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Extending Frames and Breaking Windows: Labor Activists as Shareholder Advocates

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abstract

Observers have long been puzzled over the surprising degree of shareholder activism that organized labor has practiced since the early 1990s. This activism cannot be entirely attributed to corporate campaigns against hostile firms nor the financial interests of union organizations. This paper analyzes shareholder activism as a social movement and focuses on how labor's activists, in an age of financial hegemony, have attempted to gain the support of other investors through *frame extension* by arguing from a *master frame* of producerist values that the long-term interests of employees and their unions coincide with those of investors. Labor activists displayed solidarity with other shareholders by successfully championing many of the issues of corporate governance that have emerged over the last two decades, while simultaneously advocating high performance work practices intended to benefit both employees and investors. More recently, they have used their influence with public pension funds to push an explicitly pro-union version of producerism, which resulted in a political backlash. Future events will determine whether labor activist's efforts to enlist the investment community were merely premature or quixotic, going beyond what is possible in building solidarity between organized labor and corporate investors.

Introduction

Over the last decade or so, a number of journalists and academics have commented upon the surprising degree of shareholder activism on the part of labor unions and union-influenced pension funds (e.g., Bernstein, 1997; Lewis, 1996; Moberg, 1998; Noble, 1988; Marens, 2004; Schwab and Thomas, 1999; Scism, 1994). According to services that track shareholder resolutions, labor unions routinely submit a total of three to four hundred shareholder resolutions per year to approximately half that number of companies, accounting for at least 40% of all resolutions (Georgeson, 1999-2006; Investor Responsibility Research Center, 2002-2006). While labor unions do have an interest in the performance of stock held by their pension plans, the 3% share of total corporate stock owned by union pension funds hardly justifies a level of activism that eclipses the effort of much larger investors and investment funds. It is also true that organized labor has used the shareholder resolution as tactic in corporate campaigns for at least a generation (Manheim, 2001; Rogers, 1984), but there have been too few such labor disputes in the United States in recent years to explain the sheer number of labor-backed resolutions. Moreover, most of labor's resolutions receive a substantial number of votes from other investors, most of whom are likely to be at least indifferent, and may even be hostile, to the goals of organized labor (Schwab and Thomas, 1999; Marens, 2004).

This paper will attempt to provide a solution for this puzzle by analyzing labor's shareholder activism as one tactic of a broader social movement aimed at advancing the interests of organized labor in the United States. While it may appear that applying the term 'social movement' to a phenomenon as arcane and obscure as shareholder activism trivializes the concept, Davies (1999) points out that social movement analysis has proven valuable beyond the examination of well-known mass movements, such as its application to the study of narrower interest groups that lobby governments and other institutions in less dramatic fashion. Davis and Thompson (1994) provide a very relevant example of the utility of using social movement theory in an unexpected setting. They demonstrate that theories of social movement mobilization were more appropriate than theories of organizational change or finance for understanding the shareholder activism of institutional investors in the 1980s, because the political and evolutionary nature of the process was not adequately captured by the more conventional models.

A social movement analysis should be even more appropriate in the case of organized labor's efforts in the shareholder arena, since no one seriously believes that the efforts made by unions is strictly a response to their financial interests as shareholders. Since union membership has always been a distinct minority within American society, labor activists have had a long-standing tradition of seeking allies among other groups, ranging from farmers, merchants and other 'producerist' groups in the nineteenth century (Hattam 1993) to non-unionized wage earners in the twentieth (Cornfield and Fletcher, 1998). Scholars have applied *frame alignment*, the process in which social movement activists attempt to win broader support (Snow and Benford, 1988; Snow and Benford 1992), to understand the efforts of labor activists to forge alliances with groups that do not entirely share labor's perspective or values (Babb, 1996; Cornfield and Fletcher, 1998). It should surprise no one that organized labor in the United States, after experiencing a long series of organizing, bargaining, and political defeats, has again sought out allies from outside the labor movement. In an era when financial interests have played an increasingly hegemonic role in American society (Arrighi and Silver, 1999; Pollin, 2003), it is understandable that unions have made relatively low-cost, low-risk efforts to find common ground with some of these interests in opposition, or potential opposition, to corporate management.

Perhaps what is more surprising is that in order to find common ground with other investors, labor has largely recapitulated a position that it has used in its distant past, even before the rise of the American Federation of Labor: that those with a legitimate stake in the long-term well-being of businesses need to stand together against the depredations of parasites and rent-seekers (Hattam, 1993). This producerist 'master frame' – so labeled because it has been widely understood and accepted in American society and thus can encompass the narrower frames of many groups (Snow and Benford, 1992 and Swart, 1998) – positions economic conflict as a struggle between various value-creating economic actors and those rent-seekers and speculators who seek to live parasitically upon them (Babb, 1996; Hattam, 1993; Mooney and Hunt, 1996). In claiming that labor's framing of its proper place in the American economy can be reconciled to the perspective of long-term (non-speculative) investors, labor's shareholder activists have attempted to embed the viewpoints of both groups within the broader scope of this venerable *producerist* master frame. Therefore, the specific issues and arguments promoted by labor's shareholder activists are best understood as relying on an underlying assumption that investors and unions share a mutual interest in promoting sustainable efficiency and in opposing any tendency of corporate management to sabotage these efforts for personal gain.

This paper considers this campaign of labor shareholder activists to forge ties with other investors in four parts. The first section provides background to this effort by briefly surveying the history and achievements of labor's shareholder activism. The second analyzes how these efforts fit within the typology of social movement frame alignment introduced by Snow and Benford, then extended and applied by others. The third part discusses how more recent union-led activism initiated by the California Public Employees Retirement System (CalPERS) lost political support by attempting to stretch the frame too far, going beyond the boundaries of the master frame, and thus shattering a fragile solidarity on investor-related issues. I conclude by evaluating the limits of a reliance on producerist framing for organized labor and offer suggestions of possible future trends.

