

Turning Labor into Capital: Pension Funds and the Corporate Control of Finance

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Abstract

This article explores union attempts to control pension fund investment for the debate on financial restructuring in the United States. It puts popular control of finance into comparative and historical perspective and argues that laws and politics help explain why the flow of finance is corporate controlled. First, changes in the legal regime—the Taft-Hartley Act of 1947 and the Employee Retirement Income Security Act (ERISA) of 1974—put constraints on labor’s ability to influence investment decisions. This is evident when comparing single- and multi-employer plans, where the laws had different consequences. Second, attempts to reform these laws failed. Had they been successful, Carter’s proposed economic revitalization plan in the run-up to his failed reelection in 1980 would have created new ways for unions to control and redirect retirement investment for social purposes. The reform failure is treated as a “suppressed historical alternative” through a comparison with a successful reform in Quebec, Canada, which gave unions broad controls over the Solidarity Fund in 1983. The findings suggest, somewhat counter-intuitively, that legal restrictions need to be loosened for democratic control of finance to be possible. For pension funds, more regulations led to more corporate control, not less.

Keywords

corporate control, finance, financialization, investment, pensions, labor unions, regulation

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Since the Great Recession in 2008, writers have spilled much ink over how to restructure finance in America.¹ Their contributions convey the urgent need to reregulate finance and to direct capital flows toward social and more productive ends, but efforts to draw on lessons from the past have been scarce. This article explores some of the barriers to financial control by nonelite actors through an analysis of pension fund investment in the United States since World War II. It puts the weakness of popular control of financial investments into comparative and historical context.

In the mid-1970s, American capitalism shifted toward decentralized and freer markets and shareholder-oriented corporate governance. This laid the groundwork for flexible investment allocation guided solely by financial imperatives.² Part and parcel of this shift was the rapid financialization of the US economy. From 1975 to 2004, stock and bond market capitalization increased from 102 percent to 289 percent of GDP, respectively.³ And firms that were once centrally concerned with production increasingly turned to financial speculation. The portion of total corporate profits accruing to financial investments rose from about 10 percent at the beginning of the 1980s to 40 percent by the 2000s.⁴ A small financial elite, located in the major corporations, banks, hedge funds, and pension funds, have been the primary beneficiaries, watching their wealth, income, and political power grow.⁵ But it has proven disastrous for both economic stability and equity.⁶

Recently, Fred Block has called for a “new regime of accumulation” in the United States. He shows how crucial it is to restructure financial flows to encourage investments into new energy technologies, transportation systems, urban infrastructure, and training programs for the labor force.⁷ New investment channels are necessary to create more productive domestic uses of finance. And as Paul Krugman writes, “they don’t need to be visionary projects like ultra-high-speed rail; they can be mainly prosaic investments.”⁸ Of course, this is not a postcrisis idea. The need for capitalist investment criteria to incorporate social factors that, under certain conditions, trump profits was explored well before and pensions were central in that discussion.⁹ The crisis does, however, make it all the more urgent. But while there have been watered down attempts at postcrisis reregulation, deeper forms of financial restructuring remain unrealized.¹⁰ Instead, financial flows remain largely undisturbed and directed by large profit-driven financial institutions. Where a more democratically accountable system of asset allocation could stand, the one that endures is staffed by elites and guided by financial imperatives.

Pension funds occupy a unique place within these financial markets. First, workers’ funds have amassed a huge financial fortune since their widespread emergence in the 1950s. They went from small holdings during the war to having over \$10 trillion in assets by 2010. And since the recovery in corporate profits after the 2008 crash, their financial assets have grown quarterly.¹¹ Second, the funds became a major source of capital for US firms. By the 1970s, pension funds controlled almost 25 percent of all US corporate equity, far more than the funds anywhere else in the world in both relative and absolute terms. The scale of these holdings alone has led some to characterize American capitalism as “pension fund capitalism.”¹² Third, while the ownership status of fund assets is vague, they are typically treated like a deferred wage for workers. So

unlike the financial investments of firms or banks, workers have recognized claims over them. Finally, and what will shortly be our prime concern, despite having some property rights, most workers and the unions that represent them never had meaningful control over fund investments. Instead, fiduciaries—employed by banks and other large financial institutions and under the direction of employer-dominated trustee boards—followed investment trends in financial markets. The failure of unions to control their pension funds is a key feature of financialization. It provides insight into how legal factors both helped to create corporate-controlled workers' finance and continue to pose political obstacles to financial democratization.

This article proceeds in five parts. First, it briefly outlines the argument for why unions have been unable to control pension fund finance. Second, it reviews the historical data and methods used to make that argument. Third, it provides a historical primer on pension fund investment in the United States. The fourth section analyzes the relationship between the laws governing the pension system and labor's diminishing capacity to influence fund investment decisions. It does so through three levels of comparison: between different US unions in similar legal contexts, between similar US unions across time in different legal contexts, and between Carter's failed legal reform in the United States and the more successful reform in Quebec, Canada with the creation of the Solidarity Fund. The final section concludes, reiterating the findings and speculating on the implications for democratic financial restructuring in the United States.

Why Unions Don't Control Pension Finance

Employer control of pension finance has its origin in the postwar period, almost two decades before the financialization of the US economy began. Collectively bargained pension plans were practically nonexistent before World War II. The handful of American employees eligible for a pension tended to be better-paid salaried workers; companies rarely offered plans to workers earning an hourly wage. But after the war organized labor made major gains in the private pension system by winning contracts that included retirement plans.¹³ Over 50 percent of unionized employees had pension coverage at the end of 1957. In the same year about 10 million of the approximately 17 million employees covered were in unions.¹⁴ The result of large and rapid increases in the number of participants in retirement plans was a massive build-up of plan assets. But before union members could decide how to allocate this finance, employers and the state intervened.

Recent policy scholars show that changes in pensioning and healthcare in this period were contested and tended to be driven by the interplay of competing firm and union interests and legal and political changes.¹⁵ Although research shows that the United States developed its relatively large private welfare state due to union weakness and political defeats, the inability of unions to control pension finance is a barely-examined aspect of the postwar period, a fact made all the more curious by their size and centrality to the financial system. Following the recent scholarship's emphasis on the interplay between interest groups and political institutions,¹⁶ this article makes a

two-part argument. First, the capacity of the unions in the Congress of Industrial Organizations (CIO)—and later the merged American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)—to control fund investment decisions was incrementally eroded by federal legal regulations governing private pensioning. Second, union weakness and the dominance of pro-market policy makers kept anti-union laws on the books and blocked union control-oriented reforms, as happened with the Solidarity Fund in Quebec, Canada in the early 1980s.

On the one hand, provisions in the Taft-Hartley Act of 1947 largely transformed labor's retirement assets into a pool of employer-controlled finance by weakening the ability of unions to influence decision making on pension boards. Only in multi-employer pension plans, which emerged through industry-wide bargaining agreements where the structure of collective bargaining created opportunities to get around the intent of law, did unions successfully influence fund investment at the board level. On the other hand, the Employee Retirement Income Security Act (ERISA) of 1974 further restricted even these multi-employer pension funds by making diversified portfolios, heavily invested in equities, a main component of fiduciary prudence. ERISA made it even more difficult for unions to influence investment decisions in traditional funds.

However, increasing regulatory restrictions aren't the only dimension of labor's inability to control pension funds. To reform the legal constraints on unions, labor needed active support from Democrats, particularly their allies in the North. Up to the 1970s, this support was not forthcoming. But this shifted in the run-up to Carter's lost reelection campaign against Reagan in 1980. Carter, other Northern Democrats, and unions supported an economic revitalization plan that created a tripartite investment board that increased union control over retirement funds. Although this plan failed because of union weakness and the rise of Reaganism, in the historical juncture it represents what Barrington Moore terms a "suppressed historical alternative."¹⁷ A comparison with the more successful establishment of the Solidarity Fund in 1983 illustrates how legal reforms were necessary to give labor substantial control over financial investments in Quebec.

Logic of Inquiry

The argument is made inductively from archival materials from unions, business associations, and state sources. First, I drew heavily from the AFL-CIO collection, which is housed at the George Meany Memorial Archives in Silver Spring, Maryland. Within these materials, I analyzed subcommittee reports, memoranda, newspaper articles, studies related to pensioning, letters, speeches, literature, and congressional testimony. Second, I used materials from peak employers' associations: the Chamber of Commerce, the National Association of Manufacturers (NAM), and the National Industrial Conference Board (NICB), the premiere employers' research institution. These materials are housed at the Hagley Library in Wilmington, Delaware. Here, the data consists of sub-committee reports, conference minutes, memoranda, studies related to pensioning and collective bargaining, letters, speeches, literature, and congressional testimony. In total, I analyzed over 11,000 documents from the 1930s to the 1990s.

