



WHITHER CAPITALISM?

In the mixed economies of today's - and tomorrow's - Europe capitalism must look to its responsibilities. These extend far beyond the interests of the shareholders and the control and management of companies must reflect this. But how? And do such moves as giving workers power to appoint half the directors of a "European company" and later other companies in the Nine signal the demise of capitalism or its revitalisation? Such were the preoccupations of many Members of Parliament as they met in Strasbourg in mid-July to debate proposals for the European Company Statute.

WHY A EUROPEAN COMPANY STATUTE

The Commission was proposing the statute arguing that a degree of harmonisation of national company law was only a long-term means of enabling companies to operate and be able to merge throughout the Community without the many fiscal and legal barriers which now existed. The creation of "European companies", operating under a European statute and existing alongside national companies was a different approach to the problem. "In a word," said the responsible Commissioner Finn Gundelach speaking early in the debate, "the aim is to create what does not exist today - a common market for European enterprises beyond the shaky common market for goods and services." This case for the statute was welcomed by Parliament; the debate proper hinged on how to democratise company structure.

FACING UP TO RESPONSIBILITIES

The Commission also argued that the statute should embody the most acceptable of current ideas and practices in Europe, the most important element being an effective system of industrial democracy.

"We must actively seek the means whereby the conflict which all too often prevails at present is replaced by dialogue and co-decision, or when it is inevitable, as it sometimes will be, at least takes place in a more enlightened atmosphere," said the Commissioner. A two-tier structure of supervisory board and management board, with employees represented on the supervisory board, the right of the proposed European Works Council to approve specific management decisions, and the rights of shareholders in the general meeting "constitute a sophisticated response to the problem of reconciling the principal interest groups in our society," he affirmed. He added, "in the type of modern society in which the European Company will operate such companies have responsibilities far beyond the classical responsibilities towards shareholders. They have responsibilities towards the employees, towards local interests and to the public". With this in mind he hinted that the Commission would be prepared to go further on the

degree of non-shareholder participation than it had in its proposals, if this was the wish of Parliament.

MINORITY OR PARITY FOR WORKERS?

Presenting the Legal Committee's report to the Chamber the rapporteur Peter Brugger (Christian Democrat, Italy) highlighted what had been the main areas of disagreement. On the key question of the degree of worker participation in the two-tier board system the Commission had proposed that the annual general meeting should appoint two out of every three members of the supervisory board (which itself should appoint the board of management concerned with day-to-day operations) and that the employees should appoint one out of three. The Legal Committee had not agreed, suggesting that only one third be appointed directly by the AGM and one third by the employees, while the remaining third be jointly coopted by these two groups, a system which could, in effect, give workers a 50% say in the running of the company. This had only been a majority view in the committee, however, being supported mainly by the Socialists and some Christian Democrats. Other Christian Democrats, the Liberals and the European Conservatives had preferred the Commission's approach, as had a majority within the Committee on Social Affairs and Employment. An alternative proposal voiced within the committees had been to leave the decision on the actual number of worker and shareholder representatives to each individual European Company.

When the various group amendments were put to the vote in the plenary session July 1971, on the basis of an amendment tabled by Gerde Springorum (Christian Democrat, Germany) Parliament adopted a variation on the Legal Committee's "three thirds" principle which stated that those representatives of general interests coopted to make up the "third third" must secure a two-thirds majority to be elected. In the event of deadlock - failure to

Harmonisation - an alternative

Whilst harmonisation of national company law in the Community is a very necessary long-term objective the approach of the European Company Statute is rather different.

To allay any confusion: the Fifth Directive is one of a series of Commission proposals (covering status, structure, accounting, tax, mergers, etc.) which seek to harmonise some aspects of company law and practice throughout the Community to facilitate business activity. The Fifth Directive in particular covers company structure, including worker representation.

The European Company Statute represents an alternative and complementary approach: instituting a framework of European company law separate from existing national company law (harmonised or not) to enable European companies (or "Eurocompanies") to be set up to operate freely within the Community within a new common legal framework alongside the traditionally national-law based companies. Parliament's debate was on the European statute and on worker representation in that context. The Fifth Directive will be the subject of later debates, following the appearance of the Commission's autumn discussion paper (see above). This will deal with the general principle of worker representation and practices throughout the Nine.

obtain the necessary majority in two subsequent elections involving new nominations - a form of arbitration would be used involving one employee representative, and one shareholder representative, with a chairman appointed by mutual agreement. If the choice of chairman could not be agreed, he would then be appointed by the court within whose jurisdiction the registered office of the Company is situated.

