# The Rejection of Industrial Democracy by Berle and Means and the Emergence of the Ideology of Managerialism

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# Introduction

One distinctive feature of the American variant of capitalism is the near absence of any of the industrial democracy institutions found in many European firms (Hall and Soskice, 2000; Frege, 2005; Bottenberg et al., 2017). Worker representation on corporate boards, which is mandatory in many German firms, is extremely rare in the United States, as are German-style works councils (Hogler, 2016; McGaughey, 2017). Passage of the corporate governance legislation recently proposed by Senator Elizabeth Warren would represent a major change in the American variant of capitalism since her bill would force large companies to give workers board representation (Matthews, 2018). In 2018, the term “co-determination” entered American political discourse and the U.S. media began discussing the German model (New York Times, 2019; Salon.com, 2019, McArdle, 2019). Given that Americans are now actively debating the merits of co-determination and other forms of democracy in the workplace (Yosifon, 2018), it is an appropriate time to reflect on the historical reasons the industrial democracy institutions did not become part of the American system of capitalism.

 In this paper, we focus on ideology as a factor behind the absence of industrial democracy institutions in the United States. Historians have named the ideology of corporate governance that dominated American business from the 1930s to the 1970s “managerialism.” Managerialism taught that managers should run companies in a fashion that balanced the interests of shareholders against those of other stakeholders such as workers, local communities, and the nation-state (Wells, 2013, Stout, 2012; Cheffins, 2015). According to the view now conventional among historians of corporate governance, American executives ceased following the dictates of managerialism around 1980, when managerialism was replaced by a new way of viewing the world called Shareholder Value Ideology or SVI (Lazonick and O’Sullivan, 2000; Cheffins, 2015). Unlike managerialism, SVI encouraged managers to focus on maximizing profits for shareholders and is associated with the ruthless corporate cost-cutting seen in the 1980s and 1990s. SVI is associated with intellectuals such as Milton Friedman, who promoted shareholder primacy in his popular writings in the 1960s and 1970s (e.g., Friedman, 1962), and with Michael Jensen and William Meckling, who articulated the ideology in a seminal scholarly article published in (Jensen and Meckling, 1976). Friedman was hostile to the idea that managers need to take the interest of non-shareholder stakeholders into account when managing firms, famously declaring that the sole “social responsibility of business is to increase its profits” for shareholders (Friedman, 2007).

Friedman, Jensen, and Meckling were the intellectual godfathers of the shareholder-centric corporation of the 1980s and 1990s. In contrast, the managerialism of the period from the 1930s to the 1970s was informed by a highly influential book, *The Modern Corporation and Private Property* that was published in 1933 by Adolf Berle and Gardiner Means of Columbia University. The ideology of corporate governance popularized by Berle and Means’s 1933 book was radical in that it argued that the purpose of the corporation be redefined so as to include references to the interest of non-shareholder stakeholders. However, it was also conservative in that they rejected the contemporary proposals for workplace democracy and instead endorsed the managers “right to manage” as they saw fit, a traditional American legal doctrine (Harris, 1982; Harcourt et al., 2015). In the ideal company envisioned by Berle and Means, professional expert managers would act paternalistically on behalf of other stakeholders rather than sharing power with any of them.

Scholars have noted that Berle and Means had a significant impact on how American companies were run for over a generation. Indeed, in the early 1980s Milton Friedman’s fellow libertarians, such as George Stigler, complained that the “philosophical outlook” that had been eloquently articulated by Berle and Means had had a baneful effect on the thinking of many Americans because they had denied that the exclusive purpose of the corporation was to serve the shareholders (Stigler and Friedland, 1983: 259). Many scholars have acknowledged the significant influence on American business culture of Berle and Means’s 1933 book (North 1983, Bratton, 2000; Tsuk, 2005, Bratton and Wachter, 2009; Thompson, 2018; Pepper, 2019). In view of the widely-acknowledged influence of *The Modern Corporation,* it is important to understand the background, motives, and context of the authors.

The dismissive attitudes to all proposals to involve workers in the governance of firms that was manifested in Berle and Means’s 1933 *magnum opus* requires explanation because Berle had tentatively endorsed the idea in a 1921 article. In this paper, we advance an explanation for why Berle and Means rejected industrial democracy when they articulated their influential philosophy of corporate governance. Our study is part of larger stream of research that has examined how the ideas of business intellectuals such a management gurus and the authors of business-schools textbooks have influenced American business practice in the twentieth century (Khurana, 2010;Waring, 2016; Cummings et al., 2017). Researchers who study the history of business intellectuals such as F.W. Taylor and Peter Drucker are motivated by the well-founded belief that the ideas articulated by such thinkers have had significant real world impact.

Our understanding of the impact on American business of the ideas Berle and Means is grounded in the theory of historical change developed by Lieberman (2002), a scholar who whose theoretical framework has focused the attention of political economy researchers on the interaction of material and ideational factors (Carstensen and Matthijs, 2018). Within the field of industrial relations, Liberman’s theory has recently been applied by scholars who argue that changes in a country’s industrial relations system is the result friction between the “ideational environment” and the institutions that the dominant social class has created (Parsons, 2013). The theoretical lens used by Liberman and Parsons, which blends Dunlop’s focus on ideational factors (Dunlop, 1958) and the classic historical materialist emphasis on class power relations, the latter being the theoretical lens used by Marens (2013) to understand the motives of Berle and Means.

Our paper is structured as follows. The next section contains a literature review that discusses the existing work on the history of industrial democracy in the United States as well as the extant historical scholarship on Berle and Means. This section of the paper is designed to convince readers that this book’s impact was significant enough to merit our extended study of the authors’ context and their attitudes towards industrial democracy. In the subsequent section, we discuss the rise of the industrial democracy movement in the United States from the 1880s to the early 1930s. This section of the paper will illustrate that many Americans in the interwar period were intensely interested in the issue of industrial democracy and that their debates about industrial democracy were informed by the observation of the introduction of industrial democracy systems in other countries. We then turn to the topic of Berle and Means and their backgrounds. The following section describes the ideology of corporate governance articulated by Berle and Means and shows that they rejected industrial democracy. In the final section of the paper, we advance an explanation for why Berle and Means rejected industrial democracy.