To understand the relationship between changes in the legal regime and labor's ability to control pension funds, I scrutinized debates both between employers and unions and within employers' associations and unions concerning contests over fund investment and federal legislation. Union debates about what was possible within the legal constraints offers evidence for significant variation in union capacity over time and between unions with single- and multi-employer plans. Finally, the major legislation governing pensions, Taft-Hartley (1947) and ERISA (1974), were passed at the federal level. To understand what legislators intended to do with the laws and how organized labor likely saw its impact, I reviewed the congressional debates.

I used a three-level comparative-historical strategy to account for the link between laws and union capacity to influence pension fund investment: comparisons between US unions in similar legal contexts, comparisons of US unions across time in different legal contexts, and comparisons with unions in other national-legal contexts. First, I compared unions with single-employer plans to unions with multi-employer plans because the two types of plans were constrained by the 1947 Taft-Hartley law in different ways. Multi-employer pension plans offered greater legal capacity to unions to gain control, as both the case of the Teamsters' pension fund and historical statistics suggest. Second, I compare the impact of legislative reforms on US unions that had made advances in influencing fund investment decisions over time. On the one hand, I consider the impact of Taft-Hartley on the control capacities of unions like the United Steel Workers (USW)—unions with single-employer plans. And on the other hand, I examine how ERISA in 1974 changed the investment strategies of multi-employer funds and the labor movement as a whole. Finally, I consider the creation of the Solidarity Fund in Quebec, Canada—a case of a union federation gaining control over pension fund investment decisions on a scale unseen elsewhere. In comparison to Carter's failed economic revitalization plan, Quebec provides insight as a case where legal reforms created new pensioning instruments that were governed by the provincial labor movement. These comparisons show that legal regulations set the "rules of the game" and circumscribed labor's capacity for control.

A Brief History of Union Pension Fund Investment

After collectively bargained pension plans were established in the postwar period, fund assets were primarily directed into bonds. However, armed with efficient market theory, fund fiduciaries in the private sector radically changed their investment strategies in the mid-1950s and began to prioritize investment in stocks instead. In 1950, government securities and corporate bonds accounted for 29.9 and 41.8 percent of fund assets, respectively. By 1972, government securities only accounted for 2.4 percent and corporate bonds, 17.7 percent. Compare this with the rapid increase of corporate equity investments. In 1950, corporate equities only accounted for 16.4 percent of pension fund assets. In 1972, they reached a height of 73.8 percent (see Figure 1).

The rechanneling of pension finance into the equity market was massive. In 1949, pension funds had only \$586 million invested in stocks. Just one year later that figure doubled. The amount had climbed to \$3.1 billion by 1954, to \$16 billion by 1960, and

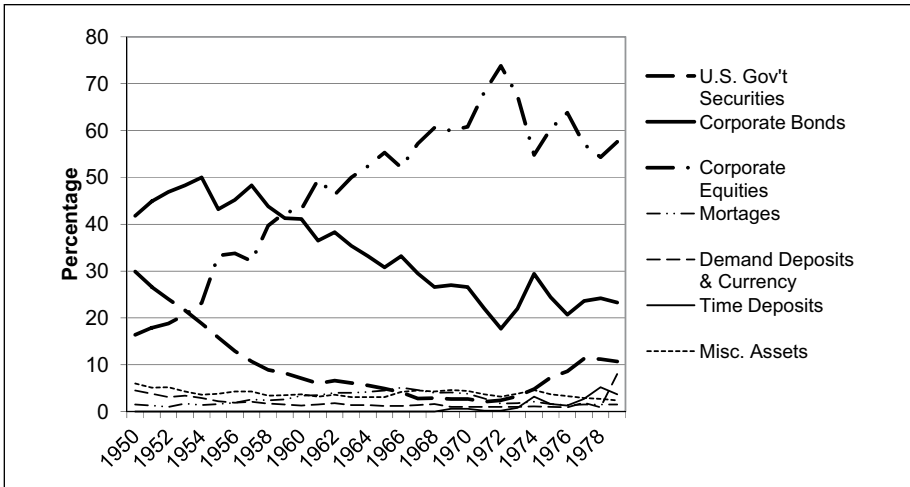


Figure 1. Asset Distribution of Noninsured Private Pension Funds, 1950–1979.
(Author's calculations from Board of Governors, 2010)

\$76 billion by 1970. Because of a more risk-averse regulatory framework up to the 1990s, public pensions for federal, state and local government workers remained primarily invested in fixed incomes such as bonds. Only after which, with encouragement from legislatures, have equities come to take up a larger share of portfolio allocations for government employees as well.¹⁸

Total pension fund assets rose from a net worth of \$26 billion in 1952 to \$10.8 trillion in 2007 (see Figure 2). The pension plans of the private workforce grew to be the largest—from just \$11 billion in 1952 to \$6.3 trillion in 2007. Pension funds for public employees grew from \$15 billion in 1952 to \$4.4 trillion in 2007. This growth was such that pension funds themselves can be more valuable than the companies that the future retirees work for. For instance, in September 2000 the pension fund at General Motors held assets worth nearly double the company's.¹⁹ Private union funds represent about a fifth of total pension assets, which is currently mostly made up of nonunion 401(k)-type plans. In the 1950s and the 1960s union funds were the largest, but as defined-contribution plans grew in the 1980s and 1990s they became marginalized. However, it would be wrong to suggest that they are unimportant today. As of 2012, union funds accounted for about \$1.6 trillion in assets, which at about a tenth of GDP is hardly inconsequential.

As an early sign of the shift to “pension fund capitalism” underway, a new institutional investment industry emerged by the end of the 1950s. Institutional investors acted to provide sophisticated and long-term investment management for the assets of pension funds and other large tax-exempt institutions such as charitable foundations and college and university endowments.²⁰ By the late 1970s, government-sponsored plans accounted for less than 40 percent of total fund assets. More than 60 percent was

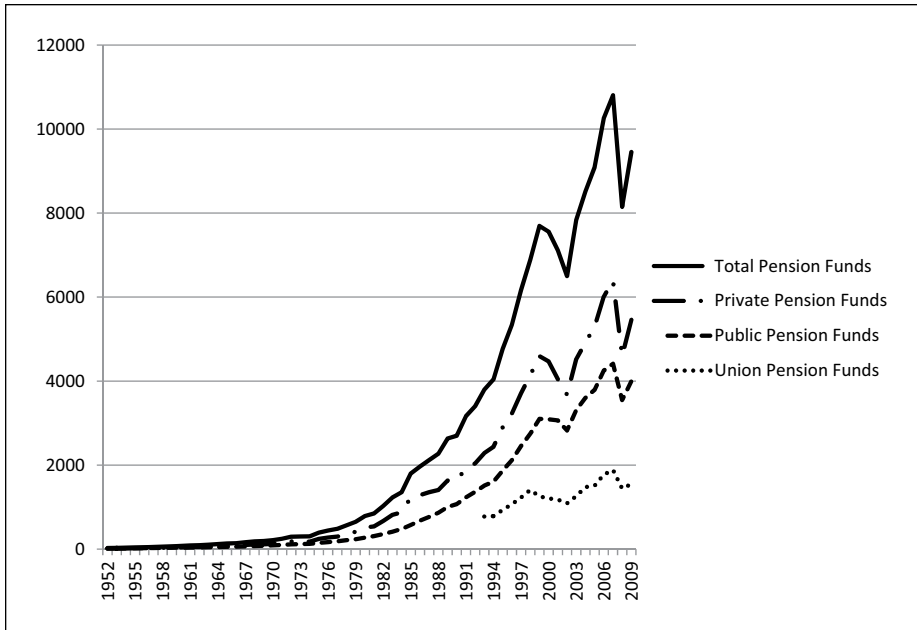


Figure 2. Pension Assets 1952 - 2009, in Billions of Dollars. (Author’s calculations from Board of Governors, 2010, and Department of Labor Form 5500, Table A6, 1993-2009)

in the private sector. Nonetheless, only a small fraction of the plans in the private sector were subject to joint-control with unions—about 10 percent. For the vast majority, executives hired institutional investors to manage the funds as fiduciaries.²¹

Businesses were originally opposed to having collectively bargained pension plans. But if they had to they were determined to control the allocation of assets. And corporate executives decided early on that the best place to put the money was into financial speculation. In 1958, the NAM noted that “the process of amassing funds for financing retirement inherently results in great accumulations of capital from a source relatively new to financial history. Though the prime investment purpose of these funds is safety and assured income, it is of high importance that they contribute a creative element to our economy as well.”²² From the NAM’s perspective, indeed they did; they became a key source of equity for US businesses. By bolstering stock prices in the secondary market union pension funds ultimately drove up corporate credit ratings, opening doors to cheaper capital for US corporations.

