 16 years of age may be limited to the hours between 10 p.m. and 5 a.m., provided that a rest period of not less than 15 hours is allowed. Where work is continuous the Federal Minister of Labour may under certain conditions authorise exceptions for males over 16 years of age, and in food trades for women over 18. The corresponding exception for boys between 14 and 16 in two specific industries has already been mentioned.

Women and young workers are to have an uninterrupted rest period of not less than 11 hours, and women must be given a free afternoon on Saturdays and the days before holidays. Further, certain minimum breaks must be given to young workers and women. In certain occupations, especially those in commerce, hotels and restaurants, and theatres, the provisions in question apply only with limitations.

As compared with the existing law the protection of motherhood is substantially extended, on the lines laid down in the Washington Convention. A woman worker who can produce a medical certificate stating that her confinement will probably take place within six weeks, may leave her work. She may not be employed during the six weeks following confinement, and she may remain away from work for a further six weeks on the production of a medical certificate. During this period she is entitled to the maternity benefit payable under the sickness insurance system as provided by the Federal Insurance Code. Expectant and nursing mothers are under no obligation to work overtime. A woman nursing her child is to be allowed half-an-hour twice a day or an hour once a day during her working hours for this purpose. Notice of dismissal by the employer cannot take effect during the period of six weeks before and six weeks after confinement and any additional period when work is impossible.

As already observed, the protection of children too has been extended beyond the existing law, in particular by the inclusion of all family undertakings. Here, indeed, the protection need not go so far as in other undertakings, and as a rule children over 12 may be employed, whereas in other small undertakings they may be employed only in delivering goods and on other errands. Otherwise the prohibition of the employment of children up to the age of 14 years is general. Exceptions, for which official authorisation is needed, are allowed in the case of musical and theatrical performances, cinematograph productions, etc., if

necessary for artistic or scientific purposes or for purposes of vocational training, provided that there is no risk of injury to the child.

Prohibition of Night Work in Bakeries

As in the existing law, special regulations are laid down for the making of bread, pastry, etc., in agreement with the requirements of the Geneva Convention. Such work is prohibited at night, i.e. as a rule between 9 p.m. and 5 a.m. If the work is performed in two shifts, the period during which work is forbidden may be reduced by not more than one hour, so that 17 hours are available for organising the work, including breaks and preparatory processes, in two shifts. This regulation too is consistent with the Geneva Convention on the prohibition of night work in bakeries.

Sunday Rest

The provisions on Sunday rest in Germany are already stricter than in most other countries. On the whole the Bill maintains the existing conditions, but enlarges the scope of the provisions, and in particular defines clearly the connection between admissible Sunday work and the working week. In principle work on Sundays and statutory holidays is prohibited. The rest period must last 24 hours in undertakings which work continuously except on Sundays. A number of important exceptions to the principle of prohibition must obviously be allowed, as otherwise, owing to the complicated structure of the economic system, the population would scarcely be able to live, much less to use its Sunday rest for purposes of recreation. The Act must therefore completely exclude a number of industries from the provisions on Sunday rest. Among the industries so excluded are transport undertakings, hotels and restaurants, musical and theatrical undertakings, and undertakings where work must be carried on continuously so far as the processes in question are concerned. Certain kinds of work must also be excluded, in particular watchmen's and similar work, preparatory and complementary processes, and emergency work. In a further group of occupations work may be authorised by an Order, or in an individual case by an official permit. This provision covers the cases in which special local and industrial needs must be taken into account, such as work in the so-called essential trades, i.e. trades which supply goods

or services needed daily, or particularly on Sundays and holidays, such as dairies, hairdressers' establishments, forwarding agencies, seasonal trades, wind and water power undertakings, certain kinds of shops, and bakeries and pastry-cooks' undertakings. For the last two groups special regulations are laid down, but in general permission to work on Sundays is conditional on its being absolutely necessary. Overtime may be allowed if it is urgently necessary and if the undertaking would seriously suffer without the Sunday work; for this exception there is no restriction to specific trades.

The regulations relating to shops are of particular importance. In the law as it at present stands there are substantial differences in the way this subject is treated by the various Federal States, so that greater precision in the regulations is necessary. In future the Sunday employment of workers in shops may be authorised by the State authorities only in three specified cases:

(1) In certain kinds of shops, to be defined by the Federal Minister of Labour, which are engaged wholly or mainly in selling goods for the satisfaction of the daily needs of the population or of needs which are particularly marked on Sundays.

(2) In communes with a population of not more than 5,000, on at most twenty-six Sundays in the year, for shops of all kinds, if the supplies of the rural population depend on such Sunday trade because of the distances at which people live and the difficulties of communications, rules concerning these conditions being laid down by the Federal Minister of Labour.

(3) On not more than six Sundays or holidays in the year, if special circumstances demand that more business should be done.

In the third case, which is intended chiefly to provide for extra business before the more important holidays, shops may be kept open for not more than 6 hours, and in the other two cases as a rule for only 2 hours.

In bakeries and pastry-cooks' undertakings Sunday work is in general prohibited. The making of perishable pastry and the performance of necessary preliminary work are allowed, to a very limited extent, besides work in cases of emergency. Further exceptions may be allowed under certain conditions for not more than six Sundays or holidays in the year.

