UNIONS and PUBLIC POLICY

The New Economy, Law, and Democratic Politics

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Unions, Finance, and Labor's Capital

Peter Pitegoff

> The more responsibility the labor movement assumes, the greater will be its power.
>
> —Sidney Hillman, Amalgamated Bank, 1927 (Josephson, 1952, 248)

The American labor movement today is in crisis, by any of several measures—declining membership, serious loss of political influence, inability to stem the tide of jobs overseas (Heckscher, 1988,3–6). Businesses in the United States face the challenge of dealing with the new realities of technological change and global competition, and so does organized labor.

Echoing earlier struggles over managerial prerogatives and the scope of collective bargaining (Atleson, 1983, 111–135), events in recent decades have dramatized the need for labor attention beyond narrow issues of wages and working conditions. In the face of widespread industrial disinvestment, unions have been hard-pressed to protect the job status or employment future of their members (Harrison and Bluestone, 1988, 48–52; Bluestone and Harrison, 1982, 78–81). At the same time, the developing labor law has narrowed the range of bargaining opportunities for unions to affect corporate decisions—the very decisions that result in job dislocations and corporate transformations (Stone, 1988,74, 86–96). The effectiveness of strikes has been undermined by growing use of permanent replacement workers, from Ronald Reagan's assault on the air traffic controllers' union (Professional Air Traffic Controllers' Organization [PATCO]) early in his presidency, to the failed strike at Hormel, in Austin, Minnesota, by members of the United Food & Commercial Workers Local P-9 later in the 1980s (Rachleff, 1990). Unions, in some instances, cannot even assure retirees that they will receive the pension and medical benefits already promised by corporate employers (Lynd and Lynd, 1991, 907–12).

To thrive in the coming decades, unions must carve out a new and expanded role. A critical component of an expanded labor role is for unions to exercise the rights of capital and to tread on traditional management prerogatives (Barber, 1987). With an active hand in finance and capital and a greater voice for rank-and-file workers in the process, unions can increase workers' say in shaping the changing workplace and the broader political economy (Hoerr, 1991).

Finance strategies by labor have become more common in the 1980s and 1990s. Investment banking, corporate acquisitions, targeted pensions, employee stock ownership plans (ESOPs)—more and more, these financial artifacts belong to organized labor. In this era of a global economy, of capital mobility and shuffling corporate ownership, union activity has broadened dramatically to encompass issues of corporate finance and capital control. From collective bargaining in the managerial domain to worker ownership, from labor banks and insurance companies to strategic investment of pension funds, the interplay of labor and capital is changing as the border between them opens.

This chapter introduces labor's forays in finance. For more than a century, American unions have ventured, from time to time, into the realm of capital, from worker cooperatives in the 1890s to the labor banking movement of the 1920s. Most of these efforts have been isolated and short-lived, with a few notable exceptions. It remains unclear whether today's wide array of financial activities by unions signals a new direction for the labor movement, but the scale and sophistication of finance institutions with a labor perspective suggest more than simply a momentary diversion.

After a brief historical note, the following pages describe some of labor's finance institutions and capital activity, beginning with pension funds as the largest single source of capital with potential for strategic investment directed by labor. Next is a description of selected initiatives in targeted investment by pension funds, both directly and by intermediary institutions. These intermediaries, such as union-initiated labor banks and a growing community of investment bankers and advisers, manage extensive pension investments and other worker or union funds and are a repository for much of labor's learning in finance. Finally, this chapter analyzes the surge of worker ownership of businesses since the 1970s and the evolution of enterprise forms that ultimately integrate labor and capital.

These developments raise a series of challenging questions. What happens when labor institutions essentially become capital institutions? Can an enterprise focused on asset value and the bottom line really retain a "labor perspective" over time? Will labor's finance activity be driven primarily from the top down, or will it reflect the views and meet the needs of rank-and-file workers? The answers rest with organized labor, faced with the challenge of building new, more accountable financial institutions as an integral part of today's labor movement and committed to the interests of working people.

HISTORICAL NOTE

The history of business and finance by organized labor in the United States stretches back to the eighteenth century. Striking carpenters in Philadelphia, for instance, formed a cooperative enterprise in 1791 to compete with local employers. In the 1830s, Philadelphia cabinetmakers, tailors, hatters, and saddlers operated in cooperative enterprises (Grossman, 1945). In the late nineteenth century, American labor organizations explored worker ownership nationally. The Knights of Labor, for instance, sponsored the development of worker cooperatives as a direct challenge to the employer/employee system, assisting in the creation of more than 200 small, worker-owned businesses (Grob, 1961). Small in scale, however, and with limited access to capital, these early ventures were unable to survive rapid technological changes or economic downturns (Shostak, 1991, 229).

A similar fate befell the short-lived "labor banking" movement of the 1920s, with few labor banks surviving the subsequent depression. Today, while new union banks have emerged, only two of the three dozen union-owned banks formed in the early 1900s still exist—the Amalgamated Bank of New York, founded in 1923 and owned by the Amalgamated Clothing and Textile Workers Union (ACTWU), and the Brotherhood Bank and Trust, founded in Kansas City in 1924 and now roughly 40 percent union-owned (Noble, 1992).

The term *labor bank* or *union-owned bank* refers to a bank owned by some combination of a union, its members, and, more recently, its pension or benefit funds. The rationale for the early labor banks was twofold—first, to provide access and affordable services to working people and, second, to support the union movement. Unlike conventional banks, labor banks in the 1920s enabled low- and moderate-income workers to open interest-bearing accounts, obtain inexpensive loans, and even transfer funds to family members oversees (Brown et al., 1929, 55). The Amalgamated Bank of New York, for example, served numerous immigrant workers by handling about 199,000 remittances to foreign countries in 1924 alone, totaling almost $7 million (Grant, 1983).

In practice, labor banks were best known for these consumer services, the banking activity most immediate and obvious to working-class depositors. But the origin of these banks was also explicitly strategic. On occasion, they would provide loans to employers whom they deemed friendly to labor, even stepping in with financing to rescue firms forsaken by conventional bankers and thus to save jobs of union members. Foreshadowing today's targeted investing by labor institutions, some labor banks of the 1920s invested directly in business development by and for union members.

That era of labor finance also gave rise to the Union Labor Life Insurance Company (ULLICO), founded in 1925 pursuant to resolutions adopted by the American Federation of Labor (AFL) at a special conference that year on insurance. The next year, the company sold three-quarters of a million dollars of capital stock to sixty international unions, six state federations of labor, thirty-four city central labor unions, 240 local unions, and 361 individual trade unionists. It issued its first individual life insurance policy in 1927. ULLICO is still thriving today, with an array of services geared to union members, labor organizations, and pension and benefit plans (ULLICO, 1990).

The largest segment of "labor's capital" has emerged in pension funds. Employer-based pension mechanisms have existed in the United States for over a century. The American Express Company sponsored the first major industrial pension plan in 1875. Other large companies followed suit in the subsequent decade, and pension funds grew substantially just prior to World War I (Ghilarducci, 1992, 14).

During the early 1900s, a system of trade union pension plans, financed primarily by union dues, emerged separately from private corporate plans. The first union pension plan was formed in 1900 by the Pattern Makers of North America, followed by the bricklayers, carpenters, sheet metal and iron workers, electrical workers, railroad workers, and printing trade unions. The depression had a devastating impact on these pension plans and was a factor in the labor movement's support for federal Social Security. One lasting significance of this group of union plans, though, was that it formed the pattern for multiemployer plans that emerged on a larger scale in the 1950s (Ghilarducci, 1992, 30).