As a result, pensions became a critical pillar of US finance. In 1955 pension funds owned only 2.3 percent of total equity holdings, and insurance companies 3.2 percent. By 1997 pensions held 24 percent, and insurance companies 5.7 percent of total US holdings. Households held 93 percent of all US equity in 1945; this proportion dropped to 42.7 percent in 1997.²³ This represents a critical transformation of the market for

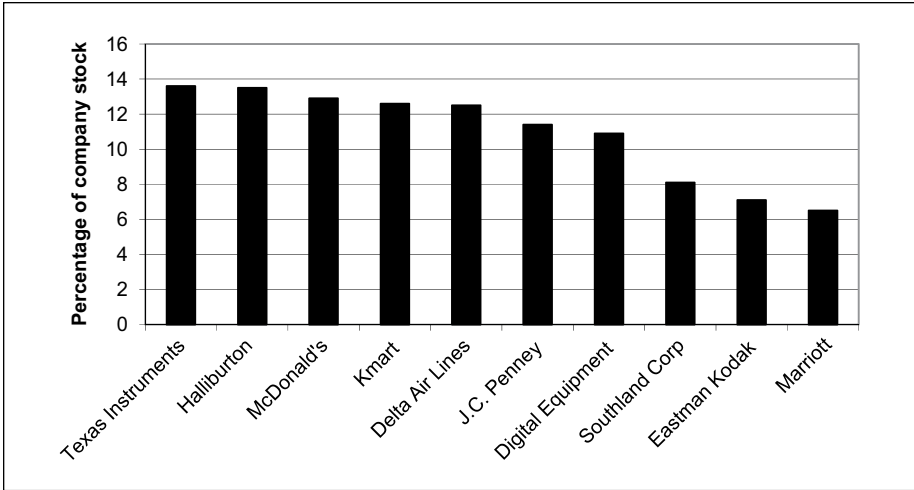


Figure 3. Common Stock Ownership by 142 Union Pension Funds in Non-Union Companies, 1976.

(Source: Editorial. "The Pension Power Unions Might Wield" *Business Week*. September 17, 1979. AFL-CIO Vertical Files, Box 43, Folder 1.)

stocks in the United States. By the mid-1970s, when pension funds reached nearly a quarter of control of all US equity, stocks were no longer exclusively made up of the private savings of wealthy employers like the Rockefellers, the Morgans, or the Du Ponts. They weren't even mostly the savings of millions of individual investors. Pension funds, administered by institutional investors, became the largest pool of equity investment anywhere in the world.

Despite their size and economic importance, unions and their members lost out in the shift to equity investment. A 1979 study conducted by Corporate Data Exchange, Inc., analyzed the investments that a sample of 142 collectively bargained pension funds with total assets of \$157 billion, including common stock worth \$61 billion, had in ninety-nine major US corporations at the end of 1976. The results showed that pension funds were financing anti-union firms. In total, 118 of those union funds held \$12.6 billion in common stock in fifty non-union firms.²⁴ In ten of those companies, unions owned a significant share of the total stock (see Figure 3). And in many cases, funds invested union pension money directly into companies that the same unions were unable to organize. The collectively bargained funds of the United Auto Workers (UAW) and the International Union of Electrical Workers owned \$61 million in Texas Instruments' stocks (2.6 percent of its stock) in 1976, a company that had successfully resisted organizing attempts from both unions for years.²⁵

Furthermore, in 1980 the AFL-CIO Industrial Union Department's Committee on Benefit Funds issued a report that found that, "Large portions of the assets of these pension funds are used to furnish capital to build foreign plants."²⁶ According to the report, the assets of the ten largest industrial companies that they surveyed had funds

that were heavily invested in firms with high overseas employment.²⁷ When the report turned to an investigation of union pension funds they found a similar trend. Examining the fifteen largest investments of each of the funds, the report showed that five companies had at least half their assets invested in companies whose employment forces abroad represented at least 30 percent of their total employment.²⁸ And as the trend of deindustrialization of America's industrial heartland intensified in the late 1970s, more companies followed the lead of the biggest corporations such as Exxon, IBM, W.R. Grace, and Ford in investing overseas. By 1982, of the 1,600 largest US corporations, 17 percent invested pension funds in foreign enterprises, up from just 5 percent in 1977.²⁹

The explanation for why fiduciaries allocated workers' finance into anti-labor companies and companies with foreign work forces is straightforward. Firms with lower labor costs tended to have higher profit margins and were seen by fund managers as more likely to produce higher rates of return. The decision was purely financial. Longer-term considerations, how this might negatively affect US job growth or contribute to a race-to-the-bottom in work standards, were simply ignored by corporate investors. But leaving the lack of social investing aside, even by their own definition of fiduciary prudence, the returns on the investments themselves were inconsistent. In the 1970s, pension investors had a substantially lower return on their investments than the stock market as a whole. These assets would have grown more in a savings account than in the hands of professional fiduciaries. Between 1966 and 1976, banks averaged a 4.4 percent rate of return on their pension fund investments. That is 33 percent less than the average rate of return for Standard & Poor's 500 stock index.³⁰

In congressional hearings, Sen. Howard Metzenbaum (D-Ohio) said, "Without a question, those who manage pension funds are in a position to play a crucial role in determining the method and direction of the nation's economic growth and development."³¹ Yet most union firms invested their pension funds in the same ways as non-union firms. Using IRS Form 5500 between 1977 and 1984, Dorsey and Turner found that non-union- and union-negotiated single-employer pension plans had almost identical asset allocations in their portfolios. Both favored equity investment more than union negotiated multi-employer plans, in which fixed income investments accounted for a larger share of the portfolio.³² William Winpisinger, president of the International Association of Machinists and Aerospace Workers (IAM), testified in congressional hearings that, "Responsible trade unionists have to conclude that they have been financing their own destruction ... only tradition and a great con game have kept pension funds in the control of the private sector giants."³³

However, most unions play little to no part in investment decisions. As early as 1954, out of a representative sample of 203 medium- to large-sized unionized companies, fewer than 10 percent had union representation on the pension committee and just 16 percent had employee representation. Company executives controlled the bulk of the private pension funds in the United States, and they hired fiduciaries to manage their portfolios.³⁴ The committee, usually composed of three to fifty members, maintained general administrative powers over the pension funds within the firms. And over two decades later, according to an internal AFL-CIO study of a sample of

twenty-eight international unions in 1980, "Almost universally, investment decisions are left up to investment advisors."³⁵

Laws and Pension Fund Investment

One possibility is that unions and their members lacked foresight or the technical confidence to make pension fund investment decisions. After all, the world of finance is highly complex and those that manage the funds are professionally trained, often at elite Ivy League schools. But that unions largely did not control their funds was not for a lack of effort on their part. Instead, developments in the legal regime governing private pension funds, such as the Taft-Hartley Act of 1947 and ERISA in 1974, limited labor's ability to control them. In this section, I examine these laws and show how they fettered union control efforts.

Unions made a large-scale push for fringe benefits immediately after the war.³⁶ John L. Lewis of the United Mine Workers (UMW) set the benchmark by creating a pension and welfare fund financed by contributions of the coal industry on a pay-as-you-go basis. Lewis won the demand that it be financed according to output (10 cents a ton) rather than hours, so that the tremendous mechanization of the industry would not impair it.³⁷ The settlement included exclusive union control over the fund. Spurred by the success of the UMW, large-scale strikes over pensions erupted in auto, steel, and other sectors of manufacturing. With pensions and other fringe benefits the main object of contention, the 1945-46 strike wave was the largest in US history to that point. But the strikes and President Truman's pro-labor interventions, urging employers to adopt negotiated pension plans at a labor-management summit the White House organized in 1945, initially failed.³⁸

Between 1945 and 1947, the issue of pensions led to a deadlock in strike negotiations with employers refusing to budge. Even efforts by the ascendant UAW met with failure. In 1945 the UAW led a 113-day strike at General Motors. But Reuther and the union failed to win a negotiated pension plan and ended the strike with only small wage increases. In the same year, the USW took on U.S. Steel. Although Truman again intervened in support of the union, the strike once again ended in a stalemate over the issue of pensions. But the failure did not settle the question. Vice President of the USW, Clinton Golden, pushed the CIO leadership to bring joint industry-union cooperation to the front of its agenda. And in 1946, signaling its change in strategy, the CIO published *Should Labor Have a Direct Share in Management?* There Philip Murray, president of both the USW and the CIO, argued for a new kind of corporate governance in which employees and the union would take an active interest and role in firm affairs without interfering with management's right to manage.³⁹

Despite labor's push, the postwar period brought with it changes that undercut labor's economic leverage over firms. First, returning soldiers flooded the labor market. Second, and more importantly, the decline in demand for wartime goods made employers willing to shut down operations, letting stock and equipment sit idle, rather than make large pension concessions to labor. During the strike wave employers rarely hired replacement workers.⁴⁰ But the success of the UMW to win control of their fund,

the pro-labor posture of the Truman Administration, and a general union interest in establishing pension funds was enough to spur an ascendant right into political action. Employers' associations such as the Chamber of Commerce and the NAM were inclined to keep pensions outside of the scope of collective bargaining altogether.⁴¹ But if more unions did eventually win them, the second order preference of business was to control the flow of assets.⁴² So establishing new laws that blocked potential union control proved a fail-safe plan for firms and conservative policy makers.

