This chapter explores the German experience with works councils. It will assess the extent of the works councils in Germany during the interwar period and German interest in alternatives such as ERPs and union management. The chapter will explore issues such as the disclosure of information to works councillors, access to the board of directors and the role of works councils in dismissals, welfare, safety, collective agreements, the promoting of productivity and engagement in broader political issues. It will also examine the impact of works councils on trade unionism, women and management. Like their ERP counterparts in the US, the German works councils were legislated out of existence. The chapter will conclude with a discussion of their demise.

The Extent of German Works Councils

Unfortunately there are no surviving data on the number of works councils in Germany between 1920 and 1933. Using dated data from the last German industrial census of 1907, Guillebaud estimated in 1926 that there had been 108,789 agricultural, industrial and commercial establishments employing 8,379,200 workers that could have had works councils. At the industry level, in 1922 there were 32,565 wage-earning and 7,219 salaried employees who were works stewards or members of works councils in 11,557 establishments in the highly organised metal industry. In the same year, there were also 25,239 works councillors in 7,219 textile factories.\(^1\)

The number of workplaces with works councils fluctuated with economic conditions. Following the hyperinflation of 1923, the move towards stabilising the German economy led to dismissals and increased unemployment, which weakened the power of trade unions and works councils. These circum-

stances made employees reluctant to stand for positions on works councils due to fears of victimisation and an unwillingness to be involved in the dismissal of fellow employees. With the resurgence of the economy, and thus trade unions, in 1925 and 1926, there was a revival of interest in works councils among employers.2

Significant numbers of eligible workplaces did not have works councils. The decline in fortune of works councils in 1923–24 can be seen in the context of growing numbers of eligible workplaces without works councils. Chemnitz, Saxony, was home to 228 establishments with no works councils in 1923 and 603 in 1924. Factory inspectors found that the number of Leipzig workplaces with only salaried employees that had works stewards and works councils fell from 23 to 12 per cent between 1923 and 1924. The corresponding figures for industrial concerns in Leipzig with waged employees were 53 per cent in 1923 and 50 per cent in 1924. Factory inspectors continued to report problems with compliance and found that only 26 per cent of eligible workplaces in the Prussian city of Königsberg had works councils. An inspector for Weimar and Meiningen reported that the factories with works councils in that district fell from 80 per cent in October 1925 to 60 per cent in October 1926. By contrast, the well-organised metal trades had councils in 85 per cent of workshops in 1927 and 90 per cent in 1930.3

Generally, mandatory works councils were less likely to be found in eligible workplaces that were small and poorly organised and consisted mainly of salaried or female employees. Small employers believed that works councils were unnecessary and too complicated for their businesses and preferred that the legislative requirement be increased to 50 employees for a works council and a mandatory single works steward. There was also the issue of worker apathy towards works councils in smaller workplaces, where they had direct personal contact with employers.4

In larger enterprises, the organisation of works councils was complex. In September 1929, Siemens had a total workforce of 138,179, of whom 111,549 worked in Germany.5 Its largest plant was Siemenstadt, “a picture of unusual architectural homogeneity and beauty,”6 located ten kilometres north of Greater Berlin and employing 76,679 salaried and waged employees,

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of whom approximately 3,000 lived in Siemensstadt. There was a works council at each individual Siemens plant, of which there were 24 in Greater Berlin alone in 1921, the largest attaining the statutory maximum of 30 members. There were also a salaried workers’ council and a wage earner’s council in each of those plants. At the company level, there was the United Works Council with 30 representatives from the various plant works councils. An executive committee of five members of the United Works Council was the final voice of the workers in dealing with management. In 1930, there were 398 works councillors at Siemens’s plants in Berlin and Nuremberg, of whom 171 were salaried employees and 227 were wage-earning workers.⁷

Another example of the elaborate organisation of works councils was the German Federal Railways, one of the largest employers in the world, with 452,000 waged staff and 566,000 salaried staff in 1922. As at Siemens, there had been works committees on various state railways before the Works Council Act and their merger into the German Federal Railways. As a state enterprise, it received special status under the legislation as the Federal Minister for Transport governed workers through Administrative Orders. The Administrative Order issued on 3 March 1921 was based on the Works Council Act but there were differences in terms of the structure.

