

THE DOCTRINE OF ECONOMIC LIBERALISM AND ITS OPPONENTS —  
ILLUSTRATED IN THE DISCUSSION OF PRINCIPLES OF THE  
EMPLOYMENT CONTRACT IN GERMANY IN THE LATE 19th CENTURY

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I.

Joseph Alois Schumpeter once remarked with fascinating succinctness of thought that after the retreat of Christianity, the secular ideologies moved into this vacuum like «masterless dogs»<sup>1</sup>. With that he meant liberalism and socialism. Both of these philosophies, which grew up on the soil of the age of enlightenment, try to drive on the process of emancipation from the fetters of the past and to put into practice step by step the idea of the good life in the Aristotelian sense. As worldly-minded substitute religions they have «disenchanted» more and more the life of the western world in the course of the last two hundred years and must now of course themselves suffer their own process of secularisation and disenchantment as the heirs of rationalism.

The following article has set itself a very modest aim : It will deal with only one selected economic aspect of liberalism in the Germany of the late 19th century. And even here only a small section of an extensive, multifarious area can be presented : The debates on principle, as they were conducted in the German «Verein für Socialpolitik» (Society for Social Politics) on the conditions of employment between 1872 and the turn of the century, will serve as a historical framework. They show the efforts made to find new forms of law corresponding to the changes in economic and social conditions brought about by industrialisation. In the centre of discussion stood the up-to-date development of the liberal contract of employment as the legal expression of the relationship between employer and employee. This contract of employment was then defined as «a contract under private law, by which the one partner—the employee—undertakes to carry out certain duties for the other partner—the employer—, while the employer undertakes in return to pay a certain wage»<sup>2</sup>. The drawing-up of this contract of employment was left to the free agreement of the partners. In the following article the discussions by the leading representatives of the German political economy, which provides most members

of the «Verein für Socialpolitik», on the principles of the liberal contract of employment are to be depicted.

In the deliberations one dealt with the total area of labour relations, therefore also the state of affairs and imponderables, which do not constitute part of the contract of employment. We must dispense with dealing with that part of the discussions here. Not even all angles of the contract of employment can be mentioned. Attention should be focussed on the position of the employer to his workers and employees, which forms the core of the labour relationship. The negotiations were concerned above all with the question of how the normative freedom of contract can be brought into line with the actual economic and social conditions in the factories. For this a series of important suggestions for reform were made.

This debate on principles reveals not only paradigmatic basic principles of the economic liberal thought of the 19th century, but also, apart from socialism, the most important contrary opinions in its own ranks. The «Verein für Socialpolitik» was a reservoir of all the efforts for social reform inside the German economy and cannot be overestimated in its significance for the formation of public opinion of the time. It reflected as it were all the socio-liberal forces and motives which influenced the development of the Bismarck and Emperor Wilhelm social politics. Many of the questions raised here for the first time have been taken up later by the legislation. Consequently here there was a juncture where the development of political economy and its theories met up with the codification of private law. Astonishingly enough up to the present day there is only one single monography from the year 1906 which examines the discussion of principles of the liberal contract of employment in the «Verein für Socialpolitik»<sup>3</sup>. Thus the printed minutes of the meetings of the Society as well as relevant theoretical papers of well-known economists had to be considered<sup>4</sup>.

## II.

It has often been shown how the victory of the «freedom of trade» over the old system of guild and the emancipation of work from the fetters of the Middle Ages have been achieved by means of the Prussian Edict of 1811, the Prussian Trade Order of 1845, the artisans' movement of 1848/49 with the plans for the reform of the German National Assembly and the Prussian Emergency Order of 9. 11. 1849, by means of the partnership movement of Victor Aimé Huber and Hermann Schulze-Delitzsch as well as the debates of the German free-trade party and of the «Congress of German Political Economists»<sup>5</sup>. The trade regulations of the «North German Federation» (Norddeutscher Bund) of the 21st June 1869, which up to 1878 were adopted by all Federal States of the Bismarck-Empire, reflected the final victory of economic-liberal principles and set the provisional aim for the long struggle for the setting up of the trade law<sup>6</sup>. The government bill had still envisaged in fundamental points the influence of public force on the trade relations, but the liberal majority in the Reichstag had removed all these barriers<sup>7</sup>. Completely in line with

the classical economy the character of work as a commodity was emphasised. One assumed purely economic relations between employers and employees: As the market is the only point of contact for other people, so these two contracting parties only meet on the labourmarket, namely as the buyer and seller of work. The wage is no more than the rent for the work and like all prices depends on the relationship between supply and demand<sup>8</sup>. As in every contract a just price will result, if freedom exists in the drawing-up of the contract, i.e. if on neither side there is greater pressure for the conclusion of the contract than on the other. In the liberal view the idea that the «capitalist» can dictate unilaterally the price for work because he is not driven by daily hunger as the worker, is totally false. The buyer of work can wait as far as his person is concerned, but not his capital: «It must always be set in motion by work, as soon as it comes to rest only for a moment, it begins to eat itself up»<sup>9</sup>. Thus both parties are equally interested in the establishment of the contract of employment, the fixing of the price of which is subject to the same laws as the price of any market agreement. If the prices attainable for the work (wages) are not sufficient for a normal existence, then it is not the «capitalists», but the numbers of workers seeking work who have held the price down<sup>10</sup>. One believed in a natural equality among men desired by God, and influenced by thoughts based on the laws of nature, demanded the greatest possible freedom for the individual<sup>11</sup>. Intervention on the part of the State could only disturb these conditions for a harmonious settlement of all individual interests. The existing injustices and inequalities in the distribution of wealth were due to former interventions by the State<sup>12</sup>. In this respect natural justice and economic expediency demanded the greatest possible freedom of the workers and the employers. In order to guarantee the equality of the two contract-partners, the contract of employment should be concluded individually and only for a short duration. No longer the whole person but only his work came into this contract, the wage was only the remuneration for the hired work<sup>13</sup>.

