Unionism and non-union employee representation: The interwar experience in Canada, Germany, the US and the UK

Greg Patmore

JIR 2013 55: 527 originally published online 23 July 2013
DOI: 10.1177/0022185613489398

The online version of this article can be found at:
http://jir.sagepub.com/content/55/4/527
Unionism and non-union employee representation: The interwar experience in Canada, Germany, the US and the UK

Greg Patmore
University of Sydney, Australia

Abstract
The decline in trade union membership in a number of countries has led to concerns over a ‘representation gap’, where workers are deprived of a voice not only in regard to their workplace grievances, but also in regard to their contributions to productivity and the quality of working life. While a number of alternatives have been raised, including joint consultation and works councils, there are concerns that these alternatives may further weaken union organization by establishing rival forms of organization. This article examines the interwar experience with three types of workplace non-union employee representation in Canada, Germany, the US and the UK. Where management recognizes unions and unions actively ensure that they dominate these representation mechanisms, they can enhance union organization.

Keywords
Employee representation plans, representation gap, union organization, works committees, works councils

Introduction
The decline in trade union membership in many Western countries in recent years has raised concerns among scholars that workers without union representation no longer have a voice in the management of their workplaces. This ‘representation gap’ reduces the potential of workers to contribute to improving productivity and the quality of working life. Commentators and academics have looked towards the instigation of forms of non-union employee representation (NUER), such as works...
councils or joint consultative schemes, as a critical means of developing an appropriate representative employee participation infrastructure at the workplace level to provide for employee voice. The advocates of these forms of representation argue that they complement the call for ‘high-performance workplaces’ or ‘mutual gain enterprises’ in an era of heightened global and domestic competition by encouraging decentralized decision-making, team forms of production and a climate of cooperation and trust (Gollan and Patmore, 2006; Jenkins and Blyton, 2008; Kaufman and Taras, 2000: 4; Mizrahi, 2002).

Within the Anglo-American industrial relations pluralist literature, there are major concerns about the impact of NUER on trade unionism and collective bargaining. Dunlop’s classic theory of industrial relations systems built the field of study on the basis of collective bargaining and organized labour and virtually ignored non-union employment (Kaufman, 2004: 254). In the UK, Clegg (1961) went further and argued against NUER, claiming that only collective bargaining by unions independent of the state and management could produce genuine industrial democracy and challenge totalitarianism. He argued that trade unions only represent the interests of workers and that NUER would weaken unions. He also questioned the claims that NUER could increase productivity and reduce industrial conflict (Ackers, 2010: 62–64). These concerns that NUER may weaken unionism remain an important part of the industrial relations literature, particularly in the US (Godard, 2008: 382–383).

Where unions have been traditionally weak or non-existent, which has increasingly been the case, there has been some questioning of this emphasis on unions at the expense of forms of NUER. There has been a growing willingness to examine NUER and explore workplaces where unions have no presence. In the US, Jacoby (1997) highlighted that prominent and successful firms such as IBM have remained non-union since the 1930s and developed welfare capitalism, including a range of participatory practices. He questions claims that leading American companies accepted unions as a feature of modern management. In the UK, the work of scholars such as Marchington on NUER has led some to ‘reject the rather conspiratorial view’ that such schemes are ‘mainly about defeating and marginalising unions, by pointing out that management has many other goals than labour control’ (Ackers, 2010: 70).

These concerns can also be seen in the historical debate over whether Employee Representation Plans (ERPs) are a solution to the contemporary concerns about the ‘representation gap’ and the need for employee involvement. In the US and Canada, academics explored their historical traditions, particularly in regard to ERPs prior to the outbreak of the Second World War. David Fairris (1995) and Bruce Kaufman (2000) have provided a favourable historical re-examination of ERPs during the interwar period. They argue that the ERP was part of a progressive move in US industry to promote a greater interest in more sophisticated personnel management practices to improve worker commitment, morale and productivity. The founders of the personnel management movement called for a recognition of the ‘human factor’ and a more systematic approach to labour
management. As Brody (2001: 373) has argued, ‘For the New Era’s lead industrial firms, employee representation became emblematic of best practice under the aegis of advanced personnel management’. One recent book (Rees, 2010) focusing on the ERP at Colorado Fuel & Iron (CF&I) has emphasized the benefits of ERPs for workers if management are committed to this idea as an alternative form of employee voice.

There are two major issues for these more favourable interpretations of ERPs. First, Section 8(a)(2) of the US National Labor Relations Act, or Wagner Act, banned ERPs in 1935 because they were viewed as attempts to deny workers the rights to independent representation of their own choosing. Current critics of this legislation argue that it should be amended to allow employees a voice in those workplaces where unions are no longer present and draw upon the re-examination of ERPs to support their case. NUER would allow workers to raise grievances and make suggestions that would increase plant productivity (Patmore, 2006: 41–42).