and organisation of works councils. There were local works councils and stewards, district works councils, and the Central Works Council for the whole railway system. The local works councils covered wage earners only and workplaces included all industrial railway undertakings including power stations and railway workshops. The district works councils corresponded to each of the 26 District Railway Directorates and the Central Works Council comprised 25 wage-earner representatives. Workers had direct representation on both the district works council and the Central Works Council and their representatives were elected annually. The local works councils could refer matters to the district works councils, which could not, however, refer matters to Central Works Council if the District Board of Management failed to act on their representations. Despite this, the Central Works Council had direct access to the Minister of Transport and represented the interests of nearly 25,000 works councillors by 1924.8

While works councils spread through the German workplace, particularly in larger firms, German firms did look at alternatives forms of employee voice. German employers, unions and bureaucrats were fascinated by US industrial practices, seeing them as potential ways of revitalising their economy. Numerous employer delegations went to the US.9 Siemens's management took a great number of trips to the US and Homburg notes that from 1923 “almost every Siemens plant manager subsequently visited the United States in the 1920s.”10 Hans Beiersdorf, a Siemens director, visited the Pittsburg plant of Westinghouse in 1926, reporting that in the absence of a workers’ committee or collective agreement with a union, the plant engineer in each department met with individual workers on a monthly basis to discuss their performance and adjust their earnings accordingly. Beiersdorf praised the “sober business sense” of Americans and believed that a lot could be learnt from them.11 There was an ADGB tour to the US in 1925 and the Metallarbeiter-Zeitung, the newspaper of the DMV, published an article on the B&O plan in 1925. Otto Beyer corresponded with Germans about union-management cooperation. The German Ministry of Labour also collected information on ERPs in Canada and the United States, and the German General Consul provided the ministry with reports and copies of ERPs in firms such as Standard Oil of Indiana and International Harvester in April 1924. While the focus was on North America; the German Ministry of

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Labour also looked at Whitleyism, sending a representative to the UK in May 1930 to explore the role of JICs in industrial relations, and the ADGB published an overview of Whitleyism, including works committees, in its journal in October 1931.\textsuperscript{12}

The Impact of German Works Councils

What did the works councils do? Unfortunately no long runs of works council minutes have survived; the Siemens records, for example, were destroyed during the Second World War. There are, however, overviews and scattered documents relating to works councils sufficient to provide an insight into their impact.

One of the hopes of the works council legislation was that management would be forced to disclose information relating to the company to workers. The Minister of Labour, for example, ruled in January 1921 that wage records of individual workers, whether covered by collective agreements or not, should be submitted by the employers to the works councils. The works councils, however, could not obtain access to workers’ personal files held by employers. Further, as the relevant section of the legislation did not specifically refer to the earnings of salaried employees, a Federal Labour Court ruling in May 1930 meant that works councils could not obtain information regarding individual salaries but were only entitled to see total salary data relating specific classifications of salaried workers.\textsuperscript{13}

Despite efforts to placate their concerns about the confidentiality of information provided to works councillors, employers continued to resist the legislation by providing limited information to the works councils. As McPherson has noted, “employers sought by every conceivable means to let their employees know as little as possible about the financial conditions of their establishment.”\textsuperscript{14} Some employers gave their quarterly reports orally in the belief that the councillors would find it more difficult to remember the information. The German Ministry of Labour upheld oral presentation of reports on the grounds that the legislation did not specify the form of


\textsuperscript{13} McPherson, “Collaboration between Management and Employees”, pp. 80–1.

\textsuperscript{14} McPherson, “Collaboration between Management and Employees”, p. 95.
presentation. Works councils found it necessary to demand the quarterly reports, whether written or oral, from employers, which generally adopted a pessimistic tone about the enterprise and highlighted financial difficulties. Similarly, while works councillors in enterprises with more than 300 persons or 50 salaried employees could demand annual balance sheets or profit and loss accounts, employers constructed the balance sheets in such a way as to hide significant facts and took advantage of Germany’s inflation and currency devaluation in the early 1920s to make unrealistic valuations of stock. In enterprises with individual plant works councils and a Central Works Council, employers were generally only obliged to present the balance sheet to the Central Works Council. Some employers found the secrecy provisions of the legislation useful in that troublesome works councillors could be prosecuted for breaching a requirement of confidentiality if the information was circulated beyond the works council. Works councillors could be fined or imprisoned. Despite these difficulties, the works councillors usually obtained sufficient information to ensure that collective agreements were observed, provide useful suggestions for business improvements and feel a greater affinity to the firm. Employers also used the information to put an end to potentially harmful rumours and gossip circulating among workers and to obtain worker sympathy for their managerial problems.15