This social model of the liberal national economy was finally written down in § 105 of the trade regulation of the North German Federation of 21st June 1869 in which was written<sup>14</sup>: «The settlement of the relations between the tradesfolk and their journeymen, mates and apprentices is the object of free negotiation». § 127 of the trade regulations laid down that this passage was also valid for factory workers. Apart from a few regulations for the protection of workers, no other legal norms were issued for the formation of a work constitution. The free contract of employment was to bring about economic equality and appeared to the liberal creators of the trade regulations Johann Miquel and Eduard Lasker as a correlate to the political equality for which they were striving in the form of the general, equal rights to secret vote. By means of § 105 of the trade regulations the employer and the employee on the conclusion of a contract of employment were regarded formally as equals, but this equality could in fact not be put into practice. The worker continued to be in a dependent position. The «free contract of employment» simply meant in reality for the majority in Bismarck-Germany the contri-

uation of the old work traditions and customs or rather the claim to power of the side or the other, which was followed by opposition, strike and political struggle with revolutionary or repressive threats. Very quickly leading national economists recognised the reasons for this process : they lay in the characteristics of the new contract of employment. The liberal theory had overlooked or not wanted to see that with the purchase of the work, control was gained at the same time over the whole person of the worker. The commodity work and its seller are inextricably joined. By entering the factory the worker automatically fell under the control and influence of the employer. The latter could now exert control over his bodily and spiritual development. «His habits, his philosophies, his whole way of life are defined involuntarily according to the atmosphere into which the contract of employment has set him», was the opinion of Lujo Brentano as early as 1877 in his treatise «Work Relations in Accordance with the Law of to-day»<sup>15</sup>. The worker was not at all in a position to suit his offer in buying power to the demand of the employer, because as a rule on the contrary, he could not do without the contract of employment. He depended on the sale of his work as the sole source of income. If he wanted to maintain the existence of his family and himself, he was forced according to the opinion of the socio-liberal national economist to keep on offering his work. The possibilities of a change of job were slim and did not offer a way out of the dilemma. Much more than the buyers of labour, the workers were tied to one place. Poverty, debts, big families and a lack of knowledge about the possibilities for work elsewhere were the fetters which tied them to the spot. In reality the worker subjected himself regularly to the unilaterally established conditions of the employer.

The contradiction between the formal equality and the factual dependence was diagnosed by scholars as one of the most important causes of the much-quoted «Social Question». One saw how the progressive development of industrialisation exacerbated more and more the opposing positions of the employer and the employed on the labour market. The progressive division of work in the large concerns which were now emerging rendered impersonal the contacts between those giving and those carrying out the orders in the works, the new industrial bureaucracy as it were shoved itself between the two parties. The possibilities for personal contact and social improvement became rarer, the awareness of social dependence increased. It is here that the dichotomy of class consciousness in the worker has its roots in the Marxist sense.

To be fair, looking back, one must say today that the quoted section § 105 of the trade regulations was intended for the craftsmen and other non-industrial workers. In 1869 the majority of all practising a profession were still working in agriculture, crafts and home industries-therefore the factory workers had only subsequently been included in a supplementary paragraph. The emphasis lay in the abolition of the civil-law character of the guilds. All examinations for journeymen and master craftsmen ceased, the length of the apprenticeship could be agreed as desired. There were certain assurances for apprentices against abuse of the masters'

powers, protection of youth in factories, workers' protection against certain professional dangers and prohibition of the truck system. The establishment of local tribunals for labour disputes was also new. But as a result of inadequate trade supervision and the lack of directions for carrying them out, all these regulations bore little fruit. The trade regulations aimed at freeing work from the traditional fetters of the mercantile authoritarian state and the old system of guilds. How much this idea of emancipation stood in the foreground, becomes also evident from the fact that at the same time the freedom of combination of the workers as well as of the employers was permitted basically for the first time in Germany. Of course, these combinations were restricted to associations for favourable wage and working conditions for the industrial worker, for all other arrangements the combination laws of the individual states remained in force. Furthermore it was significant that combinations were not suable, strict regulations against compulsion to join a combination were introduced, and civil law complaints against strike action as a breach of the individual contract of employment remained possible<sup>16</sup>.

There had been starting points for criticism of economic liberalism in Germany right from its introduction. Political romanticism with the Schlegel-Brothers, the Bavarian philosopher Franz Baader, the economists Adam Heinrich Müller and Ernst Moritz Arndt, but also the older historical school of national economy with Wilhelm Roscher, Bruno Hildebrand and Karl Knies and not least protectionism with Friedrich List, Carl Friedrich Nebenius and Gustav Mevissen at its head, had since the first translation of Smith's main work in 1776 been exercising continuous strong criticism which seemed justified in the eyes of their contemporaries. The challenges of the early socialists Moses Hess, Karl Grün and Wilhelm Weitling, of Karl Marx and Friedrich Engels, Karl Rodbertus and Ferdinand Lassalle super-vened. Long before the final establishment of the liberal contract of employment such a climate of criticism had existed against economic liberalism. Above all in Germany one turned against a mere naive transfer of the system of the English classic to the specific German conditions<sup>17</sup>. But also the personalities standing in the practical life of administration, economy and politics again and again raised the most varied objections. Just how sceptically even convinced liberals viewed absolute freedom of trade is illustrated by a pronouncement made by Roscher in his «System of Political Economy» of 1868 : «Just leave a new-born child to its «natural freedom» and it will presumably be dead within 24 hours»<sup>18</sup>. Both in the works of the liberal Hermann Schulze-Delitzsch, and the conservative Bismarck assistant Hermann Wagener and finally in the speeches and writings of Ferdinand Lassalle distinct demands are found in the sixties for changes in trade working conditions in a liberally limiting sense. But the German «Manchester Party», in vehement opposition to the government in Prussia, was able to get its own way in 1869 as an immensely popular people's movement.

It was not until the discussions and publications of the «academic socialists»

that the decisive break-through to the criticism of the liberal contract of employment came. Under this name, which the Berlin journalist H.B. Oppenheim had thought out for himself as a joke, and which then became generally accepted as an honourable title, were understood above all the supporters of the younger historical school<sup>19</sup>. In strict contrast to the liberal Manchester thinking, which saw the economy as an immutable system of natural laws as it were, they overwhelmingly represented the view that human willpower can influence the course of the economy. Their ideas and theories were cast by German idealism and overestimation of historical development and reintroduced the problems of ethics, history and politics into economics. In complete contrast to the classical liberals this group of national economists demanded state measures to influence the economy and gave ethical reasons for it<sup>20</sup>.

For them the economy was not a timeless and spaceless market, but first and foremost «People's» economy, an organic-spiritual combination of specific historical and national character. As already List and the older historical school had done, they saw the economy going through definite stages of development. The economy was for them not only a field of activity of egoistic individual interests, but of ethical action on the part of man, a part of the whole life of the people and drawn into the system of values of the total culture<sup>21</sup>. These scientists gathered together in the «Verein für Socialpolitik» saw it as a duty of the State, at times also in the interests of the public, to limit the freedom of individual citizens. For Gustav Schmoller, the undisputed head of this whole direction, the State was the most splendid institution for the education of the human race<sup>22</sup>.