Second, the revisionist ERP literature, which focuses attention on the North American experience during the interwar period, begs the question as to what was happening elsewhere. There were vigorous alternative debates that related to worker voice in the UK and Germany, which provided for NUER built on freedom of association, such as Whitley works committees (UK) and works councils (Germany). These ideas were popularized during and immediately after the First World War and represent a distinct phase of international interest in NUER. Despite the great hopes surrounding the introduction of these ideas, they did not achieve the ambitions of their proponents by the outbreak of the Second World War in 1939. The impact of the Great Depression, particularly in Germany and the US, which saw dramatic political shifts towards National Socialism in Germany and the New Deal in the US, led to the demise of the works councils in Germany and the outlawing of ERPs in the US. With some exceptions, the enthusiasm for Whitley works committees in the UK had dissipated by the mid-1920s. The next wave of interest in workplace employee representation was during the Second World War, when there was a focus on improving productivity to assist wartime production, which, according to Clegg (1979: 152), brought ‘a new upsurge in workshop democracy’ in the UK.

One of the problems with looking at NUER during this period is the lack of surviving archival material. Few detailed minutes and election records survive. Generally, employers have not maintained the records of these forms of employee representation. A notable exception to this is CF&I. Many of the German and UK records were lost during the war. This lack of employer archives is offset to some degree by other records found in union and government archives. The steelworkers in the US and Canada and railway unions in the UK have retained material relevant to this study. Significant government archives relating to the Ministry of Labour in Germany and the UK are found in the Public Records Office in London and the German Federal Archives in Berlin. The UK records tend to focus on the 1920s and the German archives on the period from 1920 to 1933, when the Nazis dismantled the works councils. Some surviving files and
correspondence provide valuable insights into the operation of Whitley workshop committees and German works councils, particularly in regard to the impact on unions. The limitations mean that some industries such as railways and steel are highlighted in this study and there is a greater focus on the 1920s.

This article aims to contribute to the debates concerning NUER through a comparative historical approach that examines the impact of NUER on unionism in Canada, Germany, the US and the UK in the interwar period. It begins with a general overview of the four countries, which reinforces the importance of political and economic context for understanding the adoption, operation and demise of NUER. The article then examines three major ideas of NUER during the interwar period and briefly examines the impact of each of them. It then explicitly examines the impact of these ideas on unionization.

The national contexts

As Table 1 highlights, the extent of union organization in Canada and the US was significantly lower than that in the UK during the interwar period. The German trade union movement was particularly strong during the early 1920s when the works council legislation was introduced. However, the German trade union movement was splintered along ideological lines, with free or socialist, Christian and Hirsch-Duncker (Liberal) trade unions. There were also communist and syndicalist unions. The German unions were ultimately unable to prevent the rise of the National Socialists, who came to power in 1933, and their own subsequent demise (Guillebaud, 1928: 33–50; Moses, 1982a: 20–21). Unlike Germany prior to 1933, and the UK, there were no significant labour or social-democratic parties in the US and Canada that could ensure a direct voice for trade union interests in the legislature.

As Table 2 indicates, the increased production due to the First World War dramatically reduced unemployment by 1918, which provided a favourable climate for trade unions and wage demands. The strength of trade unions, rising strike levels and concerns about the implications of the Russian Revolution encouraged legislators, liberal employers and moderate union leaders to look for orderly ways of providing a voice for workers at the workplace level. There was deterioration in the labour markets following the First World War, with unemployment remaining above 10% in the UK for most of the 1920s. The German economy faced particular problems during the early 1920s, with hyperinflation, the payment of reparations and political unrest. All economies faced a rapid deterioration in their labour markets with the onset of the Great Depression.

The concepts

ERPs were joint committees of employees and management representatives funded by the employer to discuss a range of issues including wages and conditions, safety and accidents, and company housing. Workers could appeal to various levels of
company management and there was even a provision in some ERPs for appeal to an external court if mediation failed. The company paid for all costs associated with the ERP, including reimbursement for the loss of work time by employee representatives. The promoters of ERPs viewed them as alternatives to both individual contracts and independent trade unions. JD Rockefeller Junior initially championed ERPs at CF&I as a solution to labour problems following the Ludlow massacre in Colorado in 1914 (Patmore, 2006: 43).

The Whitley works committees were developed during the First World War. In 1916, the British government appointed a committee to examine the improvement of industrial relations against a background of wartime labour unrest. JH Whitley,