Labor's Shareholder Activism

Almost thirty years ago, two political activists, Randy Barber and Jeremy Rifkin (1978), argued in *The North Shall Rise Again* that despite recent political and organizing defeats for American labor unions, organized labor had cause for guarded optimism. According to these authors, an almost entirely new and unexpected source of power was beginning to emerge: corporate finance. Recent corporate campaigns had demonstrated that at least a few labor activists were beginning to understand the potential of using financial pressure in labor disputes (see also Manheim, 2001; Rogers, 1984). Moreover, given the rapid growth of pension fund portfolios over the post-war generation, they recognized that the fiduciaries of workers would soon be managing a very large portion of total corporate equity (Drucker, 1976), a potential resource for financially savvy activists to use in advancing the interests of organized labor and American workers.

The book urged new strategies that relied on both the financial resources of unions and their potential influence on even larger pools of financial assets, both of which have grown since the book first appeared. American unions collectively possess a few billion dollars in their own treasuries (Masters, 1997), and they strongly influence the investment policies of a thousand 'multi-employer' pension funds (sometimes called 'Taft-Hartley' Funds after the law that first regulated them) established for the benefit of those unions whose members' careers typically include a large number of different employers. These funds, most commonly attached to the building trades, collectively invest about two hundred billion dollars in corporate stock, approximately 3% of the major stock exchanges (Moberg, 1998). Since about the time Barber's and Rifkin's book first appeared, unions have made a more serious effort to monitor or even control how these funds are invested (Crittenden, 1979; Bernstein, 1997).

The holdings of public pension funds for state, municipal, and public school workers not only dwarf those of the multi-employer funds, they are also concentrated in far fewer institutions. The top forty public pension funds are currently worth approximately two trillion dollars in aggregate (with about half in stocks), with the California Public Employees Retirement System (CalPERS) alone accounting for a tenth of this figure (*Pensions and Investments*, 2004). Labor unions do not directly manage any of these public pensions, but they can potentially exert a degree of influence over the investment policies of at least some of them. In a handful of very significant cases, such as CalPERS and the New York City Employee Retirement System (NYCERS), union officials do sit on the boards of trustees. However, even where there is no formal union or worker representation, unions can potentially influence the elected officials and government appointees who sit on such boards. This influence, however, is hardly a given, and Barber and Rifkin understood that it would require mobilization to obtain it. Before unions were paying attention the activities of such funds, the pension fund of the liberal state of Oregon, for example, was helping to finance leveraged buyouts that ended badly for unions (Healy, 1988).

Consciously or not, Barber and Rifkin were responding to the early signs of a fundamental transformation within the American economy, the rise of financial hegemony and the decline of the centrality of domestic manufacturing (Arrighi and Silver, 1999; Pollin, 2003). On one hand, the financial sector was becoming increasingly influential with regard to business decisions, a trend acknowledged by Bill Clinton in his complaint that his policies were subject to the de facto veto of "a bunch of fucking bond traders" (Woodward, 1994, p. 84). On the other hand, the increased mobility of capital, itself both a cause and effect of this hegemony (Arrighi and Silver, 1999), was simultaneously undermining the need for businesses to maintain their part in a tacit truce with organized labor (Mills, 1979).

As is often the case, the new tactics were not derived from old organizational functionaries, but from recruits from other, more recently dynamic social movements better positioned to foresee the need for new approaches (Lipset, 1950; Rosenbloom, 1996). Such activists not only included Barber and Rifkin themselves, who were economic activists of the 1970s, but also Ray Rogers, a disciple of Saul Alinsky who led the seminal J.P. Stephens corporate campaign for the textile workers. Others pioneers of labor's new financial efforts included Cornish Hitchcock, who left Ralph Nader's Public Citizen organization to establish the pro-union LongView Investment Fund for the Textile Workers Union's Amalgamated Bank; peace movement activist Richard Ferlauto, who established the Center for Working Capital for the AFL-CIO to coordinate the financial strategies of various unions; environmentalist Jack Marco, who became a financial advisor for multiemployer pension funds; and Melissa Moye, a strategist for Service Employees International Union, an expert on Mondragon, who was previously active in the cooperative movement.

Union activists had proposed the occasional shareholder resolution as early as 1948 (Barbash, 1952), not long after the Securities and Exchange Commission began allowing shareholders to do so, but the frequency of such resolutions increased in the 1980s after the appearance of Barber's and Rifkin's book; and it took off in the mid-1990s. Labor activists were essentially filling a vacuum as the large institutional investors had begun to propose fewer confrontational resolutions on corporate governance issues, a trend reflected in such headlines as "After takeovers, quiet diplomacy" in the *Wall Street Journal* (Pound, 1992), and "Have shareholder activists lost their edge?" in the *New York Times* (Wayne, 1994). Labor unions and union dominated multiemployer pension funds soon picked up this slack, sponsoring a growing number of shareholder proposals focused on governance issues relating to boards of directors and anti-takeover provisions. The annual total of labor-sponsored resolutions that were brought to a vote never exceeded the mid-teens in any year through 1992, but it grew to 106 by 1995 (Bernstein, 1997; Lewis, 1996). (Nearly half of all resolutions are withdrawn or disqualified before coming to a vote.) Since 2001, shareholders have voted on an average of almost two hundred labor-sponsored resolutions per year, close to half of all those voted upon. The outcomes on these resolutions have proven equally impressive. Only two of the eleven resolutions that won a majority of shareholders' votes in 1993 were sponsored by labor organizations, but seven of the eleven majority votes of 1994 were labor sponsored. In 2005, labor obtained 51 majority votes (Investor Responsibility Research Center, 1993-2005). These winning resolutions exploit the guidelines of many large public and private investment funds to generally (sometimes automatically) follow Council of Institutional Investor recommendations that favor eliminating poison pill plans, requiring annual votes for directors, mandating a certain percentage of outside directors, expensing stock options, and, most recently, obtaining shareholder approval for golden parachutes and supplemental retirement plans for executives.