The works council legislation and subsequent legislation enacted in February 1921 also aimed to give works councillors greater access to information relating to the working of their firm by allowing them places on the Supervisory Boards of German companies, which made strategic decisions on investment and product ranges. German employers were hostile to the legislation and some companies responded by modifying their company rules to limit the rights of the Supervisory Board and establishing special management subcommittees to cover issues such as staffing from which works councillors were excluded. Management were particularly reluctant to have worker directors on committees that dealt with the appointment and performance of managers, as they believed that this would undermine management authority. This approach was subject to legal challenge so employers accelerated a trend to reduce the number of meetings of the Supervisory Board to as few as one or two per annum, of a duration of as little as ten or 15 minutes, and to force the Board to deal with a large number of items in a short period of time. There were limitations

on what the one or two works council representatives could do anyway as the Supervisory Boards were overwhelmingly dominated by management representatives who had a greater expertise in business issues and the secrecy provisions of the relevant legislation silenced the worker directors. Traditionally, management had also been reluctant to take the Supervisory Board into its confidence and could refuse to supply certain information. The greater tendency of German industry to form holding companies after the First World War also weakened the influence of works councils since these holding companies did not require a Supervisory Board. While many works councillors were initially disappointed with the level of insight they obtained into business operations, over time the situation improved, employee directors gaining a greater understanding of the business and employers becoming less hostile.16

The works councils had oversight of management’s right to dismiss employees, including works councillors. Prior to the enactment of the works council legislation, the German employers’ power to dismiss employees was regulated by a range of Civil, Commercial and Industrial Codes. With the exception of certain serious offences, such as assault or wilful damage of the employers’ property, employees only could be dismissed with two weeks’ notice according to the Industrial Code, if no notice period was set in the collective agreement. While employees could do little if dismissed with proper notice, they had the right to appeal to a labour tribunal if dismissed without notice.17

The works council legislation expanded the rights of workers regarding unfair dismissal and allowed workers to appeal to the works council if they had a grievance. The works council could either dismiss the appeal or try to persuade the employer to reinstate the worker or provide monetary compensation. If the works council was unsuccessful here, it could take the case to the local labour tribunal. One area of significant impact was employers’ retrenching groups of workers on economic grounds: management was obliged to consult works councils in advance when drawing up lists of employees for dismissal and in some cases voluntarily handed over the whole process to the works council to avoid an unpleasant task. Through the labour courts and in practice, a number of criteria were developed for determining


dismissals, including the worker’s “usefulness” to the employer, the number of dependants, seniority and the worker’s economic security. In the case of individual dismissals, some employers consulted with works councils prior to their decision, even though such consultation was not required by the legislation. The protection against unfair dismissal was a very effective part of the works council system – 44,560 or 90.7 per cent of cases heard by German labour tribunals in 1924 related to unfair dismissals – and provided an incentive for workers to establish and maintain works councils.\textsuperscript{18}

The legislation also protected works councillors from dismissal. An employer had to obtain the works council’s approval to dismiss or transfer a works councillor. The employer could appeal to a labour tribunal, whose decision was final, but was required to retain the employee until a decision was made. The dismissal of works councillors provoked labour unrest. At one Siemens plant in Berlin, the company locked out employees for one week in October 1922 after workers entered management offices in protest against the dismissal of the Chair of the works council. They accused management of dismissing him after he sought leave to attend a DMV negotiation session, and claimed that management had recently removed ten works councillors on trivial charges. While the German labour tribunals did protect thousands of works councillors, employers could get rid of troublesome works councillors during firm shutdowns or even by offering them inducements to leave for another firm. Though workers were successful in taking advantage of the legislation in favourable economic circumstances, they faced difficulties during periods of economic uncertainty, as in 1924 and 1925, when employers took advantage of a weakened labour movement and higher levels of unemployment to victimise works councillors.\textsuperscript{19} The protection of works councillors provoked complaints from employers to the Ministry of Labour, and G. Linder, a machine tool manufacturer in Crimmitschau in eastern Germany, threatened to shut down its plant in February 1924 because the “radical left members” of its works council were encouraging their workers to engage in “passive resistance” against management.\textsuperscript{20}

While works councils could not negotiate collective agreements, they could have an impact on their implementation and also influence workplace conditions through the regulations governing their particular workplace.


