

AN ANALYSIS OF THE EXTENT OF  
CORPORATE OWNERSHIP AND CONTROL  
BY PRIVATE PENSION FUNDS

Thesis for the Degree of Ph. D.  
MICHIGAN STATE UNIVERSITY  
Dwayne Earl Wrightsman  
1964

This is to certify that the

thesis entitled


An Analysis of the Extent of Corporate Ownership  
and Control by Private Pension Funds

presented by

Dwayne Earl Wrightsman

has been accepted towards fulfillment  
of the requirements for

Ph.D. degree in Economics

  
Major professor

Date June, 1964

0-169





## ABSTRACT

### AN ANALYSIS OF THE EXTENT OF CORPORATE OWNERSHIP AND CONTROL BY PRIVATE PENSION FUNDS

by Dwayne Earl Wrightsman

Much has been said about the phenomenal rate at which private pension funds are buying common stock. This has led some to question whether the funds' trustees are acquiring voting control of the companies whose stocks are being purchased. Unfortunately, little has been done in the way of anatomizing the funds' holdings to determine how much voting power the trustees actually have. The contention of this thesis is that the degree of record ownership and voting control of individual corporations by individual pension funding media is sizable, i.e., sufficient enough to warrant serious public and legislative concern. An effort is therefore made to quantify the extent of this ownership-control.

Information was drawn from three primary sources. First, the literature was surveyed. Studies by Congressional and private bodies were found to contain much useful data suitable for synthesis. Second, the descriptions and financial reports of a sample of 232 randomly-selected pension plans were examined at the Department of Labor's Office of Welfare and Pension Plans. The sample was stratified to



include larger proportions of larger plans. Thus it was possible to study more than 25 percent of the assets of all noninsured pension funds. Finally, a questionnaire on corporate-trusteed pension funds was sent to 68 banks believed to be the most prominent in the pension trust business. Twenty-eight of the banks responded. Their replies were analyzed and incorporated into the thesis.

The majority of pension fund trustees are found to have negligible voting control of portfolio companies. However, the leading banks in the pension trust business are shown to have the potential to influence or control some of this country's largest corporations. Moreover, it is found that the pension funds of individual companies are frequently invested in own-company stock, with the funds' company-appointed trustees acquiring substantial voting control in some instances. In addition, specific cases are presented in which company pension funds have been invested in controlling blocks of stock of competitor, supplier, and customer companies.

The main conclusion of the thesis is that the extent of corporate ownership by pension funds and their trustees is sizable enough to constitute a possible control problem. The trustees are well on their way to becoming the principal voting stockholders of the large, listed corporations. As this ownership is highly concentrated, a small minority of the trustees already have considerable management-determining potential. This potential could be used, more extensively than it has so far, to effect a greater concentration

Dwayne Earl Wrightsman

of operating control of industry. A strong policy to limit the trustees in their voting power over portfolio companies is, therefore, prescribed. In this connection, the need is stressed for (1) additional disclosure legislation, (2) some regulation of investment, and (3) more stringent application of the antitrust laws.

AN ANALYSIS OF THE EXTENT OF CORPORATE OWNERSHIP  
AND CONTROL BY PRIVATE PENSION FUNDS

By

Dwayne Earl Wrightsman

A THESIS

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
for the degree of

DOCTOR OF PHILOSOPHY

Department of Economics

1964



## ACKNOWLEDGEMENTS

I am deeply indebted to a number of persons and organizations for their generous assistance and helpful advice in the preparation of this thesis. Professor Walter Adams, under whose direction the thesis was written, was instrumental in securing resources--financial and otherwise--without which the research and drafting of the thesis could not have been accomplished. Professors Joel B. Dirlam and Jack R. Vernon were sympathetic to certain problems besetting me and kindly made suggestions in their behalf. Professor Robert F. Lanzillotti gave his support in securing financial assistance for research. The actual financing of the thesis program was provided by the Ford Foundation to which I am very grateful for a dissertation fellowship award. In conducting research, I am especially indebted to Messrs. Lewis Odom and Ben Gordon, staff members of the Select Committee on Small Business of the U.S. Senate, and to Messrs. Norris Sacharoff and John Hunter, Office of Welfare and Pension Plans of the U.S. Department of Labor, all of whom were uncommonly helpful in a variety of ways. I am also obliged to the many bankers who took time to answer the questionnaire sent to them. Finally, I am indebted to my wife, Susan, who gave me her unending moral

support. Her encouragement and faith in my work more than once provided the push to carry on according to schedule. Of course, none of the above are responsible in any way for what is said in the text. For this I assume full responsibility.