Aggressive union activism has gone beyond piling up favorable votes on its resolutions. In the early 1990s, labor activists helped broaden the scope of shareholder activism for everyone by convincing the Securities and Exchange Commission (SEC) that resolutions that focused on executive compensation, downsizing, and sweatshops were no longer 'ordinary business' decisions beyond the legitimate concern of shareholders, but were now permissible well-publicized social issues (Marens, 2004). In another expansion of shareholder rights, the Teamsters took Fleming Foods to court in order to confirm the right of shareholders to submit so-called 'binding' resolutions, at least in the jurisdiction of Oklahoma (*International Brotherhood of Teamsters v. Fleming*, 1999), although the overwhelming majority of resolutions are only intended to be advisory.

Moreover, union activists have successfully mobilized the power of shareholders in other ways. They have organized successful coalitions to oppose management's own proposals at companies in which they were in conflict, a more logistically difficult accomplishment than triggering large 'yes' votes on requests for conventional governance reforms. Staffers of the Hotel and Restaurant Workers Union worked the phones in 1998 to successfully convince institutional investors to vote down Marriott's reorganization plan, which would have left control in the hands of the founding family (Binkley, 1998). Similar campaigns forced Santa Fe Gaming to withdraw a stock offer (Binkley, 1999), compelled Union Pacific to abandon a proposal to spin-off Overnite Express (Rasmussen, 1998), and reduced demand for an IPO from PetroChina (Pomfret, 2000). At Oregon Steel, the United Steel Workers joined forces with other groups to form the Committee to Restore Shareholder Value to pressure the company in the midst of a lockout (Love, 1999), and they nearly convinced CalPERS to help defray the $130,000 cost of doing an independent proxy mailing (Labor and Corporate Governance, 1999). If by the end of the nineties, shareholder activism had at its disposal a larger array of tools and a broader record of success with governance reform proposals than it did at the beginning of the decade, then labor activists deserved most of the credit.

It is not clear, however, how much these campaigns actually accomplished for the labor unions that led them. Unions may have successfully stymied management at these companies, but efforts to organize workers there have not proven as successful (Greeenhouse, 2002; *Nevada Employment News Letter*, 2001). Fleming Foods, now bankrupt (Daykin, 2003), can do little for the Teamsters Union that successfully sued it. Oregon Steel did end a lockout on favorable terms for the Steel Workers, but that outcome required the intervention of the National Labor Relations Board. Activists privately claim that the threat of bad publicity from a large vote against management has helped to pressure some companies to settle some labor disputes, but, as majority votes on some governance issues have become so automatic that even individual gadflies can trigger them, the power of these votes to shame or embarrass management has presumably diminished. Labor staffers have become effective corporate governance activists, but it is not obvious exactly how much they have assisted unions in promoting their interests.

Labor's Efforts in Social Movement Perspective

Labor activists do not tend to be naïve, and it is unlikely very many of them expected that shareholder activism by itself was going to prove to be a panacea for obtaining representation elections or winning strikes. It is more useful to view this shareholder activism on the part of labor through a broader and longer-range perspective, as a social movement that is building for the future, not primarily concerned with obtaining immediate results. In particular, this activism can be seen as a manifestation of that part of the process of building a social movement that Snow and Benford (1988) have labeled *frame alignment.* As Snow and Benford describe it, a self-conscious social movement requires a group of movement entrepreneurs, often veterans of a previous social movement, to first develop amongst themselves both a broad consensus on how to 'frame' a particular grievance, the social environment in which it festers, and a general strategy for alleviating it. The goal of this process of framing is to render the situation in a way that will help mobilize collective action among the afflicted while simultaneously attracting allies, or at least neutrality, among other groups (Babb, 1996).

These entrepreneurs or organizers, however, still needed to adapt and modify their particular framing in order to recruit followers, persuade and educate outsiders, win the tolerance of the powerful, and neutralize or overcome opponents. Snow and Benford label this overall process *frame alignment*, which they divide further with the four sub-processes of *frame bridging*, *frame transformation*, *frame amplification*, and *frame* *extension*. *Frame bridging* involves convincing potential recruits that the frame constructed by movement entrepreneurs sufficiently overlaps their own for them to want to 'sign-up' and join the movement. *Frame transformation* is at the other end of the spectrum and involves persuading people to change their perception of a situation to one that is more sympathetic to the aims and methods of the movement. *Frame amplification* is more subtle and refers to overcoming opposition or legal obstacles by focusing attention to the areas of overlap between the frames and away from general disagreement. An example of frame amplification is the efforts undertaken by leaders of the American Civil Rights Movement to convince judges of their legal right to hold marches, even when those judges were hostile to the aims of integration. In a similar fashion, labor activists successfully persuaded the Securities and Exchange Commission that they retained the right to submit shareholders resolutions on acceptable governance topics, even as they were assisting their unions in disputes with management, and such disputes were themselves unacceptable topics of shareholder resolutions (SEC No-Action Letter 165, 1993).

Frame extension, the task most relevant to my argument, is comparable to *frame bridging* but aims at a more distant audience. While both involve connecting to people who are not yet part of a movement, in *frame bridging* there is usually a shared pre-existing agreement on the nature of a grievance (Tarrow, 1989). *Frame extension*, by contrast, is appropriate where there is less overlap between the frames of movement organizers and those of the audience. The goal here is more akin to building a coalition that advances some of the fundamental goals of both groups. Movement entrepreneurs try to achieve this growth by 'extending' their own framing of the situation to include some concerns of the other group that were not included in the original frame. Because it requires, at least publicly, that the entrepreneurs modify the original goal set of the movement, frame extension implies compromise, or even possibly a degree of duplicity.