We must explain our terminology. As Atzeni (2016) notes, the meaning attached to terms such as “workplace democracy” and “industrial democracy” over time and with national context. In this paper, we follow the practice prevailing in the United States in the early twentieth century of defining “industrial democracy” as any system of employee representation within firms that give workers a voice in how companies are run. *Industrial democracy* in this sense thus includes works councils and worker representation on corporate boards. During this period, a variety of different models of industrial democracy were discussed by Americans. Somewhat confusingly, there was a specific model of industrial democracy called “Industrial Democracy” that was designed by John Leitch, an individual discussed below. Leitch’s system involved the creation within firms of a bicameral political system modelled on the U.S. Congress. When referring to Leitch’s system, we use “Industrial Democracy” in capitals, so as to be faithful to the usage in the primary sources. In this paper, we use the term “managerialism,” which was retrospectively developed by academics, to denote the ideology of corporate governance that informed decision-making in most large American firms from the 1930s to the early 1980s . Other academics have attached different meanings to the term “managerialism” (e.g., Goldstein, 2012). The term “corporate governance,” which is used in our paper but which was not in common currency in the lifetime of Berle, denotes the system of rules, practices and processes by which firms are directed and controlled.

Our term “ideology of corporate governance”, which is derived from Fry and Mees (2017), denotes a normative philosophy of corporate governance. Following Bainbridge (2008), we argue that ideologies of corporate governance can be categorized along two different dimensions. Along one axis, we can array ideologies of corporate governance according to their view the *telos* (purpose) of the corporation. Is the sole purpose of the corporation to maximize shareholder value? Should managers instead focus on serving the interests of non-shareholder stakeholders? Along the other axis, one can array ideologies of corporate governance according to the degree to which they call for institutional checks and balances on the power of senior managers. Individuals who subscribe to the shareholder primacy doctrine differ as to the extent to which there should be hard constraints on managers, with some advocating more robust checks on managerial discretion, while others, such as Bainbridge, display more trust in managers. Similarly, those who argue that companies ought to be governed with attention to the interests of workers and other non-shareholder stakeholders differ as to the extent they think that the authority of managers should checked by institutions such as works councils and worker board representation.

It is necessary to discuss our data sources.Adolf Augustus Berle was the lead author of *The Modern Corporation and Private Property* although his research assistant Gardiner Coit Means was listed as a co-author. Berle’s surviving correspondence is now held at the Franklin D. Roosevelt Presidential Library in Hyde Park, New York. We accessed these sources during visits to this archive in the summer of 2015. One member of the writing team visited the archive to do this research, sharing his research notes and photographs of archival materials with the other authors so that we could discuss how to interpret these sources. We also subjected Berle and Means’s book, *The Modern Corporation and Private Property,* to a detailed reading followed by several meetings of the co-authors in which we discussed the meaning of key passages and arrived at a common interpretation of their prescriptive philosophy of corporate governance. In addition to using Berle’s correspondence, we also used a transcript of an interview of Berle that was done by the Columbia Oral History Project between December 1969 and January 1970. We have supplemented these archival sources with a wide range of printed primary sources, such as newspaper and magazine articles, government reports, and other documents. We have also drawn on a scholarly biography of Berle (Schwarz, 1987).

# Literature Review

## History of Industrial Democracy in the United States

There is now an extensive body of literature on the evolution of industrial democracy institutions in Germany and other European countries (Müller-Jentsch, 2008; Kaufman and Taras, 2016; McGaughey, 2016; Kuntz, 2018). The existing research by U.S. labour historians has given us a partial understanding of why workplace democracy institutions did not become part of the American system of capitalism. Any historical explanation for why works councils and worker representation are uncommon in the United States must acknowledge the importance as a turning point of the passage National Labor Relations Act (or Wagner Act) in 1935 (Kaufman, 2015). This law, which was written by politicians who were deeply sympathetic to unions, provided the legal foundation for workplace relations in the U.S. during and after the New Deal. Section 8a2 of this legislation effectively prohibited non-union forms of representation such as works councils and worker election of board members (Barenberg, 1992: 1386). This provision was inserted into the law because most American labour leaders had by 1935, concluded that industrial democracy systems were simply an anti-union tactic that had been created by employers unwilling to recognize the right to collective bargaining (Hoglund, 2016; Summers, 1982; Barenberg, 1992; Devaney, 1993; Estreicher, 1994; Drutchas, 2016). The passage of the Wagner Act effectively ended the debate in the United States about industrial democracy institutions, at least until the 1970s and 1980s, when writers began to advocate that U.S. firms emulate the employee-representation systems of Japan and Germany (Summers, 1982; Devaney, 1993). This fact is particularly important when considering that the Railway Labor Relations Act which was initially passed in 1926 and amended in 1934 and 1936, and regulated labor relations in the rail and airlines industries, afforded workers the same protections as the Wagner Act and also permitted works councils (Kaufman, 2015).

We do not dispute that the Wagner Act’s severe restrictions on works councils and worker representation on boards is a major reason for why American companies did not develop anything like the German system of co-determination or the other industrial democracy systems seen in Europe. However, we argue that accounting for why industrial democracy did not flourish in the United States requires us to examine the thinking of another group of historical actors, namely American business executives and the writers who influenced their thinking. In the 1930s, American business executives embraced a new ideology of corporate governance that was wholly incompatible with the core idea of industrial democracy, namely, that workers and managers should share power within firms. In establishing a comprehensive explanation for why the American variety of capitalism does not include industrial democracy institutions, we must therefore turn our attention to the intellectual history of the American business class.

