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A forgotten past

The historical roots of the mandatory affiliation of german cooperatives to auditing federations 'Anschlusszwang'



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The issue in question

I published a book entitled “Schein und Wirklichkeit”¹ in May 2014 which examined the existing system of cooperatives in Germany, aspects of which I was very critical of (see Kaltenborn 2014: passim). This critical examination was motivated by the fact that I have had great consideration for cooperatives for decades. I find that the German cooperative system, on the other hand, demonstrates a succession of peculiarities and contradictions which are so numerous and so serious that it was not particularly difficult, although it was time-consuming, to fill a whole book with them. One of the central points of my criticism is the statutory obligation of (registered) cooperatives to be affiliated to an auditing federation. Apart from the fact that I am fundamentally averse to forced obligations, my hostility was considerably exacerbated by the historical roots of this statutory enforced affiliation. It is namely the result of an amendment to the German Cooperative Societies Act dated October 1934, in other words 21 months after the National Socialists came to power. This amendment was part of the overall Gleichschaltung² and repression of cooperative systems by National Socialist authorities. After 1945, there was no public examination of the National Socialist past of cooperative federations. Indeed nothing happened, other than the invention of a few stories, spreading the idea that the cooperative system had not been tainted in any way, not even by the law of October 1934, signed by Adolf Hitler as Führer and Reichskanzler. And finally, what is seen by cooperative federations as being a positive effect of Anschlusszwang, namely protection from insolvency, can in fact also be achieved by other means.

The passages from my book which deal with the origin of Anschlusszwang, the destruction of cooperative identity under National Socialist rule and the story fabricated by the official cooperative system have been summarised, revised and added to in the present publication. I would particularly like to thank Burchard Bösche here for his valuable additional contributions.

¹ *Appearance and Reality*

² *Political synchronisation*

Origins of the modern cooperative movement

It is first necessary to make a few remarks about the historical origin of modern cooperatives in Germany and their original aims. Cooperative organisational structures date back to ancient times and can be found in many, if not all cultures throughout the world, in a wide variety of forms. The history of modern cooperatives begins in Germany with a man named Hermann Schulze-Delitzsch, who remains a renowned figure today. I should add that as I have long acquired the habit of referring to him as Schulze instead of Schulze-Delitzsch, I will continue to do so here. He was born Hermann Schulze in 1808 in the town of Delitzsch, which became part of Prussia as of 1815 (it was previously and is today once again part of Saxony), and his name never officially changed. He himself used the double-barrelled version in public life – particularly for his publications – as of the 1850s. However, even in Friedrich Thorwart and Philipp Stein's portrayal of his life and work – a quasi-official biography – in the final fifth volume of Schulze's writings and speeches, he is referred to throughout as Schulze (see Thorwart 1913: *passim*).

Schulze, member of the Prussian National Assembly which came into being after the revolution of 1848, a firm democrat, co-founder of the liberal Progressive Party in Prussia and leading national politician, founded two cooperatives in his home town of Delitzsch, a direct form of which still exist today. These were so-called raw materials associations (one for carpenters and one for shoemakers), in other words purchasing cooperatives. Many similar

associations quickly sprang up all over Germany, including in the Habsburg Monarchy which was part of the German Confederation at that time. Credit associations, the forerunners of today's Volksbanks, were of significant importance in this movement. Schulze developed a theoretical concept with the founding of these cooperatives. He saw cooperatives as a - small - part of a comprehensive socio-political reform programme with which he aimed to achieve nothing less than a solution to social issues. His concept also included the founding of trade unions, called "trade associations" until 1933, and which later held the biggest strike in German history at that time in the Waldenburg coal mining district in Silesia in the winter of 1869/1870. As a parliamentarian, he resolutely fought for the freedom of association of workers - and was ultimately successful.