The Internal Revenue Code recognized pension plans in 1926, and Social Security was established in 1935. Not until the 1940s, though, did explosive growth of pensions signal a start to the formation of the huge pension regime of today. Immediately following World War II, employer-funded health, welfare, and pension plans expanded substantially, with unions administering a growing number of plans for their members. In 1947, however, the Taft–Hartley Act halted this nascent growth of union-controlled benefit plans funded by employers. The act prohibited employer payments to certain employee benefit trust funds unless, among other requirements, the funds were jointly administered by the union and the employer. Congressional debate at the time reflected some government resistance to benefit plans solely controlled by unions.

Multiemployer pension plans established after the 1947 Taft–Hartley Act were controlled jointly by boards of employer and union trustees. With an overriding goal of maintaining a safe investment portfolio to preserve the workers' retirement benefits, unions tended to defer to professional trust managers, often banks or insurance companies. A handful of unions—notably, the Amalgamated Clothing and Textile Workers, the International Ladies Garment Workers, the Teamsters, and the Mineworkers—looked beyond just yield and stability. They played an active role in managing pension funds for strategic purposes, foreshadowing today's activist targeting of pension funds by labor.

Single-employer plans were controlled entirely by management, despite attempts by the United Automobile Workers and other unions for joint control. Collective bargaining in single-employer plans focused essentially on benefit levels and sufficient funding of plans. After a period of union–management struggle over formation, funding, and form of pensions, bargaining over pensions reached relative stability in the 1950s. Despite continuing disagreement over the issue of control, employers generally funded the plans and received substantial tax benefits for plan contributions. Although the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) advisory council recommended in 1954 that unions negotiate for participation in pension decisions, most industrial unions accepted employer management of the details of pension accounting, investment, and distribution (Ghilarducci, 1992, 29). More recent growth in public sector employment and public employee pension funds created new opportunities for labor and public influence over pension investment.

FINANCE WITH A LABOR PERSPECTIVE

"The battle has shifted from the pavement to the boardroom," announced Jack Sheinkman, president of the Amalgamated Clothing and Textile Workers Union, referring to efforts by Health-Tex Inc. employees. In early 1991, pressure on banks by rank-and-file workers contributed to the survival of Health-Tex, at least temporarily, buying time for the clothing manufacturer to arrange a financial rescue by another firm (Swoboda, 1991, L1).

The late twentieth century has witnessed a resurgence of capital strategies by organized labor, changing with the times. Among these strategies has been the formation or expansion of labor's finance institutions. As in the 1920s, many critics charge that these activities divert valuable attention and resources from organizing and collective bargaining and are likely to undermine the commitment of union leaders to working people (Slott, 1985). Yet, while unions must continue to organize, they cannot opt out of the fundamental financial analysis and practice that shape the new labor–management environment (Weston, Whelan, and McBarnet, 1993, 95–97).

Many of labor's financial institutions resemble conventional firms—banks, insurance companies, pension and benefit funds with diversified portfolios, investment banking firms, and corporate businesses with ESOPs. The challenge for labor is to keep these institutions focused on broader goals and, in the process, to develop business expertise from a labor perspective. The attributes that distinguish these labor ventures from conventional financial entities are essentially threefold—the definition of their constituency, the nature of their control structure, and the strategic use of their capital.

A labor perspective is reflected in the definition of an organization's constituency, such as a bank or insurance company that concentrates its services on the needs of working people or a pension fund operated to benefit retired workers. More fundamentally, it is reflected by who controls an entity. Many a worker-owned company, for example, is technically owned by an ESOP trust and controlled not by the employees but by trustees who view the employees as passive constituents or beneficiaries of the trust. On the other hand, some worker-owned companies are also controlled, in whole or part, by their employees, with greater potential to influence the company operation and policy. Pension funds, too, are administered by independent trustees, although labor can exercise some influence over a fund's investment portfolio.

A labor perspective entails the strategic use of such institutions for affirmative purposes, from job creation and economic development to demanding corporate responsibility toward workers and communities. Labor's capacity in finance is built upon increasing union and worker control of business organizations and upon the sophisticated expertise required to translate that control into stable and accountable financial institutions.

Pension Potential

Finance from a labor perspective requires finance. Thus, pension funds are central to any examination of labor's finance institutions. Pension assets, essentially deferred compensation of millions of workers, total over two and one half *trillion* dollars (Ghilarducci, 1992, 118; Silvers, 1992, 44). Pension funds own about 25 percent of all stock in publicly traded corporations, a number that the federal Department of Labor predicts will reach 40 percent by the year 2000 (Zanglein, 1991, 772). Clearly, at that scale, those who control pension funds hold the potential for enormous influence over the economy and its impact on workers. From labor banks to worker buyouts, pension capital helps drive many of labor's new forays in finance with "targeted investments."

In May 1991, the AFL–CIO Executive Council adopted a policy statement on pension fund investments that includes an assertion that "all workers are entitled to equal participation with employers in the administration and investment of pension fund assets" (AFL–CIO, 1991). Yet, for single-employer plans in the private sector, workers seldom have a say in their pension fund operation. Pensions are administered by trustees or boards of trustees "for the benefit" of the workers, not "by" the workers, and the law does not require employers to have worker or union representation on single-employer pension trustee boards. Trustees are ordinarily professional money managers, often from large commercial banks or insurance companies. Unions can attempt to influence pension funds through collective bargaining, but attempts at negotiating joint union–management representation for single-employer plans have met stiff resistance from employers. In June 1989, Congressman Peter Visclosky (Democrat from Indiana) introduced the Employee Pension Rights Act, calling for employee representation on the boards of trustees for single-employer pension funds. Although reported to the House of Representatives by the Budget Committee, the Visclosky amendment was killed on the House floor and was never enacted (Visclosky, 1989).

Nonetheless, particularly since the 1970s, organized labor has battled over control of pension fund assets, including efforts to achieve union representation in single-employer plans. The more fertile ground today for union influence over pension investment is in multiemployer pension plans. These "Taft–Hartley Plans" typically are sponsored by a union and negotiated with several employers to cover workers in a given industry. By law, Taft–Hartley Plans must be administered jointly by employees and employers.

Similarly, public sector pension funds, which today constitute one-third of total pension assets or almost one trillion dollars, present opportunities for labor participation. The vast majority of public pension plans are administered at the municipal or county level for local government employees, although substantial assets are held by state employee plans. While administrative and governance structures vary widely among the many plans, decision making in public sector pensions tends to be more accessible than in private plans. In addition to collective bargaining, public employees can seek election to boards of trustees of some public funds or can organize collective voter action to influence pension investments. Highly publicized struggles for control of state pension plans, such as the California Public Employee Retirement System (CALPERS), led to a statement by the AFL–CIO Executive Council in early 1992 sounding an alarm about "power grabs" by state and local governments. "Their tactics," stated the council, "include . . . changes in the structure of public employee pension funds that weaken the role of employees" (AFL–CIO Executive Council, 1992).

Even in public sector or jointly administered plans, pension fund trustees are constrained by law in their ability to target investments. A pension fund is ordinarily structured as a trust, a separate legal entity that holds assets for the retirement benefits of workers covered by the pension plan. The workers have no say in the administration of the fund. Instead, a trustee or trustee board has the fiduciary responsibility to operate the fund for the exclusive benefit of the workers, or "participants." Strict standards for this fiduciary duty are defined for private pension funds in ERISA, the Employee Retirement Income Security Act, first enacted in 1974 to protect the interests of pension plan participants. Among these fiduciary standards is prudence in investment, including diversification to minimize the risk of large losses. Although public employee pension funds are not governed by ERISA, analogous fiduciary duties are imposed by common law, state statutes, and certain tax law constraints.

The fiduciary standards of ERISA severely limit trustees in the use of private pension funds for union goals, particularly if such collateral goals undermine the financial return on fund assets. Fiduciary standards for public employee funds impose similar, though slightly less stringent, limitations on trustees. Until recently, pension trustees generally administered pension fund investments without reference to social and political goals of labor, and union leaders tended to defer to trustees' cautious adherence to the prudence rule (Burroughs, 1985, 58).