## The Existing Literature on Berle, Means, and *The Modern Corporation and Private Property*

*The Modern Corporation and Private Property* shaped the thinking of “an entire generation” of academics, lawyers, and executives (Horwitz, 1992 166-7). *The Modern Corporation and Private Property* remains in print and continues to influence many areas of American life. Since 1996, Berle and Means’s 1933 book has been mentioned at least eight times in the pages of the *New York Times* (New York Times Digital Archive). The Westlaw JLR database reveals that *The Modern Corporation and Private Property* was cited in twenty US court rulings since 1933 and in a larger number of amicus briefs and expert testimonials (most recently in 2015). The fact citations to this book continue to appear in court documents is a sign that the book continues to shape the thinking of the lawyers and judges who are an important part of the corporate governance system. The economists who have cited the book include such Nobel Laureates as Fama (1980), Shiller (2013), and Williamson (1985). The book continues to be read in the business schools that teach future executives (Collison et al. 2011, 396). *The Modern Corporation and Private Property* remains one of the most frequently cited works in management studies: in 2018 alone, the book was cited 2,150 times in Google Scholar.

The vast majority of academics who read and cite this book are not concerned about the authors’ reasons for writing this book or their immediate historical context. The biography of Berle by Schwarz (1987) does discuss the writing of this book, but as the author’s focus was on Berle’s subsequent role in the New Deal, the biography does not contain an extensive discussion of how the contents of this book emerged and were informed by its historical context. In the last fifteen years, however, a number of historically-minded scholars have tried to place this often-cited book in its immediate historical context and have discussed the impact that the *The Modern Corporation and Private Property* had on the thinking of American business executives.

The first historian to examine the motives and social impact of the book by Berle and Means was Howard Brick, who stressed the similarities between the vision of the socially conscious manager presented by the Berle and Means and the “war-inspired aspirations” for “industrial or economic democracy” that led to the creation of the “League for Industrial Democracy” in 1921 (Brick, 2006: 56, 62). In our view, while there may be some affinities between Berle-Means managerialism and the industrial democracy movement, the differences are more profound, for while Berle and Means certainly challenged the view that firms exist solely to advance the interests of shareholders, they did not support anything resembling workplace democracy. Rather than advocating that corporate governance systems be reformed thought the creation of a system of checks and balances by which workers shared power with managers, Berle and Means argued that benevolent expert managers should be trusted to rule on behalf of all of the relevant stakeholders.

The substantial impact on American business culture of Berle and Means’s ideology of corporate governance was discussed by Lynn Stout, a legal academic who was a harsh critic of SVI’s effects on American workers and communities since 1980. Stout contrasted the destructive form of capitalism that emerged after 1980 with the beneficial form of capitalism that existed in the era when the ideas of Berle and Means were dominant. According to Stout (2013), in the half century that followed the publication *of The Modern Corporation and Private Property*, the decision-makers in “public corporations embraced a philosophy that has been called ‘managerial capitalism’ or ‘managerialism.’ ” She argues that this ideology induced a generation of U.S. business executives to work for relatively modest salaries and to see “themselves as [more than] mere agents of shareholders, corporate directors and professional executives.” Instead, American business executives of the managerialist era saw “themselves as stewards or trustees charged with guiding a vital social and economic institution in the interests of a wide range of beneficiaries.” According to Stout, during the half century in which the ideas of Berle and Means were hegemonic, “American corporations dominated the global economy, producing innovative products for their consumers, secure jobs for their employees, and corporate tax revenues for their government.” (Stout, 2013: 1171). She contrasts this happy state of affairs with the ways in which U.S. corporations have been run since 1980, which has involved ruthless cost-cutting, stagnant living standards for ordinary workers, and a plunge in corporate investment in R&D.

Stout’s observations about the impact on American society of the ideas of Berle and Means is echoed by Roger L. Martin who observes that “returns to shareholders” were higher in the managerialist era (1930s to the late 1970s) than during the subsequent period of SVI. Martin argues that a stakeholder theory of how the corporate ought to be managed dominated American business from “the publication of the seminal book by Adolf A. Berle and Gardiner C. Means called *The Modern Corporation and Private Property*” to the publication in 1976 of the equally influential article 1976 by Jensen and Meckling, which argued that the interests of shareholders ought to be paramount. Martin reports that in the period 1933 to 1976, real compound annual return on money invested in the S&P 500 was 7.5%, while since 1976 it as been just 6.5%.” (Martin, 2011: 62-3).

More recently, the Danish historian Christian Christiansen has discussed the impact of Berle and Means’s ideology of corporate governance in his intellectual history of American business. He stressed the radicalism of the normative statements in the final chapter of Berle and Means’s book and notes that their advocacy of a “socialized, public-oriented corporation” was a profound challenge to the ethos of “free-market liberalism.” (Christiansen, 2015: 63). Christiansen shows that Berle and Means’s were both the intellectual heirs of the late nineteenth century proponents of “paternalistic capitalism” and the intellectual ancestors of progressive, centre-left management thinkers such as Peter F. Drucker. He argues that during the Great Depression, Berle, Means, and other proponents of a socially-conscious form of management were trying to legitimize capitalism in the eyes of society that was disenchanted with laissez-faire, unregulated capitalism.

In a similar vein, Richard Marens emphasizes the book’s Great Depression context in explaining why *The Modern Corporation and Private Property* became so influential (Marens, 2013). In his view, the ideas in the book were useful to the corporate elite because they helped to legitimate capitalism in a moment of crisis. He regards the book as part of a broader Corporate Social Responsibility movement that was developed by managers in response increased labour militancy and growing demands for government regulation of large firms. Marens’s interpretation of why Berle and Means chose to challenge the doctrine of shareholder primacy is superficially plausible because the timing of the book’s release coincided with the severe economic downturn that reaches its nadir in early 1933, the moment the book appeared, and which threatened the legitimacy of the American capitalist system itself. Marens suggests that American business executives had concluded during the crisis of the early 1930s that continued adherence to the ideology of shareholder primacy would endanger the capitalist system itself by pushing the masses towards socialistic measures. In this context, it made sense for Big Business to soften its image.