The «academic socialists» soon after the founding of their society strove after a factual equality of the workers in concluding the contract of employment. They demanded that the existing regulations of the trade regulations should be changed and supplemented by State and social measures. However, there existed no general opinion on the type and degree of the changes for which they had been striving. The statements show where the essential points of this problem lie.

At the instigation of the chief editor of the «Hamburg Correspondent» Julius von Eckardt and the Berlin Professor Adolph Wagner, leading representatives of science, economy and State gathered on 6th October 1872 in Eisenach. They had received an invitation the decisive passage of which went<sup>23</sup>: «Imbued with the conviction that the future of the German Empire, as the future of our culture in general, will be essentially influenced by how our social circumstances develop in the immediate future, imbued by the conviction that this development will in turn depend essentially on how the cultured and the property owners, public opinion, the press and the government react to the social question, the undersigned men of all political parties of whom they believe they can assume that they don't consider the absolute «laissez faire et laissez passer» to be the right thing in the social question, have summoned you to this discussion».

One wanted to create a practical organisation in order to gain more hearing amongst the public for the social reform efforts. On the basis of the existing economic and social order, the industrial working conditions should above all be first reformed. The aim of world history can only be achieved, thus it was stated later in an opening speech on the discussion of the social question, if the individual, the State and society would work together on the tasks of the time. «And this ideal may and should be no other than that of assigning an ever increasing part of our people to the participation in all higher goods of culture, education and wealth. On 13th October 1873, the «Verein für Socialpolitik» was finally constituted.

Schmoller saw in the examination of the contract of employment a basis for all further discussions and described this as «the fundamental corner stone of political economical organisation»<sup>25</sup>. In his opinion in it lay the starting point for all further social reform. Addressing State and economy, he declared, it was not sufficient to proclaim legally a free contract of employment. «We demand that no so-called free contract of employment should lead to the exploitation of the worker, we demand the fullest freedom for the worker in having a say in the drawing-up of the contract of employment, even if he should raise claims there, which would appear to be analogous with the old nature of the guilds»<sup>26</sup>. Schmoller criticised the fact that in creating political economical forms of organisation, as represented by the contract of employment the point of view of the increase in productivity had received the greatest emphasis. For the whole of society and the State, however, not only such economic connections were of importance. In order to compensate for social tensions, the worker must be raised in respect to the other social classes. The economy and the factory occupy the whole man in his thoughts and actions. One must therefore consider the effects of economic institutions on man in his whole way of life. A social reform must start from the knowledge of the psychological connections of the forms of organisation, from «the whole moral state of a nation»<sup>27</sup>.

When the Society in 1879 directed its attention for the first time to working conditions in their full breadth, at first an abundance of practical questions cropped up. The promoterism crisis with its unsocial grievances, the increase in breaches of employment contracts and work stoppages were all topical themes of the day. One was more occupied with the conditions which influence the work relationship than with questions of principle on the improvement of the contract of employment. Thus the apprentice system, living conditions, the legislation for the protection of workers, old-age and disablement pensions etc. were discussed. The majority of members approved of the freedom of combination and dismissed the punishable pursuit of a breach of a work contract. Apart from this, new suggestions were put forward for settlement offices and arbitration courts as the forerunners of the tribunals of to-day, as well as thoughts about the organisation of trade unions. The main aim was however to draw the attention of the public to the justification of a social reform. While this was successful in the years that followed, nevertheless

there was an accumulation of tensions inside the «Society». Thus Wagner resigned from the committee in 1876 because the Society seemed to him to be adopting a too liberal approach<sup>28</sup>. He called himself a supporter of state socialism and approved of a far-reaching control of the conditions of production by the State. He saw the limitations of the free contract of employment in the first place as a task for State intervention which, however, met with vehement opposition in some quarters<sup>29</sup>. Soon after this, however, the publications of the Society lost to a large extent their agitatorial character. It was now more and more recognised by the public that criticism of the Manchester targets had been justified. The new socio-political measures of Bismarck referred however only to the protection of the worker and did not call in question the position of the employer in the conditions of employment. In Bismarck's considerations, there was no room for the ideas of the academic socialists, they were pursued all the more attentively, however, by his assistant Theodor Lohmann<sup>30</sup>. The Society now abstained from trying to influence directly the government and Reichstag with petitions and turned its attention for the time-being to other problematic spheres, which had nothing to do with the contract of employment<sup>31</sup>.

The great miners' strike of 1889 with the subsequent departure of Bismarck, the Emperor's February decrees and the emergent amending law for trade regulations of 1891 under the aegis of Minister Berlepsch who was in favour of reform, a first international conference on the protection of the worker in Berlin as well as the coming to an end of the exceptional law against Social Democracy gave cause to take up once again the question of the contract of employment in the Society. The voluntary increase in social facilities in the factories and the state policy for the protection of the worker had not been able to prevent the marked increase in work stoppages and breaches of contract. All this helped towards the recognition of the fact that the central core of the «workers» question must lie in the relevant putting in order of the contract of employment<sup>32</sup>. The theme of the general assembly of the «Verein für Socialpolitik» called on 26th and 27th September 1890 in Frankfurt am Main was therefore: «Work Stoppages and the Development of the Contract of Employment». For the first time Germany's leading national economists in the Society along with experts of economy and the State wanted to make detailed suggestions for the reform of working conditions. This conference signified an important break in the history of trade regulations, contract of employment as well as the works council in Germany. In the interest of clarity the account is not to be chronological, but the various opposing points of view are to be contrasted one with the other.

Henry Axel Bueck, the manager of the «Central Association of German Industrialists» represented the point of view of the employers<sup>33</sup>. In his statements he admitted that working relations revealed all sorts of grievances. The cause of this is the unchangeable fact that the commodity work was inseparably bound to the person of the seller. «I maintain», said Bueck, «that the present contractual relationship and the drawbacks which derive from it are tied up with our economic