In the late 1970s, however, organized labor responded to dramatic reports that pension funds were undermining union goals, from pension investments in unsafe or nonunion businesses to financing multinational corporations that were shifting jobs overseas. Earlier, in the late 1950s, some analysis of the potential of pension fund ownership was published and debated (Harbrecht, 1959; Tilove, 1959). But a combination of circumstances two decades later sharpened the issue. First, total pension assets had grown enormously. Second, employers were making increasing concession demands, often coupled with their moves toward union–management cooperation schemes that, at least by logic, might extend to pensions. Third, high unemployment and numerous plant closings suggested unmet social needs that might be addressed with pension investment, particularly when traditional union activities were failing to represent workers adequately in an increasingly complex political economy (MacDonald and Bingham, 1986, 124). In addition, by the 1980s, organized labor's accumulated experience in finance suggested both the potential and capacity for greater union participation in pension control and investment.

The potential for pension investment was underscored for labor, ironically, by management pundit Peter Drucker in his 1976 book describing a new brand of "pension fund socialism" (Drucker, 1976). Responding from a labor perspective, Randy Barber and Jeremy Rifkin in 1978 published a book documenting antiunion uses of pension funds and arguing for the potential of pension fund control (Barber and Rifkin, 1978). With vigor, organized labor accepted the challenge posed by Barber and Rifkin. Since then, union leaders increasingly have pressured pension trustees to avoid antilabor investments and to target investments that support labor.

Protecting the retirement benefits of pension participants is still paramount, as reflected in the legal dictates for fiduciaries to diversify investment, to manage assets with prudence, and to act for the exclusive benefit

of plan participants. But pension investments also can be targeted for the benefit of union members, so long as such investment is not at the expense of overall performance of the pension fund (Wessel, 1986). The AFL–CIO Executive Council, in its 1991 policy statement, provides the contours of a labor perspective in pension fund management: pension trustees must balance financial factors (risk and return) and other direct interests of the pension beneficiaries with such broader factors as "promotion of local economic development," "job creation," "ensuring a safe and healthy environment," and "promotion of corporate responsibility to shareholders, employees and communities in which the company operates" (AFL–CIO, 1991).

How, then, has labor used its increasing pension clout? One way has been through pension trustees' participation in the governance of corporations, where the trustee acts for the pension as an institutional investor in a corporation. A second way has been through targeted investment of pension funds.

As part owner of a corporation, a pension fund has certain limited rights to a voice in corporate governance, access to information, and standing in litigation. Pension trustees can exercise their shareholder rights to influence corporate governance by sponsoring shareholder resolutions, voting their shares in resolutions and in election of directors, or simply negotiating agreements with management in the shadow of their shareholder power. Thus, for instance, the California Public Employees Retirement System, the largest public pension fund, convinced General Motors in 1991 to amend its bylaws to require a majority of its directors to be independent and convinced Avon Products, Inc., to hold semiannual meetings with its major institutional investors to discuss corporate performance and governance (Zanglein, 1991, 774).

Similarly, ACTWU worked with British public pension funds to influence North American activities of Marks & Spencer, a large British retail company. ACTWU represents workers at Brooks Brothers, a Marks & Spencer subsidiary, and pressured the company to improve management of its North American operations, with the explicit intention to introduce a resolution on the subject and to solicit proxies for voting at the company's annual meeting in London (Silvers, 1992, 43, 47). A 1991 ACTWU shareholder resolution at JC Penney strengthened the company's affirmative action policies, while a concurrent initiative at Sears Roebuck resulted in termination of Sears's sales of products made by prison labor in China (Industrial Union Department, 1992, 2). Here, with just a foot in the door, the shareholder role gives the union and its pensions access to corporate decision making and the legitimacy to affect corporate policy.

In large companies, internal corporate policy activity often takes the form of proxy fights, where management solicits proxies from thousands of shareholders. Shareholders ordinarily give management their proxies, with the right to vote according to management's preferences, although shareholders may direct their proxies to be voted differently. In certain circumstances, by law, management must include shareholder proposals with its distribution of proxy solicitation materials, and this has been the vehicle for growing shareholder activism since the 1970s. Pension funds as institutional investors are also in a position to influence corporate control contests. Thus, for example, players in recent takeover battles at Lockheed and NCR actively pursued the support of pension fund shareholders (Zanglein, 1991, 776; Stevenson, 1990).

The potential influence of pension funds as institutional shareholders in large corporations is part of a broader debate about corporate governance. In recent years, this debate has increasingly taken into account a variety of "stakeholders," including employees, who are affected by corporate decisions (Stone, 1991). The influence of stakeholders can take a variety of forms, including shareholder rights of institutional investors and statutory rights of workers and communities in plant shutdowns (Kerson and LeRoy, 1989). Yet, in large, publicly traded corporations, pension trustees' participation as shareholders is somewhat diffuse. Increasing activism by institutional shareholders, including pension funds, demonstrates the potential for strategic influence in corporate governance. Targeted investment, however, has been a more concrete and dramatic mechanism in recent years for strategic use of pension funds, using a portion of retirement funds directly in starting or supporting enterprises.

Targeted Pension Investment

Through the 1980s, Local 675 of the International Union of Operating Engineers in Ft. Lauderdale, Florida, pursued an aggressive strategy of targeted investment. Frustrated by the caution and poor performance of their pension managers and outraged by discoveries that their pension fund helped to finance such antiunion activities as the construction of the National Right-to-Work Committee headquarters in Virginia, the union leaders and pension trustees essentially redirected the pension investments to benefit union members and the local community. The small pension fund set up a program to make affordable mortgages available to union members and financed the development of Park Central, an office park with thirty buildings constructed with union labor and eventually leasing new headquarters to the union. Through Park Central and other construction projects, according to one estimate, Local 675 leveraged over $400 million of construction work for local building trades members (Banks, 1988, 39, 43).

Dennis Walton, as the business manager of Local 675 and chairman of the pension fund's board of trustees, was persistent in his mission to use the fund to create union jobs. The federal Department of Labor challenged Local 675 in 1981, arguing that the fund's trustees violated prudence rules and prohibited transaction rules of ERISA. The dispute wound its way through several years of federal court litigation in Florida, resulting in a federal district court decision in 1985 in favor of the union and pension fund officials (*Donovan v. Walton*, 1985).

Celebrated as a labor victory, the court decision in *Donovan v. Walton* held essentially that the pension fund investment in real estate, designed to create union jobs, was permissible provided that the trustees acted prudently (Shostak, 1991, 246; Chernoff, 1985). The precise meaning of "acting prudently" in the pension context entails a complex array of substantive and procedural guidelines, which nonetheless provide some room for discretion in targeting investments. That is, pension trustees can make investments that further union goals, but only with diligent investigation and careful analysis to produce adequate return on investment.

The saga of Local 675 and Dennis Walton illustrates one way that pensions and union funds can be targeted. It also demonstrates the potential downside of targeted investment, since capital control comes with risk. In an ironic twist, the labor-sponsored insurance company ULLICO initiated foreclosure proceedings in June 1990 against the operating engineers' pension fund as owner of real estate on which ULLICO held a mortgage. This legal action, followed soon after by a Department of Labor challenge to replace the pension fund trustees, signaled the end of several years of targeted investment by the fund (Chernoff, 1990, 1). By 1990, the local real estate investments had soured. Although diversified by product type and among five different properties, nearly all of the fund's assets were invested in real estate in one local geographic market. While the dispute continues, the Pension Benefit Guaranty Corporation is likely to take over the plan (Chernoff, 1991,1).