\textsuperscript{20} Letter from G. Linder to the Minister of Labour, 8 Feb. 1924. BB, R/3901/500.
Works councils were responsible for supervising the observance of collective agreements and investigating grievances about non-observance. They could improve workers’ earnings under the collective agreement in several ways. They could, for example, obtain a better classification for particular individuals or groups of workers. Collective agreements also provided for loadings to the regular wage rates under certain circumstances. In the Ruhr steel industry, for example, there was a higher rate for work that was hot or dirty and performed at a certain height above the floor. Works councils could persuade management that workers were working under such conditions and gain further increases in wages. As the wages outlined in collective agreements were minimum rates, works councils could negotiate contracts with management on behalf of individual workers that provided above minimum wages, except during periods of economic downturn. The works council had greater bargaining power than individuals acting alone. Finally, there was the setting of piece rates, which could not be covered precisely in collective agreements because of variation between workplace conditions. Depending upon the provisions for the local setting of piece rates, works councils could increase workers’ earnings by obtaining a higher piece rate and by increasing the number of workers on piece rate.21

In intervals between the expiration of an old collective agreement and the signing of a new agreement, works councils could draw up temporary agreements with employers and stabilise the employment situation. This role was highlighted during the period of hyperinflation in 1923, when works councils and employers revised wage rates to keep pace with the rapidly rising cost of living.22

Collective agreements were not very detailed, however, and the factory regulations filled the gaps in the workplace. Employers had been legally required to provide these regulations since 1891, but the works council legislation gave works councils equal rights to the employers in developing the regulations, which included general rules of behaviour, methods of calculating wages, the duties of supervisors, safety, fines and the particular conditions of recruitment and dismissal. If an agreement could not be reached then the matter could be referred to a conciliation board, which could issue a final binding award if mediation failed. These rules could not be inconsistent with the collective agreement and trade unions and employers associations often joined forces to try and control local negotiations by drawing up a Musterarbeitsordnung or model code of rules, which they asked members to apply locally. The model code did play an important role.

role in ensuring the uniformity of shop regulations as the conciliation boards were reluctant to endorse a provision that differed from the model code. One particular area of dispute between management and the works councils was the imposition of fines; the Federal Labour Court ruled in October 1927 that management could not impose individual fines without the consent of the works councils.23

Like other forms of workplace employee representation, works councils had a responsibility for safety and welfare. Since 1878, German industrial inspectors supervised health and safety conditions in factories and ensured that labour protection laws were enforced. Works councils could now assist them to ensure that safety regulations were complied with and that works councillors, with employer representatives or, in the case of a serious accident, the industrial inspector or workers compensation insurance official, formed special safety commissions to conduct accident investigations and promote safety. Works councils in larger plants played a crucial role in encouraging workers to follow safety protocols and ensuring the upkeep and maintenance of washrooms, bathing facilities and toilets, despite resistance from employers on the grounds of practicality and cost. Works councillors in these plants would focus on specific departments to gain expertise on local safety issues and some works councils formed safety subcommittees. At the Zeiss Optics factory at Jena in eastern Germany, which employed 6,000 workers in April 1930, the works council had an accident subcommittee that was assisted by a trained safety engineer. Where employers formed their own joint safety committees, works councillors had representation. At one Mannheim chemical factory, management established a committee in 1927 that consisted of two supervisors, two workers and a works council representative, which, in addition to its safety and accident investigation functions, tested workers for physical and psychological fitness. It was claimed that as a result of its efforts the number of accidents fell from 384 in 1926 to 271 in 1929. Despite the role in safety issues played by works councils in larger firms, works councils were generally uninterested in these issues due to a lack of specialist expertise or worker apathy.24

While the legislation encouraged works councils to participate in plant welfare activities, there were barriers to full participation. There was a


long-standing hostility in the German trade union movement towards corporate welfarism, which was viewed as a means of weakening unions’ influence in the workplace; unionists believed that welfare should be administered by the state. The legislation was also vague and gave considerable authority to the employer, who could contract out the administration of company housing and pension schemes to another corporation and thus avoid works council involvement in welfare schemes. Where existing welfare institutions provided for employee representation, some employers allowed the inclusion of a works councillor. Some employers also gave their works councillors the opportunity to investigate welfare concerns such as the quality of food in canteens.\(^{25}\)