and social structure<sup>34</sup>. This is based simply on authority and subordination. He pointed out that also the mentally occupied person as well as the worker enters into a relationship of authority when he concludes a contract of employment. Real equality of the workers, for instance by the creation of new forms of organisation of the economy, could not be brought about without overthrowing the present economic system. Such institutions had up to now had only disadvantageous consequences as one could learn from the example of England. With the help of their unions, workers held up «industrial progress», by raising demands for the shortening of working hours, resisting piece work or fighting against the introduction of new machines<sup>35</sup>. Wage negotiations between the «Trade Unions» and the employers had in Bueck's opinion only achieved a levelling-off of wages. Because of this the urge to excel in front of others and to get on was limited. Apart from this it had been shown that the personal relationship between employers and employed is fraught with troubles and «factory discipline» is jeopardized. The individual worker is beaten by a majority of votes in this representation and could no longer satisfactorily give expression to his will. All negotiations between the employers and workers had stood under the pressure from outside influences since the rise of workers' unions. On the other hand German workers attached greater importance to individual treatment. Finally the manager of the industrialists' side pointed out technically conditional necessities for the running of the concern and the economy which spoke in favour of the retention of the contract of employment in its present form. The progressive industrialisation constantly increased the capital expenditure of the concern<sup>36</sup>. In order to preserve the continuity of the production process, the employers were forced to take into account the interests of the workers. It must however remain the sole right of the employer to issue work regulations and to establish conditions of work because he alone is responsible to the concern. The difference between industrial concerns demanded that wages are fixed individually and a general arrangement in the form of tariff agreements between unions was to be deprecated. Bueck emphasised that the present divergence between employers and employed would balance out in the long run. The progressive development of free culture would by itself raise the worker to a higher moral level<sup>37</sup>. Passionately he opposed the intention of letting the State intervene as a regulator. This very thing would obstruct the progress of culture. State activity could always only be of a transitional nature, by for example alleviating social misery. State welfare was permissible in his eyes as long as it did not interfere decisively in the play of the labour market parties. Also the protection of the worker in the works was to be left largely to the private initiative of the employer or, as the case might be, to private agreements.

If one analyses this attitude more carefully, one clearly recognises in this determining voice of German industry the elements of Manchester-liberal economic thinking in pure culture. The priority of the individual, the absolute, socially not essential claim to property, the unconditional freedom of all trade, the harmony which follows from natural competition, the reduction of all social relationships-

to the purely economic, the idea of State abstinence on principle and the optimistic belief in progress came clearly to light here. The emphasis of the «master-in-the-house» point of view, of discipline, the fear of revolution were on the other hand rather conservative elements. In 1890 the fear that new forms of organisation in the economy would strengthen the power of social democracy played a major part. Bueck saw here above all repercussions on an international level which would endanger the state of the Empire. He was imbued with the conviction that the general organisation of the working population on an international level did not mean social peace, «but struggle, the dominance of violence, of egotistical passions». As one can see, home and foreign political motives were coming into the debate on the contract of employment. Schmoller, Brentano and the majority of the Society's members on the other hand considered possible the working-out of the contract of employment on the basis of the existing economic and social order. Contrary to industry, they demanded that the position of the workers on the labour market be strengthened by new forms of organisation in order to bring about also de facto the equalization for which they had been striving legally. For the removal of the falseness of the «free» contract of employment, they had in mind a sort of social compromise between mastery of the employer and the perfect ideal of equality. In a lecture «on the nature and constitution of big companies», Schmoller expressed the opinion that the old had become untenable and in the long run not reconcilable with the political conditions of the day: «The leading capital-owning forces have today only the choice between the coming social revolution, which can bury our whole economic culture, and the workers having a say in matters in the form of the English trade unions and in the form of the modest German workers' committees. A third way is impossible»<sup>39</sup>. As this sentence suggests, there were various ways in which the constitution of the companies and the contract of employment could be worked out. And indeed the German economists in favour of social reform were also of varying opinion in this matter.

Schmoller and other representatives of a «bureaucratic socialism» in the Society wanted to carry out the solution of the social question by legislation and administration from «above» as it were. The development of the English trade unions could certainly serve Germany as an example, but a systematic transfer to German conditions was considered to be mistaken. The State as an expression of the collective interest of society had principally a task to fulfill and to erect corresponding legal limits<sup>40</sup>. With a warning Schmoller painted a picture of the industrial future of Germany: «Gentlemen, what is the consequence of all this? Gigantic monopolies on the one side and on the other closed workers' castes, which probably become hereditary in time, . . . a great part of our total free competition of today, a great part of our total individual freedom of today, is simply removed by this»<sup>41</sup>. Prophetically he perceived mighty concentrations of «Big Capital» and «Big Labour», which one way or the other took in the freedom of the individual or crushed it in their struggle for power. Trade unions, supra-works tribunals, settlement offices, labour courts and similar institutions could not solve this problem on their own,

as the actual competence to deal with works affairs was lacking on account of their heterogeneous constitution. Here only the power of the State could help the individual and attend to social justice. The cardinal problem for Schmoller was substantiated in the relationship between the lower and the middle upper classes<sup>42</sup>. In his opinion the historical development showed an unflagging tendency towards a union of the workers and the common representation of their interests. It was the State's task to support this tendency even against the will of the employers. In order to achieve the material equality of the workers, their spiritual and ethical level had to be raised at the same time. The State had the task of taking on the methodical control of this process of education.

Schmoller recommended as a suitable means the institution of works' workers' committees, i.e. organs of self administration of the workers in the fashion of the works councils of today. Contrary to the other members of the Society like Brentano, Wagner and Herkner, he saw a great future in these mediating organs. «The significance of these committees», he said, «can become an exceptional one for the future. They introduce definitely a completely new element, which is applicable almost everywhere to the old patriarchal order and constitution of the big companies; with them the old despotism of household economy is transformed into a public institution, which has a mixed constitution following the example of other corporations, communities and co-operatives, with them our economic institutions come into line with our political ones». If one wants to follow socialistic usage, Schmoller continued, then the dictatorship of capital comes to an end and a new epoch of political economic organisation with trade unions and workers' committees begins. If a constant struggle in detail and mutual hindrance in general as well as complete stand-still and revolution were not to take place, all pure structures based on mastery would have to be transformed into relationships of a mixed nature. . . . in which a certain degree of co-determination would have to be granted to the production workers. Schmoller saw in the new works representations a significant change and development in the social constitution of the factory because the workers for the first time participated institutionally in the control of the concern. At the same time they were given influence on the formation of the contract of employment. Complying with practical necessity, works sickness insurance, charitable institutions, factory regulations and «internal penal codes» had arisen in many parts in which workers were participating as a voluntary concession on the part of the employers. This was now to be raised to a general principle. Schmoller was of the opinion that the double function of the works' workers' committees, that is on the one hand responsibility towards the employer and on the other hand having the confidence of the workers, would make them superior to all one-sided representation of interests. It was the task of the works representatives to change the structure of the major concerns from within. There ought to be a means of understanding for the development of the existing working relations and an administrative organ for common causes<sup>43</sup>. The step-by-step participation of the workers in the control of working conditions would be a means of gradually ironing out social

tensions. What is more he also saw in this a way of combatting social democracy whose political programme he dismissed<sup>44</sup>.