With the experience of the Operating Engineers Local 675 and other targeted pension investments, unions are seeking the appropriate balance of prudent management and social goals. While the Operating Engineers in Florida broke new ground in targeted pensions, other efforts continue and appear to be lasting. The Sheet Metal Workers National Pension Fund has a diversified portfolio of investment in companies that will employ its members, including investment in research and development in new solar energy technology (Bernstein, 1988). The Michigan State Retirement System is authorized to invest up to 5 percent of its assets in small business or venture capital firms, in order to enhance the state retirement system and expand jobs. Its venture capital portfolio exceeds $700 million, with a return on investment of 20–25 percent and roughly 3,500 jobs created (Zanglein, 1992, 116–17, 132).

Housing finance has been a long-standing focus of organized labor, dating back over four decades to the formation of the United Housing Foundation by a consortium of unions. This focus continues today, as with the California Building Trades' Pension Fund commitment of over $250 million to construction projects built with union labor (Shostak, 1991, 262). This emphasis on housing flows from goals of providing affordable housing to working people, creating union jobs in construction, and making investments that can be secured by real estate.

Operating since 1964, the AFL–CIO Housing Investment Trust (HIT) has pooled close to $650 million, much of it from pension funds, to invest in unionized housing construction. In 1987, the AFL–CIO expanded HIT's scope with formation of the Building Investment Trust (BIT) to invest in commercial and industrial real estate projects. The combined assets of the HIT and BIT programs total almost $1 billion (Coyle, 1993, 7). These HIT and BIT investments range from large-scale projects such as construction of a $5.8 million hotel complex in Taos, New Mexico, to home mortgage financing, such as the 1991 ProLoan program in St. Louis, and funding for renovation of inner-city rental housing in Washington, D.C. (Industrial Union Department 1991). In 1993, the AFL–CIO launched the National Partnerships for Community Investment program, designed to develop housing and commercial property in sixteen major metropolitan areas. Targeted toward inner-city neighborhoods, the National Partnerships initiative has projected investment of half a billion dollars in pension funds and creation of thousands of jobs and housing units over the course of five years.

In Boston, the B & L Non-Profit Housing Co., sponsored by the Bricklayers and Laborers unions, directs pension investment in certificates of deposit in an area bank. The certificates of deposit are federally insured, while the bank, U.S. Trust, provides construction financing at its own risk for local housing development that employs union members and provides affordable housing (Banks, 1988; Zanglein, 1992). This use of intermediary institutions—here, the nonprofit housing company and the local bank—can be a means for community-based pension investment. Rather than local investment directly by such a large financial institution as a pension fund, the use of local intermediaries is often more efficient and locally accountable. Thus, the targeted investment of pensions has helped generate a wider array of financial institutions related to labor—banks, investment funds, worker-owned businesses, and a growing community of experts in business and finance.

These financial institutions, in many cases, have arisen independently of any pension capital but share many of the same social goals and structural attributes as targeted pensions. Over time, these separate institutions may constitute a locally based infrastructure of organizations serving as a vehicle to channel pension capital to communities. For instance, driven by the need for housing assistance to low- and moderate-income union members in Boston, Local 26 of the Hotel, Restaurant, Institutional Employees and Bartenders Union formed the Union Neighborhood Assistance Corporation (UNAC). A separate nonprofit organization, UNAC is a community-based housing assistance effort that links jobs with housing, union members with community groups, and millions of employer and union dollars with affordable housing development. UNAC uses private and public funds to create new units of housing for union members and community residents. It also provides educational, financial, referral, and counseling services to participants, including a housing assistance trust fund (Davidson, 1990).

This multiemployer housing trust fund arose from a 1988 contract that Local 26 negotiated with Boston's unionized hotels. The trust fund is funded by a five-cents-per-hour contribution by employers. It is jointly administered by employer and employee representatives, providing participants with financial assistance for housing, such as funds to reduce down payments on home purchases, funds to assist in initial rental costs, or collateral for loans (Shostak, 1991, 251; Zanglein, 1992). In fact, the efforts of Local 26 helped to precipitate a change in the Taft–Hartley Act (Section 302[c][7]), explicitly permitting unions and employers "to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing."

Labor Banks and Other Intermediaries

"We have to learn *management* as well as ownership," explained labor leader Sidney Hillman in 1927. "That is where labor banking comes in. . . . We have got to find a way for the introduction of democracy into industry" (Josephson, 1952, 320).

The Amalgamated Bank of New York, sixty years after Hillman's statement, apparently has heeded his advice, for its very survival as a successful banking institution is evidence of management savvy. At the same time, Amalgamated reaffirms its labor orientation within its cautious approach. For instance, it offered a variety of special services, including a loan program, for striking workers at NYNEX and at Eastern Airlines in 1989. In 1987, Amalgamated helped three New York locals of the Bridge, Structural and Ornamental Iron Workers Union to make some of their pension fund assets available as low-cost home mortgages for their members. In all, over $3 billion of Taft–Hartley retirement funds are managed by Amalgamated, suggesting huge potential beyond simply providing financial services geared to the needs of working people (Zemke and Schaaf, 1989).

In 1992, Amalgamated Bank announced formation of the Longview Fund, which will invest in the equity of the largest corporations. Much of the earlier social investing focused on negative screens, divesting or avoiding investment in bad corporate citizens, such as those that pollute the environment or treat their workers unfairly. The Longview Fund, instead, will invest in any large company and engage in active shareholder advocacy within these companies in accordance with AFL–CIO guidelines (Industrial Union Department, 1992, 2).

Harking back to the labor banking movement of the 1920s, a half dozen new union-owned banks or savings and loan associations have emerged in the late 1970s and 1980s. These include the First Trade Union Savings Bank in Boston, the United Labor Bank of California, Union Bank & Trust in Minneapolis, the Union National Bank of Colorado in Denver, Union Savings Bank in Albuquerque, and Union Savings and Loan in Phoenix. They join the Amalgamated Bank of New York, now in its seventh decade, in a reemerging cluster of union-sponsored banking institutions (Zanglein, 1992).

"Labor banks" are commercial institutions, savings banks, or savings and loan associations owned by a combination of pension funds, union funds, and/or union members. With the growth in pension funds, the new labor banks are owned, in substantial part, by multiemployer pension funds. First Trade Union Savings Bank, founded in 1987, is wholly owned by the Massachusetts State Carpenters Pension Fund and the Massachusetts State Carpenters Annuity Fund. United Labor Bank of California, acquired in 1991, is owned principally by the northern and southern California affiliates of the California Carpenters Pension Trust and by union members. In contrast, the older banks are owned substantially by unions themselves—Amalgamated (1923) is owned by staff funds of ACTWU, and Brotherhood Bank and Trust (1924) is 40 percent owned by staff funds of the International Brotherhood of Boiler Makers, Ship Builders, Blacksmiths, Forgers and Helpers (Industrial Union Department, 1986, 1). The difference in ownership is significant, in that the substantial pension fund involvement in the newer institutions implicates ERISA constraints on lending practices, from prudence and diversification requirements to prohibited transaction provisions. Still, with careful attention to these ERISA mandates in structure and operation, labor banks can integrate strategic social goals in administering their capital (Noble, 1992).

Like their predecessors, these labor banks offer consumer services to working people, from low-cost banking to financial counseling and loans. Moreover, some are investing their capital strategically with a labor focus, such as the First Trade Union Savings Bank's focus on the housing needs of the local community, including local commercial and real estate lending (Industrial Union Department, 1987).

These institutions, at least in conventional terms, are not typical banks nor typical labor organizations. With such a mix of goals, they grapple with tension between the demands of labor and capital in a single institution. The inherent ambiguity of a labor bank presents a challenge for the newer banks, a challenge met somewhat successfully by Amalgamated Bank of New York.

Of similar vintage to Amalgamated, the Union Labor Life Insurance Company (ULLICO) today has expanded well beyond simple life insurance policies, to a wide variety of insurance products offered by an affiliated group of corporations—a holding company with three insurance providers, an administrative services firm, and a trust fund advisory firm. At the end of 1990, its consolidated assets totaled almost $2 billion, and its annual revenue was over half a million dollars.