<table>
<thead>
<tr>
<th>Year</th>
<th>Canada</th>
<th>Germany</th>
<th>United Kingdom</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1914</td>
<td>N/A</td>
<td>16.9</td>
<td>23.0</td>
<td>9.9</td>
</tr>
<tr>
<td>1915</td>
<td>N/A</td>
<td>10.0</td>
<td>24.1</td>
<td>9.4</td>
</tr>
<tr>
<td>1916</td>
<td>N/A</td>
<td>8.6</td>
<td>25.6</td>
<td>9.9</td>
</tr>
<tr>
<td>1917</td>
<td>N/A</td>
<td>9.3</td>
<td>30.2</td>
<td>10.9</td>
</tr>
<tr>
<td>1918</td>
<td>N/A</td>
<td>14.9</td>
<td>35.7</td>
<td>12.6</td>
</tr>
<tr>
<td>1919</td>
<td>N/A</td>
<td>37.9</td>
<td>43.1</td>
<td>14.3</td>
</tr>
<tr>
<td>1920</td>
<td>N/A</td>
<td>52.6</td>
<td>45.2</td>
<td>16.7</td>
</tr>
<tr>
<td>1921</td>
<td>18.9</td>
<td>50.4</td>
<td>35.8</td>
<td>15.5</td>
</tr>
<tr>
<td>1922</td>
<td>16.3</td>
<td>51.0</td>
<td>31.6</td>
<td>13.0</td>
</tr>
<tr>
<td>1923</td>
<td>16.3</td>
<td>45.8</td>
<td>30.2</td>
<td>11.3</td>
</tr>
<tr>
<td>1924</td>
<td>14.8</td>
<td>31.8</td>
<td>30.6</td>
<td>10.7</td>
</tr>
<tr>
<td>1925</td>
<td>15.2</td>
<td>29.0</td>
<td>30.1</td>
<td>10.4</td>
</tr>
<tr>
<td>1926</td>
<td>15.2</td>
<td>27.6</td>
<td>28.3</td>
<td>10.2</td>
</tr>
<tr>
<td>1927</td>
<td>15.8</td>
<td>29.6</td>
<td>26.4</td>
<td>10.1</td>
</tr>
<tr>
<td>1928</td>
<td>15.7</td>
<td>32.5</td>
<td>25.6</td>
<td>9.6</td>
</tr>
<tr>
<td>1929</td>
<td>16.2</td>
<td>33.9</td>
<td>25.7</td>
<td>9.3</td>
</tr>
<tr>
<td>1930</td>
<td>15.2</td>
<td>33.7</td>
<td>25.4</td>
<td>8.9</td>
</tr>
<tr>
<td>1931</td>
<td>14.6</td>
<td>31.5</td>
<td>24.0</td>
<td>8.6</td>
</tr>
<tr>
<td>1932</td>
<td>13.2</td>
<td>N/A</td>
<td>23.0</td>
<td>7.9</td>
</tr>
<tr>
<td>1933</td>
<td>13.4</td>
<td>N/A</td>
<td>22.6</td>
<td>7.3</td>
</tr>
<tr>
<td>1934</td>
<td>13.4</td>
<td>N/A</td>
<td>23.5</td>
<td>8.9</td>
</tr>
<tr>
<td>1935</td>
<td>13.3</td>
<td>N/A</td>
<td>24.9</td>
<td>9.1</td>
</tr>
<tr>
<td>1936</td>
<td>15.3</td>
<td>N/A</td>
<td>26.9</td>
<td>9.8</td>
</tr>
<tr>
<td>1937</td>
<td>18.2</td>
<td>N/A</td>
<td>29.6</td>
<td>13.6</td>
</tr>
<tr>
<td>1938</td>
<td>17.7</td>
<td>N/A</td>
<td>30.5</td>
<td>14.0</td>
</tr>
<tr>
<td>1939</td>
<td>16.8</td>
<td>N/A</td>
<td>31.6</td>
<td>14.9</td>
</tr>
</tbody>
</table>

a Liberal MP, presided over it. In its first report in March 1917, the committee discussed industries where labour was well organized and proposed Joint Industrial Councils (JICs) composed of employer and employee representatives. Similar committees at a local and workshop level would supplement the JICs’ activities. The JICs could deal with, or allocate to ancillary committees, questions such as methods of fixing and adjusting earnings, technical education and training, and

<table>
<thead>
<tr>
<th>Year</th>
<th>Canada</th>
<th>Germany</th>
<th>United Kingdom</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1914</td>
<td>N/A</td>
<td>7.2</td>
<td>3.3</td>
<td>7.9</td>
</tr>
<tr>
<td>1915</td>
<td>N/A</td>
<td>3.2</td>
<td>1.1</td>
<td>8.5</td>
</tr>
<tr>
<td>1916</td>
<td>N/A</td>
<td>2.2</td>
<td>0.4</td>
<td>5.1</td>
</tr>
<tr>
<td>1917</td>
<td>N/A</td>
<td>1.0</td>
<td>0.6</td>
<td>4.6</td>
</tr>
<tr>
<td>1918</td>
<td>N/A</td>
<td>0.8</td>
<td>0.8</td>
<td>1.4</td>
</tr>
<tr>
<td>1919</td>
<td>N/A</td>
<td>3.7</td>
<td>2.1</td>
<td>1.4</td>
</tr>
<tr>
<td>1920</td>
<td>N/A</td>
<td>3.8</td>
<td>2.0</td>
<td>5.2</td>
</tr>
<tr>
<td>1921</td>
<td>6.2</td>
<td>2.8</td>
<td>12.9</td>
<td>11.7</td>
</tr>
<tr>
<td>1922</td>
<td>4.6</td>
<td>1.5</td>
<td>14.3</td>
<td>6.7</td>
</tr>
<tr>
<td>1923</td>
<td>3.3</td>
<td>10.2</td>
<td>11.7</td>
<td>2.4</td>
</tr>
<tr>
<td>1924</td>
<td>4.7</td>
<td>13.1</td>
<td>10.3</td>
<td>5.0</td>
</tr>
<tr>
<td>1925</td>
<td>4.6</td>
<td>6.8</td>
<td>11.3</td>
<td>3.2</td>
</tr>
<tr>
<td>1926</td>
<td>3.0</td>
<td>18.0</td>
<td>12.5</td>
<td>1.8</td>
</tr>
<tr>
<td>1927</td>
<td>1.8</td>
<td>8.8</td>
<td>9.7</td>
<td>3.3</td>
</tr>
<tr>
<td>1928</td>
<td>1.7</td>
<td>8.6</td>
<td>10.8</td>
<td>4.2</td>
</tr>
<tr>
<td>1929</td>
<td>3.0</td>
<td>13.3</td>
<td>10.4</td>
<td>3.2</td>
</tr>
<tr>
<td>1930</td>
<td>10.1</td>
<td>22.7</td>
<td>16.0</td>
<td>8.9</td>
</tr>
<tr>
<td>1931</td>
<td>13.1</td>
<td>34.3</td>
<td>21.3</td>
<td>16.3</td>
</tr>
<tr>
<td>1932</td>
<td>21.4</td>
<td>43.8</td>
<td>22.1</td>
<td>24.1</td>
</tr>
<tr>
<td>1933</td>
<td>23.9</td>
<td>36.2</td>
<td>19.9</td>
<td>25.2</td>
</tr>
<tr>
<td>1934</td>
<td>17.0</td>
<td>20.5</td>
<td>16.7</td>
<td>22.0</td>
</tr>
<tr>
<td>1935</td>
<td>16.5</td>
<td>16.2</td>
<td>15.5</td>
<td>20.3</td>
</tr>
<tr>
<td>1936</td>
<td>14.7</td>
<td>12.0</td>
<td>13.1</td>
<td>17.0</td>
</tr>
<tr>
<td>1937</td>
<td>10.0</td>
<td>6.9</td>
<td>10.8</td>
<td>14.3</td>
</tr>
<tr>
<td>1938</td>
<td>12.8</td>
<td>3.2</td>
<td>13.5</td>
<td>19.1</td>
</tr>
<tr>
<td>1939</td>
<td>12.8</td>
<td>0.9</td>
<td>11.6</td>
<td>17.2</td>
</tr>
</tbody>
</table>