Although the debate itself focussed on such trees as the composition and powers of the supervisory board, the wood itself could be viewed in different ways. For Sir Derek Walker-Smith, spokesman for the European Conservative Group, bringing in worker directors (up to one third level anyway) would provide a means to revitalise the structure of capitalism in the closing quarter of the 20th century. That was not a prospect which greatly excited the Communists and some left-wing socialists, who showed their disapproval of the possibility by abstaining on certain issues.

PARLIAMENT VINDICATED

If the Parliament has come in for criticism during recent sessions for ill-attended and sometimes badly-organised debates, its consideration of the Commission proposals for the European Company Statute proved that the European parliamentary system does work. The Legal and other committees had spent almost 18 months in detailed reconsideration of the proposals (following the Pinius report and a preliminary debate in 1972). After a lively plenary debate which ended with the consideration of nearly seventy amendments tabled by individual Members and the main political groups, Members left the Chamber assured that Parliament had been heard.

No final battle had been fought and won: rather a constructive dialogue had taken place. Early in the debate Mr Gundelach had called on the delegates to influence the process leading to the implementation of the European Company Statute by expressing themselves "clearly and with cogent arguments and with authority". This they did. To what extent will be seen when the Commission forwards its revised European Company Statute proposals to the Council and also in the autumn, when the Commission is due to publish a discussion document (similar to a British "Green Paper") which will review company structure and worker participation practices throughout the Community. This is prior to consideration of the Fifth Directive proposals (which deal with the question of the harmonisation of the existing national company laws).

Sauvagnargues speaks from the heart

It had been expected that the appearance at the European Parliament's July session in Strasbourg of Mr Jean Sauvagnargues, France's new Foreign Secretary, would be something of a special occurrence for the Parliament. To begin with, Mr Sauvagnargues's visit was taken as an important sign that President Giscard d'Estaing intends to treat the Community and its Parliament with a new respect. Moreover, as he himself told an unusually packed House on Tuesday, July 9, this was Mr Sauvagnargues' maiden speech in a parliament, national or European. Perhaps most of all, the new President of the Council of Ministers was addressing the European Parliament even before he had spoken to the Council itself.

What was not expected, however, was exactly how dramatic Mr Sauvagnargues' appearance before the Parliament would be. The new Presidency of the Council had not got off to a particularly good start at Question Time earlier on in the day since the French Deputy Foreign Minister Bernard Destremau had appeared unusually reticent in his answers, even for a Council spokesman.

Nor was it Mr Sauvagnargues' first and formal speech, delivered from the central podium, which made the greatest impression; parliamentarians, and the press and public present alike found it bland in the extreme. It was at the end of the long debate when the Foreign Secretary exercised his option to wind up, that a new liveliness seemed to enter the debating Chamber. As Mr Alfred Bertrand (Christian Democrat, Belgium) shouted out when Mr Sauvagnargues referred to the text of his earlier speech, "you are much more precise talking without notes, M. le Président." (laughter). Indeed, the second speech was punctuated more than once by interjections, laughter and spontaneous applause - something unusual in an assembly hampered by interpretation problems and a certain over-seriousness.

Mr Sauvagnargues' main purpose in speaking a second time was clearly to defend the text of the earlier speech against criticisms made during the debate that it had not made sufficiently precise pledges. The result was, as Mr Bertrand perceived, that he gave a refreshingly frank, point by point reply to the debate at a considerable defeat for an ex-diplomat with no ministerial experience of any kind.

THE HOUSE ON FIRE

The most urgent thing, Mr Sauvagnargues insisted, was to stop the Community from dying; this was clearly more urgent than even the questions of Parliament's budgetary powers and a single Community voice on foreign affairs which various speakers had raised. "When the house is on fire - and it is on fire - one should not become preoccupied in the first place with the roof. It will be put back on, the roof - it is very important, that is true - but first of all one should make sure that the foundations are solid." First, there was a need for realism; and this would lead, in an expression used earlier in the debate by Lord Gladwyn (Liberal, UK), to a "fuite en avant".

