

Bullock and the Aftermath **Le rapport Bullock et ses répercussions**

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Article abstract

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Bullock and the Aftermath

Adolf Sturmthal

This study presents the main recommendations of Lord Bullock's Committee of Inquiry on Industrial Democracy in Great Britain.

While there is a century-old tradition of a search for some ill-defined forms of industrial democracy, the present drive for institutions that might come under this label, may perhaps be better traced to the semi-revolutionary upheavals in Europe in 1968/9. At least it may be said that these events gave a new push to the movement and led to various more or less concrete proposals for legislation or other institutions of this kind.

One clear expression of the movement was the decision of the European Economic Community to seek a statute for a European Company in contrast to the great majority of multinational companies which are in fact conglomerates of national companies operating under the various company laws of the different countries in which they do business. In connection with this endeavor, attempts are being made to provide for some form of worker representation in the directing organs of these enterprises. While C. Lyon-Caen among others proposed that the specific form of such representation be decided by collective bargaining, the Commission of the European Economic Community came out in favor of a uniform system. This was in the main patterned after the institutions of co-determination existing in West Germany. Since there are many other forms of workers' participation in decision-making in existence in different countries and at various levels — from workshop to the economy at large — the choice of the German pattern as model expresses the belief that this form has contributed to the remarkable economic recovery of West Germany from the devastation brought on by World War II and to the high degree of industrial peace characteristic of that country. It remains an open question whether the causal relationship should not be reversed, i.e., with economic growth as the factor that enabled German co-determination to be so successful. In either view, however, it must be admit-

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ted that contrary to many early predictions the German system of co-determination does not seem to have prevented or even noticeably slowed down the progress of the West German economy and the concomitant rise of the life standard of the great majority of the population.

It may be useful, before proceeding any further, to indicate briefly some of the main characteristics of the German system. It is based on legislation. German company law provides for two layers of top management: a supervisory board, part-time, determining the general direction of company policies; and a managerial group, frequently consisting of three full-time members who are to carry out these policies. The main principle of German co-determination is workers' representation on the supervisory board. In the early legislation (1952) this was limited to one-third of the membership except for coal and steel, which were subject to special regulation (1951) giving to workers "paritary" representation on the supervisory board, and one-third representation in the management group. Later union demands for "paritary" representation in all large enterprises were only partly fulfilled (1976). At the plant level, some form of co-determination was established by the works councils derived from institutions created during World War I, but repeatedly modified since, especially through the Works Constitution Law of 1972.

British tradition was opposed to any of these institutions. Unions were regarded as counter-vailing powers to capital, rather than as direct participants in management. This view prevailed throughout British labor history, in spite of the influence of Guild socialism during a short period following World War I. Industrial democracy was established in the form of collective bargaining at the national level and supplementary informal agreements in the plant by way of shop stewards, more or less loosely connected with the unions. This philosophy found good expression in Hugh Clegg's report on an international seminar held in Vienna in 1958, entitled. *A New Approach to Industrial Democracy*.¹ Its main elements were union independence from state and management, a union monopoly on the representation of workers' interests, and a rejection of the traditional Marxian views that the crucial issue was the ownership of the means of production.²

¹ Oxford, Blackwell, 1960.

² Andrew W. J. THOMPSON: «New Focus on Industrial Democracy in Britain,» *The Annals of the American Academy of Political and Social Science*, Vol. 431, May 1977.

There has been a clash over the issue of workers' representation on the boards of nationalized enterprises during the lifetime of the British Labour Government that came into power in 1929. Herbert Morrison, as Minister of Transport, had prepared a London Passenger Transport Bill which, contrary to Guild Socialist tradition, as represented by G.D.H. Cole's writings, did not provide for workers' representation on the board that was to administer the transport system of Greater London. The board members were to be selected solely on the grounds of competency. A sharp debate ensued between Morrison and Ernest Bevin, later the powerful Minister in the war-time Churchill/Attlee coalition cabinet and then even more powerful in the Labour government after World War II. At the time of the debate Bevin was leader of the big transport workers' union and even as such no negligible foe. The solution then found was a compromise that permitted — as a good compromise should — both sides to claim victory. Unionism, but not a given union was to be represented on the board by experts in industrial relations. However, while selected by the Minister among union officers, they would have to resign their union office upon being appointed and would be responsible only to the Minister rather than the union or the workers of the enterprise. Their number remained undetermined, but a proposal to give worker nominees half of the board membership was turned down by a narrow majority at the Trade Union Congress of 1933.³ For the time being, all this proved a purely theoretical discussion. The Labour government had resigned before the Morrison bill had been passed. From then on until 1940 Labour remained in the opposition.