proposed legislation affecting industry (Charles, 1973). While the workplace commit-
tees could not alter matters in the collective agreement, they could bring griev-
ances before local management and also make suggestions concerning
improvements in working conditions and production methods. Management rep-
resentatives also found the Whitley works committees useful for providing informa-
tion to workers about the state of industry and the firm (UK Ministry of
Labour, 1923: 65–84). By contrast to ERPs, Fox (1985: 294) argues that the
Whitley JICs ‘rested on the full recognition of the unions at all levels’.

The German works councils were introduced by legislation passed by the new
Weimar Republic in 1920. They consisted of elected employee representatives only
in workplaces with 20 or more workers. There was a general works council for all
employees, with separate councils for manual workers and salaried employees in
the same workplace. They were required to cooperate with employers in promoting
the efficiency of production, promoting industrial peace and raising worker griev-
ances with management. The works councils were not just forums for discussing
grievances as they could overturn ‘unjust’ dismissals of employees by management
and had statutory access to relevant company financial information (Guillebaud,

Despite no requirement for eligible voters and employee representatives to be
union members, the works councils were viewed as being ‘auxiliary to the trade
unions’ (Bernstein, 1921: 35). In the elections, workers over 18 voted for one list
of candidates, with each trade union or group providing a list and the number of
seats being determined by proportional representation.1 Works councils were
expected to see that any collective agreements entered into with trade unions
were observed. Where there were no collective agreements, the works councils
were required to consult with trade unions before entering into agreements with
employers that involved, for example, fixing wages. Trade union representatives
were allowed to participate but not vote at works council meetings if a quarter of
works council representatives requested it. The executives of the works councils
were delegated to discuss issues with local management at an alternative meeting.
It was believed that union involvement would ensure that works councils would
not degenerate into ‘industrial particularism’, which fostered a corporate spirit
that could be ‘anti-social’ by damaging the national economy (Bernstein, 1921:
28, 30–31).

While ERPs were specifically designed to avoid union representation, works
councils and works committees were parallel structures to union organization,
with non-unionists participating in the election process and potentially winning
positions on the works councils/committees. While the German works councils
and UK works committees in the railways were provided for in legislation, ERPs
were employer initiatives without state intervention. Employers met the costs of all
these schemes, in terms of the representatives’ lost wages and the location of the
meetings. While critics of these schemes, such as the American Federation of
Labour (AFL) (1919: 303), argued that this funding compromised the integrity
of the schemes and threatened union representation, as will be shown, this was
not necessarily the case with regard to Whitley works committees or the German works councils. While employers were represented on Whitley works committees and ERPs, they did not sit on the German works councils. The various dimensions of these concepts, particularly in regard to unions, can be seen in Table 3.

### The impact of ERPs

The ERPs spread beyond CF&I to a range of industries in the US and became a movement. The US entry into the First World War in April 1917 assisted the spread of ERPs. President Wilson established the National War Labor Board (WLB) in 1918 to settle industrial disputes that could hamper war production. It upheld the right of workers to organize trade unions without interference from employers. However, it only compelled management to negotiate with shop committees consisting of company employees and not independent trade unions.

Of the 225 ERPs surveyed in 1919 by the National Industrial Conference, 120 were created through the intervention of the federal government and companies voluntarily introduced 125. Employers saw employee representation as a welcome substitute for collective bargaining with unions (Patmore, 2006: 46–48).