In their own seminal work, Snow and Benford (1992) suggest that frame extension is most likely when the frames of separate groups are nestled with a larger, more generally understood framing of how social relations work within a society, a construct they term a *master frame*. Others develop this concept further, pointing out that such a frame is more than merely an overlapping of shared values and perspectives among social movements, as Snow and Benford suggest, but rather that it is actually antecedent to the frames of specific movements, and thus influences both their ultimate content and limitations (Oliver and Johnston, 2000; Swart, 1998). These master frames are considerably less malleable than the frames generated by the entrepreneurs of specific movements. While to an extent they are the product of public discussion, these discussions are themselves based upon ideas and world-views constituted by what George Rude (1980) labels 'inherent ideology,' a set of widely held cultural assumptions about the world transmitted informally and typically accepted across social classes. Social movements, consciously or not, then tap a master frame "to portray their perceived injustice in ways that fit the tenor of the times" (Oliver and Johnston, 2000: 41). In this manner, during the 1940s American civil rights activists reframed their long-standing social movement by using the language of 'democracy' and 'freedom' that had won wide currency through a master framing of the conflict with the Axis powers during World War II. Canadian advocates of subsidized religious schooling provide a recent and less dramatic example by switching their arguments away from religious ones to take advantage of an emerging master frame that endorses diversity and multiculturalism (Davies, 1999).

One master frame that has resonated frequently throughout American history is that of ‘producerism,’ a framing of economic conflict that depicts an almost Manichean struggle between groups that tangibly contribute to economic well-being and those who seek a parasitic existence living off these producers. Such a vision has its roots in a national mythos in which relatively small commercial farmers and their artisanal colleagues played, by historical standards, an unusually prominent role in political and social life, especially in the Northern states, that predates the American Revolution. The producerist master frame for economic growth and commercial virtue proceeded to influence the framing of a series of important and often overlapping social movements: Jeffersonian and Jacksonian Democracy, republicanism, greenbackism, populism, and progressivism.

Exactly which economic actors were framed as the heroes and the villains in the producerist vision varied somewhat among the particular movements, but certain classes had relatively fixed roles over time. Farmers, small business owners, artisans and skilled factory workers were inevitably on the side of the angels, consistently facing off against banks, monopolists, and bondholders. The place of other groups, even the newly emerging corporate executives, was less clear-cut. Far from always being cast as capitalist exploiters of workers, there was a surprisingly strong tendency to see them as merely the elite among the producers, or at worst the unwilling pawns of distant financial interests (Hattam, 1993). Some producerists even excused the behavior of railroad executives during the Great Railroad Strike of 1877 on the grounds that they were subjected to the irresistible pressures of bondholders (Babb, 1996).

It is within this master frame, which depicts economic conflict not as a matter of class but of contribution, that labor’s shareholder activists have attempted to extend their own frame of advancing labor’s interests to include the frame of ‘shareholder value.’ For promoting solidarity, applying elements from the master frame of producerism was a highly logical choice, since its emphasis on hard work and the rights of ownership invokes two principles that have endured throughout American history as both well known and morally unassailable (Babb, 1996). If nineteenth century producerists envisioned a community of interest between owners of production and their employees, or at least their skilled ones (Babb, 1996, Hattam, 1993), then their late twentieth century counterpart could postulate a comparable alliance between investor-owners seeking ‘shareholder value’ and employees committed to a ‘high performance workplace’ of empowerment, responsibility, and just rewards. Although advocates of this new producerism might each focus on the interests of different stakeholders in the success of a business, one finds an overarching consensus among them with regard to the ultimate aims of efficiency, productivity, and long-term profitability (Jensen, 1989; Jensen, 2002; Levine and Tyson, 1990, Reich, 1991).

Contemporary producerists inevitably advocate workplaces filled with well-trained and committed employees and enlightened managers who treat them well, while also acknowledging the legitimacy of the desire of ‘owners’ (shareholders) to enhance the value of their investments over the long-term. This perspective condemns not only financial speculators, whose investment horizon is unacceptably truncated, but also management that shortsightedly exploits its employees, betrays customers, deceives its investors, or attempts to entrench itself against any possible challengers. These last two judgments generate a contradiction when assessing the role of corporate takeover artists. While they are often reflexively viewed as rapacious speculators, antithetical to producerist values, who loot their target and destroy good stable jobs, others have argued that they provide a necessary check on the tendency of corporate management teams with their preference for self-dealing and empire-building. As even Michael Jensen (2002) has argued, management teams, whether takeover artists or those who successfully resist them, can only enhance shareholder value – a term he did so much to popularize – by embracing producerist principles of treating stakeholder groups fairly and honestly, and emphatically *not* through accounting tricks that temporarily inflate the stock price.

Labor unions themselves displayed this ambiguous and changing attitude toward raiders during the 1990s. Many started the decade by supporting efforts on the part of corporate managers to induce state legislatures to pass anti-takeover measures (Apgar, 1992). As the decade progressed, however, labor unions were finding that raiders were not necessarily any more hostile or intransigent than incumbent managers (Holson, 1998). By the mid-1990s union investment funds often led shareholder efforts against corporate measures, such as staggered boards and poison pill plans, designed by management to prevent takeovers.

Frame Extension Through Producerism

With the deduction by union strategists that the increasing hostility of incumbent managers left them relatively little to fear from corporate raiders, they were liberated to seek ways to confront management through a process of finding and building solidarity with other investors. One means was to pick up the mantle of corporate governance reform pioneered in the 1980s. This movement was originally initiated by shareholder groups in response to managerial efforts to keep raiders at bay, a process that denied stockholders the chance to earn premiums. But it soon included broader concerns such as ensuring that board composition and significant board committees reflected the interests of shareholders, not management (Davis and Thompson, 1995). The interest unions displayed in these issues on the part of unions need not have been entirely cynical or duplicitous. Union officials that oversee multiemployer pensions or sit on boards of public pension funds hold real fiduciary obligations to beneficiaries, and one would expect them to be genuinely interested in improving the performance of these portfolios. While the evidence that activism raises stock prices is inconclusive (Karpoff et al, 1996; Larcker, Richardson, and Tuna, 2004; Nesbitt, 1994), the cost of shareholder activism is not high, and it is hardly unthinkable that some union officials or their public fund allies hope that this activism might lower the cost of providing for their members' retirement. Ron Carey (1993), the former reform President of the Teamsters Union, may have believed sincerely what he claimed in his op-ed piece, 'Unionized Employee Shareholders: A New Force for Corporate Reform,' since pension reform was part of his mandate.