## TABLE OF CONTENTS

	Page
ACKNOWLEDGEMENTS . . . . .	ii
LIST OF TABLES . . . . .	vi
LIST OF ILLUSTRATIONS. . . . .	ix
Chapter	
I. INTRODUCTION . . . . .	1
II. THE AGGREGATE SIZE OF PRIVATE PENSION FUNDS .	17
A. Introduction	
B. Empirical Findings	
C. Projected Growth for 1970 and 1980	
D. Conclusion	
III. THE CONCENTRATION OF FINANCIAL CONTROL OF PRIVATE PENSION FUNDS. . . . .	46
A. Introduction	
B. Concentration of Assets in Individual Pension Funds	
C. Concentration of Financial Control by Corporate Trustees	
D. Concentration of Financial Control by Individual Trustees	
E. Concentration of Financial Control by Insurance Carriers	
F. Conclusion	
IV. CORPORATE TRUSTEES AND PORTFOLIO COMPANY CONTROL. . . . .	77
A. Introduction	
B. Corporate Trustee Holdings of Portfolio Company Stocks	

C. Behavior of Corporate Trustees as Stockholders	
D. Conclusion	
V. THE INVESTMENT OF PRIVATE PENSION FUNDS IN OWN-COMPANY SECURITIES . . . . .	98
A. Introduction	
B. Number of Pension Funds Invested in Own-Company Securities	
C. Nature of Own-Company Investments	
D. Income Performance of Pension Funds Invested in Own-Company Securities	
E. Pension Fund Investment in Own-Company Stock and Its Effect upon Corporate Control	
F. Conclusion	
VI. THE INVESTMENT OF PRIVATE PENSION FUNDS IN THE STOCKS OF COMPETITOR, SUPPLIER, AND CUSTOMER COMPANIES . . . . .	121
A. Introduction	
B. Trustee Policies Regarding Investment in the Stocks of Related Companies	
C. Cases Involving the Use of a Pension Fund to Promote Corporate Integration	
D. Conclusion	
VII. PUBLIC CONTROL OF PRIVATE PENSION FUNDS. . .	136
A. Introduction	
B. Federal Regulation of Private Pension Funds	
C. State Regulation of Private Pension Funds	
D. Conclusion	
VIII. CONCLUSION . . . . .	157
APPENDIX . . . . .	169
BIBLIOGRAPHY . . . . .	190



## LIST OF TABLES

Table	Page
1. Stratification by Amount of Contributions in the Random Sample of 232 Pension Plans . . . . .	15
2. Book Value of Assets of All Insured and Non-Insured Pension Funds in Billions of Dollars, 1945-1962 . . . . .	20
3. Distribution of Assets, at Book Value, of All Noninsured Pension Funds in Billions of Dollars, 1957-1962 . . . . .	22
4. Savings in Private Pension Funds as a Share of the Financial Assets of Consumers, 1945-1960. . .	24
5. Saving through Private Pension Funds as a Share of the Net Acquisition of Financial Assets by Consumers, 1946-1960 . . . . .	26
6. Corporate Stockholdings of Corporate Noninsured Pension Funds as a Share of the Total Market Value of All Corporate Stock Outstanding, 1954-1960 . . . . .	28
7. Net Purchases of Common and Preferred Stock by Pension Funds Compared to Net Additions to Total Stock Outstanding, 1946-1962. . . . .	29
8. Growth and Maturation of a Hypothetical Pension Fund . . . . .	33
9. Estimated Book Values of Assets of Private Insured Pension Funds, Private Noninsured Pension Funds, and All Private Pension Funds, in Billions of Dollars, for the Years-Ending 1970 and 1980 . . . . .	35