While the number of companies with ERPs or a company union declined in the late 1920s, the number of employees covered by ERPs continued to increase, covering almost 1.6 million workers in 1928. Although state intervention in US industrial relations was wound back and the trade union challenge diminished with an economic downturn in 1920–1921, employers continued to see ERPs as a valuable union avoidance device. The Open Shop Campaign, or the American Plan, particularly during the early 1920s, targeted the weakened labour movement through patriotism by claiming that it was a continued threat to the American spirit underlying the Declaration of Independence. There was a radical shift in the relative strength of ERPs compared to trade unions. ERP employee coverage as a percentage of trade union membership grew from 10% in 1919 to 45% in 1928 (Patmore, 2006: 46–49).

The ERPs came under challenge during the 1930s. Section 7(a) of President Roosevelt’s National Industrial Recovery Act of June 1933 recognized that

---

**Table 3. Non-union forms of employee representation and trade unions.**

<table>
<thead>
<tr>
<th>Form</th>
<th>Mandated or voluntary</th>
<th>Employer-funded</th>
<th>Relationship to trade unions</th>
<th>Participation of non-unionists</th>
<th>Employer representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>ERP</td>
<td>Voluntary</td>
<td>Yes</td>
<td>Avoidance</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Whitley works committee</td>
<td>Voluntary*</td>
<td>Yes</td>
<td>Supplements</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>German works councils, 1920 legislation</td>
<td>Mandated</td>
<td>Yes</td>
<td>Supplements</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

*Note:* * Exception was the railways.
workers had the right to bargain and organize collectively through their own representatives without employer interference. Unionism took off and employers rushed to set up ERPs to stop unions organizing in their workplaces. The number of workers covered by these ERPs grew from 1.8 million in 1934 to 2.5 million in 1935. ERPs reached their peak by 1934, when, according to Brody (2005: 52), ‘they covered probably three million workers, more than did the unions’. Critics condemned these ERPs as ‘sham organizations’ that impeded economic recovery and they were outlawed by the Wagner Act. The National Labor Relations Board (NLRB), the agency of the Act, moved against ERPs after the Supreme Court upheld the legislation in 1937. In 1939, the NLRB won a major case against the Newport News Shipbuilding and Dry Dock when the US Supreme Court ruled that an ERP in existence since 1927 was illegal. The ERP was illegal even though the employer no longer funded employee representatives’ expenses and workers had voted for it in a secret ballot in preference to independent trade unions. The decision spelt the effective end of the movement inspired by the Rockefeller Plan. At CF&I, the ERP in the mines ended in October 1933, when miners voted for collective bargaining through the United Mine Workers and against the ERP. The ERP remained in operation longer at the Pueblo steelworks, where the ERP underwent a series of changes in order to prevent unions entering the plant before the final representation election in July 1942, when workers voted in favour of the union by 58%. The main reason for the defeat of the ERP was a major influx of new employees as steel mill production expanded to meet wartime demand (Patmore, 2007: 858–860; Rees, 2010: 193–205).

As in the US, ERPs flourished in Canada in 1918–1919. Union membership grew from 160,000 in 1916 to 378,000 in 1919. There was a labour revolt during 1919, with general strikes in Winnipeg, Toronto and Amherst. The reason for the discontent included fears of unemployment, inflation and demands for shorter hours. The popularity of the appeals for solidarity and mutual support encouraged employers to seek forms of workplace organization that would insulate workers in each establishment from those in others. The federal Mathers Royal Commission investigating the industrial unrest praised both the Rockefeller and Whitley schemes as a means of reducing unrest. Large employers, particularly Canadian branches of US firms, primarily adopted the Rockefeller schemes as part of a welfare programme. These firms included International Harvester, Procter & Gamble, and Bell Telephone. The ERPs also tended to be found in mass-production or continuous-process industries with large numbers of semi-skilled workers. By 1920, the percentage of new employees as steel mill production expanded to meet wartime demand (Patmore, 2006: 56–58).

During the 1920s and 1930s, the Canadian ERPs had varying fortunes. During the 1920s, the Canadian Department of Labour promoted ERPs through its Labour Gazette. Management’s interest in the schemes fluctuated according to the economic climate. The Massey-Harris council ceased to exist when the company shut down in the 1921–1922 recession; the company revived the council when the economic climate improved in 1923; finally, the council collapsed in 1931
during the depths of the Great Depression. As the Canadian economy recovered from the Great Depression, there was an upsurge in labour militancy and trade unionism. While there was no national Wagner Act, workers rushed to join new industrial unions, which were organized initially by the communist-led Workers’ Unity League and later by the Congress of Industrial Organisation (CIO). Management again established ERPs to try to stop unionization. Steelco, a large steel plant in Hamilton, Ontario, established a plan at the first sign of a union (Patmore, 2006: 58–59).

The impact of Whitley works committees

The Whitley JICs were less successful than the Rockefeller Plan. Clegg (1985: 205) argues that collective bargaining was so well established that Whitleyism was redundant for much of private manufacturing. Whitley JICs tended to flourish in industries where unions were weak. In the wake of the First World War and the economic recession of 1921–1922, the Whitley JICs that were established generally fell into abeyance, with the civil service being a notable exception. By 1939, only 20 JICs survived. Employers feared that union militants would use the scheme for ‘class war’ rather than ‘constructive collaboration’, while unionists feared that employers would use the committees to eliminate the union presence in the workplace (Fox, 1985: 294–295; Webb, 1923: 224).