In Marens’s analysis, the book’s message resonated with a generation of American managers because they needed a new ideology with which to legitimate the system. The argument presented in this paper is partially congruent with that of Marens. However, our research has led us to reject Marens’s view that Berle and Means were motivated by a desire to legitimate capitalism in the face of a rising tide of socialist sentiment caused by the Great Depression. Our examination of the authors’ correspondence and other archival materials has revealed that the book was planned and largely written prior to the onset of the Great Depression. While the book appeared during American capitalism’s existential crisis in the winter of 1932-3, it was conceived and largely completed during the mid-1920s, a period of rapid economic growth and rising confidence in American business. The ideology of corporate governance developed by Berle and Means was not developed to legitimize capitalism in the face of an economic crisis. Instead, it was developed in a period of prosperity and reflected the fundamentally elitist worldview that the authors had absorbed from their education and family upbringing.

The Rise of the Industrial Democracy Movement in the United States

Starting in the late 1880s, businessmen, social reformers, and policymakers in the United States and indeed throughout the Western world had proposed mechanisms to give workers a say in how companies were run via institutions such as works councils, employee ownership of stock, and worker representation on corporate boards. The term “industrial democracy” first appeared in print in 1887, when it was used by the economist Henry D. Lloyd (Derber, 1970: 6). In a speech delivered in Chicago, Lloyd represented “industrial democracy” within firms as the natural extension of the American system of political democracy. The term was used later that year by Nils Olas Nelson, a Saint Louis manufacturer who later introduced this system into his firm. Nelson also appears used the term in his speech to the American Association for the Promotion of Social Science, the text of which has not survived (McQuaid, 1975). Nelson’s interest in worker councils appears to have been inspired by the example of Edme Jean Leclaire, a French businessman who had promoted profit-sharing and cooperative ventures starting in the 1840s. In 1890s, Nelson established a factor and settlement named Leclaire at which he put his ideas into practice (McQuaid, 1975).

 Lloyd and Nelson appear to have been responding to the detailed plan for “worker councils” that had been made the previous year by James Cooper Bayles, the editor of *Iron Age*, a trade journal (Guzda, 1984; Bayles, 1886). Bayles had observed that the rise of large firms in the metals industries had resulted in the estrangement of employers and employees and suggested that the problem could be remedied via a complex system of joint worker-employer governance that would operate at the plant and industrial levels (Bayles, 1886). Two years later, Richard T. Ely, an economist at Johns Hopkins, defined industrial democracy as “self-rule, self-control” and “industrial self-government.” Ely meant worker control over the firms in which they laboured. Ely proposed a system in which workers supplied capital to the firm and thus gained the right to participate in its governance and noted that this system had already been successfully implemented in a stove-making firm in the French city of Guise and the producers cooperatives of Minneapolis, which were worker-owned firms led by elected managers. Ely observed that while the system of “despotism” had, in the political sphere, given way to “constitutional monarchy” and then democracy, it has remained in place within industrial establishments and other firms (Ely, 1889: 235-7). His ideas were soon endorsed by the British socialists Sidney and Beatrice Webb (Webb and Webb, 1897; Zueblin, 1899).

In his writings, Ely challenged the doctrine of shareholder primacy, which held that the ultimate purpose of a corporation was to advance the interests of its shareholders. Since the advent of general incorporations laws in the Western world in the first half of the nineteenth century (Gunn, 1988; Hansmann et al., 2005; Wells, 2015), the doctrine of shareholder primacy had dominated the thinking of businessmen and courts in the United States (Blair, 2003; Dunlavy, 2006) as well as Britain, Germany, and other Western countries (Schall, 2011: 482; Guinnane, 2018). Ely and the other advocates of industrial democracy argued that corporations ought to be run in the interests a wide range of stakeholders, including workers, than simply the owners of equity. Starting in the 1890s, some US firms began to introduce forms of industrial democracy. The earliest of these experiments, which took place in firms in Minneapolis in 1880s, required the workers to purchase equity in the firm as a condition of having a say in the selection of board members and the right to speak in shareholders’ meetings (Blasi and Kruse, 2006: 128). More radical proposals for industrial democracy that challenged the conceptual linkage between property ownership and representation began to appear in the late 1890s. In 1898, the managers of Boston’s Filene Department Store formed a worker-controlled cooperative association that gave workers a say over such matters as wages and dismissal (La Dame, 1930).

Simultaneously, John Leitch, an itinerant labour-relations consultant developed an elaborate employee representation system that was modelled on the US constitution. First put in place in the Packard Piano factory in 1913. Leitch’s “Industrial Democracy” system involved a “House of Representatives” elected by manual workers, a “Senate” chosen by the foremen, and a “Cabinet” chosen by the owners of the firm. Regulations and other policies within the firm had be approved by all three veto points (Leitch (1919) appears to have believed that this system would promote both industrial harmony and the assimilation of workforces composed overwhelmingly of European immigrants. By 1922, Leitch’s system or a variant thereof was in place in 37 of the 230 American industrial establishments that had employee representation systems (National Industrial Conference Board, 1922, 185). The 1914 strike at the Rockefeller-owned Colorado Fuel and Iron Company, which created considerable negative publicity for the owners, prompted the Rockefeller family to create a system of joint worker-management committees that was soon implemented in many Rockefeller-owned firms (Selekman and Van Kleek, 1924; Patmore and Rees, 2008).

The US Commission on Industrial Relations, which held hearings between 1913 and 1915, examined the issue of industrial democracy and discussed the subject at length in its eleven-volume 1916 reports. Due to ideological differences between the members of the Commission, three different reports were issued, the most radical of which was authored by Chairman Frank Walsh, a labour lawyer. His version of the report noted that while some degree of industrial democracy had been established in some US companies, representative institutions were far from universal: “between the conditions of industrial democracy and industrial feudalism there were almost infinite gradations marking the stages of evolution that have been reached” (United States House of Representatives, 1916,:2), In the agricultural estates of the Deep South, he argued, there existed “industrial feudalism in an extreme form. Such estates are, as a rule, the property of absentee landlords, who are for the most part millionaires, resident in the eastern States or in Europe” (United States House of Representatives, 1916,, 16). Walsh was here creating an association between the absence of industrial democracy institutions and social systems that severely repressed African-American workers.