The works council legislation implied a community of interest between management and labour regarding the reorganisation of production and promotion of efficiency with the works council performing an advisory role to management. But works councils were strongly opposed to changes involving the introduction of scientific management and increased division of labour. As noted previously, management was reluctant to provide workers sufficient information on the operation of the workplace, both in the interests of defending managerial prerogative and preventing information being leaked to the unions. Employers also believed that works councillors had neither the time nor education to deal with the ideas put forward by university-trained company managers and their experts. The ideology of the German labour movement, on the other hand, questioned the need to collaborate with employers given their concerns about the private ownership of capital and profits.\(^{26}\)

While McPherson argues that the accomplishments of works councils were generally “relatively meagre”\(^{27}\) in terms of collaboration with management in production, there were firms where the works councils played an active role in improving efficiency. At the Berlin plant of the US car company Chrysler, management wanted to speed up the assembly line. The works council took the initiative and approached the General Manager directly with suggestions for the use of additional tools that could increase efficiency. Management claimed that these new tools allowed workers to increase output by ten per cent in three days. In the machine shop of the heavy engineering company Demag in Duisburg, the works council saved labour time with its suggestion to simplify wages administration so that workers would no longer have to stop work to fill out wage sheets. The


works council at the Bolle dairy in Berlin minimised the waste of surplus milk by convincing management to expand the dairy’s range of products to include lactose or milk sugar. 28

The works councils took up broader political and economic issues. Works councils in Chemnitz and Greiz in eastern Germany petitioned the government for unemployment relief in their district in February 1921. 29 In May 1931, against the background of a deepening Great Depression, the works council at the United Steelworks Company in Bochum petitioned Chancellor Brüning against the mass layoffs of miners in the Ruhr, reminding him of the generous subsidies the government paid to Ruhr industrialists. They demanded that the government take legislative action to allow the miners a “tolerable existence.” 30 From 1929, however, growing restrictions had been imposed by the Reich Labour Court on the ability of works councillors to engage in trade union and political activities. The court took the view that the works councillors’ priority was not the employees but the interest of the works as a whole. In December 1929, for example, it approved the dismissal of a communist works councillor for distributing pamphlets calling for a strike outside the factory gate, even though the pamphlet did not specifically refer to the factory in question. 31

The Impact on Unions, Women and Employers

According to one contemporary researcher on the German works councils, the fears expressed by the German unions that their leadership of workers would be undermined despite the legislation proclaiming that it was the duty of works councils to safeguard the employee’s right of representation, proved “to be exaggerated.” 32 Writing on the tenth anniversary of the works council legislation in 1930, Clemens Nörpel, an ADGB official, went further, claiming that the rivalry between the works council movement and the trade unions no longer existed and that the works councils, quoting leading German labour jurist, Georg Flatlow, had “become the elongated arm of trade unionism reaching into the workshop.” 33

The ADGB generally dominated the works councils. With a vast bureaucracy and newspaper network, the ADGB unions could organise and

30 Petition to Chancellor Heinrich Brüning, 3 May 1930. BB, R/3901/302.
publicise trade union lists of candidates in each factory. They established a Works Council Bureau at their headquarters in Berlin in June 1920, which organised the first National Congress of Works Councils in October 1920, which was attended by 953 delegates. The Congress endorsed the idea that works councils were to be organised within the trade union movement and there was to be no separate organisation for works councils. There were to be local groupings of works councils overseen by the local committees of the ADGB and Allgemeiner freier Angestelltenbund (AfA) or General Free Federation of Employees, its white collar counterpart. While the Works Council Bureau of the ADGB planned and directed the first annual works council elections in 1921 and continued to do so in subsequent years, it did not organise any further congresses, the first one being a “tactical manoeuvre” by the ADGB to ensure control. As the works council legislation did not provide for any central administration of works councils, the ADGB performed this role. While the communists continued to hold their own congresses of works councils, the ADGB did not recognise them.\textsuperscript{34}

The ADGB did not completely dominate the German works councils. In some regions, such the Ruhr mining district, syndicalists and communists were able to establish their own unions through local works councils. The main challenge to ADGB came during the great inflation crisis of 1924, when workers joined communist or syndicalist groups and it lost control of numerous works councils. Employers took a hard line against these independent unions and refused to negotiate with their works councillors. This employer attitude, combined with an improving economic situation, helped the ADGB regain a lot of lost ground on the works councils.\textsuperscript{35}