Still, one can understand if most investors proved skeptical of Jack Sheikman's claims of solidarity with investors, which he expressed in a newspaper column titled, 'Labor, Shareholder, a Mutuality of Interest' (Sheikman, 1988: M5). Sheikman was then President of the Amalgamated Textile and Clothing Workers Union, the same union that pioneered shareholder activism in support of labor struggles at J.P. Stevens (2001), and whose members generally do not depend on multiemployer funds for their retirement benefits. Nor do the members of the Hotel and Restaurant Workers, whose research director expressed similar sentiments of cross-class solidarity after he successfully rallied shareholders against management at Marriott:

> "People assume that there is a division between capital and labor," said Matthew Walker, the [Hotel Worker's] research director who initiated the campaign. "The fact is that we demonstrated an ability to identify with our fellow shareholders in Marriott and to build an alliance with shareholders that many people didn't think was possible." (Binkley, 1998: A3)

The *Wall Street Journal* article that quoted him noted with a bit of understated irony that the union owns a few shares of stock, hardly a sufficient investment to make the effort of mobilizing a coalition of shareholders pay off from a financial perspective. Yet other shareholders, who were presumably aware of the union's hostility to this quintessentially anti-union company, still supported the union's campaign. The fact that various institutional investors sided with union activists, though, is hardly proof that these investors also endorse the union's effort to organize the hotel chain.

Investors are a diverse lot, and possibly some investors might be sympathetic to union organizing, including not just the multiemployer funds but some of the public pension funds and the investment funds of the more liberal churches and non-profits associated with the Interfaith Council on Corporate Responsibility (Van Buren, 2003). However, corporate pension funds control about as much stock as public pensions, with both categories claiming a 20-25% share, and these funds can be expected to reflect the anti-union attitudes of most of corporate America. Bank-managed trust funds, investment offices of wealthy families, foreign investors, and mutual funds managed by financial professionals, all also hold substantial amounts of outstanding shares, and none of these groups are known for their unshakable support for unionization. Moreover, research supports the intuition that the average investor or investment manager tends to react unfavorably to news of union successes (Heaster, 2000; Hirsch and Morgan, 1994; Pearce, Groff, and Wingender, 1995). Some analysts speculated that one company even provoked a strike by the Teamsters in the hope that breaking the union would improve their prospects of selling an upcoming IPO (Heaster, 2000). When most investors follow labor's lead on a governance issue, it is likely that many are willing to accept the issue at face value because they simply doubt that the union has the power or means to exploit a governance victory to the point of depressing the stock price.

Occasionally, union activists have pushed more explicitly pro-employee or even pro-union issues by using the five hundred words allowed for a supporting statement to argue that their own framing of the issue includes the interests of other shareholders. Thus, they made use of the assumption within the producerist frame, that successful businesses are also good employers. Hence, it raised few eyebrows when the General Counsel of CalPERS, the largest investment fund with significant union representation on its board, wrote in the *New York Times*, "CalPERS opposes layoffs to lift stock prices in the near term. This is wrong and will not work to create wealth over the long run" (Koppes, 1996: 13). When it came to expressing these sentiments in shareholder resolutions, however, unions faced a problem, since the SEC allows companies to exclude resolutions that focus on the 'ordinary business' of human resource policies, making it difficult to ask for a vote on better treatment of employees.

Nonetheless, labor activists have intermittently made the effort. One organized attempt to promote a pro-labor agenda through shareholder activism occurred during the 1995 stockholder-meeting season. Scholars of social movements have long understood that one important role of movement entrepreneurs is to recognize and exploit political opportunities where and when they occur, even if the impetus behind a sudden widening of available social space for movement action is unrelated to the movement itself (McAdam, McCarthy, and Zald, 1988; Rochon, 1998). Such an opportunity emerged through the confluence of two events during the early years of the Clinton administration. First, a lawsuit brought by the NYCERS against the SEC on an unrelated issue (NYCERS v. SEC, 1993, 1995) ordered the Commission to stop enforcing its ban on resolutions that discussed human resource policies until the legality of these could be settled by the courts. During this period of about eighteen months, the activist Amalgamated Clothing and Textile Workers Union in conjunction with its LongView Investment Fund for multiemployer pensions (established by the bank that the same union had founded during the depression) submitted requests to seven firms asking management to issue reports on instituting so-called High Performance Workplace Practices, or HPWP.

The selection of this particular issue was itself the product of another political opening, Clinton's appointment of a new Secretary of Labor in 1993. His choice was Robert Reich, who, due to the success of his book, *Work of Nations*, was the most prominent liberal producerist of the time. Under him, the United States Department of Labor (1993, 1994a) recommended a set of HPWP policies that included employee involvement programs, continuous training, new information systems, and incentives designed to raise productivity by building trust and commitment between workers and employer. The Department of Labor, apparently not entirely trusting corporate management to follow its advice in this manner, adopted a producerist long-term perspective and actually issued regulations intended to encourage fiduciaries of pension funds to investigate companies with regard to their training and other workplace practices (DOL, 1994b). Prodded by Reich's advocacy (Nomani, 1994), CalPERS threw its massive weight behind the idea by publicly endorsing it (Gordon et al., 1994; Koppes, 1996).