However, in 1944 the Trade Union Congress published its *Interim Report on Post-War Reconstruction*, which in its essentials retained the compromise worked out earlier. In the interest of the efficiency of the industry itself, said the Report, experienced trade unionists should be included among the board members. The T.U.C., after consulting the appropriate unions, would submit a list of candidates to the Minister in charge of the particular nationalized industry. Upon appointment to the board, the trade unionist "should surrender any position held in, or any formal responsibility to, the Trade Union."

Essentially, this system which — with one minor exception — prevails to this day, was based on the view that "one could not sit on both sides of the bargaining table." The union was a countervailing power to capital, rather than its partner in the management of the

³ Adolf STURMTHAL: *Unity and Diversity in European Labor*, The Free Press, Glencoe, Illinois, 1953, pp. 180/1.

enterprise. There was some temporary confusion within the movement on the exact meaning of this. No major discussion preceded the adoption of this policy and the Labour Party's detailed proposals on the nationalization of coal, power and transport published at about the same time as the Interim Report, still referred to "workers' participation" in the management of nationalized industries. But "Let Us Face the Future," the election manifesto of 1945, no longer did so and at the party conference in May of that year, Emanuel Shinwell, speaking for the Party Executive, declared that "the form of participation" of the workers in the management of the industry was "a matter that had to be worked out."⁴

It is important to remember that all this referred only to the management of nationalized, not of private, enterprises. The only, relatively minor, change of the system occurred later in the steel industry, also a nationalized industry: active trade unionists became part-time directors on the divisional level.

These matters rested until the late sixties, when the issue of workers' participation was raised unsuccessfully by a minority of the members of the Donovan Commission (officially, Royal Commission on Trade Unions and Employers' Associations, chaired by Lord Donovan). The Labour Government took note of this comment in its White Paper, *In Place of Strife*, saying that, "it favored experiments with workers' directors and intended consultations as to how this might best be achieved."⁵ For the rest, the paper stated that collective bargaining "represents the best method so far devised of an advancing industrial democracy."

However, with Britain's entry into the Common Market, the EEC discussions about a European company law, and — last but not least — the spectacular growth of the West German economy, the issue of workers' participation was revived in the early 1970's. The initial push came from the T.U.C. whose research staff prepared a paper on the subject in 1973. This, entitled "Industrial Democracy," clearly favored workers' representation on the board of directors. The main argument was that collective bargaining did not extend to the general economic policies of the different enterprises, such as investment, location, closures, etc., that are of vital interest to workers. The T.U.C. Congress adopted the paper and made its contents part of the discussions with

⁴ Moreover, even the high priest of Guild Socialism, G.D.H. COLE, in a study of the *National Coal Board* (rev. ed., London, 1949, pp. 10/11) concluded that his idea could not be implemented in a capitalist society.

⁵ THOMPSON, *op. cit.*, p. 34.

the Labour Party about what came to be known as the Social Contract. In exchange for voluntary wage controls by the unions, various reforms were promised, among them some form of "industrial democracy." In order to prepare detailed proposals on the subject a committee of inquiry was appointed in 1975 under the chairmanship of the distinguished Oxford historian, Lord Bullock, the author of an outstanding book on Hitler and a leading student of German affairs. The majority of the committee members were rather close to the Labour Party or the T.U.C. Three of the eleven members were trade unionists. The "term of reference" given the committee, i.e., the directives under which it was to operate, fairly clearly indicated what it was expected to do. To quote:

Accepting the need for a radical extension of industrial democracy in the control of companies by means of representation of the board of directors, and accepting the essential role of trade union organizations in this process, to consider how such an extension can best be achieved, taking into account in particular the proposals of the Trades Union Congress report on industrial democracy as well as experience in Britain, the EEC and other countries...

The findings of the committee were to apply only to the private economy while another committee was to investigate the public sector.

The new TUC position, briefly outlined above, accepted the basic features of German co-determination while rejecting the German workers council. Moreover, the TUC demanded equal representation with owners on supervisory boards if the German two-board system were to be adopted, i.e., a supervisory policy-making board and a small managerial group. If a single board were to be retained, the TUC accepted a minority position in members — with managers added to shareholders' representatives — provided the managers had no voting rights and the number of shareholders' representatives did not exceed that of union delegates on the board. The method of designating the workers' representatives should be left to the discretion of the union with non-union members excluded from any decision. The parity between shareholders and workers need not lead to a stalemate; a rotating chairman with deciding vote or an independent chairman could be appointed. No need existed to appoint consumer representatives on the boards, the more so as they would have no clearly defined constituency to report to.