Schmoller also recognised that many problems such as the question of wages could not be limited to one concern. In many branches of the economy as early as 1890 the first trade unions, mostly in the form of specialist workers' societies had sprung up<sup>45</sup>. These were not to receive complete freedom by an overhasty law, instead he considered it more advantageous to begin first of all with the setting up of an «Imperial Labour Office» as supreme central authority for such questions. The rights of union were then to be conferred from case to case to certain workers' associations according to their stage of development in which case the printers and miners were granted a corporation. Neumann, a member of the Society demanded in addition the creation of a ministry of labour of their own<sup>46</sup>. Both suggestions had a long past history and had been discussed in detail already in the political economic committee of the Frankfurt National Assembly<sup>47</sup>.

Lujo Brentano and his supporters represented a totally different conception of the development of industrial labour relations. For them the contract of employment was characterised by two elements : by the category of mastery and the category of purchase<sup>48</sup>. On the one hand the worker came under the mastery of the employer, on the other hand he offered him his labour as a commodity. The contract of mastery could be corrected by laws for the protection of the workers and be balanced socially. The position of the worker on the market, however, required supplementary institutions for self-help, which the State could not offer. The offer of the commodity work had to be regulated by workers' organisations<sup>49</sup>. Brentano had spent a lengthy time in England and studied the «Trade Unions»<sup>50</sup>. Thus he approved of the formation of corresponding «workers' guilds» in Germany too. With that «the longing on the part of the workers for self-determination» would be satisfied. According to civil law the trade unions were to become competent and to put the worker in a position «to take up the battle of economic interests with the stronger side and not to succumb»<sup>51</sup>. Brentano even went as far as to compare the relationship between the employers and their workers with the feudal lord and his serfs in the Middle Ages, which was received by the Manchester Party with indignation. The new work agreements were to put the workers in a position to conduct effective negotiations on work regulations, wages, hours and working conditions. At the same time it was to be possible for the employers to join up in associations. Complete freedom of assembly and association were assumed. Brentano did not dismiss out of hand the Schmoller workers' committees, but he saw in them no means of establishing a community of employers and employees. In his suggestions, he rather stuck more closely to the original liberal idea of the contract of employment. Employers and workers continued to exist as contracting parties with totally different basic interests. He turned strictly against harmony of interests and emphasised on the contrary the class differences. For him it was a matter of transferring the contract of employment to big organisations following the English

example, i.e. working it out collectively. In the new legal form of the tariff contract parties, two contracting parties stood opposite one another as buyer and seller of the commodity work, but then this time the contracting parties were equals. «Thus the contract of employment where its development has progressed most, has reached the point where it had to arrive naturally according to the economic nature of the contract», said Brentano. «It is no longer dictated to the individual worker but is agreed by the organisation of the employers and the organisation of the workers for all members of both organisations. From now on the free contract of employment is reality»<sup>52</sup>.

The employers' fears concerning the observance of the contract of employment were considered by Brentano as unfounded. Also the factory discipline and work regulations were not endangered. On the contrary he believed that big workers' organisations would exert an educative influence on the workers and would become in the end an instrument against social democracy<sup>53</sup>. Besides greater responsibility would lead to greater understanding of the economic problems of the firm. The negotiations between the employers and the trade unions would not lead to difficult social arguments, but after a short transitional phase to «moderate business agreements». In this manner a way could be found to social peace, in which explicit reference was made to the trade unions. The trade unions were to grow organically on their own without direct State influence. Thus they would later on best meet the requirements of the separate branches of the economy and have duration. Like Schmoller, he considered the organisation of the printers' assistants, which went back to the time of 1849 to be exemplary<sup>54</sup>. In his opinion the legislator had the task of promoting such developments. The § 152 paragraph 2 of the trade regulations, which left the withdrawal from price and wage agreements of the employers and workers to option was to be removed. Instead he demanded that § 105 of the trade regulations should be altered as follows<sup>55</sup>:

«The laying-down of conditions between the independent tradespeople and the workers, subject to the limitations founded on Federal Law is the object of free agreement. Such an agreement can be concluded not only between individual tradespeople and individual workers, but also between individual tradespeople or corporations of tradespeople and corporations of workers. Wherever a corporation of employers or workers agrees conditions of work for its members, the corporation's assets guarantee the fulfillment of these conditions of work on the part of the members».

The State should hold out the prospect of such corporation rights to the organisations of employees and employers, if they undertook to place their differences before State tribunals and settlement courts. The form of the proceedings—whether an impartial judge should be brought in or not—would have to be suited to the particular conditions of each branch of industry. The arbitration awards should only be binding, if they were reached by agreement of both parties<sup>56</sup>.

The majority of the members at the general assembly of the «Verein für Socialpolitik» at Frankfurt in 1890 agreed that the «workers' question» could only

be solved in the end by the development of the liberal contract of employment in the socially compensating sense, for the «social question is first and foremost a question of organisation»<sup>57</sup>. That is how the famous expert in private law, Otto Gierke, expressed it<sup>58</sup>. The State and the employers had an important task to fulfill here. Shortly afterwards the first part of the demands were put into practice. The amending law to the trade regulations of 1st June 1891 (Lex Berlepsch) brought a change of § 105 of the trade regulations in the new draft as suggested by Brentano, but only the first paragraph was adopted<sup>59</sup>. In section § 134 of the trade regulations, the institution of optional workers' committees was envisaged, as Schmoller and his supporters demanded<sup>60</sup>. On 24th June 1892 the Prussian Mining Law of 1865 was amended closely following the model of these regulations<sup>61</sup>. In section § 80 it was obligatory that all miners were to be heard before the issue of binding and exactly defined work regulations. As in other trading concerns, progress should be made by this regulation towards the formation of optional workers' representation in the works. Going beyond the trade regulations, it was even obligatory that any objections of the workers were to be made known to mining authorities within 3 days; apart from this the workers' committees were given the right to choose a delegate who supervised the fixing of wage deductions for the irregular loading of trucks. On 30th June 1900 in Bavaria and on 14th July 1905 in Prussia miners' committees became obligatory in the mines. With this the first stage of the remodelling of the works council had been achieved.