The main principle behind Schulze's solution to social issues was self-help. He also saw this as an indispensable doctrine for cooperative associations. He resolutely rejected state assistance, unless necessary, for example, in the event of natural disasters. For Schulze, self-help also entailed the unlimited liability of cooperative members. He called cooperatives "schools of democracy" as they were also to be used as a means of exercising self-management within municipalities and the state. The - at that time largely authoritarian - state was not to have any role. These views arose from Schulze's fundamentally democratic and liberal convictions. The voluntary nature of cooperatives was another of Schulze's unconditional principles, observed by all those that followed him in the cooperative movement, even Raiffeisen. There was no room for forced obligation in cooperative life (see Kaltenborn 2012a and 2012b: passim).

Friedrich Wilhelm Raiffeisen is another name linked to the development of modern cooperatives. He attempted to overcome rural misery by founding associations under his own concept. As mayor of a village in Westerwald, he began

experimenting with different institutional models from 1847 onwards, finally developing his own cooperative concept. He too was fundamentally committed to self-help, however in a somewhat modified form. As Raiffeisen, unlike Schulze, was driven by a resolutely Christian outlook, the more prosperous could and were expected to be more widely involved in his associations than the poor. Raiffeisen was, however, even more uncompromising on the matter of the unlimited liability of cooperative members than Schulze (see Kaltenborn 2014: 40 et seq).

The Cooperative Societies Act and its development

Around ten years after the first cooperative associations were founded by Schulze in Delitzsch, the question of a satisfactory legal status for the new entities arose more and more frequently due to the movement's subsequent growth. The forms available under the (Prussian) legal system were unsatisfactory. The first was that of private association. This did not satisfy Schulze, not even in any of its subforms, primarily "because the legislator had thought of all of the possible purposes with the sole exclusion of 'business activities' (my emphasis) which is precisely the characteristic feature of the cooperative [...]". The other available legal form, the "Societät des Römisch-Deutschen Privatrechts"³ was also insufficient, as membership changes were virtually impossible or only possible under the most cumbersome and onerous conditions. For Schulze, however, continual changes in membership were indispensable for a cooperative (see Schulze-Delitzsch 1870a: 258).

A new specific form therefore had to be created. Schulze introduced his first corresponding bill as early as 1859. The bill consisted of just five paragraphs. It, however, quickly became superfluous as the Allgemeine Deutsche Handelsgesetzbuch⁴, passed by the German National Assembly of 1848/1849 in Frankfurt and gradually adapted by the individual German states, also came into force in Prussia in 1861. It then became necessary to check whether or not and to what extent the legal forms available under the commercial code would be sufficient for cooperatives. They proved to be insufficient in Schulze's opinion (see

Schulze-Delitzsch 1870b: 260 et seq). A new bill therefore had to be drafted.

Schulze became a member of the Prussian House of Representatives, the second chamber of state parliament, after a by-election in 1861. In March 1863, he introduced his bill, signed by 88 other representatives (all belonging to the German Progressive Party, the left-wing liberal party co-founded by Schulze). It was deliberated and amended in the relevant committee (committees were called commissions in the Prussian House of Representatives) and in the first chamber, the non-elected House of Lords; there was a strongly amended counter-bill from the Prussian government, followed by renewed deliberations both in the respective commission and in the House of Lords and in a plenary session of the House of Representatives. The bill was then passed and came into force in 1867. After the founding of the German Reich in 1871, it became a Reichsgesetz⁵ in virtually identical form. Reichsgesetz (see Prussian State Parliament 1863, Cooperative Societies Act (GenG) 1867 and Cooperative Societies Act (GenG) 1871).

Certain provisions of the Act differed from Schulze's original intentions in points he considered essential. Here are just two examples: according to the Act, the articles of association had to include "terms and conditions of voting rights", whereby cumulative voting was authorised (§ 3). However in the event that there was no such provision in the articles of association, each member was to be granted one vote (§ 9). This provision did not correspond at all with Schulze's vision of cooperatives, which is why he saw it as being superfluous. He was firmly convinced that this option would be completely unacceptable to true cooperatives. They would never use cumulative voting. Secondly: profit or loss was to be evenly distributed per capita - according to the Act - unless otherwise specified in the articles of association (§ 8). Schulze's bill proposed that profit and loss