Works councils reinforced trade union membership by refusing to take up the grievances of workers who were non-unionists or did not belong to an appropriate labour organisation. While the works councils could not influence the recruitment of employees directly, their chairs could ensure that only union members were hired through their links with the local gatekeeper or members of a local Labour Exchange Committee. When dismissals on economic grounds arose and employers consulted with the works councils over the list of workers to be dismissed, this provided an opportunity for the works councils to promote the benefits of union membership. Workers also found that, despite statutory protection, works councils with trade union support were more likely to be effective in raising their grievances with employers.\textsuperscript{36}

\textsuperscript{34} Correspondenzblatt Der GeneralKomission der Gewerkschaften Deutschlands, 16 Oct. 1920, pp. 559–61; Moses, \textit{Trade Unionism in Germany}, pp. 315–18.

\textsuperscript{35} Moses, \textit{Trade Unionism in Germany}, pp. 318–19.

\textsuperscript{36} Guillebaud, \textit{The Works Council}, pp. 54–5.
The German unions placed an emphasis on the education of works councillors to increase their effectiveness in dealing with managers and the Supervisory Board. Unions periodically conducted national and district congresses for works councillors to keep them informed of the latest developments. They funded courses for works councillors that were held at venues ranging from adult education colleges to universities and covered the expenses of works councillors who went to government-supported workers’ schools in Berlin, Frankfurt and Düsseldorf, which offered one- and two-year courses. Some employers helped their employees meet the expenses of these schools. The courses covered the practical and theoretical aspects of labour law and business economics. There were difficulties in running such courses, such as the turnover of works councillors and the strain of attending classes outside normal working hours. Labour organisations also published special papers for works councillors to keep them informed of the latest developments. The ADGB had the Betriebsrätezeitung from 1920 to 1923, while the DMV produced the Betriebsrätezeitschrift, which by 1928 was fortnightly and ran to 30 or more pages. The Christian unions published the Betriebsrätepost and the liberal Hirsch-Duncker unions published the Wirtschaftliche Selbstverwaltung. These publications and courses challenged syndicalism and communism by emphasising that the unions controlled the broad strategies for workers and the works councils were “outposts” of the unions.37

However, while unions dominated the German works councils, non-unionists did gain varying representation. As Table 6.1 indicates, in the case of Siemens, the electrical engineering company, the percentage of non-unionists on the works councils rose from 1.3 in 1921 to 17.3 in 1925. There were also a small number of representatives elected from the “yellow unions.” While Siemens’s management supported the idea of social partnership with unions in the wake of the upheavals of 1918–19 and observed collective agreements, it did not refrain from attempting “to reduce the impact of the collective agreements and to curtail the trade union’s influence at the work-place.”38 The growth of non-unionist representation on the Siemens works councils reflected the weakening of the company’s commitment to social partnership that culminated in its silent acceptance of the dissolution of trade unions after Hitler came to power.39

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In the well-organised Ruhr coal mining region, as Table 6.2 indicates, the number of non-unionists and “yellow union” representatives for wage earners never exceeded one per cent between 1920 and 1926. The dramatic rise in ADGB representation and fall in communist representation in 1926 was due to the decision of the Union der Hand and Kopf Arbeiter in early
1926 to renounce communism and switch affiliation from the communists to the ADGB.40

The revolution of 1919 and the new Weimar Republic promised much for women with the granting of suffrage and protection against dismissal on the basis of gender. The works council legislation had direct benefits for women in cases of unfair dismissal and various conciliation boards and courts overruled dismissals of women on the grounds that they worked in sole support of their husband or were pregnant, irrespective of marital status. Despite their right to vote and participate in works councils, women did not have proportional representation. In 1923–24, factory inspector reports on 374 businesses in Berlin found that while women formed 41 per cent of the workforce, they represented only 22 per cent of the works councillors and works stewards. Elisabeth Ridder, a sales assistant, was the only woman on the 23-member salaried staff works council of the cast steel factory at the Krupp steelworks in Essen in 1921–22. The major reasons put forward for the low level of female representation included their age, which was generally lower than the minimum voting and candidate age for works council election, and the social convention that women left employment upon marriage. It is also true that some men refused to cooperate with women on the works councils.41