 US entry into the First World War increased the prominence of the issue of industrial democracy in the United States. Britain, a wartime ally, had introduced a degree of worker representation in the form of so-called Whitley Councils which were soon emulated in US shipyards and other workplaces (Lauck, 1926: 129). The efforts of the National War Labor Board to promote institutions of industrial democracy in the United States was justified on the grounds the democracy in the workplace was a logical corollary of US President Wilson’s war aim of making the world safe for democracy (McCartin, 1997). Speaking shortly after the armistice in 1918, John D. Rockefeller Jr rhetorically linked his proposal for employee representation with the recently concluded struggle for democracy on the battlefields of Europe (Rockefeller, 1918). By the time the peace treaty had been signed in Versailles, the principle of worker representation in the management of companies was endorsed by the leaders of the following American denominations: Roman Catholic, Episcopalian, Northern Baptists, Disciples of Christ, and Quakers as well as by the Church of England, the Presbyterian Church of Canada, and a committee of British Quakers (Lauck, 1926).

During and immediately after the First World War, the corporate governance laws of Germany, Austria, Norway, and Czechoslovakia were changed to force companies to give worker representation through works councils (Kaufman and Taras, 2016, 23; Gorton and Schmid, 2000; Volkov, 2012: 136; Gospel and Pendleton, 2004: 6). In the United Kingdom and Canada, the Whitley Councils were retained in some workplaces as a gesture in the direction of workplace democracy (Frankel, 1956; Sefton-MacDowell, 2000). In 1919, Massachusetts, the home state of Berle and Means, introduced permissive legislation to allow manufacturing firms to appoint worker representatives to boards (McGaughey, 2017: 21). The number of works councils and other employee representation mechanisms in companies surged. In 1919, the number of American covered by works councils was 391,400 in 1922 had increased to 690,000 and then rose to 1,117,037. Between 1919 and 1924, the number of councils rose from 225 to 814 (Lauck, 1926: 136). In 1922, employee representation systems were in place in 230 manufacturing establishments, including those of such famous firms as General Electric, Du Pont, International Harvester, Western Union, Standard Oil of New Jersey, Standard Oil of Indiana, Warner Bros., and Universal Film (National Industrial Conference Board, 1922, Appendix).

 When the leaders of the Weimar Republic, Germany’s new democratic regime, passed co-determination laws that required some large firms to give workers a say in corporate governance, most business leaders in that country were opposed. One important exception to this generalization was the Walther Rathenau, the polymath head of the Allgemeine Elektrizitäts-Gesellschaft, an electrical engineering firm that was the equivalent of General Electric in the United States. Rathenau, who founded the centrist German Democratic Party in 1918, briefly served as Germany’s foreign minister. Moreover, Rathenau was an influential business intellectual and prolific author who challenged the principle of shareholder primacy and who came to support co-determination (Volkov, 2012). Rathenau, one of whose books (Rathenau, 1918) was cited by Berle and Means, played a role in Germany analogous to Berle and Means in the United States in that he was an influential business intellectual with middle of the road political views. Unlike Berle and Means, Rathenau did more than simply attack the principle of shareholder primacy, a principle of German corporate law that had been critiqued by Catholic social thinkers and by social democrats as early as the 1890s (Kuntz, 2018, 18). Instead, Rathenau endorsed workplace democracy in a series of texts that were widely discussed in the Weimar Republic and which were rediscovered in post-war West Germany (Volkov, 2012; McGaughey, 2016; Segrestin, 2017).

As Derber (1970: 173) observed “industrial democracy was a household term” in the United States by 1920 and that “every important interest group paid lip service to it.” Many firms created works councils, shop committees, and other employee representation mechanisms. In the immediate post-war period, there was not yet “antagonism between organized labor and the shop committee movement” (Lauck, 1926: 72). Advocate of industrial democracy identified a range of benefits to both workers and employers that would come from the adoption of works councils and other employee representation systems. These included ensuring that workers’ interests were considered by managers, reduced tensions between labour and management, and improved efficiency as result of giving workers a means of proposing technical solutions to managers (National Industrial Conference Board, 1922; Lauck, 1926).

Adolf Berle, the lead author of *The Modern Corporation,* discussed the worldwide movement toward giving workers a say in how companies are run in a 1921 article in the *New Republic,* a liberal magazine. While his article, “How Labor Could Control” observed that workers’ councils or “soviets” had seized control of factories in Russia in 1917, his primary focus was on American experiments with industrial democracy (Berle, 1921). Berle envisioned a future in which workers would own corporations and hire managers to run them, saying “each man would be working for himself and his ‘wage slavery’ would become merely an occupation in cooperative endeavor”. Berle’s use of the provocative Marxian term “wage slavery” to refer to the existing system of power-relations in most American workplaces was designed to resonate with how Americans thought about one of the darkest chapters of their history. Although Berle did not mention the legacies of African slavery in his 1921 *New Republic* piece, he was likely aware that the former Confederate states of the Deep South had been largely by bypassed by the industrial democracy movement (see Table 1): works councils, which were not evenly distributed across the United States, were relatively common in Massachusetts and in New York, two states that had been historic centre of opposition to African slavery. By associating the absence of industrial democracy with slavery and its legacies, Berle created a historical narrative arc that linked the pre-1865 movement against slavery to the modern push for democracy in the workplace.