The development of works committees under the Whitley scheme was also disappointing. Only some JICs showed enthusiasm at the outset and very few persisted with them. Works committees were not seen as appropriate in the building industry and did not take root where the collective bargaining machinery was weak, as in the silk and hosiery industry for example. In the engineering trades, both labour and management preferred the existing system of union shop stewards and shop committees. There was no encouragement of engineering works committees, except in some government workshops. Where employers were suspicious of trade unions, such as in the soap and candle trades, works councils were not encouraged (Charles, 1973: 158–160). The Secretary of the London Brewers Council noted in June 1920 that he was not in favour of Whitley works committees because they encouraged ‘employees to join trade unions’.

There were union concerns about the works committees. Unions objected to non-unionists voting for works committee representatives and running for positions on works committees. The understanding developed that while non-unionists could vote for the committees, they were ineligible for election to office. Some unions saw works councils as ‘inadvisable’ if they did not have significant presence in a workplace. Similarly, the Ministry of Labour, when it was directly encouraging the formation of works committees in 1920, refused to provide assistance to employers where there was insufficient union organization. While attempts to encourage works or colliery committees in the coal mining industry by legislation were initially opposed by the Miners’ Federation, they dropped their objections by December 1921. However, the government abandoned the proposal due to
opposition by colliery owners. In the railways, where there was a statutory basis for Whitley works committees for occupations covered by the National Union of Railwaymen (NUR), the Associated Society of Locomotive Engineers and Firemen (ASLEF) and the Railway Clerks Association, management largely ignored the equivalent local departmental committees. While management resisted railway union calls for the committees to play a more active role in labour relations, they did agree to an extension of the scheme to railway workshops with shop committees and works committees in August 1927 (Bagwell, 1963: 429).³

The impact of German works councils

The origins of the German works council legislation lay in the workers’ committees, which were established by the German government during the First World War to mobilize support for the war effort. In the wake of the German defeat in the war, the legislation aimed to strengthen the shop-floor power of trade unions at the expense of the splinter revolutionary works council movement of communists and independent socialists. This counter-revolutionary aspect of the works councils appeased employers, who were concerned that legislation would weaken Germany’s post-war economic recovery and ability to pay reparations.⁴ There were some employers, such as the confectionary and chocolate manufacturers, who saw advantages in the legislation as it ‘soaks away lasting unrest and disputes with the workforce’.⁵ However, as the economic situation deteriorated in Germany during the 1920s, the works councils faced increased employer hostility (Addison et al., 2000: 365–366; Guillebaud, 1928).

While some workers opposed the ‘mutilated’ works council legislation,⁶ the moderate Allgemeiner Deutscher Gewerkschaftsbund (ADGB) generally dominated the works councils and considered them one of the main achievements of the 1918 revolution that overthrew the monarchy. There were regions such as the Ruhr mining district where syndicalists and communists were able to establish their own unions on the basis of works councils. The main challenge to the 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 (Moses, 1982b: 318–319).

The fate of the works councils highlights their close relationship to the German trade union movement. While the Nazis had run candidates in the works council elections, they did poorly. Preliminary results indicated that they won only 11.7% of the seats in the 1933 work council elections compared to 73.4% for the ADGB. This is despite the Nazi authorities allowing the SA and SS to harass and arrest works council members. With the poor early results for the Nazis, they 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. While the new Nazi-led government declared May Day a public holiday in 1933, they moved on the following day to destroy the German trade union movement with the SA and SS occupying all ADGB offices and placing all leading union officials in ‘protective custody’ (Moses, 1982b: 518). The Nazis replaced the unions with the Labour Front and repealed the works council legislation on 1 May 1934 (McPherson, 1935: iv).

The impact on union membership

What impact did these schemes have on union membership? The ERPs did provide some benefits for employees through providing worker voice, but they were a union avoidance device. While ERPs were introduced into some industries where there was then no viable union organization, such as petroleum and chemicals (Nelson, 2000: 61), there were cases where workers accepted the ERP as the only means of voice in the wake of union defeat. At the Sydney, Nova Scotia steel plant, workers and their unions defeated a management proposal for an ERP in a ballot in December 1922. Following the defeat of the unions in a major strike, management introduced an ERP in August 1923 without a vote by employees (Patmore, 2006: 58). As one worker later recalled, the workers took the view that the ERP was ‘better than nothing’ (MacEachern, 1985: 36). There is some evidence that the employee representatives of the CF&I steel plant at Pueblo did have some degree of autonomy and even held their own meetings to discuss issues before meeting with management. Employee representatives also gained concessions from management, such as shorter hours in the steel plants at Pueblo and Sydney, Nova Scotia, Canada. ERPs, however, did not provide an alternative to unions as management denied workers an independent voice. Management exercised a veto over the decisions of the committees and had the power to disregard protests of the committees (Patmore, 2006: 50, 58–59; 2007: 857).