The Taft-Hartley Act

Republicans won both houses of Congress between 1947 and 1949, the first time they had done so since 1931. The conservative coalition of Republicans and Southern Democrats argued that union pension fund control would set a dangerous precedent for the country. In Congressional testimony on the anti-labor Case Bill in 1946, Senator Harry F. Byrd (D-Virginia) stated, "I am endeavoring to strike against the attempt of representatives of labor to use such payments in establishing funds over which no one but the labor representative would have any control. I assert that if such a condition were allowed to take place, labor unions would become so powerful that no organized government would be able to deal with them."⁴³

Although Truman vetoed the Case Bill, Republicans and Southern Democrats found another opportunity to block labor control in the Taft-Hartley Act. While the act famously rolled back labor rights with provisions concerning secondary boycotts, right-to-work states, and noncommunist affidavits, it also laid the groundwork for the modern regulatory apparatus concerning occupational pensions. Several provisions curbing labor power, including those that regulated welfare funds, were won in committee. On the issue of fund control, The House Committee on Education and Labor concluded in its statement on the bill that, "Certainly, it is not in the national interest for union leaders to control these great, unregulated, untaxed funds derived from exactions upon employers."⁴⁴ Pro-labor voices in the Congressional debate, such as Senators Morse (R-Oregon) and Pepper (D-Florida), countered, arguing that such a rule would hinder the expansion of welfare funds and that many employers did not want the responsibility of administering these funds in the first place.⁴⁵ But despite opposition, coming in no small part from unions themselves, the bill finally passed with welfare fund provisions May 13, 1947 on a roll call vote of 68 to 24 with a majority of Democratic support from the Southern wing of the party.⁴⁶

Section 302 of the act makes it illegal to "pay, lend, or deliver...any money or other thing of value" to a union representative. Since this would prohibit employers from contributing to a pension fund established by a union, Taft-Hartley includes, as an exception, contributions that are administered with, or controlled exclusively by, the employer.⁴⁷ In practice, this provision requires that management representatives comprise *at least* 50 percent of the board of trustees for pension plans.

According to Senator Robert Taft (R-Ohio), "The occasion of the amendment was the demand made by the United Mine Workers of America that a tax of 10 cents a ton be levied on all coal mined, and that the tax so levied be paid into a general fund to be

administered by the union for practically any purpose the union considered to come within the term 'welfare.' Of course, the result of such a proceeding, if there is no restriction, is to build up a tremendous fund in the hands of the officers of the labor union...which they may use indiscriminately." Taft went on to say, "The tendency is to demand a welfare fund as much in the power of the union as possible. Certainly unless we impose some restrictions we shall find that the welfare fund will become merely a war chest for the particular union, and that the employees for whose benefit it is supposed to be established, for certain welfare purposes, will have no legal rights."⁴⁸ In determining who would control workers' finance, Taft's regulation strengthened the capacities of firms and weakened those of unions. But the law had gaps that allowed for *some* union control.

Variation in Union Control After Taft-Hartley

After Taft-Hartley was passed, union capacity to influence investment decisions greatly depended on the structure of collective bargaining in the respective industry. Unions either bargain directly with single, large employers on behalf of the employer's employees, or bargaining is industry-wide, between many small employers and the union-represented employees of an industry. In the former case, *single-employer* pension plans are the norm. Here fund management is the responsibility of one firm and one union. In the latter case, *multi-employer* plans emerge where fund management is the responsibility of many small employers and one, typically large, union.

Within the over 500,000 separate plans that existed by the early 1970s, those that organized retirement income through multi-employer plans, which accounted for the minority, provided *more legal room* for union influence. This greater capacity is explained by the Taft-Hartley law, which ruled that employers had to control half or more of the pension board seats. In single-employer plans, this rule largely cut off the possibility of union control. However, it left plenty of room for influence in the multi-employer plans. While employer trustees represented different interests and were at times divided, union trustees were united; as a result, union trustees on joint-administered multi-employer boards had more capacity to influence pension investment policy.⁴⁹ As the NAM noted in the early 1950s, "administration of employee benefits by the employee's collective bargaining agent appears to develop when the union is the dominant force in the entire industry or some geographical portion of it."⁵⁰

According to a 1961 report from the US Bureau of Labor Statistics, investment decisions on all multi-employer plans were made jointly between union and employer representatives while the employer typically retained decision-making power in single-employer plans (see Table 1). This trend, which persisted two decades later, bore on the kinds of investment decisions that fund managers made. In a 1980 AFL-CIO survey of their member unions, the funds of the building and construction trades, mining, and transportation (all relying on multi-employer plans) were more likely to be invested in union projects or mortgage loans than common stocks. While some of these unions invested in the Union Labor Life Insurance Company's (est. 1925) J for Jobs Program and the AFL-CIO Mortgage Investment Trust, most of the

Table 1. BLS Survey of 100 Union Plans, 1961.

<i>Who determines who makes investment decisions?</i>	<i>Single-Employer Plans</i>	<i>Multi-Employer Plans</i>
Employers	61	0
Jointly	1	38
<i>Who makes investment decisions?</i>		
Delegated to money manager	53	9
Employers	9	0
Jointly	0	29

(Source: US Bureau of Labor Statistics Bulletin, "Digest of One-Hundred Selected Pension Plans Under Collective Bargaining." *Bulletin No. 1307*. Summer 1961.)

unconventional investments were intended by union leaders to directly benefit the particular union and its members.

The case of the Teamsters' Central States Pension Fund (CSPF) illustrates how unions with multi-employer funds had more capacity to control them. In 1955 Teamster President Jimmy Hoffa built the CSPF. By 1985, the fund had \$2.2 billion in assets. Hoffa wanted to consolidate the fund into a single massive pool of money for all Teamster unions, but some 230 funds remained independent. Following the rules laid out in Taft-Hartley, the CSPF had six union and six employer trustees. But the number of trustees was the main point of division between the union and the employers in the setup of the fund. The labor relations director of the American Trucking Association (the employers' industry association), Ben Miller, represented the employers' interests in negotiations. He advocated for a smaller board with employer representatives only selected from the collective agreements that established the plan. A smaller board with employers from the employers' association would ensure greater unanimity on the business side of the table in votes over investment decisions. However, Hoffa insisted on a larger board that included representation from "independent" employers who were not in the association, some of whom were personal friends.

After several months of negotiation, with the employers still refusing to include the independents on a larger board, Hoffa convinced them by threatening to strike. In a meeting over the issue in 1955 he said, "Representing the union, we will file a grievance against every carrier, every one, and we will take you out on strike, God damn it, until you do agree to draw up the proper kind of trust that we can live under. I can tell you that much, and I will, God damn it. Take that home, and see how you like it."⁵¹ Shortly thereafter, Ben Miller and the employers capitulated to Hoffa's demand for a sixth and independent trustee.

With the addition of an independent employer on the board, Hoffa was often able to get his way; decisions were made by simple majority.⁵² As a result, the Teamsters' fund portfolio was almost exclusively invested in trustee-selected mortgages (typically real estate and casinos that used union labor) within a few years of its establishment (see Figure 4). This is a clear break from standard industry practice, where total

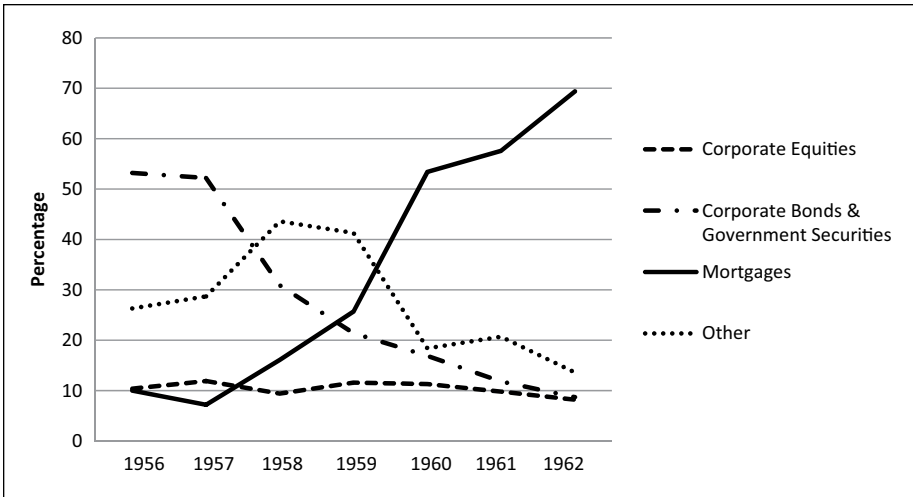


Figure 4. Central States Pension Fund Investments, 1956–1962.
(Source: James & James 1965)

pension fund investment in mortgages rose from just 1.4 percent in 1956 to 3.2 percent in 1962.