But the founding of the «Central Office of German Employers' Associations» in the year 1904, the strong increase of trade unions since 1890 and the spread of the system of tariffs on a voluntary basis showed that the change in the contract of employment was also influenced in the Brentano interpretation. In place of the individual work relationship on the basis of the «free» contract of employment more and more collective tariff-agreement came in. The «Verein für Socialpolitik» took up the subject of the contract of labour once more at its general assembly in 1905 in Mannheim. In a special point on the agenda, this time they dealt with the work relations in major industrial concerns, where an individual agreement on working conditions was impossible from the start<sup>62</sup>. This time representatives of the workers also took part for the first time in the meeting. These were Johann Giesberts, the famous leader of the metal workers and delegate of the Centre Party, Anton Erkelenz, mechanic and secretary of the workers, and the workers Goldschmidt, Gleichauf and Fischer<sup>63</sup>. The views of the employers were on this occasion put forward by E. Leidig<sup>64</sup>. He quoted the existing laws which still depicted the contract of employment as a private matter. The circles in the economy which he represented would still stick to the idea, «that this contract of employment can and should be concluded only between the appropriate works owners on the one hand and the individual workers on the other side. That is the principal contrast between Professor Brentano and the greatest part of German industry»<sup>65</sup>. Leidig pointed out that the workers did not face capital helplessly by any means; for the right to form combinations, general equal voting rights and the pressure of public opinion

had strengthened their position. The efforts of the trade unions were however influenced by the social democrats against whose demands one had to defend oneself. Attacks by the workers' organisations had preceded all lock-outs. The greater part of the workers were not organised and had to be protected against the power of the workers' combinations. The employers had the task of providing jobs for these «ready to work». Because of a lack of skilled workers, the employers were forced in their own interest to consider the well-being of the workers. The common interest in the continuation of the concern was stronger than all social differences. The responsibility of the employers, who through the growing number of joint-stock companies had to satisfy also outside providers of capital, had increased greatly, and he alone was responsible for success. Any limitation of the responsibility of the employer would reduce the competitive ability of German industry on the world market<sup>66</sup>.

As in 1890 Brentano sharply opposed this point of view of the German employers<sup>67</sup>. For economic and technical reasons he considered it impossible to continue to stick to individual contracts of employment. In the would-be protection of these «willing to work» it was not a question of the protection of freedom to work but of the protection of the employers' right to force to their knees their own workers in their demands through strike breakers. In labour disputes one would like to employ foreign workers who were not acquainted with the local working conditions in order to make the workers additionally dependent. This unilateral exertion of power on the part of the employers in the work relationship would have to be restricted legally. Brentano therefore demanded once again the recognition of the trade unions as negotiating partners of the employers. No worker might therefore be dismissed solely because he belonged to a workers' organisation. If necessary, the State would have to force the employers' associations to negotiate with the workers' associations. Besides organisations were to be formed which encompassed all workers inside a trade branch. In these legal corporations the existing professional associations would have to be accommodated according to their significance in a proportional electoral system. There too of course the workers' representatives had to submit to compulsion of negotiation<sup>68</sup>. All disputes over contracts of employment should be settled under the chairmanship of an impartial arbitrator. If they could not agree on a person, then the chairman of the appropriate trade court would have to take over the conduct of the negotiations<sup>69</sup>. The conditions laid down in the collective contract of employment should be legally valid for all members of the trade concerned<sup>70</sup>. The State could act as model by giving contracts only to such concerns as do not refuse to work together with the workers' organisations<sup>71</sup>. Going even further, Brentano demanded the cancellation without replacement of section § 153 of the trade regulations which placed the compulsion to form a combination or as the case might be an organisation under an exceptional law. This paragraph was a sort of «substitute socialist law» and above all served the purpose of limiting the political activity of the workers<sup>72</sup>.

Max Weber also considered the penal code adequate for real violations. On the retention of section § 153 of the trade regulations he demanded a clause in the penal code in case an employer threatened a worker with notice of dismissal as soon as the latter made use of the right to combination<sup>73</sup>. In contrast to Brentano, Weber rejected compulsory organisations for worker parties. Socialist liberal pastor Friedrich Naumann pointed out that the decision on the development of the contract of employment must not be left solely to the struggle of the organisations as the workers' unions would as a rule lose. Strikes would have more political and socio-political demonstrative effects<sup>74</sup>. The Christian workers' leader Giesberts represented the view that strikes were only concerned on the surface with wages and the shortening of working hours, in truth it was a question of the principle of professional organisation and «the recognition of cooperation of the workers in the free contract of employment»<sup>75</sup>. He too was for corporate agreements but considered Brentano's «statutory organisation» dubious.

### III.

What historical significance is to be attributed to this discussion of principles of the «Verein für Socialpolitik» on the liberal contract of employment between 1872 and 1905? First of all it becomes clear that profound doubts about the genuineness of the liberal contract of employment existed not only in the ranks of socialism but also in the camp of civil liberal national economy. A perfect classic model of liberal thinking was thus questioned. Drawing consequences from this, the most important scholars of the German economy of the time, working in conjunction with lawyers, high State officials and representatives of public opinion decisively influenced the progress of labour relations. It is a legend to maintain that the change in the contract of employment was brought about solely by the pressure of the social movement. The views of reform circles in State, economy and science were at least equally involved. Direct influence of the Society for Social Politics («Verein für Socialpolitik») on the legislature cannot of course be proved. The fact that such a leading member as Albert Schäffle was called in by Bismarck on the preparations of accident insurance was an exception<sup>76</sup>. It is, however, known that State Undersecretary Theodor Lohmann had close contact with leading academic socialists and in many respects was close to them in thought. The important drafts of the law for the legislature for the protection of workers in the nineties, in particular the amending law of the trade regulations of 1891 and the amendment to the miners' law came from his pen<sup>77</sup>. Also Minister Berlepsch and his successor Powadowsky-Wehner were close to the union in ideals. Their suggestions and discussions expedited considerably the progress of social politics. The massive criticism of the ideas of the free trade school, which clearly dominated in Germany up to 1872 but then was only defended by experts and officials of industry, must be interpreted as the beginning of the end of high liberalism. The public, particularly the press took an active part in the meetings of the Society and was strongly influenced from



that quarter. Thus it is also no wonder that in their big strikes, for example the miners' strike of 1905 the workers enjoyed great public sympathy. The Society's debate gave a more objective and more scientific picture of the social question. With this the Society had achieved an important goal the main aim of which Schmoller had characterised as follows at its founding<sup>78</sup> :

«We are not a party, not a gathering of interests. We are patriots, scholars, businessmen, officials who want to instruct and enlighten one another and others by their debates. We are a scientific society which at the same time, like the best of our press, want to have an effect on public opinion. Like the chorus in classical tragedy which stands aside calmly and dispassionately and accompanies the passionate actions on the stage, we want to stand up for what is true and good, just and fair, and procure a greater weight for these highest ideals of human life».