While there were examples of management with ERPs tolerating union membership, they would not recognize unions as bargaining agents and fought against union efforts to organize their particular plants. CF&I used the ERP at Pueblo to justify their opposition to unions during the 1919 steel strike, when workers’ demands included union recognition. Alongside the ERPs, CF&I employed spies to gather intelligence on union organization and identify union activists. During the union organizing campaigns at Pueblo that followed the passage of the Wagner Act, the ERP served as management’s chief weapon in the struggle against the efforts of the CIO’s Steel Worker Organising Committee to organize the plant. In February 1938, the company asked its employees to ratify the ERP and designate the ERP representatives as their collective bargaining agent. The subsequent vote was a major victory for management, with 2426 votes in favour of the ERP and 198 against. Many of the employees who voted for the ERP, however, believed that the continuation of their insurance, pension and medical plans depended on a positive vote (Patmore, 2007: 852–4, 857; Patmore and Rees, 2008: 268).
While management hoped that ERPs would prevent unionization, there were examples of workers using them as a platform for organizing. William Green (1925: 874), the President of the AFL, advocated the capturing of ERPs by workers and their conversion ‘into real trade unions’. Steel workers in Sydney, Nova Scotia used their ERP in the late 1930s as a platform for organizing unions. Several activists believed that they could use the council to build a ‘real union’. Some of them successfully stood for the plant council, which gave them some freedom to move around the plant. When management rejected a request for a wage increase, four employee representatives formed a workers’ committee. The committee became the basis for the independent union, which soon organized the majority of workers at the Sydney plant. It successfully lobbied with other workers for the Nova Scotia provincial legislature to pass a Trade Union Act in April 1937, which forced employers to recognize and bargain with the trade union representing the majority of workers, and fined companies for discriminating against trade unionists. This was the first Wagner-influenced legislation in Canada. Sydney plant management tried to undercut the drive for union members by offering wage increases and retrenching workers. They also tried to mobilize workers to fight the menace of ‘foreign-controlled’ international unions. Within a week of the passage of this legislation, however, the employee representatives on the plant council, who were all union members, resigned en masse. The plant council held its last meeting on 22 April 1937 and the steelworkers’ union subsequently won a ballot for a check-off system for union subscriptions. US steelworkers adopted similar successful tactics against the background of the Wagner Act (Patmore, 2006: 54, 59–60).

In the UK, there was some interest by employers in using works committees to undermine union membership. While the London Brewers rejected the Whitley scheme, they did set up informal works committees in 1920 that did not recognize trade unions. The Admiralty at its dockyard workshops tried unsuccessfully to establish works committees for non-unionists following the 1926 general strike. There was strong union opposition to the proposals, with reminders of the positive role that they had played in the Whitley works committees and threats of their withdrawal from the Whitley system. One union claimed that the effect of the proposals would be to ‘smash the trade unions in the Dockyard’. However, in the face of union opposition, the Admiralty did not proceed with the proposals.

The few works committees associated with the Whitley scheme had benefits for unions. Works committees proved a valuable ally to unions in promoting union membership. There were some union concerns about non-unionists getting elected to works committees and undermining union membership, but works committee representatives were generally union activists. In the railways, the unions dominated the local departmental committees and shop committees in the workshops. Non-unionists were rarely elected and the NUR organized lists of its members for election to the committees. The main concern for the NUR was not non-unionists, but candidates from rival unions, such as the ASLEF, and unofficial union candidates. Some NUR members criticized the use of candidate lists for restricting their freedom of choice in the committee elections. The NUR was so concerned that
unofficial candidates would split the union vote in competition with other unions that it took the step in 1937 of adopting a policy of expelling unofficial candidates from the union. By June 1939, the executive of the union had expelled four members on these grounds. The NUR representatives also reinforced the value of union membership by refusing to take up the grievances of non-unionists.11

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 have proved ‘to be exaggerated’ (Guillebaud, 1928: 52). There was a provision in the legislation which claimed that it was the duty of works councils to safeguard the employees’ right of representation. Works councils also 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 organization. When dismissals have arisen on economic grounds, the practice arose whereby the employer asked the works councils to draw up the list of those to be dismissed. This also provided opportunity for the works councils to promote the benefits of union membership. Workers also found that works councils, despite statutory protection, were more likely to be effective in raising their grievances with employers if the works councils had trade union support (Guillebaud, 1928: 54–55).

However, while unions dominated the German works councils, non-unionists did gain varying representation. As Table 4 indicates for Siemens, the electrical engineering company, between 1920 and 1925, the percentage of non-unionists on the works councils fluctuated from 1.3% in 1921 to 17.3% in 1925. There were also a small number of representatives elected from the ‘yellow unions’, which were funded by employers to preserve industrial unionism and fight radical unions (Guillebaud, 1928: 35). While Siemens management supported the idea of social partnership with unions in the wake of the upheavals of 1918–1919 and observed collective agreements, it did not refrain from attempting ‘to reduce the impact of the collective agreements and to curtail trade union’s influence at the work-place’ (Homburg, 1983: 143). The growth of non-unionist representatives on the Siemens works councils may reflect the weakening of the company’s commitment to social