Before moving on to a discussion of the impact of ERISA on union funds—both multi-employer like the Teamsters but also single-employer—a qualification needs to be made. Although union fund control is a necessary condition for union members to be able to democratically allocate their own finance it is not sufficient to ensure either that the funds will actually be allocated democratically or that they will break with the investment logic of corporate finance. In the former case, it's likely that if the union itself is undemocratic then the way the funds are allocated will be as well. For the latter, we have already seen that unions that controlled their pension funds were more likely to incorporate social factors into their investment decisions and tended to be interested in making investments that not only allowed them to meet future obligations to retirees but also created jobs in their sectors and for their members. Of course, it's no guarantee that unions will actually break with the corporate investment logic. And it's certainly not a guarantee that unions will make sound investments, whatever the criteria. After all, the Teamsters fund itself was invested in casinos with clear mob ties. But the conditions under which they do or do not are beyond the scope of this study. The critical point is that most unions and union members didn't have the chance to forge their own history either way. Instead, they were blocked from the outset from being able to freely assess and choose their investment options.

The Employee Retirement Income Security Act

The 1974 legislation added another layer of legal constraints on fund administrators. Taft-Hartley included a provision that pension investments had to be made for the

“exclusive benefit” of plan beneficiaries—a notion that has come to be known as the “prudent person rule” and which dates to common law doctrine in the mid-nineteenth century. Up to the mid-twentieth century, most American states adopted legal statutes that mandated investment into fixed bonds. This earlier interpretation held that prudence is the absence of speculation and high risk. This understanding of prudence, however, changed in the 1950s. In 1950, General Motors proposed to direct the investments of its new pension fund into equities instead of bonds. Executives argued that they would overcome increased risk by diversifying the investments, which in part changed standard investment practices for fiduciaries.⁵³

ERISA, signed into law by President Ford, made this version of prudence a federal legal guideline. ERISA is the only comprehensive private benefits legislation ever passed in the United States. Among a number of vesting, funding, and eligibility requirements intended to make private pensions more secure, it also established federal fiduciary standards against which courts could measure the actions of fund managers.⁵⁴ According to ERISA Section 404(a)(1), fiduciaries must act, “with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.”⁵⁵

But not only did ERISA reinforce the prudent person rule, it also made it more restrictive. Some social investing advocates argued that the pre-ERISA rule required the fiduciary to weigh nontraditional objectives that may be in the beneficiaries’ broader interest.⁵⁶ But according to Ian D. Lanoff, former administrator of the Office of Pension and Welfare Benefit Programs in the US Department of Labor, 1980-1981, “what the pension plan fiduciary needs to determine about an investment is not, first, whether it is socially good or bad but how the proposed investment will serve the plan’s participants and beneficiaries.”⁵⁷ The law allows consideration of nontraditional objectives only after establishing that the investment should obtain the highest rate of return for a given level of risk.⁵⁸ This constrained fiduciary decision making and union efforts to control funds.

Principally, ERISA made fiduciaries even more inclined to follow financial investment trends in the corporate sector. A 1977 study, conducted by the nonprofit International Foundation of Employee Benefit Plans—which represented more than 1,900 pension fund trustees, administrators, and advisors from all regions of the country—found that a large majority of fiduciaries, 83 percent, said that ERISA has made them less willing to invest in anything but “blue chip” securities.⁵⁹ It also reined in the control efforts of unions with multi-employer funds.

In 1976, after ERISA was passed, in part because of the controversy surrounding the management of the Teamsters’ fund itself, the Internal Revenue Service (IRS) found the CSPF’s investment practices to be in violation of the prudent person rule and revoked the tax status of the plan. According to a *Forbes* reporter at the time, “By conventional [legal] standards, the Teamsters’ Central States Pensions Funds was a fiduciary nightmare.”⁶⁰ The government then imposed a number of requirements on the fund, including forcibly removing many of the union trustees. In June 1977, the IRS appointed Equitable Life Insurance as the principle asset manager and gave Victor

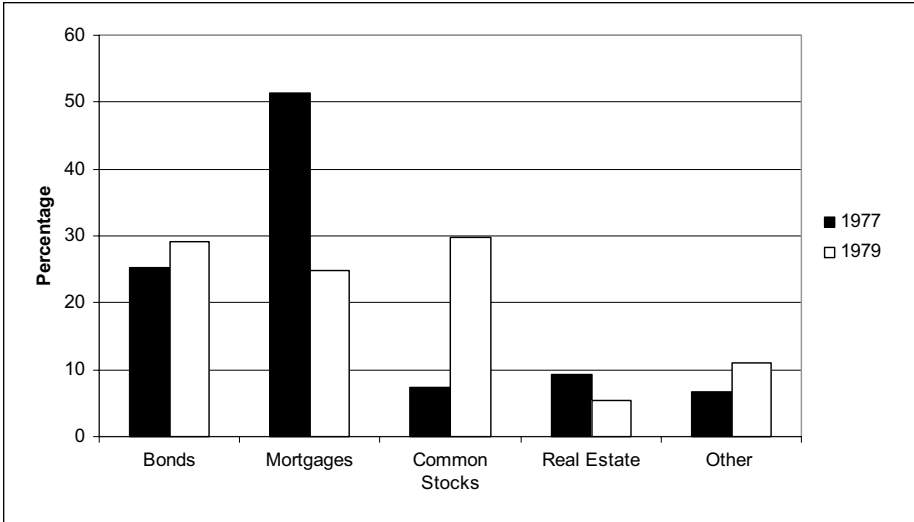


Figure 5. Central States Pension Fund Investments, 1977 & 1979.

(Source: James Cook. "The Most Abused, Misused Pension Fund in America." *Forbes*. November 10, 1980. 69-82. AFL-CIO Vertical Files, Box 43, Folder 1.)

Palmieri & Co. the responsibility of managing the CSPF's real estate assets west of the Mississippi.⁶¹ This appointment led to an immediate shift in the CSPF's pension investment practices, from a portfolio heavily based on real estate and bonds, to one organized around common stock investments (see Figure 5). The CSPF violated two widely held markers of prudence: diversification and majority investment in common stocks.

Prior to ERISA, the ability of the Teamsters and other unions with multi-employer funds to control financial flows was due to multi-employer bargaining in their industries. Because Taft-Hartley mandated that unions comprise no more than fifty percent of the board of trustees, those unions that were most able to influence fund policy were predominately in industry-wide collective bargaining agreements with many small employers. After the passage of ERISA, however, the federal government regulated the investment practices of these unions with a stronger arm; in the Teamsters union this resulted in punitive legal action against union leaders that served as a demonstration to the labor movement not to deviate from fiduciary norms.⁶²

The impact of ERISA is also reflected in the response of other unions. A 1980 AFL-CIO survey of member unions concluded "whatever enthusiasm there was for taking on non-financial objectives—whether for employment or other social objectives—was tempered by the 'prudent' judgment that union trustees must first meet financial objectives." When the survey asked the union leaders if they would consider social objectives in developing pension fund investment policy, "without exception they agreed—in fact, emphasized—that the first duty of the union trustees is to protect the integrity of the funds, managing them in such a way as to get the greatest possible

return, consistent with the other imperatives of prudent investment.” Many of the officials in the sample balked at the idea of influencing corporate policy through pension fund investment strategies because the law made the pursuit of this objective inconsistent with their fiduciary responsibilities.⁶³

Carter’s Suppressed Historical Alternative

Regulatory laws, and the power of the conservative coalition to keep those laws in place, largely explain why most unions were unable to gain control of their pension funds (and why some actually did). Variation in union capacity to do so along bargaining structure and the effect of ERISA to clamp down on unions with multi-employer plans points us to this conclusion. But does this mean that restrictive laws foreclosed *all* possibilities to create union-run retirement funds? In *Injustice*, Barrington Moore observed that “history may often contain suppressed possibilities and alternatives obscured or obliterated by the deceptive wisdom of hindsight.”⁶⁴ In the United States, Carter’s failed reindustrialization policy in the late 1970s is one such “suppressed historical alternative.”