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Berle’s use of such provocative language in his *New Republic* piece needs to be understood in relation to his passage through a phase in which he was experimenting with political ideas more radical than those he had entertained either before the First World War or after the mid-1920s, when his views softened. In 1921, Berle was living in a tenement flat on New York’s impoverished Lower East Side and was working as a junior lawyer, serving the interests of U.S. sugar producers he regarded as imperialist exploiters of the peoples of the Caribbean (Schwarz, 1987: 37) His experiences at the Versailles Peace conference, where he had been attached to the U.S. military delegation had left him disillusioned, especially as his superiors had rejected his view that the western allies should engage with the Bolsheviks (Schwarz, 1987: 29). After his return to the United States, Berle worked for a variety of radical organizations including leftwing unions and the Navajo Indian communities which were then struggling to preserve their collective forms of property in the face of Republican politicians who wanted them to adopt the individualist ethos of private property. The interest Berle expressed in 1921 in the radical concept of democracy in the workplace was in keeping with his political outlook at the time.

The young Berle was not the only left-of-centre American to be interested in democracy in the workplace. Although many union leaders, particular AFL President Samuel L. Gompers, regarded works councils and other representation systems with suspicion, seeing them as anti-union measures, some union leaders were cautiously optimistic about the concept and worked with managers to develop workplace democracy systems that gave workers a genuine voice (Murray and Cooke, 1940). In the 1920s, one of the most famous examples of industrial democracy was the system that had been put in place in the Baltimore and Ohio Railroad from 1923 (Guzda 1984). This system, which had been designed jointly managers and Machinists’ Union President William Johnston, attracted widespread attention. The onset of the Great Depression had a mixed impact on industrial democracy institutions. Some firms eliminated their employee representation systems as a cost-saving measures, but others such as Kodak, maintained these systems until 1935, when the Wagner Act banned works councils in non-unionized workplaces (Cohen, 1990; Jacoby, 1997; Kaufman and Taras, 2016). Some firms adopted a variant of industrial democracy during the Depression to cope with the crisis. For instance, a number of steel mills in the upper Ohio Valley responded to plunging revenues in the early 1930s by introducing a form of co-determination by forming labour-management committees charged with devising strategies to keep the mills operating. These committees were known colloquially as the Golden-Scanlon system, which was named after the union leaders who had helped to devise the system (Wren, 2009). Several of these committees produced innovative technical and managerial solutions that allowed mills to escape bankruptcy.

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# The Writing of The Modern Corporation and Private Property

Adolf Berle and Gardiner Means, the co-authors of *The Modern Corporation and Private Property* had largely similar social origins: they were the sons of Protestant Ministers in New England, were born in the mid-1890s, and were educated at Harvard. They met during their officer training in the First World War. After that conflict, Berle was part of the US delegation at the Versailles Peace Conference, where he helped a former professor to formulate US policy towards the Baltic States (Columbia Oral History Transcript: 32-35, 112-113; Pitkin to Berle, 2 July 1928). In the immediate aftermath of the war, Berle found work in a small New York law firm, where he drew a small salary that was far below the average for a Harvard Law School graduate (Schwarz, 1987: 45). Berle’s material circumstances improved dramatically after he established his own corporate law firm in 1924: income from the practice, as well has his marriage in 1927 to a wealthy heiress, gave him status in New York Society. In the 1920s, Berle combined his successful corporate law practice in New York with teaching about corporate finance at Harvard Business School several days each week, which was a sign of his growing prestige and influence. Berle published articles on corporate governance in such prestigious journals as the *Columbia Law Review* and *Harvard Law Review* as well *Encyclopaedia Britannica*. Means was less successful in the 1920s, for he spent much of the decade running a struggling manufacturing firm in Massachusetts before heading to graduate school (Means, 1999).

The 1910s and 1920s witnessed an intensive legal and philosophical debate in the United States over the essential purpose of the business corporation. Since the middle of the nineteenth century, American business law and corporate culture had been informed by the doctrine that the purpose of a corporation was to advance the interests of the shareholders, not to serve interests of any other class of stakeholder or the public good. In the case of Dodge v. Ford Motor Company, which ran from 1916 and concluded in 1919, this theory had been contested in the courtroom by Henry Ford, an entrepreneur had asserted that his company’s prosperity should be shared with other stakeholders, including the assembly line workers and “the general good of the community.” Ford’s decision to increase the wages of his workers to five dollars a day triggered a lawsuit by the Dodge brothers, two major investors in the Ford Motor Company. The Dodge brothers objected to Ford’s generosity with what they regarded as their money. In in its 1919 decision in this case, the Michigan Supreme Court had sided with the investors, thereby affirming the orthodox doctrine of shareholder primacy (Henderson, 2007).

In the 1920s, this orthodoxy was being challenged was a group of academics and business leaders who argued that companies ought to be run in the public interest, not in the interests of shareholders. The advocates of this view included the Harvard economist William Ripley(Ripley, 1929, 16-40), Harvard Business School Dean Wallace B. Donham (Khurana, 2007:116), the businessman Robert Brookings (Brookings, 1925: 75-80), and Owen Young of the Radio Corporation of America. In 1927, Young told an audience at the Harvard Business School address that he wished to end the “old notion” that corporate executives were simply the agents of the “stockholders” who could “exploit labor and the public in the stockholders’ interest.” (Heald, 1970: 97). In the final chapter of their 1933 book, Berle and Means aligned themselves with those who had challenged the idea that the primary or sole purpose of a corporation was to maximize the return on the shareholders’ investment.