This family of corporations hardly looks like a labor institution, and, in fact, ULLICO resembles conventional insurance companies in many ways. How is it any different from Aetna or All-State? ULLICO's focus, much like the labor banks, was, and remains, affordable service to unions and working people, with a certain caution that limits strategic investment of capital. It differs from other insurance companies in its ownership structure, its market niche, and a small portion of its investment portfolio. In each of these three attributes and explicitly in money management and investment assistance to pension trustees, ULLICO is a vehicle for further development of labor's business expertise and practice.

Ownership of ULLICO is confined primarily to labor organizations and their members. Stockholders cannot sell their ownership shares without first offering them to the company for purchase at twenty-five dollars per share. In practice the company purchases all such shares and resells them at twenty-five dollars per share to labor organizations or individuals affiliated with the labor movement.

The union insurance company focuses its services primarily on Taft–Hartley benefit trusts, jointly managed by labor and management, in the health and pension area. By knowing the world of organized labor—unions' resources, abilities, limitations—ULLICO presumably is better able than conventional companies to target labor's particular needs. Thus, in the late 1980s, for example, a number of union leaders approached the company and complained that insurance carriers were abandoning the trustees of Taft–Hartley benefit plans. In a short time, ULLICO became the leading underwriter for fiduciary liability insurance in the Taft–Hartley market (Maher, 1991).

To a limited degree, ULLICO has targeted its investment for the direct benefit of union members. In 1977, it launched the J for Jobs Mortgage Account to channel pension fund investments into union-built construction. Endorsed by the AFL–CIO and the Building and Construction Trades Department, the J for Jobs program promises first mortgages to developers of income-producing properties. This provides the mortgage commitment, prior to construction, that a developer needs to obtain construction financing. A condition of the mortgage commitment is that all construction must be performed by contractors and subcontractors that have collective bargaining agreements with unions affiliated with the AFL–CIO Building Trades. Thus, touts a ULLICO brochure, participating pension plans earn a competitive return, union contractors get business, and union workers are employed (ULLICO, 1990).

With a more populist hue, the Crocus Fund in Winnipeg, Manitoba, offers a Canadian model of a labor-initiated finance institution focused strategically on local economic development (Kreiner, 1992). Created in 1993 by the Manitoba Federation of Labour, the Crocus Fund is a venture capital corporation designed to promote job creation and retention, support local ownership of businesses, and provide opportunity for investment and supplemental retirement benefits for Manitoba residents.

The Crocus Fund is capitalized primarily by investments from citizens of the province, including sales of fund shares to the general public and work site campaigns that facilitate payroll deduction plans or direct sales. The fund is an eligible retirement investment and a potential repository for Canadian equivalents of U.S. individual retirement accounts. As such, all return on individual investments is tax-deferred, and government incentives for investment are a 20 percent provincial tax credit and a 20 percent federal tax credit.

Additional government support for the Crocus Fund includes a $500,000 grant to the Manitoba Federation of Labour to cover a portion of start-up costs and investment in the fund by the provincial government in the amount of $2 million, with an additional $2 million to be triggered by certain performance criteria. Fund organizers projected a modest $5 million in capitalization in 1993, the first year of operation, with total assets of $76 million projected after five years.

On a much larger scale, the Quebec Solidarity Fund started in 1984 with a similar means of capitalization. It now holds assets totaling $600 million in a province with roughly ten times the population of Manitoba. Similar institutions include the Working Ventures Fund in Ontario and the Working Opportunity Fund in British Columbia. Only the Crocus Fund, however, serves, in part, as a vehicle for workers to gain equity in their own companies. The fund intends to serve as an equity partner in some worker buyouts, enabling employees to leverage financing from banks or other lenders. In other cases, the fund lends directly to worker-owned companies or to related employee benefit trusts analogous to American employee stock ownership trusts.

As a model for labor finance and community development, the Crocus Fund is significant in this combination of government, private, and grassroots capitalization and more notably in its governance and in its targeted investment. The fund is governed by a five-person Board of Directors, with a three-member majority selected by the Manitoba Federation of Labour, a federation of provincial unions with 90,000 members. One director is selected by the provincial government, and one is elected at large by the individual investors.

Legislative guidelines and internal criteria require a substantial portion of fund assets to be invested in companies with less than $50 million in assets and with a majority of employees in Manitoba and further require that the fund make its best efforts to assure that a majority of its investments promote employee ownership or employee participation in governance. Thus, the Crocus Fund has combined the mechanism of a labor-sponsored investment fund with a vehicle for local development finance and equity for worker ownership of businesses.

Provincial and federal government policy supports the Crocus Fund to a degree that is literally foreign to many policymakers in the United States. Still, organized labor would do well to import selected elements of this Manitoba model across the Canadian border and adapt them here. At its recent convention, the Washington State AFL–CIO passed a resolution calling for creation of such a fund.

Investment Banking and Financial Consulting

The United States has no exact analogue to Manitoba's Crocus Fund, with such substantial pooling of public and private capital in a labor-controlled fund, combined with its targeted investment in local economic control and development. In early 1990, on a grander scale, the AFL–CIO Industrial Union Department unveiled plans for the Employee Partnership Fund, an investment vehicle for corporate acquisitions by workers. This initiative stalled in the recession years of the early 1990s, facing difficulties in capitalization and lacking the focused tax incentives available in Canada. Nonetheless, the attempt signaled recognition by the AFL–CIO of the need and opportunity for a labor role in equity financing in worker buyouts.

The Employee Partnership Fund was to be capitalized, in large part, by public and private pension funds, providing a pooled outlet for pension fund trustees to target investment of some trust assets. The fund was to serve essentially as an equity partner for workers attempting to buy the companies where they work. To leverage bank loans and other debt financing required for such buyouts, the fund was designed to purchase equity shares in cooperation with worker groups (Bernstein, 1990). Projected capitalization of between $100 million and $200 million, however, proved unfeasible in the midst of recession, and equity investment for worker buyouts tends to be structured instead on an ad hoc basis.

To start and manage the Employee Partnership Fund, the AFL–CIO had selected investment bankers Eugene Keilin and Ron Bloom, who are among an emerging handful of investment bankers with a focus on assisting organized labor (Kilborn, 1990). Before starting their own firm in 1990, Keilin and Bloom were at Lazard Freres & Co., a large New York investment banking firm. While there, Keilin and, later, Bloom assisted in a number of employee buyouts and attempted buyouts in the steel industry and the airline industry. With trust developed among key union leaders with whom they had worked, Keilin and Bloom won the bid for management of the

Employee Partnership Fund despite competing bids from larger and more established investment banking firms.

Primarily in the 1980s, a number of other investment banking and consulting firms emerged to provide business expertise from a labor perspective. Groups such as the Midwest Center for Labor Research in Chicago continue to examine and participate in an array of new strategies for labor, while the Center for Self-Help in Durham, North Carolina, has expanded its credit union activity to include statewide teachers' funds and strategic investing for local economic development. Randy Barber, since the 1978 publication of *The North Will Rise Again*, has continued to advise unions and influence policymakers on issues of pensions and capital through his Center for Economic Organizing. A long list of law firms, business consulting groups, public agencies, and labor institutions has become a key repository for development of sophisticated financial expertise on behalf of labor.

Aside from the pension arena, much of this activity has revolved around organizing worker-owned companies, with learning accumulated from hundreds of projects over more than a decade in groups such as the Industrial Cooperative Association (now the ICA Group, in Boston), PACE of Philadelphia (and now a related consulting group called Praxis), the Michigan Employee Ownership Center in Detroit, the Steel Valley Authority in Pittsburgh, Working Equity, Inc. in New York, the Northeast Ohio Employee Ownership Center, and others. Prolific in generating successful worker buyouts in the early 1990s has been American Capital Strategies, an investment banking firm in Bethesda, Maryland.