The Failed Economic Revitalization Plan

By the late 1970s, as deindustrialization and deunionization intensified, many member unions of the AFL-CIO revisited the issue of pension fund control with new enthusiasm. Unions were well aware of corporate misuse of pension funds, their investment in anti-labor corporations and in overseas ventures, and their unimpressive rates of return. There was a strong sense among many leaders that they had erred by giving the issue insufficient attention for the better part of the past thirty years. In 1978, this culminated in the publication of *The North Will Rise Again*, by Jeremy Rifkin and Randy Barber, which served as a call to arms and laid a strategy for Northern reindustrialization and union revitalization with targeted union-run investing.⁶⁵ Already, a number of building trades unions with multi-employer plans were taking innovative approaches to their funds and pushing the broader labor movement to do the same. At the time Jacob Sheinkman, secretary-treasurer of one such union, the Amalgamated Clothing and Textile Workers Union, noted that,

The massive sums accumulated in pension fund assets are often used against the direct economic interests of the workers in whose name the funds were created. The banks and insurance companies in charge of such funds, under agreements with sponsoring companies or labor unions, have used them in ways that foster and even hasten the flight of jobs and capital to the largely unorganized areas of the “Sunbelt” or overseas. The “money managers” would say they are seeking a better business climate, but almost invariably the pension fund assets—in effect, billions of dollars of deferred wages of American workers—end up subsidizing a climate hostile to workers.⁶⁶

At its biennial meeting in November 1979, the 13th AFL-CIO convention adopted a resolution to investigate the ways unions could influence the investment process,

noting that investments were not benefitting union members or the US economy.⁶⁷ A year later it published a report arguing that labor should increase its participation in fund management. With greater control of investment flows, the federation hoped to counter rises in unemployment through reindustrialization, increase worker influence over firms as collective shareholders, disinvest money from anti-labor firms, and promote socially responsible investing.⁶⁸ The union leadership urged their member unions to assign their pension assets to financial institutions whose investment policies were consistent with the interests of “working Americans.”⁶⁹ At the time, Stanley Rothenburg, a pension fund consultant hired by the AFL-CIO said, “This is a major departure from the federation’s approach in the past.”⁷⁰

According to Congressional testimony by Harry B. Schechter, director of the Office of Housing and Monetary Policy within AFL-CIO, “This situation must be turned around and that is the purpose of the recommendations of the Executive Council of the AFL-CIO which stem from the report and the work of the Executive Council Committee. The major goals of those recommendations are—by enhancing union participation in pension fund management—to use these funds for expanding employment, advancing social purposes such as worker housing, improving the ability of workers through their union to exercise shareholder rights and withholding pension fund investment from companies hostile to workers’ rights.”⁷¹ To do so, simply put, required legal reform.

Prior to the late 1970s, Democrats from the North were supportive of collective bargaining over pensions but largely silent on the issue of investment control. Truman had intervened in several labor-management disputes after World War II on behalf of unions striking for collectively bargained pensions. With pensions the key source of conflict between firms and unions in 1945, Truman said to an audience of top labor and business leaders that, “The history of labor relations has proven that nearly all labor disputes can and should be settled through sincere and honest collective bargaining. The vast majority of those disputes which are not adjusted by collective bargaining are settled through government conciliation.”⁷² Ultimately Truman pushed his agencies, such as the National Labor Relations Board, and task forces, such as the Steel Industry Board, to take an activist approach to disputes over retirement plans. Their decisions in 1948 and a subsequent Supreme Court ruling laid the legal ground work for collectively bargained retirement plans.⁷³

But Northern Democrats took the idea that employers would be in charge of investment decisions for granted. This is evident in the fact that they supported proposals in both the Taft-Hartley Act and ERISA that actually made it more difficult for unions to control the allocation of funds.⁷⁴ Despite instances of unions demanding control prior to the passage of Taft-Hartley and the case of the multi-employer funds where it was a regular aim, Northern Democratic economic policy did not actively challenge the legal barriers to a federation-wide effort to influence fund investment decisions.

This changed, however, in the buildup to the 1980 Presidential election between Reagan and Carter. After a period of uneasy relations with labor, Carter needed union support in 1978 when he began to gear up for reelection. The AFL-CIO’s support for Carter was crucial in the barely won 1976 election against Ford. After the election,

New York Times labor beat reporter, A. H. Raskin, wrote of the federation's support that, "A top-level Presidential campaign endorsement usually adds a few percentage points to the margin when the majority of the membership starts out liking the same candidate as the officialdom; similarly, an endorsement reduces the margin a bit when the tide is running in the opposite direction."⁷⁵

But the rapprochement with the administration was rattled during the Democratic primary. Early pledges of support indicated that large segments of labor were backing Senator Ted Kennedy, a leading figure in the party's liberal wing from a solidly union state, Massachusetts. Kennedy received endorsements from several national unions, such as the UAW and the IAM. While a few labor leaders, like J. C. Turner of the Operating Engineers, supported Carter from the beginning, the AFL-CIO executive remained initially neutral.

After Lane Kirkland was elected president of the federation in 1979, Carter found an eager ally. Kirkland was intent on rebuilding the relationship with the Democrats that they formed in the New Deal period, which had been strained under the George Meany presidency. To signal his interest, Kirkland offered to help the administration tackle the issue of inflation. According to a memo from Deputy Chief of Staff Landon Butler, "In April and May, 1979, Lane Kirkland told me privately that he was prepared to enter into a 'social contract' with the Carter Administration. Lane pointed out that the Callaghan government's social contract in England involved specific questions on policy questions in return for the cooperation of British trade unions in a voluntary wage guideline program."⁷⁶ The negotiations resulted in a "National Accord" between labor and the administration, which included the formation of a fifteen-member tripartite board that would provide assistance to policymakers in formulating wage guidelines to deal with the inflation problem. AFL-CIO spokesman Allen Zack said, "It is quite a historic document. It's about as far as you can go toward a social contract here in the US without a parliamentary system. Never before has the legitimate role of the labor movement been recognized in such a way."⁷⁷

When Kennedy failed to win the primary and the AFL-CIO Executive Committee came out in support of Carter, most of the labor movement shifted into a position of active support for reelection. This mattered critically for the campaign, even though in the end it was a failure. As one Carter aide observed of union activists, "They're probably the most important group in Democratic Party politics. No other group in the Democratic Party has the money. When you get into voter registration, that's who you go to. And these groups get involved in the primaries."⁷⁸ But union density fell to just above 20 percent in 1979, roughly what it was in 1940. So it can't be denied that had labor been stronger it might have been able to sway the election in favor of Carter and his policy proposals.

During the campaign, Carter's key domestic economic policy proposed to expand basic industries to counter deindustrialization. On August 28, 1980, he announced his economic revitalization plan to great fanfare within his party, which included \$3 billion worth of loans, grants, and interest subsidies to distressed areas in 1981 and 1982; \$350 million for retraining and relocation programs for workers in declining industries; a targeted investment tax credit for investments in distressed areas; and \$1 billion

for programs in high unemployment areas. President Reagan's eventual alternative would be to lower taxes, creating "enterprise zones" out of areas experiencing severe deindustrialization.⁷⁹

Carter also had appointed a Commission on Pension Policy, to conduct a thorough analysis of the retirement system in 1978, and incorporated the idea of a tripartite Economic Revitalization Board into his broad program, a policy recommendation of the AFL-CIO's Executive Committee. He appointed AFL-CIO President Lane Kirkland to serve as a chairman on the board, which would invest pension assets for reindustrialization purposes by granting guarantees for a minimum level of return to pension funds that participate.⁸⁰ In his words, Carter wanted the board to recommend an industrial development authority to channel resources—including pension assets—"to help revitalize American industry in areas most affected by economic dislocations or by industrial bottlenecks."⁸¹ By pointing to alternative objectives besides the rate of return, the Carter Administration explicitly advocated a developmental policy that both reformed the laws that had blocked labor control and created new institutions that incorporated union influence into retirement investment decisions.⁸²

The plan garnered significant support within the party. At the Democratic National Convention in August of 1980, Governor Jerry Brown of California said, "It is time to redirect the vast pension funds of this nation to more socially responsible objectives."⁸³ Brown created a Public Investment Task Force to investigate how state pension funds could be used to invest back in the state itself for purpose of creating jobs. Other Democratic politicians followed the example of California and took similar initiatives in Illinois, Massachusetts, New York, and New Jersey.⁸⁴