The book published by Berle and Means in 1933 emerged with the financial support of the Laura Spelman Rockefeller Foundation. In the wake of the aforementioned violent strike at his family’s mine in Colorado, John D. Rockefeller Junior had become a proponent of a system of worker representation in corporate governance through elected worker representatives (New York Times, 1916). William Ripley helped Berle to obtain a $7,000 Rockefeller grant (Columbia Oral History Transcript: 117) that allowed Berle to leave his part-time teaching job at Harvard Law School in fall 1927 and to obtain a position at Columbia Law School (Columbia Oral History Transcript: 119). Berle then recruited Gardiner Means, who was then doing a PhD at Harvard, as his research assistant (Columbia Oral History Transcript, 120). The writing of the book, which took four years to complete (1927-1931), culminated in *The Modern Corporation and Private Property.*

The book, which became widely available in early 1933, was praised by other academics (Stocking, 1933; Frank, 1933) and raised Berle’s profile, bringing him into contact with President-elect Franklin D. Roosevelt. After Roosevelt was sworn in as president in March 1933, Berle became part of Roosevelt’s Brains Trust (Schwarz, 254) and provided advice about finance (Roosevelt to Berle, 23 April 1934), banking reform (Roosevelt to Berle, 13 September 1934), and labour unions (Berle to Perkins, 24 May 1935). Means’s contribution to the New Deal came largely as a result of his work as an advisor to the Department of Agriculture. Berle subsequently enjoyed a distinguished public service career that included an assignment as American ambassador to Brazil and advising President John F. Kennedy on Latin American affairs (Schwarz, 338). Up until his death in 1971, Berle worked to ensure *The Modern Corporation and Private Property* retained a wide readership both in the United States and abroad (Berle to May, 11 April 1957). In 1951, Berle approved a 1951 request to translate it into Japanese so that its message could reach more people in that country (Haruzo Kaneko to Adolph Berle, 25 June 1951). Berle also went to great lengths to ensure it did not go out of print in the United States, transferring the book from Macmillan to another publishing house, Harcourt Brace & Company, in 1967 (Richard Marek to Adolph Berle, 28 March 1966). The liberal economist John Kenneth Galbraith, by then a friend of Berle’s, wrote a forward to the new edition (John Kenneth Galbraith to Adolph Berle, 26 July 1968).

# Berle and Means’s Ideology of Corporate Governance

Much of *The Modern Corporation* was devoted to simply describing the changes in the nature of the American corporation that had taken place in recent decades. The book documented the rise of large oligopolistic firms and the growing separation of ownership and control. In the final chapters of the book, however, Berle and Means shifted from descriptive to normative statements, outlining their views of how corporations ought to be governed. The radical element of the ideology of corporate governance articulated in the final chapter Berle and Means’s argument that the managers of firms ought to govern companies in the interests of all stakeholders, not just shareholders. When Berle and Means declared that managers ought to balance the interests of shareholder, workers, and other stakeholders they were rejecting the traditional American doctrine of shareholder primacy, which held that the CEO’s primary duty was to maximize profits for the shareholders. The more conservative element of the Berle-Means ideology was their view that managers should be free to run companies as they saw fit and without the constraints that industrial democracy institutions or other checks on their authority.

 Berle and Means also declared that managers needed to balance the interests of different groups of stakeholders, workers as well as shareholders. In their opinion, the purpose of the business corporation was to serve the public good, not to maximize the wealth of the shareholders. The communitarian ethos that underpins the stakeholder model of Berle and Means is seen in their call for a “wholly new concept of corporate activity” in which “neither the claims of ownership nor those of control can stand against the paramount interests of the community” in the making of corporate strategy. Instead, the goals of CEOs and other senior corporate managers should be to deliver “fair wages, security to employees, reasonable service to their public, and stabilization of business.” Berle and Means said that this program would inevitably divert a portion of the wealth created by firms from the shareholders to other stakeholders. For capitalism to survive and become more humane, it was essential that “the interests of passive property owners” (i.e., shareholders) should “give way” to the moral “claims of other groups in the community”(Berle and Means, 1933: 356).

 Berle and Means were clearly challenging the then widespread assumption that the fundamental purpose of the corporation was to maximize the well-being of the shareholders.

However, while their book was radical in the sense that it challenged shareholder primacy, it was conservative in that *Modern Corporation and Private Property* says very little about worker participation in corporate governance. The terms “industrial democracy” and “works council” appear nowhere in their text, which is a striking omission given that Berle had endorsed industrial democracy in a 1921 article and were living in a society in which the term “industrial democracy” was frequently used in discussions about corporations. Berle and Means discuss only the most conservative of the various form of worker participation that had been proposed by American advocates of industrial democracy since the 1880s, namely, programmes by which employees would gain the right to some board representation via the purchase of shares in the companies that employed them. Such schemes, which respected the traditional American principle that only shareholders had the right to a voice in the governance of a company, had proved remarkably unpopular with American workers as they required workers to invest their savings in their employers. In any event, Berle and Means were dismissive and opposed to even this limited form of worker representation in corporate governance (Berle and Means, 1933, 56). At no point in *The Modern Corporation* do the author discuss the possibility of systems of corporate governance in which workers would have the right to representation without the purchase of stock.

In *The Modern Corporation*, Berle and Means display a willingness to simply trust senior managers to rule companies in the interests of all stakeholders, including workers, a position very different from that advocated by Berle in 1921. Moreover, the parts of their book that describe the existing state of American business say surprising little about corporate boards or the procedure for removing managers, even though there were several prominent battles for control of US corporations in the 1920s of which Berle and Means must have been aware. For instance, in 1929 there was an epic legal battle over control of a New York based restaurant chain whose CEO had suddenly converted to vegetarianism and changes all of the menus. These changes, which had alarmed the shareholder representatives on the company board, resulted in a well-publicized struggle to depose the CEO (New York Times, 1929). The prescriptive sections of the *Modern Corporation* outline no legal checks and balances that could discipline managers who fail to take the interests of workers, shareholders, consumers, and other -stakeholders into account or who otherwise act in a fashion that displeases stakeholders. The absence of any discussion of internal checks and balances on the power of CEOs in the prescriptive section of the book suggests that Berle and Means accepted the theory that CEOs should be able to act as absolute monarchs within their firms. Indeed, Berle and Means’s inattention to internal checks on the authority of managers is especially curious in light of Berle’s legal training, which had doubtless familiarized him with the US constitution, which famously contains many institutions designed to constrain executive authority.