Was there growing up a Franco-German "axis", as Giorgio Amendola (Communist, Italy) had feared? "I don't believe Mr Amendola talked of a Franco-Italian "directoire" after my visit to Sardinia!" ("It was a holiday!" interjected Mr Amendola.) "Nevertheless my visit to Sardinia came before Mr Giscard d'Estaing's visit to Germany." No, the whole development of the Community, Mr Sauvagnargues insisted, could only take place on the basis of a strict respect for the equality and rights of each member state. The Parliament applauded.

The subject of the Community's relations with America had come up during the debate; what should be the basis of Community policy? Mr Sauvagnargues summed it up in a particularly happy phrase: "Never against the Americans, but always with them". In certain fields, for example that of energy, the

American and European positions were necessarily different in kind. Whereas energy supplies from outside were the lifeblood of the Community, they only represented between five and ten per cent of United States supplies.

BREAKING STRICT RULES

At this point the French Foreign Secretary seemed to realise that his speech was turning out more successful than ever. "You have led me to give you a sort of 'curtain raiser' of what I propose to say to the Council of Ministers ... I'm giving you the reactions, I ought to point out, rather of the French Foreign Secretary than those of the President of the Council. Moreover, in all logic, the second of these ought to remain obstinately silent on everything that has been said during the debate since he is not mandated to reply ... but you have probably noticed that I know how, from time to time, to break the strict rules of the Community; and in any case I propose to continue. I am very grateful indeed to your Assembly for giving me the opportunity to speak from the heart."

Not surprisingly, the Parliament was by now completely seduced. Encouraged, Mr Sauvagnargues went on to reveal some of the results of the meeting between Valéry Giscard d'Estaing and Helmut Schmidt - although he first noted that he should wait until the President of the Republic had informed him of what went on. ~~There was to be a counter-inflation programme which should produce results at least by the middle of 1975.~~

Mr Sauvagnargues was equally forthcoming in replying to other questions raised in the debate. As Lord Gladwyn had suggested, summit conferences were counter-productive unless they were well prepared. He agreed with Sir Brandon Rhys Williams (Conservative, UK) that the "snake in the tunnel" formula for exchange rates was out of date.

Finally, Mr Sauvagnargues promised, if possible, to come back to the Parliament in October to give a report of progress. In view of the fact that in the past the Parliament has had to struggle to keep the minimum of dialogue with the Council of Ministers, Members could have been forgiven for thinking that, as the debate closed, a new, better era was just around the corner.

Legislating in secret

If what the Council does includes "legislation", then it should meet in public. Indeed, what prevents it from doing so? Lord O'Hagan (Independent, UK), following up earlier written questions he had tabled, again challenged the Council in Question Time on July 9. Although the French Deputy Foreign Minister, Mr Destremau, enlarged after some hesitation upon his initial rather evasive response, he found his explanation was still not universally acceptable. The Council continued to consider, he said, that its discussions should be confidential, although it was prepared to inform Parliament on the outlines of its debates. Its role, derived from the Treaties, couldn't readily be defined in terms of the legal concepts or categories of national law. The Minister did however go on to liken its law-making function (which he called "normative") to the "pouvoir réglementaire" statute law practice of "most member states" where deliberation was in private. While this explanation may have satisfied

delegates from countries such as France where in addition to open Parliamentary legislation Ministers have considerable power to issue decrees, it was not very acceptable to delegates from those states such as Britain where apart from confidential discussion in Cabinet the nearest legislative equivalent, the issue of statutory instruments, is a far more limited practice. It brought Sir Derek Walker-Smith quickly to his feet: "Is it really wise to persist in this constitutional paradox of legislating in secret?" he asked.