The report of the Committee of Inquiry was submitted to the Minister and the public in early 1977 on the basis of no fewer than 337 written submissions. More than 200 pages long, the Report is a substantial document. Its underlying philosophy is stated in the following paragraph which is part of the conclusion.

During our inquiry we found a widespread conviction, which we share, that the problem of Britain as an industrialized nation is not a lack of native capacity in its working population so much as a failure to draw out their energies and skill to anything like their full potential. It is our belief that the way to release those energies, to provide greater satisfaction in the workplace and to assist in raising the level of productivity and efficiency in British industry — and with it the living standards of the nation — is not by recrimination or exhortation but by putting the relationship between capital and labour on to a new basis which will involve not just management but the whole workforce in sharing responsibility for the success and profitability of the enterprise. Such a change in the industrial outlook and atmosphere will only come about, however, as a result of giving the representatives of the employees a real, and not a sham or token, share in making the strategic decisions about the future of an enterprise which in the past have been reserved to management and the representatives of the shareholders.

This, of course, is close to if not identical with the ideas of the TUC. While referring frequently to the West German model and its success, the Report recommends retention of the traditional unitary board rather than the division between a supervisory and a management board, West German style. There are fundamental decisions which only the Board of Directors can make; they range from liquidation of the company to the appointment, removal and pay of senior management officials. Employee representation occurs at the board of directors level. They are to report back to the employees whom they represent but keep confidential information “the disclosure of which might damage the company.”

The most widely disputed proposal of the committee concerns the constitution of the board. The formula “ $2x + y$ ” has been used as an abbreviation: “minority but equal representation of shareholders and employees, entailing a third group of directors on the board.” Minority employee representation without that third group was rejected on the basis of experience in Sweden and West Germany where it was found that this system provides no effective transfer of power from shareholders and management towards workers. The third group is to be elected in an uneven number greater than one by agreement of a majority of each of the two other groups.

In principle, agreement should be reached about the organization of the board between the recognized trade unions and the existing board. If no agreement is reached within six months, the law would prescribe the necessary rules based on the $2x + y$ formula. The chairman should be selected by the shareholder representatives unless the board unanimously decides otherwise. However, a preliminary basic decision is a vote of all employees by simple majority constituting at least one-third

of the employees in favor of board representation. Employee representatives are to be elected by the union shop steward organization so as to prevent the development of an employee organization competitive with the recognized union.⁶

The delicate problem of the relationship between employee representation and collective bargaining is treated with somewhat surprising optimism:

“...employee representatives are most unlikely to demand that senior management reveal their bargaining position and strategy and if they did make such a demand, they would almost certainly not be supported by the Shareholder representatives and the co-opted directors.”⁷

The main evidence cited to support this happy perspective is Swedish experience. However, the Swedish law prohibits employee representatives from taking part in board discussions on collective bargains and related issues, although in practice this is reported to be only rarely observed. More important: the harmonious labor relations of Sweden can hardly be used as analogy for the much less friendly industrial relations of the U.K.

There is, of course, a good deal more in the Report such as proposals on an Industrial Democracy Commission, and another on training facilities, but this paper must refrain from going too far afield. Moreover, events since the Report was published tend to indicate that it is unlikely to be translated into fact without considerable changes.

While the Bullock Committee adopted fairly completely the TUC views, the TUC did not represent the entire trade union movement on the issue of workers' representation. Opposition arose on the Left as well as on the Right of the labor movement. Indeed, the opposition had little in common with the traditional ideological divisions of the movement. Thus the Amalgamated Engineering Union with its 1.3 million members usually regarded as leftist has opposed the Report as did the Electricians Union with some 450,000 members whose leadership stands for right-wing strategies within the movement. Both unions view their role to be a countervailing force to capital rather than a partner in management.

As might be expected, opposition came from other sides as well. Indeed, the report was far from unanimous and very few influential voices outside the committee were raised in favor of the Report.

⁶ The British Employment Protection Act of 1975 provides procedures by which unions may claim recognition and establish that they are independent of employers.

⁷ Paragraph 56, p. 125, of the Report.

The three industry representatives on the committee strongly dissented from several of the main proposals. They advocated the adoption of the German-type two tiers system of administration. On the supervisory board the workers' representatives would be in a minority since when no agreement on the selection of the third 'outsider' group of members could be obtained, the shareholders could elect them at their annual meeting. Moreover, this part of the scheme should not enter into force until three years after employee councils on the shopfloor had been in operation. The candidates for the supervisory board would have to be properly trained, have at least three years' experience on the employee council, and have been employed by the company for at least ten years. Different categories of employees would be entitled to separate representation on the boards — blue-collar, white-collar, managerial. No board representation was to be in force unless all unions represented in the company agreed or two-thirds of the employee council members so requested. No election of worker representatives could take place unless 60 percent of the employees participated.