Table	Page
10. Estimated Distribution of Assets of All Private Noninsured Pension Funds for the Years-Ending 1970 and 1980 . . . . .	39
11. Estimated Percentage Share of Total Corporate Stock Outstanding Held by Corporate Noninsured Pension Funds for the Years-Ending 1970 and 1980. . . . .	41
12. Estimated Concentration of Assets in Individual Noninsured Pension Funds for the Year-Ending 1962 . . . . .	48
13. Book Value of Assets of the 12 Largest Noninsured Pension Funds in the Writer's Stratified Random Sample of 232 Funds . . . . .	49
14. Banks Administering 100 or More Pension Funds in 1955. . . . .	52
15. Sample Distribution of Assets of 125 Randomly-Selected Pension Funds among Leading Banks for the Year-Ending 1962. . . . .	54
16. Number of Pension Trust Accounts, Average Rate of Return on Investments, and Typical Trustee Fee for Investment Service, for Each of Eighteen Banks Responding to the Questionnaire on Corporate-Trusteed Pension Funds. . . . .	57
17. Location of Corporate Trustee of Each of 125 Pension Funds in Reference to Location of Sponsoring Company. . . . .	58
18. Interlocking Directorates between 17 Large Banks and 125 Pension Fund Clients . . . . .	60
19. Sample Distribution of Pension Fund Assets among the Individual Trustees of 49 Randomly-Selected Funds . . . . .	67
20. Distribution of Pension Plan Premium Income among 33 Life Insurance Carriers in Connection with 76 Randomly-Selected Plans, 1962. . . . .	70

Table	Page
21. Distribution of Group Annuity Premium Income among All United States Life Insurance Companies, 1960 . . . . .	71
22. Cases in Which a Bank Held a Voting Stock in a Pension Trust and in Which the Amount Held, Together with the Amounts Held in Other Trusts of the Bank, Exceeded Five Percent of the Total Stock Outstanding, for the Year-Ending 1955 . . .	83
23. Party-in-Interest Investments and Loans in 44 Pension Funds in the Stratified Random Sample of 232 Funds . . . . .	105
24. Approximate Amount of Own-Company Stock in Each of 30 Pension Funds in the Stratified Random Sample of 232 Funds, Expressed as a Percent of Total Shares Outstanding. . . . .	114

## LIST OF ILLUSTRATIONS

Figure	Page
1. Graphical Projection of the Growth in Assets of Private Pension Funds, in Book Value, in Billions of Dollars, for the Period 1950-1980 . . . . .	37

## CHAPTER I

### INTRODUCTION

Background. In the language of the Welfare and Pension Plans Disclosure Act of 1958, a pension plan is broadly defined as:

. . . any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.<sup>1</sup>

While a few pension plans are financed on a pay-as-you-go basis, the vast majority are funded:

The conventional approach to the financing of pension benefits is for the employer (and employees, if the plan is contributory) to set aside funds for the payment of such benefits with a trustee or insurance company in advance of the date on which the benefits become payable.<sup>2</sup>

Provisions for retirement benefits may vary considerably from plan to plan. They may be fixed at some pre-determined amount, with contributions to the fund determined actuarially, or they may

---

<sup>1</sup> Public Law 85-836, as amended by Public Law 87-420, sec. 3 (2).

<sup>2</sup> Dan M. McGill, Fulfilling Pension Expectations (Homewood, Illinois: Richard D. Irwin, 1962), p. 128.

depend, as in the case of profit-sharing pension funds, upon contributions based upon future earnings of the employer.<sup>3</sup>

Funds established and maintained in the private sector of the economy have come to be known as private pension funds, of which those established by corporations and unions are the most common. Government pension funds, on the other hand, include railroad retirement, Civil Service, state and local, Federal Old Age Survivors Insurance, and federal disability insurance funds. Only private funds are considered in this study.

No one knows the precise number of private pension funds that currently exist in this country. Estimates range in the general vicinity of 60,000.

The book value of the assets of the funds should reach \$70 billion in 1964, exceeding in value the assets of all government pension funds combined.<sup>4</sup> While the private pension system is already one of the largest financial institutions in America, it is destined to become much larger. The growth of the assets of the

---

<sup>3</sup>Most of the various funding arrangements are spelled out in simple terms in: Pensions and Profit Sharing (Washington: The Bureau of National Affairs, Inc., 1956).

<sup>4</sup>According to statistics developed by the Securities and Exchange Commission, private pension funds are growing at a rate of \$5-6 billion per annum while government funds are increasing by only \$2-3 billion. At the end of 1962, private pension funds had a value of \$60.7 billion, compared to \$61.3 billion for the government funds. U.S., Securities and Exchange Commission, Corporate Pension Funds, 1962, Statistical Series Release No. 1902, May 24, 1963.

funds has been truly phenomenal, and there is no indication that it will taper off in the near future.