Council unanimity

It was the unanimity problem in the Council which had exercised another British peer, Lord Chelwood (Conservative), in a question at the short Luxembourg plenary session on June 26-27. Did not the failure to define a member country's "very important interests" in the "Luxembourg compromise" of 1966 continue to lead to deadlock in reaching decisions, and how could the Council get round the problem? The then Council President, Germany's Hans-Jürgen Wischnewski, hoped that an end-June decision to give an enhanced role to the Council President and wider negotiating mandates for the member governments' permanent representatives in Brussels would help. From now on the Ministers would meet the Commission in a restricted session at the beginning of each Council meeting to try to agree on the main items of political importance or sensitivity. In reply to Peter Kirk (Conservative, UK), Mr. Wischnewski also indicated an easing of traditional doctrine in that the possibility of agreements between only some member states, or partial agreements by all, had been discussed. And to Michèle Citaristi (Socialist, Italy) he was, on the face of it, most encouraging of all, in hoping to see an end to makeshift methods and return to the proper Treaty provisions for qualified majority voting in certain circumstances.

Parliament defends its honour

With the prospect of new powers over the Community's budget in 1975, and Peter Kirk's proposals for increased control in other fields now before the Political Affairs Committee, the European Parliament is showing signs of renewed confidence. In particular, it is not accepting meekly any lapses by the Commission or the Council in the consultation procedure.

For example, two reports presented to the Parliament's plenary session on the morning of Friday, July 12, did not pull any punches when criticising the Commission's documents.

Gerhard Flämig's (Socialist, Germany) report on behalf of the Committee on Energy, Research and Technology concerning Community's research programme disapproved "of the confused and unmethodical way in which the document was compiled, resulting in an unusual degree of difficulty in examining the political implications of the projects ..." And Parliament did not seem particularly impressed by Commissioner Cheysson's promise during the debate "to do our utmost to do better". Yes, the document was complex, the Commissioner agreed, but this was the nature of the subject. In any case, he was not really the Commissioner responsible, and had great difficulty in understanding it as well! During the debate Tom Normanton (Conservative, UK) also expressed considerable scepticism about Community research

programmes. "Two hundred and fifty million units of account for Community research should not follow the vast sums that have already gone down the river." It was far better for Community funds to go to well established national programmes than to create "synthetic" Community projects.

Later on in the morning a report by Mr Michael Herbert (Progressive European Democrat, Ireland) on "a regulation on the customs treatment applicable to the goods returned to the customs territory of the Community" was equally critical of the Commission document. The External Economic Relations Committee approved the regulation, but regretted "that the Commission does not include in the explanatory memorandum certain practical details which would make it easier to assess the scale and consequences of the technical measures proposed ..." In the debate, Knud Thomsen (Conservative, Denmark) asked Commissioner Cheysson for further details. Unfortunately, the Commissioner replied, it was difficult to do this since the statistics did not exist in member states.

The most dramatic defence of its honour by the Parliament, however, occurred right at the beginning of the July session in the early hours of Tuesday morning. At 00.40 hours Pierre-Bernard Cousté (Progressive European Democrat, France) rose to present his report on the Community's policy for the computer industry. The lateness of the hour was regrettable, he said. It was even more regrettable that the Council of Ministers, without even waiting for Parliament's opinion, had, on June 26, approved the Commission's proposals.

Peter Kirk (Conservative, UK) and Erwin Lange (Socialist, Germany) could be observed in deep consultation as 1 a.m. drew near; and after Lord Mansfield (Conservative, UK) had emphasised the vital need for common rules of access to information, and Frau Hanna Walz (Christian Democrat, Germany) had noted that firms should not weaken each other vis-à-vis the United States by too much competition, Herr Lange intervened with a point of order. In view of the Council's action, Parliament owed it to its own self respect "to have nothing more to do with the matter" and to delete it from the agenda without a vote. And so the Parliament decided.

One person who must have taken the point was Commissioner Altiero Spinelli who had been patiently waiting since 6 o'clock that evening with his speech on computers ready in his pocket. Seven hours later the Parliament had refused to hear him. It seemed a rather harsh way to get at the Council of Ministers; but, as Herr Lange pointed out, the Commission was not without blame since it had allowed the Council to go ahead before the proper procedure had been carried out.

Eat more beef!