Labor actively campaigned for the plan. According to President Lane Kirkland, "What is being contemplated, and supported by the AFL-CIO, is the establishment of an industrial development authority which would appeal to pension funds through attractive interest rates and loan guarantees and the assurance that they would be devoted to the support and expansion of jobs in this country. Under this proposal, pension fund capital would be available for such vitally needed projects as rail road improvement to move our manufactured goods and agriculture, harbor expansion to facilitate exports, synthetic fuel development to help our nation obtain energy independence, and the modernization of our manufacturing and other facilities."⁸⁵ Larry Smedley, of the AFL-CIO Department of Social Security said that, "fund investment effort will be aimed at greater emphasis on job creation through investments that will help modernize industries in depressed areas and encourage industrial growth, as well as produce solid earnings on investments."⁸⁶

But plans for the Economic Revitalization Board were scrapped when Reagan won the presidency. Instead, Reagan initiated his alternative, cutting taxes to spur and maintain production in the United States, a plan that failed in hindsight. After the electoral defeat, the president's commission was unable to give a clear set of policy recommendations in its final report in 1981. And over the next decade, Northern Democrats shifted away from the policy of targeted pension fund investments for reindustrialization. The last time Carter's economic revitalization plan was advocated by the party was when Walter Mondale won the Democratic nomination for the presidency in 1984.

But again, Reagan won. Under the Clinton presidency hardly a word was mentioned of union pension fund investments as a means to domestic growth.

The Humphrey-Hawkins Bill

It is a mistake to conclude that the economic revitalization plan would have succeeded had Carter won reelection against Reagan. Surely, history would have unfolded quite differently with a moderate in the White House, but it's doubtful that the plan would have made it through the legislative process unscathed, given the broader market-oriented policy shift underway and the weakening of unions at the bargaining table. The alternative was suppressed because of social reasons that ran deeper than the outcome of the election alone. The Humphrey-Hawkins Bill, passed when Carter was in office, suggests that in all likelihood the economic revitalization plan would have failed regardless of which party controlled the executive. The bill provides a useful counterfactual comparison for what might have been had Carter been reelected and his developmental plan attempted.

After a minor recession in 1971, in 1974 the American economy went into an economic slump. The crisis spurred public discontent over the Ford Administration's economic policy and a number of legislative initiatives by the liberals in Congress, the most successful of which was the Humphrey-Hawkins Bill. The original version of the bill, proposed in 1974, aimed to achieve full employment. It rejected the common definition, the level of employment at which inflation begins to rise according to the Phillips Curve, in favor of a situation where there were as many vacant jobs as individuals looking for and able to work.⁸⁷ The bill was a strong Keynesian response to the crisis. It made full employment a goal within eighteen months of passage, required the president to submit an annual report to Congress to keep the administration to task, and, most controversially, granted the legal right to work and wage provisions for the public jobs it created. But it faced opposition from business organizations, Republicans, and the moderate Democrats that were elected in Republican districts after the Watergate scandal.⁸⁸

Humphrey-Hawkins had the support of unions like the UAW, the USW, the United Electrical Workers, the American Federation of Teachers, the American Federation of State, County, and Municipal Workers, the International Association of Machinists, and the United Farm Workers. Murray Finley, of the Amalgamated Clothing and Textile Workers Union, had taken an early interest in the bill through his co-chairmanship of the National Committee for Full Employment with Coretta Scott King.⁸⁹ But the leadership of the AFL-CIO, opposed to the legally enforceable right to a job and wage and price controls, came out against Representative Augustus Hawkins' original proposal.⁹⁰

Just nine months after the bill was introduced unemployment had climbed from 5.2 percent to 8.7 percent. And by the end of 1975, with pressure coming from the rank and file of the organization, George Meany was pushed to meet with the Congressional Black Congress to overcome their policy differences. The version that the AFL-CIO leadership eventually agreed on dropped the legal right to a job, extended the goal

deadline to four years, and made the creation of public jobs a “last resort.” The federation preferred investment into private domestic industries. The new bill met outright hostility from the Ford Administration. Ford and his advisors, taking their cue from the testimony of the Federal Reserve and business associations, were worried that reducing unemployment would drive up inflation. And once elected in 1977, Carter took a similar position on the advice of the head of his Council of Economic Advisors, Charles Schultze. Despite public support, there was a widespread concern among the bill’s long list of opponents that it would draw capital away from productive investments in the private sector in favor of unproductive investments in government jobs.⁹¹

Although it became a part of the Democratic Party platform in 1976 when it was reintroduced, it’s not surprising that by the time it was passed in 1978, with Carter’s support, it had gone through several rounds of revision. The unemployment goal was increased from three to four percent by 1983 (in that year unemployment was almost 11 percent) and the option for public jobs was largely removed. Provisions were also included that prioritized anti-inflationary measures *over* the goal of employment, essentially changing the bill’s very purpose and subduing its Keynesianism. The final version included numerical targets to reduce inflation to 3 percent by 1983 (a goal that was achieved) and zero percent by 1988.⁹² When it came to lowering unemployment the bill that was passed lacked any meaningful enforcement mechanism and as a result was almost immediately ignored and violated. Despite the fact that Carter was in office, progressives had to backtrack on their goal of full employment. All things being equal, the economic revitalization plan would have likely faced a similar fate if Carter had been reelected.

Like the Full Employment Bill, the fate of the economic revitalization plan highlights the deeper shift toward market-oriented policies during that period in the United States. Without legal reforms that cut in the other direction, unions were forced to retreat on the issue of pension fund control. During the years that followed the failed Carter reelection, unions did create a variety of investment funds, such as the Housing Investment Trust (est. 1983), which were consistent with the aims they had laid out in 1980. However, these were financed primarily by the jointly run multi-employer funds, not the single-employer funds that held the bulk of US pension assets, and were never large enough to have much of an impact.⁹³ As the Quebec case shows, a stronger and mobilized union federation in combination with the political success of a nationalist and social democratic party made financial reforms in the retirement system possible.

Quebec’s Solidarity Fund

The creation of Quebec’s Solidarity Fund contrasts sharply with Carter’s failed revitalization plan. As in the United States, unions across Canada in the late 1970s began to show an increased interest in the way pension funds were invested. The Canadian Labour Congress (CLC), the central labor federation in Canada, even passed a resolution at their 1986 convention “endors[ing] the goal of organized Canadian workers achieving greater control and direction of the investment of pension funds.”⁹⁴ Also like

the United States, unions in Canada were largely unsuccessful at achieving control. Yet, provincially, by creating a new type of pensioning instrument based on labor control, Quebec is an outlier. Quebec, which represents about one-fourth of the entire Canadian population and had a union density rate around 40 percent in this period, was the first province to establish a union-run labor-sponsored investment fund (LSIF) to pool retirement savings and redirect financial flows.⁹⁵

LSIFs are not the same as traditional collectively bargained funds. Quebec unions, like those in the United States, were also unsuccessful at controlling traditional funds because of legal barriers similar to those in Taft-Hartley and ERISA; Canadian court rulings on pension fund investment issues took their cue from US legal precedents.⁹⁶ Instead, LSIFs are more like mutual funds or 401(k)s, with individuals choosing whether or not they want to make the investment in them and deferring their returns on those investments until retirement age.⁹⁷ But unlike US mutual funds or 401(k)s, which unions have no control over in the United States, the *Fédération des travailleurs et travailleuses du Québec* (FTQ), Quebec's largest union federation, runs the Solidarity Fund.

Since 1983, the Solidarity Fund has had a significant impact on Quebec's development. With the massive infusion of equity through workers' contributions, by the early 1990s, the fund was estimated to have created 23,000 new jobs through approximately 100 distinct investments in local firms.⁹⁸ And by 2012, the fund had created 86,624 jobs and maintained or protected 81,993 more.⁹⁹ Due to the success of the fund at generating provincial growth, LSIFs have become more common in provinces beyond Quebec.¹⁰⁰ Although many of the funds outside of Quebec are less explicitly pro-union, they also represent risk capital that meets investment gaps in the market for small- to medium-sized firms in the given province, and if the fund is specialized, particular sectors of the economy.¹⁰¹ By the 2000s, LSIFs provided nearly one-half of the all venture capital in Canada.¹⁰² In comparison to their US counterparts, then, how did the FTQ come to establish and control the Solidarity Fund?