On its face, HPWP hardly seems controversial. Who, after all, would prefer less well-trained workers or compensation policies that do not create incentives for doing good work and sharing ideas? The devil, however, is in the details. Studies have found no evidence that instituting HPWP either improved compensation or reduced the likelihood of layoffs (Handel and Gittleman, 1999, Osterman, 2000). This anomaly created an opening for arguing on behalf of union involvement in HPWP programs, an argument that had been recently revived by former Secretary of Labor Ray Marshall (1991, 1992). The perspective, however, had been advocated since before the New Deal (Dale, 1948; Metcalf, 1948; Ruttenberg, 1939). Theorists have argued for more than a half century that some degree of job security and gainsharing is necessary for successful implementation of HPWP (Ruttenberg, 1939; Dale, 1948; Levine and Tyson, 1990; McGregor; 1960; Miller, 1992). In the 1990s, labor activists extended this theoretical argument by claiming that unions were necessary to insure that employees both share in any productivity gains and feel protected from betrayals of the trust necessary to underpin the new systems (Marshall, 1992; Bernstein, 1994; Baker, 1999). While there is some research supporting this claim (Black and Lynch, 1999), what probably mattered more was the endorsement of public intellectuals such as Marshall, Reich, and Tyson (briefly chair of the President's Council of Economic Advisors). Unions could then apply an old tactic of social movements, appealing to the opinions of experts as a source of legitimacy (Rochon, 1998).

Ultimately, the sponsors of the seven HPWP resolutions withdrew three of them when management at the companies voluntarily agreed to produce such reports. At the other four companies, the votes for these resolutions averaged 12%. Given that multiemployer pension funds account for less than 3% of total equity (and a 3% vote would assume they were all mobilized to vote the right way on these issues), other classes of investors must have supported these resolutions. The Union and the Longview Fund targets included both Southwest Airlines, which had relatively good labor relations at the time, and Oshkosh B'Gosh, which did not. In effect, these two companies would play good cop/bad cop, with Southwest's human resources policies setting a positive example for other investors. A portion of the resolution submitted to both companies reads as follows:

> Presently, various companies are working to create "high-performance workplaces" through policies that emphasize employee training, compensation linked to performance, direct employee involvement in corporate decision-making, employment security and a supportive work environment . . . In an August 1993 report entitled High-Performance Work Practices and Firm Performance (the '1993 Report'), the Labor Department found that high-performance work practices are positively related to both productivity and long-term financial performance, and that innovative workplace practices may be crucial to the future competitiveness of American industry. . . .We believe that high-performance work practices will enhance the company's ability to attract, develop and keep good people. In recent years, Fortune's annual survey of most admired corporations has placed a company's ability to attract, develop and keep good people among the top three measurements of corporate reputation. (Southwest Airlines, 1995: 16)

Southwest Airlines' response in the proxy material showed that the company was less than flattered for being singled-out as an exemplar. Nonetheless, when a substantial 15% of the shareholders voted for such a report, the company voluntarily complied with the request.

Additional language was added when this resolution was submitted to Oshkosh B'Gosh, a company that was in the process of moving production to non-union Tennessee as well as Honduras (Gerth, 1995). After first explaining HPWP, the resolution then asked the company to pursue:

> The goal of creating a high-performance workplace based on policies of workplace *democracy* and meaningful worker participation . . . A *number* of studies have concluded high-performance workplace organizations are more often successful at *unionized* facilities in terms of implementation, survivability and increased profitability. The Commission on the Future of Labor-Management Relations praised the economic benefits of high-performance workplace practices,

> and stated in fact-finding reports with regard to employee participation programs: "Those in *unionized* settings in which the *union* is involved as a joint partner with management are particularly likely to survive." One study pointed out that high-performance practices appear to be more prevalent at *union* facilities because *unions* provide an agent for productivity bargaining and job protections as well as a voice for employees . . . The Labor Department has urged investors to examine companies' workplace practices in their investments. One of the *largest* U.S. public pension funds announced it would evaluate companies for high performance workplace practices. Italics added. (Oshkosh B'Gosh, 1995: 18)

With one reference to workplace democracy and four to unions, the resolution makes the significance of HPWP to the submitter clear enough, and the references to 'several studies,' a government commission, and the 'largest public pension fund' (i.e., CalPERS) legitimized this claim of a positive role for unions. The legitimacy of both HPWP and labor-management 'partnership' was sufficiently strong at the time for the company to frame its rejection of the request, not as unreasonable, but as simply unnecessary, in its proxy material:

> The Company has sought to build internal and external partnerships to better accomplish its goals. A very important internal partnership is the Company's relationship with its Union. The Company has communicated openly with the Union on matters of business conditions and market challenges in order to build a stronger partnership. It has also worked with the Union to create compensation systems which increasingly link employees' pay to plant as well as team performance. (Oshkosh B'Gosh, 1995: 19)

This version of the resolution earned an impressive 22% vote, only 2 points short of the highest vote getter among social issue (non-governance) resolutions for 1995, suggesting that that some voters who did not normally vote for liberal social resolutions still found the resolution meritorious.

In 1995, an appeals court allowed the SEC to reimpose the 'ordinary business' exclusion, preventing union activists from pursuing this issue through shareholder resolutions, but it may not have mattered very much for unions. While parts of the HPWP program have become mainstream, the quid pro quo for employees – more job security and the sharing of productive gains – never really manifested (Leonhardt and Greenhouse, 2006), and many programs of labor-management cooperation were abandoned (Holusha, 1993, 1995; Peters and Maynard, 2005). Even the principal author of CalPERS's favorable study of HPWP actually criticized union efforts to exploit the idea for their own advantage, without sufficient regard for the interests of shareholders (Sweeney, 1996). Despite a few hopes to the contrary, HPWP was not going to become organized labor's new passageway into the American workplace.