Equally impressive is the amount of corporate stock being acquired by the funds as they grow. In 1962, their net purchases of common and preferred stock was equal in amount to 80 percent of the total net additions to stocks outstanding.<sup>5</sup> Stock investment is necessary for pension funds because of the nature of their commitments. Retirement benefits are usually set up to equal some fraction of the remuneration received by each employee just prior to his retirement. This means that retirement benefits are variable-dollar obligations. Indeed, given wage inflation, the benefits must be continuously increased. Consequently, the pension funds are obliged to hedge against this by investing in common stock. This is precisely what they are doing.

To what extent have the pension funds come into ownership and voting control of the corporations whose stocks they have purchased? Because the funds have stepped-up their equity holdings at an extremely rapid pace, this question has assumed increasing significance in the eyes of many social scientists. Notably, Professor Adolf A. Berle, Jr., Columbia University Law School, has lectured and written about pension funds coming into greater corporate ownership through their common stock investments, with more and

---

<sup>5</sup>Ibid.

more corporate voting power passing into the hands of the funds' trustees. In 1957, Professor Berle prepared for the Fund for the Republic's Center for the Study of Democratic Institutions a pamphlet in which he expounded his theory of the current metamorphosis of power over property.<sup>6</sup> Concerning the role of the pension funds, Professor Berle predicted:

. . . if the pension trusts continue to take the good equities as they have been doing, they may well have the prevailing control-stockholding position and the capacity to make it absolute. They will have, say, 20 per cent to 30 per cent of the good equity stocks and the capacity to increase that to 40 per cent or 50 per cent (45 per cent for practical purposes is a majority at any big stockholders' meeting).

Unfortunately, only a handful of empirical studies have touched on the subject of pension funds and corporate voting control. These were turned out in the 1950's, when Congress and the legislatures of a few states, most notably New York, began to investigate the realm of private pension funds. In 1955, the New York State Banking Department completed an empirical study on 1,024 pension funds trusted by New York banks.<sup>8</sup> The study revealed (1) a high concentration of assets in the largest pension funds,<sup>9</sup> (2) a high

---

<sup>6</sup>Adolf A. Berle, Jr., Economic Power and the Free Society (Santa Barbara, California: Center for the Study of Democratic Institutions, 1957).

<sup>7</sup>Ibid., p. 12. Essentially the same contention is stated in his later book: Adolf A. Berle, Jr., Power Without Property (New York: Harcourt, Brace and Company, 1959), p. 54.

<sup>8</sup>George A. Mooney, Pension and Other Employee Welfare Plans, New York State Banking Department, 1955.

<sup>9</sup>Ibid., p. 31.



concentration of pension trusts in the largest bank and trust companies,<sup>10</sup> and (3) a high concentration of pension fund common-stock holdings in a small number of issues.<sup>11</sup> While the study did not list individual-bank holdings of individual portfolio companies, the data shown on combined holdings by banks<sup>12</sup> suggested that individual banks had substantial holdings in large corporations in a number of instances.

In 1956, the New York State Insurance Department completed a study of a cross-section of private employee benefit plans.<sup>13</sup> One major problem raised in the study was that of self-dealing investment of a pension fund.<sup>14</sup> Looking into the assets of a large number of individual funds, the Department found numerous instances in which a fund was invested heavily in own-company common stock, remarking:

Where a pension fund, managed by executives of a large corporation, holds a sizable block of the company's stock, it would be virtually impossible for outsiders carrying on a proxy fight to remove the inside group already in control. Such insiders, by loading the pension fund with the company's stock can, in effect, entrench the position of existing

---

<sup>10</sup>Ibid., pp. 1-2.

<sup>11</sup>Ibid., p. 4.

<sup>12</sup>Ibid.

<sup>13</sup>Martin House, Private Employee Benefit Plans: A Public Trust, New York State Insurance Department, 1956.

<sup>14</sup>Ibid., pp. 128-29, 326-339.

management beyond realistic possibility of attack, although the management itself may own negligible amounts of stock.<sup>15</sup>

However, the study contained no evidence on the extent to which the trustees of the funds possessed or used this power.