Employers took a range of approaches to works councils and there were initial fears that they were the first step towards the socialisation of industry. As noted, some managers were able to prevent the establishment of works councils despite the legislative requirements. Edmund Heine, manager of the assembly plant of the Ford Motor Company in the Westhafen district of Berlin, told workers wishing to set up a works council in 1926 that he was opposed to the idea as it would interfere with the efficient operation of the business and end his policy of paying relatively high wages to Ford employees, that he would reduce them to the minimum required by the collective agreement. This effectively ended the Ford employees’ push for the establishment of a works council. A different approach was taken by one large insurance company, which offered to increase salaries if no works council was established.42

Some employers used a range of other tactics to undermine and weaken

40 Letter from A.F.L. Gordon to Dr Steinmann, 10 Jun. 1927. BB, R/3901/504.
41 Guillebaud, The Works Council, pp. 130–1, 166; Krupp, 1921. Betriebsrat für die Gußstahlfabrik, Essen, 1921; Krupp, 1922. Betriebsrat für die Gußstahlfabrik, Essen, 1922. FAH21/659, HAK.
works councils. There were threats of discharge or discrimination for works councillors had little legal protection once they completed their term of office. Similarly, candidates for works council elections faced the threat of dismissal before election, leading to calls for an amendment of the legislation, which never materialised. These fears particularly affected salaried workers, who had more direct contact with employers than wage earners, and are an important explanation for the smaller number of salaried employee wage councils compared to wage earner councils.43

While there were employers who actively opposed works councils, McPherson has argued that “probably the majority accepted the presence of councils in their shops.”44 Even among such employers there was a reluctance to concede to works councils anything beyond the minimum that was legally required, and the VDA took this position as soon as the legislation was passed. The works council legislation increased the trend among large employers to create personnel departments with a focus on legal oversight to ensure that the employer complied with the law and that the works councils did not infringe upon managerial prerogatives. The lawyers in these personnel departments strengthened employers’ bargaining power with works councils and increased employer effectiveness in dealing with conciliation boards and labour courts. The personnel departments became the intermediary between the works councils and senior management, who had the final authority on labour issues, and preferred to deal with the works councils through the exchange of memoranda rather than direct personal contact. Employers also limited the activity of works councils by distracting their attention with less important issues, such as the administration of welfare funds and the tax deductions from workers’ wages. They tried to influence works councillors through flattery, hints of promotion, liberal amounts of time off work to perform their duties, offering them the use company cars and providing them with relatively lavish office facilities including coffee warmers. Employers could also make themselves appear amenable to works councillors by adopting a policy of frequent concessions in matters of minor importance. Employers also weakened the works councils by taking advantage of divisions within the German trade union movement and playing off ADGB unionists against Christian unionists, for example, and encouraging inter-union rivalry on the works councils. Overall, as time passed, employers’ attitudes to works councils softened as they recognised that they were there to stay and did not pose a radical threat to their control of industry. By 1926 the VDA even took the view that the works councils

had the potential to provide a form of employee representation that could ultimately challenge trade unionism and collective agreements. 45

One issue of concern for employers was the cost of works councils, which were generally borne by employers except where a collective agreement provided an alternative arrangement. This was a particular question at larger plants where time for payment lost by works councillors was the major liability. Employers also complained that works councils were costly in that they wasted time because of the inexperience of works councillors, and that they could make decisions without them were it not for the legislation. At Siemens’s Greater Berlin works, the regular monthly meetings between senior management and the United Works Council lasted two hours and 18 minutes on average with four to eight senior managers present. At the same works it has been estimated that by 1930 works councillors devoted over 2,000 hours per week to meetings and interviews with workers, with the firm paying the lost wages. There was also the cost to Siemens of providing up to two offices for each plant works council, and the personal expenses of works councillors and four typists. At the Krupp Steel Casting Works in Essen, in March 1924 management allowed the Chair of the Works Council three days a week on full pay to carry out his duties. The German Federal Railways, which had 50,798 representatives, had an estimated loss of 200,000 working hours a month by 1922 at a cost of 850,000 marks. Employers also had to bear the cost of the works council elections, which were estimated to cost 417.53 marks for a large plant of approximately 3,000 employees in 1927. 46 Though employers complained about the costs of works councils, as the Berlin-based US Consul noted in 1933, there was no widespread belief in Germany that this was a material reason for abolishing works councils. 47