With the Agriculture Ministers due to take decisions on beef and pork the following week on the basis of Commission proposals, there was close questioning of Commissioner Petrus Lardinois and, indeed, in absentia lobbying of the Ministers themselves. On the one hand, overproduction was leading to rapidly growing stocks of beef in many member states; on the other hand, inflation, and in particular dearer animal-feed, was leaving the farmer with a fast dwindling income. In debates on Monday evening (July 8) and Tuesday morning (July 9) MPs, notably the leader (Jean Durieux) and other French members of the Liberal Group stressed the

predicament of livestock farmers and called for an interim price review now. James Scott-Hopkins, for the European Conservative Group, suggested there be triannual ministerial reviews which should set broad parameters, within which reviews could take place whenever necessary during the period. John Brewis (Conservative, UK) reminded the Chamber of the consumer: "The price of food is a very sensitive matter in my country and, no doubt in other member countries of the Community. I hope that we shall not see with beef a repetition of the unfortunate impression associated with the butter mountain ..." Together with other members he expressed concern about the high costs of distribution. On beef imports, noting particularly the case of Argentina, his plea to safeguard third world exporters to the Community was timely, for within a few days irate French farmers were to be seen dumping Argentinian meat into the harbour waters of Le Havre, and on July 15-17 the Council agreed to suspend until November 1 the issue of new licences for beef imports into the Community. There were lengthy discussions in the Parliament after Commissioner Lardinois had explained Commission proposals for other measures subsequently adopted by the Council, including cheap beef purchases by pensioners and selling intervention stocks cheaply to non-profit bodies such as hospitals and schools, also the institution of premium payments to farmers to delay slaughter, and a plan for an "Eat more beef" consumer campaign.

UK blamed for regional delay

Acute concern at the continued delay over a Community regional policy was expressed by the Parliament and by Commissioner George Thomson usually in a debate on Thursday, July 11. Whatever the causes of the original failure to meet the end-December 1973 deadline for setting up the Regional Fund, it now appeared that the further delay was due to Britain's "renegotiation" of its Community entry terms.

Michael Yeats (Progressive European Democrat, Ireland) put it this way: "I should like to ask the Commissioner whether the demands by the United Kingdom for renegotiation will lead to any whittling away of his latest

Bring back deficiency payments

The Common Agricultural Policy should operate a deficiency payments system; it is wrong because it hasn't adopted a British-style system. This was the hard-hitting message - bringing protests from some other members and Commissioner Lardinois - of Mario Vetrone (Christian Democrat, Italy) when he spoke during the first agricultural debate on Monday, July 8. He went on to criticise the Community for always resorting to acrobatics in order to safeguard Common Market principles when what was really needed was a deficiency-payments system which would ensure reasonable prices to the consumer, adequate prices to the producer with the treasury (or the Agricultural Fund) being made to pay the difference.

proposals for a regional policy. Are we to take it that no final decision on the regional fund can be taken until this so-called renegotiation has been completed? Are we to take it that the size and scope of the regional fund is to be made dependent on ultimate decisions with regard to the contributions that Britain and other countries will make to the budget of the Community? Are we to take it, in other words, that the creation of the regional policy, that vital cornerstone of the entire future development of the Community, is to be delayed, if not indefinitely, then for a considerable length of time?"

The Commissioner in question, George Thomson, could not but agree, though citing as contributing to delay the changes of government which had also taken place in France and Germany. "This is deeply disappointing not only to the Commission, but to this Parliament, which worked so hard and earnestly last year to keep to its side of the contract with regard to the timetable."

"The real victims of the delay are the poor and underprivileged in places like the Italian Mezzogiorno, Ireland and some of the black spots of industrial decline in my native Scotland and other parts of the United Kingdom."

James Hill, Chairman of the Parliament's Regional Policy Committee and a Conservative Member, stressed to his continental colleagues that the whole of the British Labour Party was not against either the Community or a Community regional policy. Indeed, he said, during the previous week's debate in the Commons many Labour Members showed themselves most anxious to get a regional development fund in order to help some of the less prosperous areas, in which most of their constituencies lie.

Scots in Strasbourg

Stornoway and Shetland may be a long way from Strasbourg but their elected representatives were among nearly 50 members of the new Scottish regional councils who spent two days at the July session of the European Parliament. All except one of the new authorities were represented on the fact-finding visit, during which the councillors met members and staff of the Parliament and of the European Commission, and discussed with them Scotland's role and problems in Europe. Of particular concern to the visitors were regional, oil and agricultural policies and Commission experts were on hand to explain these problems from the Community viewpoint and to answer points raised. Also in Strasbourg was Scottish Commission member George Thomson, whose appeal to the member governments for an early end to the deadlock over the Community regional fund was well timed in the presence of his compatriots (see above).