In the same year, the most important of all the government investigations was concluded, viz., the welfare and pension plans investigation of the U.S. Senate Committee on Labor and Public Welfare. In its final report,<sup>16</sup> the Committee summarized its findings of the abuses and problems in welfare and pension plans, including the problem of corporate control. With regard to the latter, the Committee reported these findings:

(1) Sixty-six banks were known to have 5,269 pension and other employee trust accounts (predominantly profit-sharing plans with retirement features) with aggregate assets of \$8,256 million, which, at that time, represented the bulk of the total assets of all corporate-trusted pension funds.<sup>17</sup>

(2) Twenty-six of the 66 banks admitted a total of 100 instances in which they had portfolio company holdings of five per cent or more of the company's outstanding common stock.<sup>18</sup>

---

<sup>15</sup>Ibid., p. 329.

<sup>16</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Final Report, 84th Cong., 2nd Sess., 1956.

<sup>17</sup>Ibid., p. 52.

<sup>18</sup>Ibid., p. 361.

(3) Of the 3,191 noninsured pension plans trustee'd by the 66 banks, 195 (six percent) held securities of the sponsoring company in the fund, and in 65 cases, these assets amounted to more than ten percent of the total assets of the fund.<sup>19</sup>

(4) Of the 1,538 profit-sharing plans with retirement features trustee'd by the 66 banks, 195 held own-company securities in the fund, and in 112 cases, these assets came to more than ten percent of the total assets of the fund.<sup>20</sup>

Although the Committee did not report directly on whether the own-company stockholdings gave the funds voting control of their sponsoring companies, a disquietude about own-company dealings was expressed:

It seems obvious to us that there are a number of instances. . . in which the heavy investment in the assets of the employer may not be in the interests of the beneficiaries and in which the investment may have been motivated, at least in part, by ulterior considerations.<sup>21</sup>

Conjoining Professor Berle's foundations with the empirical data presented in the government studies, two important analyses of the relation between pension fund investment and corporate ownership and control appeared in 1959. In Pension Funds and Economic Power, Dr. Paul P. Harbrecht, S.J., a former student of Professor Berle,

---

<sup>19</sup>Ibid., pp. 52, 360, 362-63.

<sup>20</sup>Ibid., pp. 360-61, 363-65.

<sup>21</sup>Ibid., p. 52.

offered the most comprehensive analysis of the power aspects of pension funds that has been written to date.<sup>22</sup> However, Dr. Harbrecht's purpose in reporting the facts about the nature of pension funds and power over property was not so much to determine the extent of corporate voting control by pension fund trustees as it was to develop a theory of what he called the "paraproprietal" society.<sup>23</sup> In sacrificing depth for breadth, Dr. Harbrecht devoted only three pages specifically to the matter of potential control of corporations by pension trustees.<sup>24</sup>

The other analysis to come out in 1959 was Robert Tilove's report to the Fund for the Republic, Pension Funds and Economic Freedom.<sup>25</sup> Considering the question of "whether the common-stock investments of pension funds will help to effect a concentration of corporate control," Mr. Tilove correctly diagnosed:

This question involves inquiry into the past and future growth of pension funds, their acquisition of common stock, the management of their investments, their relation to other

---

<sup>22</sup>Paul P. Harbrecht, S.J., Pension Funds and Economic Power (New York: The Twentieth Century Fund, 1959).

<sup>23</sup>This was defined by Father Harbrecht as a society in which "man's relationship to things--material wealth--no longer determines his place in society (as it did in a strong proprietary system) but his place in society now determines his relationship to things." Ibid., p. 287.

<sup>24</sup>Ibid., pp.248-250.

<sup>25</sup>Robert Tilove, Pension Funds and Economic Freedom (New York: The Fund for the Republic, 1959).

institutional investors, and the possibility that stock ownership by funds and other institutions will be translated into influence and control over the companies whose stock they own.<sup>26</sup>

In viewing the rapid growth of common-stock holdings by the funds in a limited number of issues, Mr. Tilove recognized a large potential for corporate control.<sup>27</sup> In this connection, he declared that:

The question of potential control or influence over corporations through the use of the voting power can be considered in three fairly distinct categories: (1) Use of a company's pension fund to buy its own common stock, (2) Use of a company's pension fund to buy stock in a company in which it intends to exercise influence, and (3) The impact on corporate control and policy of aggregate institutional holdings.<sup>28</sup>

After examining a few cases in which a pension fund had acquired substantial voting control of its sponsor or other company, Mr. Tilove concluded that these cases were exceptional and probably did not represent any trend.<sup>29</sup> Furthermore, he claimed that the corporate trustees of pension funds, while they had a significant share of ownership of particular corporations, were definitely not anxious to use the potential for the purpose of control.<sup>30</sup> Consequently, as he interpreted the evidence, there was no "threat for the near future" that the funds would effect a concentration of power.