Instead, labor refocused its efforts towards advancing its own agenda in alliance with other shareholders. One site of this work is the anti-sweatshop arena. Clearly, unions that represent manufacturing workers, especially textile workers, see the trend towards low wage factories abroad as a threat to their members, and they would certainly see value in winning broad support to curb the practice. There is, however, another possible, albeit less direct, goal involved. By pushing companies to respect the labor rights of their employees abroad, resolution sponsors begin, intentionally or not, to take the first steps toward eventually winning permission from the SEC to raise abuses of labor law at U.S.-based firms through the resolution process. Although the resolutions have generally not received significant vote totals, CalPERS, again, supported such a measure in 1999 at Disney (CalPERS, 1999) for Disney apparel. That same year, a coalition of unions at General Electric, angry about the company moving work to China, paralleled the attempt to make unions a part of HPWP programs at Oshkosh B'Gosh, by adding a pro-union element to an anti-sweatshop resolution at the company. The resolution called on G.E. to endorse the standards of the International Labor Organization (ILO), which, while including the usual condemnations of discrimination and prison labor, also uphold the rights of employees to join unions and bargain collectively without fear of reprisal. Using a negative argument in support of the resolution, the authors claimed that failing to honor these standards would injure the company's reputation in the eyes of customers, various governments, and institutional shareholders (General Electric, 1999). CalPERS supported this resolution as well, although, with only 7% of shareholders voting 'yes,' the explicitly pro-union message clearly did not win a great deal of support among institutional investors in a company that was performing financially quite well at the time.

If the unions at General Electric were viewed as self-serving in their concern for international labor rights in 1999, the New York City pension fund (NYCERS) has had somewhat more success winning votes on the same issue during recent years. This fund is unique among major public funds for allowing three unions to directly appoint representatives to its board of trustees (as opposed to only allowing unions to run candidates in beneficiary elections, as is the case at CalPERS). Moreover, Democratic Party politicians, who need to maintain good relations with New York City's unions, routinely fill most of the remaining nine seats. One result of these strong ties to American labor is evident in NYCERS having gone to the trouble and expense in the early 1990s of challenging the SEC in court over its ban of human resource topics for shareholder resolutions (*NYCERS v. SEC*, 1993, 1995).

Beginning in 2003, NYCERS followed the example set at General Electric and submitted a number of resolutions asking companies to comply with the standards of the International Labor Organization. These resolutions averaged about 10% of the vote in 2003 and 2004, but at least a half-dozen major companies' did agree to either comply or discuss the issue with the Fund (NYCERS website, 2004), and in 2005 the average rose to almost 12% on seven votes. While not winning large votes by the standards of governance issues, the greater success that NYCERS had compared to the unions at General Electric might be attributable to a few factors. In recent years, there has been more publicity about outsourcing as a general, not merely manufacturing, phenomena, and NYCERS's interest in the topic may not appear as patently self-serving as the sponsors' interest at General Electric. If, indeed, the hope of activists is to eventually put American labor rights on the shareholder agenda as an issue connected to globalization, they recently received a boost from an unlikely source. The British Trade Union Congress recently sponsored a resolution calling for a British company that operates buses in the United States to recognize the labor rights of its American employees who are fighting to join a union (Clement, 2006). In the age of globalization, it is possible that the SEC might one day permit shareholders at U.S.-based companies to do the same.

Extending too Far?

While not as consistently dominated by the Democratic Party as NYCERS, the twelve voting members of the CalPERS board are more likely to be Democrats than Republicans, and at least a few are typically union officials. Reflecting this composition, CalPERS has demonstrated a degree of pro-labor and pro-worker policies throughout the era of labor shareholder activism, with its public endorsement of HPWP, votes for anti-sweatshop resolutions at a number of companies, and its confrontation with Bank of America on increasing CEO pay during a year of layoffs (Zuckerman, 2000). In addition, it has adopted the AFL-CIO's fair contract guidelines in its real estate holdings, which require real estate companies to contract only with janitorial services that offer 'fair wages,' health insurance, and neutrality in union certification elections, based on an enlightened investor argument that these policies attract and retain better workers and improve morale (Gozan and Moye, 1999). It has even targeted a small percentage of its investments towards projects that aim to create jobs in depressed regions of California (Romney, 2000).

Until 2003, at least, CalPERS's pro-labor policies had their limits, and it opposed more radical measures, which had weaker producerist justification. In an interesting echo of the nineteenth century ambivalence with regard to corporate executives, its one-time top administrator, Dale Hanson, asserted that while the fund supported efforts at disclosure of executive compensation and would oppose *unjustified* increases (italics mine), it opposed limits on executive pay or efforts to tie it to some ratio of lower-paid employees, because these measures would make it harder for companies to compete for the top executive talent presumed necessary for enhancing company performance (Hanson, 1993). Some critics were unimpressed by these limits, contending, "The Democrat-laden board has tipped too much toward labor and [was] influenced too much by political agendas, ranging from investments in affordable housing to low-income mortgages" (Chan, 2003: D2).

However, for a brief period in this new century, CalPERS moved into a more explicitly pro-union stance after the board election of 2003 that made Sean Harrigan, an official of the United Food and Commercial Workers, president of the pension fund. Under Harrigan's leadership, the Fund, in its public stances at least, seemed to abandon its previous self-imposed limit with regard to taking pro-labor positions only as far as these could be rationalized as also promoting shareholder value. CalPERS became increasingly confrontational, criticizing a highly profitable CACI International for its involvement in the Iraqi prison scandal (Chan, 2004), voting against the widely admired avatar of patient investing, Warren Buffett, for a board seat at one company (Evans, 2004), and threatening to divest itself of companies that contracted with California to privatize government work (Weintrab, 2004).