With very few exceptions Sunday work its altogether prohibited for young persons under 16 years of age. Workers employed on permissible Sunday work must be allowed a compensatory rest period during the week; in addition they must have a specified

minimum number of Sundays in the year free from work. The co-ordination of the regulations on Sunday work and on the working week is of importance. Under the present law permissible Sunday work is usually counted in the working week ; this is also the standpoint of the Washington Eight-Hour Day Convention, as was agreed at the London Conference of Labour Ministers. Nevertheless, this view was not unconditionally adopted in the Labour Protection Bill, which tends rather to vary the regulations according to the purpose and extent of the Sunday work allowed in individual cases. Thus for continuous processes the working week including Sunday work is limited to 56 hours, and work done in making perishable pastry is all to be included in the working week. In some other cases, for instance those of so-called essential trades and shops, an extension of the working week by not more than 2 hours is allowed, any additional Sunday work being counted in the working week. In cases where full work on Sundays too is necessary, as in the transport industry and in hotels and restaurants, the regulations are similar to those for continuous processes and an extension of the working week by a full day shift is allowed. Finally, in some cases the method of reckoning Sunday work is to be determined by the authority granting the permission. As a rule the length of actual Sunday work is limited to a few hours. In the absence of special provisions, the general regulations on hours of work apply.

Closing of Undertakings and Shops

In order to secure the enforcement of the regulations on hours of work and Sunday rest it is necessary in a number of cases not merely to forbid the employer to employ workers, but also to limit the activities of persons carrying on a business independently. Such regulations are still foreign to the law of certain countries, as appeared from the discussions of the International Labour Conference on the prohibition of night work in bakeries, and from the consultation of the Permanent International Court of Justice on the prohibition of the work of employers themselves contained in the international Convention. In German law, on the contrary, regulations of the kind were already in existence, for without them many protective measures cannot be enforced at all, and in addition those undertakings where no workers are employed, or where the employer can manage temporarily without workers, can compete

unfairly with other undertakings. The Labour Protection Bill follows the existing law when it recognises three kinds of regulation.

In the first place, the State authorities can issue instructions that in essential trades industrial work may be performed on Sundays and holidays only to the extent that the employment of workers would be permitted. Such instructions must in fact be issued if a demand to that effect is made by those concerned.

These regulations on the closing of undertakings are not so important as those on the closing of shops, which are dealt with in a separate part of the Bill. Shops may be kept open for ordinary business between 7 a.m. and 7 p.m. only. The State authorities are empowered to make certain exceptions for shops trading in foodstuffs, which may open earlier, and for all kinds of shops in rural communes, which may keep open later. On the other hand, closing at 6 p.m. may be introduced, provided that the shops concerned have put forward a demand to this effect. On Sundays shops may be open only for as long as the employment of workers would be permissible. Corresponding provisions apply also to the closing of hairdressers' establishments, but different regulations are laid down for chemists' shops, which must take it in turns to close on Sundays during certain hours.

Labour Inspection

The Labour Protection Bill contains an innovation in the matter of labour inspection, the term which is to take the place of the former term "industrial inspection". The competence of the Federal Government, which has hitherto been very small, is somewhat extended, although the Federal States will still be responsible for labour inspection. In future, however, the Federal Minister of Labour will take decisions and lay down rules to secure the necessary uniformity in both the appointment of officials and their activities. In other respects the provisions on labour inspection are in complete agreement with those proposed by the Fifth Session of the International Labour Conference (Geneva, 1923); these in fact already coincided to a large extent with the existing provisions on German industrial inspection. The Bill lays down certain requirements which must be satisfied by inspectors, and in particular the heads of inspection offices. It provides that, when necessary, doctors and persons with the necessary practical experience — presumably workers are intended — and women are to

assist in inspection. Labour inspection is to cover the whole field of labour protection. The powers of the inspectorate remain, on the whole, unaltered. The most important is the right to visit undertakings, including bedrooms and dining rooms, etc. provided by the employer, at any time during hours of work, and outside hours of work if there is reason to believe that work is being carried on against the law. Both employers and workers are under obligation to supply information. The labour inspection officials have to draw up annual reports on their work.

Date of Operation

The last part of the Bill contains various provisions on its enforcement and the date on which it is to come into operation. This date will be fixed by the Reichstag according to the progress of the debate. It is provided that if the enforcement of the regulations on hours of work is likely seriously to imperil the economic position of an industry or an important part of an industry, the Federal Minister of Labour, or with his agreement the central State authorities, may postpone the enforcement of the provisions for a period of up to three years. Finally, the Bill contains a clause, corresponding to Article 14 of the Washington Convention, according to which the operation of the provisions of the Labour Protection Act and of Orders issued under it may be temporarily suspended by an Order of the Federal Government, either for the whole of the country or for parts thereof, in the event of war or other emergency endangering the national safety. In this connection the interpretation of Article 14 agreed on by the Conference of Labour Ministers in London will apply, according to which emergencies of the kind are taken to mean crises that affect the national economy to such an extent that they threaten the existence of the people.

As already stated, the Bill was submitted on 1 December 1926 to the Provisional Federal Economic Council, and also to the Federal Council; the former began its discussion on 14 December 1926. It is of course impossible to foretell how long the discussions in these advisory bodies and before the legislature will last. The proposed law is comprehensive and of great importance; it will interfere considerably with existing conditions and may also have far-reaching economic effects. The discussions in the three

bodies, Federal Economic Council, Federal Council, and Reichstag, may therefore be expected to take at least a year in all.

The German trade unions consider that this procedure is too slow a means of bringing new regulations into being. They have therefore proposed the introduction of an emergency Act to amend the Hours of Work Order at present in force, and the Reichstag parties are now engaged in examining whether this proposal should be carried out. It is also probable that, in accordance with a decision of the Reichstag, the Government will anticipate the maternity provisions of the Labour Protection Bill and introduce a special Bill, which shall at once bring the existing provisions into agreement with those of the Washington Convention on the protection of motherhood. It should be realised that the very fact of discussing such separate proposals may delay and hamper the decision on the main Labour Protection Bill. At all events, the next few months will witness a lively discussion on the question of labour protection in Germany, which will also be of importance for the progress of international labour protection.