---

<sup>26</sup>Ibid., p. 30.

<sup>27</sup>Ibid., p. 54.

<sup>28</sup>Ibid., p. 56.

<sup>29</sup>Ibid., pp. 60, 85.

<sup>30</sup>Ibid., p. 85.

Nevertheless, he suggested in the final words of the report that:

. . . reasonable steps might be taken to give the public the opportunity to appraise, from time to time, whether concentration of economic power or the use of pension funds to that end has or has not developed. The sensational advance of private pension funds has given a jolt to public interest that may ultimately help to develop an informed public<sup>31</sup> better able to cope with our problems of economic freedom.

Hypothesis and scope of analysis. This thesis attempts to determine how close private pension funds are to the "prevailing control-stockholding position" envisioned by Professor Berle. Pension fund stockholdings are disaggregated to show the extent of record ownership of individual portfolio companies by individual pension trustees. The holdings are anatomized to see how much corporate voting power pension trustees actually have. Only by examining the stockholdings of separate autonomous pension funding agencies can corporate ownership and voting control by the funds begin to have meaning.<sup>32</sup>

While the extent of such ownership has not previously been determined, it is known that (1) the pension funds have been buying common stock at a much faster rate than the supply of new issues,

---

<sup>31</sup>Ibid., p. 86

<sup>32</sup>If pension funds are taken in the aggregate, they already have considerable ownership of each of a number of large corporations. If considered separately, it is unlikely that but a very few have voting control of even a single corporation. Neither of these approaches is altogether satisfactory, however, for the corporate ownership and voting control associated with pension fund investment in common stock is in the hands of trustees and insurers, each of which may handle as many as several hundred funds.

(2) there is a high concentration of assets in individual pension funds, (3) there is a high concentration of financial control of the funds by trustees and insurers, and (4) there is a high concentration of investment of the funds in individual common stock issues. Taken together, these four factors suggest the possibility that some of the persons or firms in charge of pension fund investment may have substantial voting power in some of the corporations whose stocks they have purchased. In this regard, it is hypothesized that the degree of ownership and voting control of individual corporations by individual pension funding agencies is sizable. It is proposed that the trustees of the largest funds already have substantial voting power in a considerable number of portfolio companies, not to the ultimate extent foreseen by Professor Berle, but sufficient enough to warrant serious public and legislative concern.

Control is distinguished from ownership in this thesis primarily in the sense that the trustees, as record owners, are not always free to exercise voting discretion over their stockholdings. Thus the thesis deals primarily with voting control and only secondarily with operating control. Potential for control, not the exercise of control, is the main concern. Moreover, the meaning of voting control in the context of this analysis is confined more to absolute than to relative voting power. Little cognizance is taken of the fact that, for example, ten percent control in a widely-held corporation yields considerably more management-determining power than ten percent

control in a tightly-held company. Yet, the analysis treats such figures as if they were equivalent. Though unfortunate, this is necessary in order to avoid the formidable task of analyzing the matter of portfolio company control on a company by company basis.

The analysis begins with an examination of the assets of private pension funds in toto. Here attention is focused upon the composition and growth of the assets. The dollar amount of the assets in corporate stock is compared to the value of total stock outstanding as a first indication of the extent of corporate control by the funds. Next the assets are segregated in accordance with their financial control by trustees and insurers. The fact that only a few banks, individuals, and insurers control the bulk of pension fund assets is empirically demonstrated. The factors leading to such concentration are briefly discussed.

The analysis then shifts to the matter of corporate voting control by pension fund trustees. Given the various stock investment policies followed by the trustees, the voting control question is analyzed from four points of view:

- (1) Whereas a bank trustee may handle many hundreds of pension, personal,<sup>33</sup> and other trust accounts, with total assets

---

<sup>33</sup> Actually, personal trusts are larger than private pension funds (though not much) and about two-thirds of their assets are in stock (compared to about two-fifths for the pension funds). However, the pension funds are much larger net purchasers of common stock than are the personal trusts. Also, the pension funds are much more



valued in the hundreds of millions of dollars, the trustee may come into considerable voting control of one or more of its portfolio companies in the normal course of building diversified stock-investment portfolios for each account.