WORKER OWNERSHIP

"Employee buyouts are alive and well," announced a news release from American Capital Strategies (ACS) in late 1990. ACS, an investment banking firm for labor, had just completed its fourth ESOP leveraged buyout in less than a year. With ACS arranging the finance packages, two of the transactions resulted in 100 percent ownership by the employees and the other two in a majority of the stock employee-owned. The union played a pivotal role in three of the four deals—the Amalgamated Clothing and Textile Workers at Textileather Corporation, a vinyl plant that was formerly a division of GenCorp, Inc., in Toledo, Ohio; the United Steelworkers of America at the Erie Forge & Steel Company in Erie, Pennsylvania; and the Maryland Brush Company in Baltimore. Financing packages for the four transactions ranged from $5 million to $19 million (Wilkus, 1991).

These cases are neither isolated nor unique. But they reflect a subtle change, as unions increasingly take a lead role in worker ownership transactions, with a more entrepreneurial and less defensive perspective. In recent decades, as in earlier periods of American history, organized labor has reacted with ambivalence—or resistance—to the growth in worker ownership of businesses.

Overview and Critical Perspective

By the end of 1990, close to 12 percent of U.S. private sector workers were participating in employee stock ownership plans (ESOPs), with additional workers involved in other forms of ownership or management participation (Rosen et al., 1991; Heckscher, 1988). That growing percentage of employee ownership compares to the 12.1 percent of private sector workers in unions in 1990 (Hoerr, 1991).

Despite cutbacks in federal programs to support economic development, substantial tax benefits continue to exist for ESOPs and worker cooperatives, and many state governments have programs to support worker ownership. Even Wall Street has entered the fray, with investment banking firms and law firms clamoring for ESOP deals and ESOPs appearing in the 1980s takeover frenzy, often as defensive devices ("ESOPS," 1989, 116). Some unions are taking the offensive in takeover bids, becoming players in the highly technical and competitive world of corporate takeovers and reorganizations (Hyde and Livingston, 1989; Valente, 1989; Swinney, 1991).

As employee ownership has penetrated the mainstream economy, unions are reconsidering their resistance. Organized labor can ill afford to ignore the increase in number and complexity of worker ownership transactions, especially when coupled with decreasing union membership. With due caution and a critical perspective, unions can use worker ownership affirmatively as one ingredient in a mix of capital strategies.

An affirmative union strategy to use worker ownership, just as other capital strategies, requires a critical perspective. Worker buyouts, for instance, have saved jobs, but some of these jobs have lasted only a short time, while others have reduced wages and benefits, relaxed work rules, or threatened the security of pension plans (Pitegoff and Lynd, 1982). Too often, unions have faced the prospect of partial employee ownership in the context of concession bargaining (Metzgar, 1984). Complete and dramatic worker buyouts have been attempted in the crisis of plant closings, in some cases without adequate feasibility analysis in advance or with intensive internal tensions—and thus eventual failure (Lueck, 1987).

In other cases, workers' expectations of ownership rights have been dashed, due to structural obstacles to worker control. In 1975, the machine tool manufacturing South Bend Lathe Inc. became the first company owned 100 percent through an employee stock ownership plan. Five years later, the workers went on strike ("against themselves," according to newspaper headlines) because their corporate structure gave employees no voting rights as shareholders (Whyte et al., 1983). By law, worker ownership need not include worker control. ESOPs, when authorized by Congress in 1974, were designed as a tax-favored financing vehicle for business corporations and as a mechanism for employee benefits—not as a way for employees to govern corporate policy.

Employee ownership, clearly, is not always good for employees. One transaction, highly publicized as unfair to employees, was the attempt of Scott & Fetzer Company to go private in 1985. The corporation's management, along with investment banker Kelso & Company, proposed that an ESOP trust borrow $182 million to purchase 41 percent of Scott & Fetzer outstanding shares, while managers and Kelso were to pay $15 million for 29 percent of the shares, and General Electric Credit (also a lender to the corporation) would be given the right to purchase 30 percent of the company for $4.5 million. The upshot was that the employees would be paying over $44 per share for the same stock that the managers and investment bankers would be buying for $4 to $7 per share and that GE Credit could buy for $1.50 per share (Olson, 1989, 220).

Analyzing the proposed ESOP transaction, ACTWU found it particularly unfair to the employees and publicized its findings. Before the transaction was completed, the federal Department of Labor (DOL) intervened and claimed that the ESOP was receiving less than fair market value for the share price. In fact, argued the DOL, for the proposed prices, the ESOP should receive 67 percent of the shares, and management and the Kelso group should get only 3.3 percent. Despite company negotiation with the DOL, the transaction was not completed (Olson, 1989,221). The controversy over Scott & Fetzer ultimately led to DOL regulations several years later attempting to protect the rights of ESOP participants to get a fair price for the purchase of stock.

Since the South Bend Lathe and Scott & Fetzer experiences, organized labor has become more familiar with the technicalities of ESOPs, including subtle issues of stock valuation and the critical distinctions between worker ownership and worker control. The Industrial Union Department of the AFL–CIO has published guidelines to help unions assess ESOPs and maximize employee rights in such plans—to assure that employee ownership plans are structured in the interest of the workers, not to their detriment ("Guidelines," 1987). The United Steelworkers of America passed resolutions regarding employee stock ownership plans at its 1986, 1988, and 1990 constitutional conventions. These resolutions provide guidelines for selected and strategic use of employee ownership by the union. As of late 1990, roughly 50,000 members of the steelworkers union were participants in twenty-three employee ownership plans (Newman and Yoffee, 1991).

In one of the largest union-initiated worker buyouts to date, employees of United Airlines (UAL) gained majority ownership of their company in June 1994. In a transaction driven by the Air Line Pilots Association (ALPA) and the International Association of Machinists (IAM), the workers acquired a 55 percent stake in UAL, the parent company of United Airlines, in exchange for wage and benefit concessions valued at $4.9 billion over half a dozen years. About 54,000 employees of a total workforce of almost 76,000 were involved in the buyout, agreeing to more flexible work rules and to wage concessions ranging from 8 percent to 15 percent (Bryant, 1994). This was the fifth attempt at an employee acquisition of United over the course of seven years. It was heralded by Labor Secretary Robert Reich as "a major landmark in American business history" and a model for other large companies to restructure without resorting to large-scale layoffs (McCarthy and Quintanilla, 1994).

Four prior buyout efforts had failed at UAL and, at times, were marked by sharp divisions among ALPA, IAM, and the Association of Flight Attendants. Among these disagreements were questions of financial feasibility and finance strategy, as well as differing interests among the three unions and opposition to steep concessions (Valente, 1989; Bryant, 1993; Veverka, 1993). Even in the fifth and apparently successful attempt, the flight attendants opted out of the deal initially, unable to reach agreement with UAL management on concessions. Dissident members of the IAM have vowed to break away from the IAM and to affiliate, instead, with the Aircraft Mechanics Fraternal Association. The Teamsters Union, meanwhile, is attempting to represent United's 20,000 noncontract employees (Moore, 1994). Problems clearly persist, and the new owners of UAL face multiple challenges. By purchasing the airline company while it was still relatively healthy, however, they may have charted a long-term course that will maintain their jobs and give them more of a say over their economic future.

Some commentators maintain that firms owned and controlled by their workers are at a disadvantage in the market economy, due, in part, to the difficulty of establishing an efficient collective governance system for a diverse workforce (Hansmann, 1990, 1779–96; Jensen and Meckling, 1979, 475). Others, in contrast, promote worker ownership as a means of increasing productivity and broadening wealth (Rosen, Klein, and Young, 1986). Neither perspective applies neatly to all worker-owned firms, especially given the wide variation in form and context for worker ownership (Hyde, 1991).