47 Geist, “Employees’ Councils in Germany”, p. 30. HD 5655 G3U5, DLL.
The Demise of German Works Councils

The demise of the works councils highlights their close relationship to the German trade union movement and the Weimar Republic. The Nazis had run candidates in the works council elections but they did poorly in 1931 and 1933. The government suspended the 1932 elections due to concerns about possible violent confrontations between Nazis and communists. Preliminary results in the 1933 elections indicated that the Nazis won only 11.7 per cent of the seats in the 1933 works council elections compared to the ADGB's 73.4 per cent. Despite the ADGB's insistence on party political neutrality in the elections and an appeal to Franz Seldte, the Minister for Labour in Hitler's Cabinet, to protect its members, the Nazi authorities allowed the SA and SS to harass and arrest works council members. They were not freed until the elections were cancelled. Following their poor early results in the 1933 works council elections, the Nazis abruptly cancelled the elections. Nazi politicians were concerned that the works councils could become centres of resistance due to the influence of communists and Social Democrats, and undermine Hitler's claims of universal acclaim by the German people.48 They were also concerned with specific sections of the legislation such as Section 84, which prohibited discrimination in dismissal on the basis of politics and religion and conflicted with their strategies to persecute political opponents and Jews.49

While the new Nazi-led government declared May Day a public holiday in 1933, it moved on the following day to destroy the German trade union movement: the SA and SS occupied all ADGB offices and placed all leading union officials in “protective custody.”50 The Nazis replaced the unions with the Labour Front and repealed the works council legislation on 1 May 1934.51 They introduced a new system of workplace labour relations, which gave enormous power to the “plant leader” or employer. There were elections of

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49 Letter from National Socialist Organisation (DAP) to the Minister of Labour, 14 Jul. 1933. BB, R/3901/505.

50 Moses, *Trade Unionism in Germany*, 518.

“confidential men” to advisory “business councils” in 1934 and 1935 in which workers were able to vote for one list approved by the Nazis. Workers either left ballot papers blank or crossed out particular names on the voting list, favouring candidates who were willing to make complaints on their behalf. At employers’ suggestion, the Labor Front ended the experiment, fearing that the “business councils” could lead to a new kind of trade unionism. From then on, works managers nominated the workers they wanted to serve for virtually unlimited terms.52

The relationship between German works councils with the Nazi government highlights a broader point that goes beyond whether employee representation protects freedom of association. While Robin Archer reminds us that the basic ethical commitments that lead to political democracy should also promote economic democracy,53 the reverse is also true. Note only did German works councils assist union organisation, but the democratic principles underlying them became a barrier for the forces in Germany that were attempting to destroy the Weimar Republic, eliminate free trade unions and promote totalitarianism in the political arena in 1933.54

Conclusion

The German experience reinforces the historical cycle approach to industrial democracy. While the idea of works councils in Germany predated the Weimar Republic, the passage of the works council legislation in 1920 was linked to the economic and political upheavals that accompanied Germany’s defeat in the First World War. The mandatory status of the German works councils helped them survive the economic turmoil of the 1920s. Ultimately, the formation of a hostile Nazi government in 1933 ended state support for the Weimar works councils.

The German works councils’ experience supports the argument that is possible for unions to coexist and thrive alongside NUER. Where these schemes are voluntary, unions may see little need for them when there is a strongly established system of collective bargaining and management recognition of unions. When the schemes are based on a legislative framework, however, which recognises unions and provides the NUER

54 Beier, Willi Richter, p. 98; Moses, Trade Unionism in Germany, p. 426.
with a meaningful role, as was the case with the German works councils in regard to dismissals, unions generally appear willing to live alongside these forms of employee representation.

There was another important message for unions where NUER existed. The fears that NUER could be captured by workers hostile to unions or manipulated by employers with an anti-union agenda could be realised if unions did not play an active role in ensuring that union candidates contest elections and win positions on these bodies. The support of German unions for their respective forms of NUER was built on them taking an active role in these bodies and ensuring through participation in the NUER elections that they did not undermine their interests. They also emphasised education to ensure that their works councillors could carry out their duties in dealing with management.

While there were positive aspects of the German works councils, they posed problems for the system. A significant number of eligible workplaces did not have works councils. While most employers tolerated the presence of works councils, they undertook the minimum required by the law. There was a lack of trust in works councils’ role to improve productivity and production methods. Management, despite the legislative requirements, was reluctant to share information with unions that may have highlighted the need to reform production. Trade unions were unwilling to assist management for ideological reasons. Women, despite the reforms of the Weimar Republic, were underrepresented on the works councils and indeed in some cases faced hostility from their male counterparts.