(2) Whereas bank trustees purchase stocks for the purpose of investment rather than control, their willingness to support corporate managements on issues brought to a vote before stockholders may insulate the managements from effective stockholder challenge.

(3) Whereas an individual-company board of trustees (usually management controlled) of a pension fund may choose to invest a large segment of the fund in the voting stock of the same company, the board may find itself with dominant voting control of the company.

(4) And whereas an individual-company board of trustees of a fund may invest heavily in the stock of a competitor, supplier, or customer company, the board may accumulate sufficient control to effect some kind of corporate integration.

---

concentrated than the personal trusts in their placement. Finally, individual pension funds are larger than individual personal trusts, they are subject to fewer legal restrictions, and they give to the trustee considerably more discretion in their investment management. All of this makes the pension fund the greatest vehicle of voting power that the corporate trustee has. Nevertheless, personal trusts must be considered along with the pension and other trusts in the question of bank control of portfolio companies. The issue here is broader than just pension funds.

The analysis continues with an examination of the framework of law and public regulation by which the funds are affected. The question of whether there are adequate safeguards to prevent the pension fund trustees from using their voting power to stifle competition is discussed. Finally, where shortcomings in the law appear, new policy is prescribed.

Methods of research. The first step in researching the thesis was to survey the literature for pertinent empirical data. The facilities of the Library of Congress, the U.S. Department of Labor Library, and the Michigan State University Library were used for this purpose.

The second step was to examine the descriptions (Description Form D-1 statements) and annual financial reports (Annual Report Form D-2 statements) of a sample of 232 pension plans covered under the Welfare and Pension Plans Disclosure Act of 1958.<sup>34</sup> The plans in the sample were selected at random on a stratified basis by the staff of the Welfare and Pension Plans Office. As Table 1 shows, the plans were drawn from four classifications grouped

---

<sup>34</sup>This Act, as amended in 1962, requires the administrators of all private pension plans (except those administered by non-profit organizations and those covering 100 or less participants) to disclose financial and other information to the Department of Labor's Office of Welfare and Pension Plans, Silver Spring, Maryland. The Act also requires that this information be made available for public inspection.

according to contributions (premiums in the case of insured plans, amounts turned over to trusts in the case of noninsured plans), with a progressively greater percentage of larger plans in the sample.<sup>35</sup>

The kinds of information tabulated for each plan are shown in Appendix A. The names of the 232 plans are listed in Appendix B.

TABLE 1. -- Stratification by amount of contributions in the random sample of 232 pension plans

Range of annual contributions	Number of plans in the sample	Percent of population <sup>1</sup> in the sample
\$25 million and above	15	62.5%
\$1-25 million	91	12.5
\$1/2-1 million	17	2.5
Less than \$1/2 million	109	.5
All ranges	232	1.0

<sup>1</sup>Population is defined to include all pension plans filing D-2 statements with the Office of Welfare and Pension Plans.

The third phase of the research program was to develop and process a written questionnaire on corporate-trusteed pension funds. The questionnaire (shown in Appendix C) was sent to 68 banks (listed in Appendix D) believed to be the most prominent in the

<sup>35</sup> Grouped according to type of administration, the sample included 208 employer administered plans, 19 jointly (employer-union) administered plans, and five union administered plans. On the basis of financing, there were 147 noninsured (trusteed) plans, 49 insured plans, 27 combination (partially trusteed, partially insured) plans, and nine unfunded (pay-as-you-go) plans. The 232 plans covered 3,463,711 employees. The book value of the assets of the pension trusts in the sample was \$11,901,210,759.58.

pension trust business    Twenty-eight of the banks acknowledged it. Six replied by letter stating in effect that the information called for was confidential or too difficult to tabulate. The other 22 complied by completing and returning the questionnaire. Here the responses were enlightening for determining the general attitudes of the trustees about possible portfolio company control.

## CHAPTER II

### THE AGGREGATE SIZE OF PRIVATE PENSION FUNDS

#### A. INTRODUCTION

Much of the concern over private pension funds has originated from an appreciation of their voracious appetite for corporate bonds and stock, mortgages, government securities, etc. Within a short number of years the funds have accumulated financial assets valued at tens of billions of dollars. This chapter deals with the size and growth of pension funds in the aggregate. Assets of all funds combined are examined in a time dimension that includes the future as well as the past. Moreover, these assets are compared with those of all other owners. Pension fund stockholdings, for example, are aggregated out of total stockholdings by all groups. This approach not only serves to introduce the reader to the over-all scope of pension fund investment, but it also yields a crude measure of the power of pension funds to control and influence corporate enterprise.