As Schmoller later emphasised in his «General Outline of Political Economy», it had by no means been the aim of all these reform movements to condemn in its entirety the liberal contract of employment. It signified infinite progress compared to the pre-industrial conditions of bondage, not to mention serfdom and slavery<sup>79</sup>. One had imagined the change to free work too simple and had overlooked the fact that work relations did not consist solely of economic barter relationships. Liberal classicism envisaged an enlightening ideal of freedom and equality and also desired the «greatest possible happiness» for all those involved in the work process. The liberals were by no means blind to social injustices but attributed them, reminiscent of the system of guilds and mercantilism-absolutism with their red-tape, to state interference into natural law market relations. With more freedom, it was hoped, these grievances would disappear by themselves. With the issue of the trade regulations of the North German Federation the victory of «freedom of trade» had just been won with great difficulty. Although since the days of political romanticism, there had been an almost uninterrupted chain of liberal-heretical thoughts in Germany, it was really the «Verein für Socialpolitik» which first achieved the complete about-turn in public opinion and the legislator in the question of the liberal contract of employment. More clearly than ever before, Gustav Schmoller, Lujo Brentano and Adolph Wagner demonstrated where the basic problem of the «social question» lay and how it should be solved constitutionally in a peaceful manner<sup>80</sup>. Despite varying opinions on individual questions, they were agreed that Manchester liberalism, which in contrast to England had no real roots in Germany, was not capable of developing work relations in the ethical sense. They rejected sharply the view of the employers who branded any interference by the State in the economy as «socialistic». In particular Brentano and Schmoller broke through the formal legal web of the contract of employment and revealed the economic and social disparity of the two parties to the contract. In sociological realisation they introduced the problem of mastery and its division. There can be no doubt that some of these

civic social reformers who understood the Manchester abusive name «academic socialists» as an honourable term, strove for a de-facto and de-jure recognition of the trade union movement already during the Empire of Wilhelm. With astonishing perspicacity the structures of the coming high industrialisation were aimed at and the socio-political duty of the State was emphasised with the retention of the economic-political liberal basic direction. After a hundred years we see to-day how fruitful this debate has been : Schmoller's idea of the build-up of works co-determination as well as Brentano's idea of the collectivisation of the contract of employment by strengthening of the trade unions have of course become shining realities of the labour and works constitution.

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5. See for example *Heinrich Waentig*, *Die gewerbepolitischen Anschauungen in Wissenschaft und Gesetzgebung des 19. Jahrhunderts*. In : *Die Entwicklung der deutschen Volkswirtschaftslehre im neunzehnten Jahrhundert*. (Festschrift für Gustav Schmoller), vol. 2, Leipzig 1908. - *R. Beyenim*, *Die Geschichte der Reichsgewerbeordnung*, Leipzig 1901. - *Ernst Friedrich Goldschmidt*, *Die deutsche Handwerkerbewegung bis zum Sieg der Gewerbefreiheit*. (Thesis) München 1914. - *Fritz Ruffer*, *Das gewerbliche Recht des Allgemeinen Landrechts für die Preussischen Staaten vom 1.6.1794 und die preussische gewerbliche Gesetzgebung von 1810 und 1911*, Tübingen 1905.

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18. *Wilhelm Roscher, System der Volkswirtschaft*, vol. 1. In: "Die Grundlagen der National-ökonomie", 7th edition, Stuttgart 1868, p. 137.
19. Concerning the problem of academic socialism and the "Verein für Socialpolitik" see *Adolph Wagner, Sozialismus, Sozialdemokratie, Katheder-und Staatssozialismus*, Berlin 1875.
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33. *Henri Axel Bueck, Korreferat über Arbeitseinstellungen und Fortbildung des Arbeitsvertrages*". In : "Schriften des Vereins für Socialpolitik," vol. 47, Leipzig 1890, p. 131 seq.

34. *Ibid.* p. 134.

35. *Ibid.* p. 137 seq.

36. *Ibid.* p. 134.

37. *Ibid.* p. 133 and p. 154.

38. *Ibid.* p. 150.

39. *Schmoller, Über Wesen und Verfassung grosser Unternehmungen*, p. 436.—*Teuteberg, ibid.* p. 287.

40. See the contribution to the discussion by Professor Neumann (Tübingen) at the general meeting in 1890. In : "Schriften des Vereins für Socialpolitik," vol. 47, Leipzig 1890, p. 187.

41. *Ibid.* p. 205.

42. *Ibid.* p. 202.

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44. *Ibid.* p. 437.

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This idea to establish a "Reichsarbeitsamt" (Imperial Labour Exchange) or a "Reichsarbeitsministerium" (Imperial Ministry of Labour) was favoured by Gustav Schönberg and especially by Adolph Wagner. As so often at that time one dreaded too much power on the part of the trade unions and preferred having all these questions settled by a competent central authority. Similar institutions in France during the Revolution of 1848 and the reign of Napoleon III may have served as a model.

47. See *Teuteberg, ibid.* p. 59 seq.

48. *Lujo Brentano, Über Arbeitseinstellungen und Fortbildung des Arbeitsvertrages, Einleitung zu den Berichten von Auerbach, Lotz, Zahn*". In : "Schriften des Vereins für Socialpolitik," vol. 45, Leipzig 1890, p. LXVII.

49. *Ibid.* p. XXXIII.

50. *Lujo Brentano, Zur Geschichte der englischen Gewerkvereine*, Leipzig 1871. *Lujo Brentano, die Arbeitergilden der Gegenwart*, 2 vol., Leipzig 1871-72. *Lujo Brentano, Article Gewerkvereine*. In : «Handwörterbuch der Staatswissenschaften», 2nd edition, Jena 1898-1911, and 3rd edition vol. 4, Jena 1909. The importance of the English model at the Frankfurt discussions on the contract of employment is demonstrated by the presence of the English J.E.C. Munro from Manchester, who also gave a talk (Schriften des Vereins für Socialpolitik, vol. 47, Leipzig 1890, p. 187-191).

51. *Ibid.*, *Die gewerbliche Arbeiterfrage*, p. 937.

52. *Ibid.*, *Über Arbeitseinstellungen*, p. XXXIV.

53. *Ibid.*, p. 128 seq.

54. *Ibid.*, p. LXV.

55. *Ibid.*, p. LXVI.

56. *Ibid.*, p. LXVI seq.

57. *Otto Gierke, Diskussionsbeitrag zu den Verhandlungen von 1890*. In : "Schriften des Vereins für Socialpolitik", vol. 47, Leipzig 1890, p. 278.

58. *Gierke*, since 1887 again at the Berlin University, distinguished himself by his works on co-operative law. His person demonstrates particularly well the connection between the theory of private law and the German liberal political economy. See : *Das deutsche Genossenschaftsrecht* 3 vols., 1868-81; *Deutsches Privatrecht*, 3 vols. 1895-1917.