# Explaining the Rejection of Industrial Democracy By Berle and Means

In this section of the paper, we advance an explanation for why Berle and Means rejected all forms of industrial democracy in their influential 1933 text. In part, they rejected industrial democracy because they adhered to the Anglo-American legal doctrine that workers are “outsiders” to the corporation rather than “members” of the corporation. Berle, the lead author of *The Modern Corporation*, was a product of the Harvard Law School and who established a successful corporate law practice in Manhattan in the 1920s. The apparent unwillingness of Berle and Means to seriously entertain worker involvement in the management of firms reflected Berle’s training in Anglo-American common law, which has held, for centuries that workers are “outsiders” to the corporation rather than members of the company (Greenfield, 1998; Hill, 2003). Given that Berle and Means had already repudiated one orthodox legal doctrine in their book (shareholder primacy) and were operating in a legal system in which great deference is shown to precedent, it is understandable that they did not go to the next step by rejecting the centuries-old view that workers are “outsiders” of the company. Berle had endorsed the idea of involving workers in the management of firms in his 1921 *New Republic* article, but in *The Modern Corporation* he expressed loyalty to a more traditional doctrine, as befitted someone who had become a successful corporate lawyer over the course of the 1920s.

There is another, perhaps more fundamental reason, why Berle and Means did not favour industrial democracy, namely, their immersion in the intellectual climate of the Progressive movement. During the Progressive Era (1890 - 1920) in American history witnessed the growth of social and political movements aimed at combatting the social ills associated with rapid industrialization, urbanization, and the high levels of income inequality associated with the Gilded Age (McGerr, 2010). The Progressive movement included a wide range of individuals and movements that advocated sometimes contradictory ideas. Progressives could be found in both of the main political parties, all of the major Christian denominations, and a range of occupational groups.

 Historians have identified a strand within the Progressive movement favoured technocratic, top-down solutions to social and economic problems. One leitmotiv of Progressive thought was rule by the benevolent, university-trained expert. Many progressives, particularly those who were educated in elite universities on the eastern seaboard, sought to replace the existing system of *laissez-faire* capitalism with a society in which experts would rule in the interests of the masses. This approach was particularly common among progressive intellectuals who had emerged from Ivy League institutions (Tone, 1997, McCann, 2013; Rice, 2014; Kessler, 2015). It should here be noted that Berle and Means were both Harvard graduates. The existence of a strong paternalistic strand in early twentieth century Progressive thinking has recently been documented by Leonard (2016), who observes that it was closely connected to a hubristic belief in the benefits of vesting power in unelected experts. While we do not go so far as Leonard (2016), who has suggested that the Progressives and their successors, the New Deal Liberals, displayed a confidence in rule by experts equivalent to that which informed the central planning system of the Soviet Union, we agree that Progressive thought was frequently tinctured by a strong faith in rule by benevolent experts. Berle and Means’s paternalistic ideology of corporate governance was consistent, therefore, with the Progressive intellectual milieu from which they had emerged and in which they were operating when they wrote their book.

Another factor that helps to explains why Berle and Means rejected industrial democracy is that the lead author had, by the book’s completion in 1932, become firmly integrated into the establishment. In 1921, when Berle had tentatively endorsed the concept of industrial democracy, he was a decidedly junior lawyer living on the Lower East Side of Manhattan. Over the course of the 1920s, Berle had risen in the world of New York corporate law and he had acquired greater wealth and influence and these changes in his circumstances coincided with Berle’s retreat from radical ideas and reversion into a political outlook similar that which had been articulated by his father, the Rev. Adolf Berle Senior, a Calvinist minister who promoted “aristocratic liberalism” that “patronized” the urban proletariat and which held that society should be governed by an elite of professionals who would govern in the interests of the workers without actually sharing power with them (Schwarz, 1987:10). Berle Senior’s aristocratic liberalism, which also appears to been shared by the wealthy heiress Berle married in 1927 (Berle, 1983), was entirely congruent with the technocratic, top-down approach to governance that contemporary Progressives advocated. The Adolf Berle Junior of the 1930s subscribed to “aristocratic liberalism” which explains why the interest in workplace democracy he expressed in 1921 was missing from his influential 1933 book.

For context, it should be explained that the members of Roosevelt’s New Deal coalition differed in the degree to which they believed that creation of bureaucracies to intensively regulate private industries was the solution to America’s problems. Some supporters of the New Deal put their faith in the creation of powerful regulatory agencies in Washington, while the “decentralist intellectual” faction preferred to focus on measures such as a new collective bargaining law that would empower rural and urban working-class people to find local solutions within their communities (Shapiro, 1972). Berle was one of the members of the New Deal Brains Trust who strongly believed that the solution to the problems of the Depression lay in the creation of regulatory agencies in Washington rather than in empowering workers within firms. Berle played an important role in the creation of the National Recovery Administration (Huthmacher, 1968, 193) and the Securities and Exchange Commission, two regulatory agencies, and he was one of several members of Franklin Roosevelt’s Brains Trust who advised Senator Robert Wagner in the period leading up to the passage of the National Relations Labor Act of 1935, a law that changed the balance of power between workers and managers with American workplaces (Barenberg, 1992). However, he and Gardiner Means appear to have shared a centralizing outlook and belief that top-down bureaucracies were the preferred solution to the country’s economic problems even if they were sympathetic toward organized labor.

# Conclusion

In the 1990s, U.S. policymakers investigated the introduction of German-style works councils and other co-determination institutions into U.S. workplaces (Commission on the Future of Worker-Management Relations, 1994: 25). The fact these proposals were not implemented is suggestive of how alien the concept of worker representation is to unexamined assumptions that have informed U.S. ideologies of corporate governance since the 1930s. This is despite the fact that the Railway Labor Relations Act, which is still in force, does not prohibit works councils. Since 2016, interest in industrial democracy institutions has surged in the United States (Yosifon, 2018) and Senators Elizabeth Warren and Bernie Sanders have called for greater worker and community voice in corporate governance (Matthews, 2018). The historical experience of the United States with proposals for workplace democracy can help to guide present-day discussions about whether and how workers should be given a say in how American corporations are governed.

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