Some union leaders resist worker ownership to avoid undermining the adversarial relationship at the core of collective bargaining or because they fear organizing themselves out of a role (Compa, 1992; Slott, 1985). Yet, unions can play a lead role in assuring that employee ownership is used selectively to increase the rights of workers, to benefit workers in healthy companies, and to strengthen (not weaken) organized labor (Hester, 1988; Swinney, 1985). Such has been the case in a wide range of industries and locales—from wood products in the Northwest to steel in the Midwest and garment manufacturing in the South and in the Northeast. In 1991, ACTWU Local 667A led a successful buyout of clothing manufacturer John Roberts, Ltd., financed by a creative combination of private equity and public investment and organized with broad community involvement. Known now as ACT II, Inc., the company employs 170 workers, who own a portion of the firm and have a voice in corporate decision making (Industrial Cooperative Association, 1991, 9–10).

A business owned by its workers tends to be more rooted in a local community, where the worker-owners live, than a business with distant owners. The local commitment can be all the more dramatic when the ownership structure includes an array of local institutions and builds on the identity of a long enterprise history in the area.

Worker Cooperatives

As a local ownership strategy, harkening back to union activism in the nineteenth century, some contemporary American unions have turned again to worker cooperatives. In 1979, the Independent Drivers Association (IDA) took the lead in a driver takeover of Denver Yellow Cab. A decade earlier, the IDA had separated from the Teamsters to form a strong and unaffiliated local union to bargain with a succession of company owners. Finally, through the buyout of an ongoing and profitable firm, IDA members formed the Denver Yellow Cab Cooperative Association, the fourth largest taxi company in the country at that time—a worker cooperative owned by over 900 drivers (Gunn, 1984, 152–56). Similarly, just a few years later, facing potential shutdown of two dozen A & P supermarkets in Philadelphia, the United Food and Commercial Workers Union, Local 1357, helped its members organize worker cooperatives as part of a strategy to save jobs (Kreiner, 1987).

In a worker cooperative, the corporation is owned and controlled directly by its workers, through democratic election of the Board of Directors. In addition to wages paid regularly as in a conventional firm, corporate profits and losses are allocated equitably among workers on the basis of the amount of work they perform. Worker cooperatives operate throughout the country in a wide variety of business sectors (Ellerman and Pitegoff, 1983).

Some of the most successful worker cooperatives tend to be in service industries, where the workers' direct stake in the success of the business may improve job satisfaction and thus the quality of service. This is clearly the case at Cooperative Home Care Associates, Inc. (CHCA), a worker-owned home care company in Bronx, New York, founded in 1985. The home health aides at CHCA are primarily African-American and Latina women, working in an industry notorious for low wages and high turnover. In contrast, CHCA has a relatively stable workforce of 170 workers who, after a trial period, become part owners of the business, with a say in corporate affairs and a stream of income in addition to basic wages. The successful model of CHCA is being replicated in other parts of the country (CHCA, 1992; Fried, 1989; Surpin, 1987).

Although the leadership of CHCA works in cooperation with organized labor in public policy and advocacy, the company's worker-owners are not unionized. This is due, in part, to the fact that the company operates in a segment of the industry in New York City—proprietary home care enterprises—that is essentially nonunion. But it is due, more fundamentally, to a mismatch between the needs of the workers and the benefits offered by the health care unions.

For the most part, unions lack either the expertise or the will to provide financial advice and support to members in worker-owned companies. Labor leaders appear reluctant to fashion special eligibility criteria or benefits tailored to worker-owners. As discussed later, unions can envision, and have envisioned, an important role in companies with employee ownership. But the CHCA example points to the significant adjustment in perspective and program required for organized labor to move to the center of worker ownership activity. Even in a kindred company such as CHCA, a labor perspective is not necessarily the perspective of organized labor.

ESOPs

Unions that are involved with worker ownership today are more often in companies with ESOPs than in worker cooperatives. This is due, in part, to scale, for worker cooperatives tend to be smaller, in general, than companies with ESOPs. Moreover, much more of today's activity in employee ownership involves ESOPs. An ESOP is a mechanism for employees to own all or part of the corporation where they work and for the corporation to obtain financing with favorable tax treatment. Despite concrete tax advantages for worker cooperatives under Subchapter T of the Internal Revenue Code, ESOP tax advantages are far more compelling, particularly by increasing access to loan capital. ESOPs were authorized by federal law in 1974. In the subsequent fifteen years, over 10,000 companies formed ESOPs (Blasi, 1988).

Business owners usually form an ESOP because it provides substantial tax advantages to the company or the owner, and employees stand to benefit by eventually receiving stock or cash if the company does well. Only in a small percentage of cases, however, do employees control a company through an ESOP. The National Center for Employee Ownership estimates that as few as 200 companies with ESOPs are controlled by their employees, with the anticipation of several hundred more (but still under 5 percent of all companies with ESOPs) planning for majority control by the employees in the foreseeable future (Snyder, 1992). This apparent irony of so few worker-controlled companies among the thousands with ESOPs is, in large part, because worker interests are not the predominant purpose of most ESOP arrangements. As a tax-favored means of company financing or a vehicle for an owner to sell company shares for cash, ESOPs ordinarily are designed by management without substantial involvement of the employees in the ESOP's creation or in its subsequent operation. Many ESOPs own only a small percentage of the company, while some ESOPs hold a substantial majority of the company stock but still limit the shareholder rights of employees.

The term *worker ownership* thus refers to a wide range of circumstances—from management-initiated benefit plans giving employees little or no say in corporate affairs, to corporations whose employees own a controlling interest and whose union plays an active role. Union leaders and members must be prepared to distinguish between various employee ownership plans and to advocate private and public policies that shape employee ownership toward forms that best serve their members and the community.

Basic structural questions about any worker-owned firm are (1) amount of ownership—what percentage of company stock do employees own? (2) breadth of ownership—how widely and equitably is stock allocated among the workers? and (3) amount of control—do employees have the right to vote on critical issues and in election of the Board of Directors? (Dawson, 1987). These structural questions are crucial for unions or workers assessing the potential ownership structure in a worker buyout of a firm or in negotiations with respect to the formation of an ESOP in an existing firm. Just as important, however, is the broader corporate culture, including labor–management relations and organizational history and norms. Thus, for instance, the garment workers in Maine who helped buy clothing manufacturer John Roberts, Ltd., and now own a minority share in ACT II, Inc., feel some pride in their company. This is due, in part, to saving 170 jobs but also arises from the goodwill engendered and persisting in the coalition effort for local ownership (ICA, 1991, 9–10).

Technically, an ESOP is a special type of employee benefit plan, governed by federal tax law (the Internal Revenue Code) and pension law (ERISA). It is somewhat similar to a pension plan because the employer provides a deferred benefit to its employees. A pension plan, however, makes diversified investments on behalf of the employees, and the employees' benefits are federally insured. Unlike a pension plan, an ESOP invests primarily in stock shares of the employer, and the employees' benefits are at risk of loss if the company fails.

To establish an ESOP, a corporation forms an employee benefit trust, subject to approval by the Internal Revenue Service and the Federal Department of Labor. The trust is a separate legal entity formed to hold company stock on behalf of the employees, although not necessarily controlled by the employees. A trustee, selected ordinarily by the company's Board of Directors, administers the ESOP and controls the assets (stock and cash) held by the ESOP. The ESOP borrows money from a bank or other lender, and these funds are used to buy some or all of the company's stock shares. The

company can use the borrowed money for any corporate purposes, and some or all of the company is owned by the employees through the ESOP.

Each year, the company makes cash contributions to the ESOP so that the ESOP can repay the bank. Essentially, the company is repaying the bank loan, but the company also receives a tax deduction for the entire amount of the payments (interest and principal). A non-ESOP company would get a much smaller deduction (only interest) for repaying a loan. This "tax-favored financing" for companies with ESOPs is a major reason for the popularity of ESOPs. In addition, ESOPs have many other tax benefits. For instance, employees are not taxed on their benefits until they receive distributions out of the ESOP (usually upon termination or retirement). Even the bank that lends money to an ESOP gets a tax break in certain cases.