<table>
<thead>
<tr>
<th>Table 4. Works councillors and trade union membership – Siemens 1920–1925 (%)</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
<th>1924</th>
<th>1925</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socialist (Includes communist)</td>
<td>85.6</td>
<td>85.1</td>
<td>84.3</td>
<td>77.4</td>
<td>70.2</td>
<td>71.1</td>
</tr>
<tr>
<td>Hirsch Duncker</td>
<td>3.7</td>
<td>5.5</td>
<td>6.7</td>
<td>2.4</td>
<td>5.8</td>
<td>4.5</td>
</tr>
<tr>
<td>Christian</td>
<td>3.7</td>
<td>5.9</td>
<td>5.8</td>
<td>7.9</td>
<td>7.0</td>
<td>5.0</td>
</tr>
<tr>
<td>Yellow</td>
<td>1.7</td>
<td>2.0</td>
<td>0.6</td>
<td>0.5</td>
<td>3.9</td>
<td>2.1</td>
</tr>
<tr>
<td>Unorganised</td>
<td>5.3</td>
<td>1.3</td>
<td>2.6</td>
<td>11.8</td>
<td>13.1</td>
<td>17.3</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Letter from AFL Gordon to Dr Steinmann, 10 June 1927. BB, R/3901/504.
partnership that culminated in the company’s silent acceptance of the dissolution of trade unions after Hitler came to power (Homburg, 1983: 143).

In the well-organized Ruhr coal mining region, as Table 5 indicates, the number of non-unionists and ‘yellow union’ representatives for wage-earners never exceeded 1% 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.12

### Conclusion

This comparative historical study has a number of implications for the current debates concerning NUER. Industrial relations scholars, such as Kaufman, have focused on the North American experience with ERPs to provide lessons for today, but overlooked parallel experience with Whitley works committees in the UK and German works councils in the interwar period. For scholars to resurrect the idea of ERPs is a problem for those industrial relations reformers who wish to give workers a voice in the workplace. While some employers may have seen ERPs as ways of improving communications with employees and heightening worker commitment with the firm, CF&I and other firms saw the plans as a union substitute. While it is recognized that there may be circumstances where workers may prefer not to have union coverage, any scheme of NUER built around the historical example of the ERP should be introduced on the basis of a clear choice by workers in terms of a ballot and should also recognize freedom of association without employer interference.

While unions have opposed ERPs, they have recognized that they can be platforms for organizing, with the ERP being replaced by a local union branch.
The evidence suggests that using ERPs as a vehicle for organizing is very difficult, except in particular circumstances. The union requires both a well-resourced organizing campaign and a favourable political and legal climate. Steelworkers in the US and Canada in the late 1930s successfully used ERPs as a springboard for unionization.

The experiences of the Whitley works committees and the German works councils support 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 based system of collective bargaining and management recognition of unions. However, when the schemes are based on a legislative framework that recognizes unions and provides the NUER 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 is also another important message for unions where NUER exists. The fears that NUER could be captured by workers hostile to unions or manipulated by employers with an anti-union agenda could be realized if unions do not play an active role in ensuring that union candidates contest elections and win positions on these bodies. The support of the UK railway unions and 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.

One of the main criticisms by industrial relations pluralists, such as Clegg, that NUER are not an effective defence against totalitarianism is challenged by the interwar experience of the German works councils. The German works councils highlight a broader point that goes beyond whether employee representation protects freedom of association. While Archer (2010: 590) reminds us that the basic ethical commitments that lead to political democracy should also promote economic democracy, the reverse is also true. Note only did German works councils assist union organization, 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.

What are the overall implications for the current debate concerning NUER? Any proposals should recognize employee choice in regards to whether they wish to participate in these schemes and freedom of association. A legislative framework, built on the recognition of freedom of association, provides greater legitimacy for these schemes in the eyes of labour, particularly compared to schemes introduced by employers without consultation with employees or organized labour. Without a legislative framework, the survival of any employer-initiated programme will depend upon the firm’s economic performance and the fate of its management backers. Workers and their unions have to be convinced that the scheme is going to be a permanent forum which has meaningful powers and where issues can be discussed without victimization.
Funding

This research was supported by an Australian Research Council Discovery Grant (2010-00047). I would like to thank Yasmin Rittau for her assistance.

Notes

1. Letter from A.F.L. Gordon to Dr Steinmann, 10 June 1927. Bundesarchive, Berlin (hereafter, BB), R/3901/504.
4. See, for example, leaflet entitled ‘Erklärung über Betriebsräte’, 5 July 1919. BB, R/3901/3492.
5. Letter from Vereinigung Deutscher Zuckwaren und Schokolade Fabrikanten to the Minister for Labour, 7 October 1919. BB, R/3901/3493.
7. Letter from O. Friedrich to Minister of Labour, 4 April 1933; Memorandum, Minister for Transport, 18 April 1933; Memorandum, Minister for Post, 22 April 1933. BB, R/3901/505.
10. Admiralty, Memo, 10 July 1929. PRO, ADM 116/2626.
12. Letter from A.F.L. Gordon to Dr Steinmann, 10 June 1927. BB, R/3901/504.

References


**Biographical note**

**Greg Patmore** is Professor of Business and Labour History and Director of the Business and Labour History Group and the Co-operative Research Group in the School of Business, The University of Sydney. His main research interests are labour history, comparative labour history, Rochdale consumer co-operatives, employee representation and the impact of industrialisation and deindustrialisation on regional economies.