While Carter's plan was stifled, the FTQ was able to achieve fund control both because of the rise and success of the *Parti Québécois* (PQ), a social democratic party that advocated separation from Anglo Canada, and because of its larger size and importance in provincial politics. By the 1970s, the FTQ cut its political ties to the New Democratic Party (NDP) and its leader, Louis Laberge, penned, *Un Seul Front* (The Only Front), which called for political action to out the Liberals in support of the PQ. According to the FTQ, the PQ was "the party closest to the interest of the workers."¹⁰³ As a result FTQ members voted overwhelmingly for PQ candidates, they staffed its local political offices and outreach programs, and financed its political campaigns.¹⁰⁴

For its part, the PQ proposed legal reforms that gave unions more control over investment. René Lévesque, the leader of the party, wrote in *Foreign Affairs* that, "The dominant position in our repatriated financial circuit would be handed over to Québec's cooperative institutions, which happen to be particularly well developed in that very field, and, being strongly organized on a regional basis, would afford our population a decent chance for better-balanced, responsible, democratic development. And that, by

the way, is just one fundamental aspect of the kind of evolution toward a new economic democracy, from the lowest rung in the marketplace up to the board-room levels, which all advanced societies that are not already doing so had better start thinking about in the very near future.”¹⁰⁵

When the PQ won the elections in 1976, it shifted domestic policy in a more social democratic direction and targeted investments into the province in preparation for independence. It strengthened the role of the existing governing agencies to further support Quebec enterprises, created the *Société de développement de l'entreprise* to provide more capital for small- and medium-sized firms, created a preferential buying scheme using the provincial government's purchasing power to build up Quebec firms, and designed an “industrial recovery fund” to provide further aid to businesses in need. These economic development policies were elaborated on in its report, *Challenges for Quebec*, which it published in 1979. The report offered a “new social contract” based on a corporatist model of state-led development, encouraging the coordination of activities between business and labor, not unlike Carter's failed plan. It also outlined the different forms of aid the government would make available to the private sector, such as investment assistance and technical and financial help.¹⁰⁶ To implement its agenda, the PQ held annual tripartite summits with labor and francophone capital and it created the *Conseil économique et social* (CES), a corporatist body that made developmental policy recommendations.

In the early 1980s, however, the developmental project came under the strain of an economic recession. The FTQ, under the active leadership of Louis Laberge, put its full attention on plant closures and deindustrialization in the private sector. At a tripartite summit in 1982, the FTQ argued that through the targeted provincial investments of a pension fund made of voluntary contributions, the union could help keep existing jobs and create new ones, again similar to Carter's plan. The major outcome of this proposal was the creation of the Solidarity Fund in 1983, when the PQ passed Bill 192.¹⁰⁷ With the FTQ named sole sponsor, the new law set out four objectives for the fund: (1) to invest in firms whose total assets were less than \$50 million or net assets no greater than \$20 million, (2) to promote worker training, (3) to stimulate the Quebec economy, and (4) to bring workers into the fund through very generous tax credits.¹⁰⁸ By 2013, the Solidarity Fund had net assets of \$8.8 billion.¹⁰⁹

In the United States, Carter's economic revitalization plan would have challenged interpretations of the “prudent person rule” that only emphasize rate of return. But given the timing there was small hope in it actually being implemented. In the midst of the Reagan revolution, which was actually underway before he took office, the plan was Keynesianism's dying gasp rather than a real contender as an alternative economic policy. When the plan failed, unions were forced to again retreat on the issue of targeted investments of pension finance. Alternatively, in Quebec, the policies of the PQ emphasized corporatist development and targeted investments into the provincial economy. The rise of Quebec nationalism and a strong union federation made these legal reforms possible and resulted in the creation of the union-run Solidarity Fund.

Conclusion

If “socialism” is defined as “ownership of the means of production by the workers”... then the United States is the first truly “Socialist” country. Through their pension funds, employees of American business today own at least 25 percent of its equity capital, which is more than enough for control... Only in the United States are the employees through their pension funds also becoming legal owners, the suppliers of capital, and the controlling force in the capital market.¹¹⁰

When management consultant and author Peter Drucker penned these words in the mid-1970s he miscalculated his conclusion. American workers were not the “controlling force in the capital market.”¹¹¹ While pension fund investments accounted for nearly 25 percent of all US corporate equity by the mid-1970s and totaled more than \$10 trillion by the 2000s, American unions, on balance, were unable to exert much control over them. And it was not for lack of effort: unions have made major attempts to control pension fund investment since the emergence of collectively bargained pensions in the postwar period. But as this article shows, unions were fettered by legal constraints.

These suppressed control attempts offer comparative historical insight into the recent debate on financial restructuring. The Great Recession of 2008 highlights the urgent need to channel financial flows in the United States toward more productive social ends. A new New Deal might be possible if finance can be directed into new energy technologies, transportation systems, infrastructure, and skill training.¹¹² But because financial flows remain managed by elites pursuing the bottom line, such a restructuring has not been possible and remains unlikely. Failed attempts by unions to control their collectively bargained pension funds make clear that legal regulations are central to both the rise of corporate-controlled workers’ finance and the inability of working people to redirect their financial assets since the crisis.

Laws—their passage and the inability of unions to reform them—explain why there is no union pension fund control in the United States. The Taft-Hartley Act in 1947 and the Employee Retirement Income Security Act (ERISA) in 1974 imposed constraints on unions’ abilities to make investment decisions. The provision in Taft-Hartley that limited union control to no more than half of pension boards was explicitly included to preempt efforts by unions at the time. While multi-employer unions with industry-wide collective bargaining agreements were left with greater capacity to influence funds, the general effect was union retreat on the issue. But after ERISA was passed in 1974, in part because of the large controversies generated by union-controlled boards, even these multi-employer funds were hampered by the legislation’s stricter interpretation of the “prudent person rule,” which treats diversified investments primarily into stocks as a marker of fiduciary duty. While reregulation, such as a return to Glass-Steagall, is widely acknowledged as a necessary postcrisis step to sustainable recovery, regulations of a different sort explain why unions couldn’t popularize control of pension finance in the first place.

But the story would be incomplete if left at this. In addition to the legal constraints that labor faced, unions also lacked the power to reform them. In the run-up to the

presidential election between Reagan and Carter in 1980, the Democratic Party, both at the national level and the state level, promoted targeted pension investments as way to achieve reindustrialization in order to shore up voter support against the Republican alternative. Unions, eager to revisit the issue of fund control because of the anti-labor practices of employer fiduciaries, eagerly supported Carter's proposals. Although the shifting economic and political sands at the time made it unlikely, had the Carter plan been a success, a tripartite board with labor representation would have been set up and given the state's backing, guaranteeing minimum rates of return to investments that helped the US economy reindustrialize.

The failure of the Carter plan represents what Barrington Moore termed, "a suppressed historical alternative." Had it been successful, it's likely that union capacities concerning pension fund control would have been enhanced. And with greater control, it's plausible that a much larger portion of American finance would have been put into socially responsible investments. I make this argument through a comparison with the creation of the Solidarity Fund in Quebec, Canada. Although the Solidarity Fund is not a traditional fund, it is not collectively bargained, and participation is voluntary, its creation afforded the major labor federation in Quebec control over financial investments where there was none before. The result was the mobilization of workers' finance for sustainable growth.

I would like to end with some speculation. Because unions were unable to control pension funds after the war and again in the 1980s need not mean that democratic restructuring of finance is impossible in the pension system. Indeed, in comparison to the finance circulated by banks and hedge funds where workers have fewer claims, it remains the most promising place to wage union campaigns. Since the mid-1990s unions have once again turned to pension funds as potential instruments for progressive ends. Most recently, after the December 2012 Sandy Hook shooting, the United Federation of Teachers pushed their \$46.6 billion fund to disinvest from companies that make guns and ammunition. But unions have also focused their organizational energies onto forms of shareholder activism that aim to influence corporate governance.¹¹³ Unions have used funds to pressure the boards of firms such as Borders Books, Comcast, Exxon Mobile, General Electric, IBM, Safeway, Taco Bell, and Walmart—sometimes successfully but often not. According to a recent report from the Manhattan Institute, 36 percent of the shareholder resolutions in 2011 and 2012 were proposed by unions.¹¹⁴

Although more research and labor activism is needed, it appears that legal reforms that expanded minority shareholder protections were a significant factor for this change in union capacity. In 1992, the Securities and Exchange Commission altered proxy rules, giving funds more room to coordinate before shareholder meetings. And after the 2002 Enron and WorldCom scandals, Congress passed the Sarbanes-Oxley Act, which established new transparency regulations on publicly traded corporations and their managers. Clearly, though, if unions are to gain greater control of retirement funds more far-reaching legal reforms are needed to give them greater leverage as shareholders in firms, to expand their capacities as fund fiduciaries, or to create new state-supported retirement funds that they can manage themselves. Unions have an interest in directly exerting greater control of pension investments through financial

restructuring. However, to do so the legal barriers in the Taft-Hartley Act and ERISA need to be removed or revised.

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