On its own the Confederation of British Industry (CBI) has waged war against the Bullock proposals and threatened that if they were to become law, the CBI would refuse to consult with the government.

The unfriendly reception given the Report by large parts of the public, the lack of unanimity within the trade union management, and last but not least, the weakness of the Labour government combined to force the government to grope its way towards a more acceptable scheme. The main objections as formulated, for instance, by the *Economist*,⁸ were as follows:

1. The Report gave too much influence in the selection of the labor directors to the shop stewards, neglecting the union rank and file and the non-union workers.
2. Parity of labor and shareholders representation on the board went farther toward a new social order than would correspond to Labour Party electoral strength in the country.
3. The Bullock proposal of $2x + y$ — which the *Economist* calls infamous — went further than the West German system in 25 years' evolution. An inflexibly uniform formula does not fit the internal divisions of both of the TUC and the CBI (Confederation of British Industry).

Yet the *Economist* favors some form of workers' participation. Indeed some minimum level of participation, the journal says, should

⁸ Issue of May 21, 1977. pp. 84/5.

be legally enforceable on employers if unions and workforce demand it. Thus while the Report undoubtedly goes further than circumstances permit, the issue of industrial democracy remains on the agenda not only of Great Britain, but also of most industrially advanced nations. Whether Lord Bullock's Committee has shown the way toward a solution of the problem remains an open question.

Le rapport Bullock et ses répercussions

Cette étude présente sommairement les recommandations du rapport Bullock publié plus tôt cette année; elle étudie les moyens d'instaurer la démocratie industrielle en Angleterre.

Depuis longtemps déjà, mais surtout depuis les événements de 1968-1969, on cherche à mettre au point les mécanismes les plus aptes à l'instauration de la démocratie industrielle.

L'auteur signale, au départ, que cette recherche s'inspire de la décision de la Communauté économique européenne d'adopter un type de loi des compagnies différent de celles qui gouvernent les sociétés multinationales dans les pays où elles font habituellement affaire. La CEE favorise un système uniforme qui s'inspirerait de la législation de l'Allemagne de l'Ouest parce qu'on estime que cette législation a beaucoup contribué au redressement économique de ce pays après la guerre et au maintien d'un haut degré de paix industrielle.

L'auteur rappelle ensuite les principales caractéristiques du système allemand, soit la représentation des travailleurs aux deux paliers de la société: au conseil de surveillance qui détermine la politique générale de l'entreprise ainsi qu'au bureau de direction chargé de l'application de cette politique. La principale originalité de la démocratie industrielle en Allemagne consiste donc dans la représentation des travailleurs au sein de l'entreprise. Minoritaire au départ, cette représentation est devenue paritaire aux conseils de surveillance l'an dernier.

La tradition britannique, où l'on conçoit les syndicats comme les adversaires du capital, s'oppose à ce genre d'institutions. Face à l'État et aux employeurs, la démocratie industrielle y repose sur la négociation collective, le monopole syndical de représentation des travailleurs et le rejet de la théorie marxiste selon laquelle l'enjeu de la lutte serait la propriété des moyens de production.

Pour illustrer son opinion, l'auteur cite un certain nombre d'exemples. Ainsi, en 1929, lors de l'étatisation du système de transport dans la région londonienne, le Ministre des transports s'est gardé de nommer des représentants des travailleurs au bureau de direction. Les parties sont arrivées à un compromis selon lequel, non pas le syndicat représentant les travailleurs de l'entreprise, mais le mouvement syndical y serait représenté par des spécialistes en relations du travail qui n'étaient responsables qu'au Ministre.

Plus tard, en 1944, le rapport de la Commission de reconstruction d'après-guerre recommanda que des syndicalistes d'expérience soient nommés aux bureaux de direction, mais on y émettait l'opinion qu'il ne saurait être question que les représentants des travailleurs «s'assoient des deux côtés de la table en même temps». Le rôle du syndicat

était conçu comme une force destinée à faire échec au capital plutôt que son partenaire dans la direction des entreprises. D'ailleurs, lorsqu'on parlait de participation des travailleurs à la direction des entreprises, on ne visait que les entreprises nationalisées et non pas le secteur privé.

Les choses en restèrent là jusqu'au début des années 60, alors qu'une minorité des membres de la Commission Donovan souleva de nouveau le problème de la participation des syndicats à la direction des entreprises. Le gouvernement travailliste en tint compte en favorisant des expériences en ce sens, tout en reconnaissant que la négociation collective restait encore la meilleure méthode de promouvoir la démocratie industrielle.