The most blatantly pro-union of CalPERS activities occurred during the Southern California supermarket strike of 2004, in which Harrigan's home union represented the workers then resisting health insurance givebacks and lower wage rates for new employees. While Harrigan was making speeches on behalf of his striking union (Weil and Lublin, 2004), the CalPERS organization he led officially called on the companies to end the strike and even voted its shares to remove the CEO and other directors from the board of Safeway (Whelan, 2004). The CalPERS investment committee, in an equally unprecedented move, also sent a letter upbraiding the CEO of Albertson's, another supermarket chain involved in the strike:

> As a long-term investor we believe that fair treatment of employees is a critical element in creating long term value for shareowners. Fundamental to the fair treatment of employees is a reasonable health care plan that provides basic health care for your workers. . . In addition we feel that your corporation's blatant disregard for quality of life issues for your long term employees is having a significant impact on our investment in your corporation . . . Therefore, we urge you in the strongest terms possible, to negotiate in good faith with the UFCW and to provide a benefit package that enhances the productivity of your employees as well as the long term value for shareholders. (CalPERS Investment Committee, 2003)

It is unlikely that anyone bought CalPERS's claim that they were primarily concerned that the company's position was reducing shareholder value. A column appearing in CalPERS hometown newspaper, the *Sacramento Bee*, entitled, "CalPERS Agenda: Mere coincidence or evidence of side agendas?" (Walters, 2004), pointed out that the Fund was also using its clout in support of unions by threatening to remove hospitals from its health insurance program on technicalities just as these were beginning to negotiate with one of the unions that organized health care workers. Nonetheless, the Safeway campaign managed to enlist a sufficient number of shareholder allies to produce a 17% vote against reseating Safeway's Chair and a 15% vote against the two other directors up for reelection (Safeway, 2004). These are remarkable results when one considers that the next year, with the strike ended, only 2% of shareholders voted against any director.

Harrigan's campaign can be viewed as an experiment in extending the frame of labor's shareholder activists to the edges of the producerist master frame. Certainly, a producerist argument could be made that a company that responds to competition from Wal-Mart, a notoriously poor employer, by reducing its workers' compensation is not acting in accordance with producerist human resource values. Safeway and the other grocers seeking to pay new employees less and to cut the benefits of old employees were not following the road to trust and loyalty that advocates of HPWP argue are necessary. CalPERS (2004) also pointed out in a press release that Safeway's leadership had failed shareholders because its stock price dropped 60% in two years while management ignored large shareholder votes to expense stock options. In effect, CalPERS had extended the framing of the situation to allow two entry points for the managers of other institutional funds: If investors or fund managers were genuinely disturbed by the company's financial performance, CalPERS was suggesting a way to express no-confidence; and for those investors inherently sympathetic to a group of workers who saw themselves as betrayed by management, CalPERS was providing sound financial cover for voting against management.

The targeted directors did receive an unusually large negative vote for what is normally a formality, but 15% no-vote is still a small minority, and the union ultimately lost the strike. It appears that whatever the faults of the Safeway management team, most investors were not prepared to implicitly take the union's side in a labor dispute, and class interests trumped organizational ones. Harrigan himself was removed soon after as a CalPERS Director by the governmental committee that fills his seat, with one Democratic official joining two Republican appointees in voting him out. The American investment community had demonstrated for over a decade that it was willing to follow the lead of unions when it saw its own interests at stake, but, typically, these same investors were not prepared to share labor's view that reducing workers' compensation was a threat to investors' interests or that good relations with labor unions generate long-term advantages for businesses.

Conclusion

The question remains as to whether Harrigan's efforts to move CalPERS in a more aggressively pro-labor direction were premature or quixotic. Certainly, social movements experience failures with a new strategy before a combination of timing and tactical adjustment allows it to bear fruit. Political pressure may have forced out Harrigan, but it is interesting to note that his replacement as president of CalPERS was the signatory on the letter to Albertsons, and a ballot initiative in 2005 to limit the autonomy of CalPERS – promoted to prevent the 'politicizing' of investment decisions – was rejected decisively by California voters. It is likely that CalPERS or other organizations will attempt similar efforts in the future, and it is possible that an economic crisis will make such policies appear less radical, creating the kind of social space and political opportunity that made, for example, the Wagner Act politically palatable. Under such circumstances, it is not out of the question that a sizable fraction of investors may actually conclude that continued downward pressure on compensation is no longer the way to enhance the performance of a portfolio of publicly-traded shares of American companies, especially investors who act as fiduciaries for future retirees.

However, there is no guarantee that a portfolio of public companies will indefinitely remain the central instrument of American investment. Jensen (1989) predicted the eclipse of the American publicly-traded corporation almost two decades ago, and perhaps the rise of private placements in corporate stock, the growth of hedge funds, and the emergence of competitive foreign exchanges is finally turning him into a prophet, making current forms of American shareholder activism largely irrelevant. Even without such structural changes in the financial world, a more globalized economy implies that the performance of many companies will rely increasingly less on the performance and consumption levels of American workers, further reducing the credibility of a producerist argument for solidarity between labor and investors. In the worst case, the insistence on the part of labor activists that are acting in solidarity with other outside shareholders helps legitimize the interests of investors who may believe that shareholder value is better enhanced through cheaper foreign labor than through good relations with American unions (Shinal, 2004).

Producerism itself was a product of specific historical conditions: A society in which commercially oriented family farmers originally played an unusually preeminent role, succeeded by one in which the main economic actors were relatively stable industrial corporations who eventually adopted Fordist compensation practices (Arrighi and Silver, 1999). Not surprisingly then, a half-century ago, when both this industrial system and American labor had neared their peak achievements, Lewis Gilbert, the pioneer of shareholder activism, advocating a producerist solidarity between workers and stockholders.

Lewis's *Dividends and Democracy* (1956) was not the work of an obscure and irrelevant crank, how individual shareholder 'gadflies' are typically viewed today. His opinion was of sufficient importance that his publisher convinced Paul Douglas, United States Senator and prominent University of Chicago economist, to write the introduction. In his book, Gilbert argued that workers should share information with shareholders and cooperate in other ways to advance their common interest in promoting the long-term success of their firms. He even argued, almost forty years before Reich became Secretary of Labor, that a unionized workplace would permit a freer flow of information. There is no evidence that anyone acted on his suggestion. Today, labor is considerably weaker, companies move production abroad, and investors rarely hold on to shares to collect dividends in the manner of the Gilbert brothers. There is little reason to think that labor's shareholder activism can finds ways to extend its framing of its grievances across a widening gap of class and geographic space, and it is likely to remain a tactical weapon, albeit an intriguing and potentially useful one, for skirmishing with corporate management and publicizing grievances.

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