59. See : *Gesetz betreffend die Abänderung der Gewerbeordnung vom 1. Juni 1891*". In : "Reichsgesetzblatt" 1891, p. 261 seq. Reprinted from the original in : Archiv für soziale Gesetzgebung und Statistik," vol. 4, Berlin 1892, p. 347 and p. 360. See also *Philipp Lotmar, Der Arbeitsvertrag nach dem Privatrecht des Deutschen Reiches*, Leipzig 1902. *R. Schellwein, Arbeit und Recht*, Berlin 1892. *Robert von Landmann, Kommentar zur Gewerbeordnung für das Deutsche Reich*, 5th edition, 2 vols., München 1907. *Schenkel, Die deutsche Gewerbeordnung*, 2nd edition vol. 2, Karlsruhe 1894. *K. Koehne, Die Arbeitsordnungen im deutschen Gewerberecht*, Stuttgart 1901. *K. Koehne, Die Arbeitsordnung vom Standpunkt der vergleichenden Rechtswissenschaft*, Stuttgart 1901.

60. *Friedrich Syrup, 100 Jahre staatliche Socialpolitik 1839-1939. Bearbeitet von Otto Neuloh*, Stuttgart 1957, p. 204.

61. *Teuteberg, ibid.* p. 419 seq.

62. *Lujo Brentano, Einleitender Vortrag zu den Verhandlungen der Generalversammlung am 25-28. 9. 1905 in Mannheim «über das Arbeitsverhältnis in den privaten Riesenbetrieben*". In : "Schriften des Vereins für Socialpolitik," vol. 116, Leipzig 1906, p. 135.

63. *Johann Giesberts*, born near the border between the Netherlands and Germany, was one of the outstanding leaders of the catholic labour movement. From 1906 to 1918 he was a member of the "Preußisches Abgeordnetenhaus" (Prussian House of Parliament). After the end of the first World War he got a leading position at the "Reichswirtschaftsamt" (Central Board of Economy) and from 1919 to 1922 was Postmaster General. Afterwards he belonged to the parliamentary group of the catholic "Zentrum"-Party at the German Reichstag. *Anton Erkelenz* (born in 1878 at Neuß-on-Rhein) was a functionary of the Christian trade unions since 1902. In 1923 he became leader of the "Democratic Party".

64. See : *Schriften des Vereins für Socialpolitik*, vol. 116, Leipzig 1906, p. 150 seq.

65. *Ibid.* p. 151.

66. *Ibid.* p. 156.

67. *Ibid.*, p. 135 seq. *Richard Ehrenberg* maintained afterwards that a great deal of *Brentano's* reflections were derived from him and his empirical research on the standard of living of the Krupp workers. See *Richard Ehrenberg, Das Arbeitsverhältnis als Arbeitsgemeinschaft*. In : "Thünen-Archiv. Organ für exakte Wirtschaftsforschung," vol. 2, Jena 1909, pp. 176-202. *Richard Ehrenberg und Hugo Racine, Kruppsche Arbeiterfamilien*. In : *Ibid.* vol. 1912.

68. It is not possible to discuss the general problems of industrial democracy here. For more particulars see *Teuteberg ibid.* pp. 465-489.

69. These "Gewerbegerichte" (Industrial Courts) were established by the "Gesetz betr. die Gewerbegerichte vom 29. Juni 1890 (Reichsgesetzblatt p. 141 seq.)". Special jurisdiction for such labour conflicts was characterised by a quick and cheap procedure as well as the calling-in of lay-judges from the works employees. The participation of workers at these industrial courts (later on also of the employees in the so-called "Kaufmannsgerichten" (Commercial Courts) was an important step towards changing the character of the employment contract.

70. Brentano's idea of a collective employment contract was not identical with the later general conception of wage agreement. It is a well-known fact that the employer is not obliged by a wage agreement to pay wages or the worker to provide his labour. The wage agreement only sets certain standards for individual agreements. In the first instance in the ensuing debates the fact that the wage agreement was not an employment contract was overlooked, as the labour leader Giesberts pointed out. See his contribution to the discussion at the meeting in 1905. In : "Schriften des Vereins für Socialpolitik" vol. 116, Leipzig 1906, p. 173. *Philipp Lotmar, Die Tarifverträge zwischen Arbeitgebern und Arbeitnehmern*. In : "Archiv für soziale Gesetzgebung und Statistik", vol 15, (1900), p. 93.

71. *Schriften des Vereins für Socialpolitik*, vol. 116, Leipzig 1906, p. 146.

72. See *Karl Erich Born, Der soziale und wirtschaftliche Strukturwandel Deutschlands am Ende des 19. Jahrhunderts*. In : "Vierteljahresschrift für Sozial-und Wirtschaftsgeschichte", vol. 50 (1963), p. 367.

73. See *Max Weber, Diskussionsbeitrag zu den Verhandlungen 1905*. In : *Schriften des Vereins für Socialpolitik*, vol. 116, Leipzig (1906), p. 216.

74. *Ibid.*, p. 187.

75. *Ibid.*, p. 171.

76. See *Walter Vogel, Bismarcks Arbeiterversicherung. Ihre Entstehung im Kräftespiel der Zeit, Braunschweig 1951*, p. 75 seq. *Born, ibid.*, p. 41. In this connection a recently published research paper points out that in the later 19th century nearly all university chairs for political economy were occupied by "academic socialists" and that almost all future government officials had been trained in their seminars. As the civil service was the actual bearer of social legislation the indirect influence of the "Verein für Socialpolitik" on German home affairs cannot be overestimated. See : *Mussiggang*, pp. 154-55.

77. *Rothfels, ibid.* p. 93. *Teuteberg, ibid.* p. 383.

78. *Schmoller, Eröffnungsrede zu den Verhandlungen der am 26. und 27.9.1890 abgehaltenen Generalversammlung des Vereins für Socialpolitik*. In : "Schriften des Vereins für Socialpolitik", vol. 47, Leipzig 1890, p. 4.

79. *Gustav Schmoller, Grundriss der allgemeinen Volkswirtschaftslehre*, vol. 2, Leipzig 1919, p. 307 seq. Here the whole problem of the liberal employment contract in its most varied aspects has once more been brilliantly summed up. There is also an abundance of earlier literature listed.

80. See *Carl Jankte, Der Vierte Stand. Die gestaltenden Kräfte der deutschen Arbeiterbewegung im XIX. Jahrhundert*, Freiburg 1955, p. 193 seq.