Aside from company tax advantages, the ESOP mechanism is important to unions and employees for another reason. As the company repays the loan through the ESOP, stock shares in the ESOP are "allocated" to accounts in the name of the employees. Generally, employees can withdraw their stock or the cash value of that stock upon retirement or other termination of employment.

The ESOP can be critical in defining the rights of the employees in corporate decision making. Ownership of corporate stock ordinarily carries the right to vote on a range of shareholder issues, including election of the corporation's Board of Directors. But in closely held corporations, where stock is not traded on the public market, stock held in an ESOP for the benefit of employees is ordinarily voted by the ESOP trustee, not by the employees. The law requires only that votes be "passed through" to employees on certain major corporate changes such as merger or dissolution of the company. Some ESOPs are in large corporations with publicly traded stock. In those companies, the law requires voting rights to be passed through to employees, but the employees' percentage of the corporation's stock and thus their portion of voting power are typically quite small. The vast majority of ESOPs are in closely held corporations, and the norm in these companies is to limit the pass-through of voting rights to employees.

The ESOP *can* be structured, however, to give the employees the right to vote as shareholders on important issues. One of the most important issues for voting is the election of the corporation's Board of Directors, since it has the authority to govern and oversee management of the corporation. Thus, a "majority ESOP" with the trust holding a controlling portion of company stock can be a mechanism for democratic worker ownership and control in a corporation (Kaufman, 1989; Pitegoff, 1987). Whether or not a majority of company stock is held by the ESOP trust, ESOPs can give employees a voice in corporate affairs.

Even in the most democratic of corporate structures, however, it is important to note the limitations of workers' rights as shareholders. By law, it is not the shareholders but the Board of Directors that governs any business corporation. In practice, especially in larger, conventional corporations, this separation of ownership and control is quite pronounced, with management playing a dominant role and shareholder rights and participation extremely limited (Berle and Means, 1932). In a corporation closely held by the employees, their rights as shareholders may be expanded through corporate charter, bylaws, and agreements, but the Board of Directors is still charged by law with responsibility for managing the corporation. In practice, even in worker-controlled companies, the governance rights that workers can exercise as shareholders are often limited to election of the directors and voting on major corporate issues.

Thus, corporate structure alone cannot make a company democratic. Worker ownership and control as shareholders may be a necessary, but not sufficient, element for a democratic workplace. For this reason, many worker-owned companies supplement the ownership structure with other mechanisms for employee participation and influence. The union and a collective bargaining agreement, in many cases, provide additional rights for employees to affect corporate activity. Programs may be established for shop floor participation or other shared decision making in operational matters. Management and board policies can reinforce a participatory system (Banks and Metzgar, 1989).

The ESOP, though, is the primary way that employees get rights *as owners*. Most ESOPs are essentially a tool for financing and a passive benefit for employees. Nonetheless, unions have the opportunity to use the ESOP for tax-favored financing *and* for participation in corporate affairs. One example is the Seymour Specialty Wire Company in Seymour, Connecticut. In 1985, members of United Automobile Workers (UAW) Local 1827 led a buyout of Bridgeport Brass from its parent company, National Distillers. For the next seven years, the wire manufacturing company was 100 percent owned by its 270 hourly and salaried employees, with a majority of the Board of Directors elected democratically by the employees. The company performed well for a number of years, with the local union leadership playing an active role (Hanson and Adams, 1987). Unfortunately, racked by the recession of the early 1990s, the worker-owners lost their jobs and their share, if any, of accumulated earnings when the company folded in the summer of 1992.

Union Role

Worker ownership will not eliminate the union role in such companies, unless organized labor ignores and avoids the growth of worker-owned firms. Unions can use worker ownership in selected circumstances as part of a long-term strategy to retain jobs and membership and to sustain a progressive voice in economic policy. Organized labor should prepare for both an internal role and an external role in worker ownership (Pitegoff, 1989).

The role of a union within a worker-owned company varies as the nature of the ownership changes. If, for instance, the employees do not have majority control of the company, the union's role as collective bargaining agent is likely to persist, as in a conventional company. Even in enterprises with a democratic corporate structure—with employees electing the Board of Directors and controlling the voting on important shareholder issues—the union has a critical role in assuring that the democratic process of decision making works. Similar to the "legitimate opposition" in parliamentary systems of political democracy, a union can provide a protected and informed voice to counter that of the management in a worker-owned firm (Ellerman, 1986). Experience has shown that, even in worker-controlled companies, disagreements and conflicts inevitably arise (Johnson and Whyte, 1977).

To a limited degree, the union can be a guarantor of free speech, as well as an institution to inform that speech with data and analysis developed independently from those persons managing the company or even from the groupthink of the majority. The union also can protect individual rights against unfair treatment, through a grievance system available to all employees in the firm (Whyte and Whyte, 1988, 276).

Externally, unions are of critical importance to their members in the context of worker ownership. Union members in worker-owned companies can turn to their union for benefit plans and political clout that require a larger institution than the particular company. Solidarity among union members in different firms arguably can help to reduce the tendency of worker-owned firms to compete to the detriment of one another or of workers in conventional firms.

Unions also can provide technical assistance in worker buyouts to avert shutdowns, and they can be especially effective, as in some of the steelworkers' efforts, by helping to anticipate potential shutdowns long before they happen. Proactive strategies can lead to worker-owned companies with greater potential for success than in crisis situations. In practical terms, an ongoing union role in a worker-owned firm is all the more likely if the union played a lead role in facilitating worker ownership in the first place. Unions can retain membership and better serve their members in some circumstances by playing an affirmative role in worker ownership strategies.

This vision of a new role for unions with worker-owned companies requires an expansion of traditional union activities and expertise, as evidenced by the absence of a union at Cooperative Home Care Associates. In order to help their members in worker buyouts or worker-owned companies, unions must become more familiar and comfortable with new disciplines beyond traditional labor–management relations and labor law.

This necessity is already apparent, as unions increasingly become involved in matters previously thought to be strictly in the managerial domain.

CONCLUSION: IMPLICATIONS FOR LABOR, CAPITAL, AND UNIONS

Today, with increasing expertise in matters of corporate finance and ownership, unions can use worker ownership to their advantage and for increasing worker control of enterprises. Worker ownership is one of several tracks that can help unions build their necessary expertise and mind-set for capital strategies and for a creative role in public policy (Barber, 1987).

Union activity has broadened significantly to encompass business planning, finance, and corporate governance, as well as bankruptcy, all too clearly evidenced in the lengthy bankruptcy proceedings at Eastern Airlines. Despite conflict among the pilots, machinists, and flight attendants at United Airlines in their employee buyout attempts, it is significant simply that their interunion disagreement was often over capital transactions and business judgment.

More positively, labor is playing an important role in the targeting of pension funds toward affirmative investments and in their exercise of shareholder rights as institutional investors in large corporations. Labor banks and other financial intermediaries are giving form to a nascent infrastructure of finance institutions with a labor perspective.

With the ever-changing interplay of labor and capital, however, questions persist. The frequency of failed initiatives by labor in business and finance, some recounted here, is a troubling reminder of the risk involved, particularly in crisis situations. But even where successful, can labor's finance institutions retain a labor perspective, as they compete in the marketplace and attend to the bottom line? Will forays in finance leave workers behind and distract unions from their primary goal of representing working people? Who, in particular, will be the constituents of organized labor in the years to come?

Despite these questions, the growing scale and sophistication of finance institutions with a labor perspective suggest that organized labor can expand its mandate and its constituency. In the context of global competition and technological change, unions will find it difficult to thrive without an active hand in capital strategies and finance. Organized labor faces a challenge, not only of building its own financial capacity and institutions but of assuring that these institutions remain broadly accountable and that labor's capital is deployed strategically for widespread benefit.