Au début des années 70, avec l'entrée de la Grande-Bretagne dans la CEE et le développement spectaculaire de l'économie allemande, l'idée de la participation des travailleurs à la gestion refit surface et, en 1973, le *Trade-Union Congress* publia un exposé sur le sujet. Celui-ci favorisait nettement la participation des travailleurs au sein des bureaux de direction. Cette demande s'appuyait sur le fait que la négociation collective ne touchait pas aux politiques générales des entreprises, en particulier à leur financement, à leur aménagement et à leur fermeture, toutes questions où se trouvent engagés les intérêts vitaux des travailleurs. Cette déclaration adoptée, le contenu en fut discuté avec les instances du Parti travailliste d'où ce qui a été connu depuis sous le nom de *contrat social*. En échange de l'acceptation volontaire par les syndicats de certaines mesures de contrôle des salaires, diverses réformes furent promises et, parmi elles, une forme quelconque de démocratie industrielle.

En vue d'en préparer l'aménagement, une commission d'enquête fut instituée en 1975 sous la présidence de Lord Bullock, historien de grande renommée. La majeure partie de ses membres était formée de personnes rattachées au Parti travailliste. Trois de ses onze membres appartenaient aux syndicats. Ses recommandations ne devaient s'appliquer qu'au secteur privé de l'économie.

Le TUC acceptait l'idée de la participation des travailleurs à la direction telle qu'elle existait en Allemagne, mais rejetait l'existence des conseils ouvriers. Le TUC exigeait une représentation égale à celle des propriétaires si on acceptait un système à double palier. Si on retenait l'idée d'un seul bureau, le TUC acceptait une représentation minoritaire de ses membres subordonnée à ce que les administrateurs n'aient pas droit de vote et que le nombre des représentants des actionnaires ne dépasse pas celui des représentants des syndicats. La parité entre actionnaires et ouvriers ne devait pas conduire à une impasse, le président, choisi à tour de rôle entre les deux groupes, ayant voix prépondérante ou encore un président indépendant pouvant être choisi. On n'y prévoyait pas non plus la représentation des consommateurs à ce bureau de direction.

Le rapport de la Commission, qui compte plus de deux cent pages, fut remis au début de 1977. Les recommandations du rapport se rapprochent beaucoup des suggestions du TUC et on y réfère fréquemment au système allemand. Le rapport recommande le maintien du bureau de direction unique. Les décisions fondamentales au bureau de direction vont de la liquidation de la société à la nomination et au renvoi des cadres supérieurs.

La proposition de la Commission qui fut la plus controversée fut celle de la constitution du bureau suivant la formule « $2X \pm Y$ », soit une représentation minoritaire mais égale des actionnaires et des employés exigeant la présence d'un troisième groupe dans le bureau de direction qui serait désigné sur l'accord de la majorité des deux groupes. En principe, cela signifiait que la constitution du bureau de direction devait se faire entre le bureau de direction existant et les syndicats reconnus. S'il n'y avait pas d'accord dans

les six mois, la loi prescrirait, l'application de la règle « $2X \pm 1Y$ ». Le président serait choisi parmi les représentants des actionnaires, à moins que le bureau de direction n'en décide unanimement autrement.

Le problème délicat de la négociation collective est considéré dans le rapport avec un optimisme surprenant, alors qu'il s'inspire de l'expérience suédoise où, cependant, la loi défend la participation des représentants syndicaux dans les bureaux de direction aux négociations collectives.

Depuis la publication du rapport, qui s'est inspiré largement des propositions du TUC, on s'est rendu compte que celui-ci ne représentait pas l'unanimité des syndicats affiliés sur le sujet. Il y eu opposition au rapport tant de la gauche que de la droite du mouvement syndical. D'un côté comme de l'autre, certains syndicats veulent s'en tenir, pour des motifs différents, à leur rôle d'adversaires ou d'opposants au capital.

D'autre part, les trois représentants du patronat se sont fortement désolidarisés des principales recommandations de la Commission. Ils ont préconisé le système allemand de représentation à deux paliers et la *Confederation of British Industry* a décidé de combattre les propositions du rapport et a menacé, si celles-ci étaient traduites dans une législation, de refuser de participer à des consultations avec le gouvernement.

L'auteur conclut que le rapport a reçu un mauvais accueil de la part de l'opinion publique, même si celle-ci favorise certaines formes de représentation, qu'il va beaucoup plus loin que les circonstances ne le permettent présentement, non seulement en Grande-Bretagne, mais dans les autres pays industrialisés.

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