#### B. EMPIRICAL FINDINGS

Information on the dollar value of assets and reserves

of private pension funds is made available by the Institute of Life Insurance, the Social Security Administration, the Securities and Exchange Commission, and the Department of Labor. The Institute of Life Insurance computes and releases figures on end-of-year reserves of all insured pension plans in the United States.<sup>1</sup> The Social Security Administration, while mainly concerned with aspects of our public pension schemes, estimates reserves of multi-employer, union, and nonprofit organization pension plans.

The Securities and Exchange Commission releases annual reports on estimated end-of-year assets of corporate pension funds.<sup>2</sup> These reports cover all noninsured funds that are administered singly, or jointly with a union, by corporations in the United States. The Commission also incorporates statistics, developed by the Institute of Life Insurance and the Social Security Administration, with its own in deriving assets of all private pension funds.

The Department of Labor, through its newly created Office of Welfare and Pension Plans, houses a wealth of pension fund information. In 1960, some 24,530 financial reports on individual pension plans were received and processed at the Welfare and Pension Plans Office. Statistics on these reports were released in

---

<sup>1</sup>Institute of Life Insurance, "Insured Pension Plans," Life Insurance Fact Book (New York: Institute of Life Insurance, Annual).

<sup>2</sup>U.S., Securities and Exchange Commission, "Corporate Pension Funds," Statistical Series, Annual.

February, 1963.<sup>3</sup> More recent statistics should be forthcoming as the Office overcomes its early organizational problems.

Assets of all private pension funds. Table 2 shows end-of-year assets of insured pension funds, noninsured funds, and their total, for the period 1945 through 1962. Reading from the Table, total assets of all private pension funds increased from \$4.8 billion in 1945 to \$60.7 billion in 1962. On an annual basis, the increase represented a general tendency toward a decreasing relative rate of growth but an increasing absolute rate. This means that it has taken consecutively more and more years for the funds to double in size even though total assets have increased each year by an increasing margin.

The same general tendency has taken place with respect to each of the major divisions of private pension funds. Assets of insured funds increased from \$2.5 billion in 1945 to \$21.6 billion in 1962, while, during the same period, assets of noninsured funds increased from \$2.3 to \$39.0 billion. However, the noninsured sector grew at a far faster rate than the insured. In 1945, assets of insured and noninsured funds represented, respectively, 52 and 48 percent of total assets of all private pension funds. Five years later the proportions were nearly reversed. By 1962, noninsured funds

---

<sup>3</sup>U.S., Department of Labor, Welfare and Pension Plans Statistics 1960, Office of Welfare and Pension Plans, February, 1963.

TABLE 2. -- Book value of assets of all insured and noninsured pension funds in billions of dollars, 1945-1962

End of year	Insured funds	Noninsured funds	Total
1945	2.5	2.3	4.8
1946	2.9	2.8	5.7
1947	3.4	3.3	6.7
1948	4.0	3.9	7.9
1949	4.6	4.5	9.1
1950	5.6	5.9	11.5
1951	6.6	7.3	13.8
1952	7.7	8.8	16.5
1953	8.8	10.6	19.4
1954	10.0	13.1	23.0
1955	11.2	15.3	26.6
1956	12.4	17.9	30.4
1957	14.1	20.8	34.9
1958	15.6	23.9	39.5
1959	17.6	27.3	44.9
1960	18.8	31.0	49.9
1961	20.2	35.1	55.3
1962	21.6	39.0	60.7

Source: Adapted from Security and Exchange Commission's Statistical Series and Federal Reserve System's Flow of Funds/Saving Accounts.



amounted to 64 percent of the total. In absolute terms, the growth in noninsured pension funds has out-dollared, since 1949, the growth in insured pension reserves by more than two to one. This is an important phenomenon since, as it will be shown, it is with respect to the noninsured pension funds that the problem of corporate control is primarily focused.

Distribution of assets of noninsured funds. The distribution of assets of private noninsured pension funds for the period 1957 through 1962 is shown in Table 3.<sup>4</sup> Corporate bonds continued to lead all securities as a proportion of total assets even though its share dropped from 52.4 percent at the end of 1957 to 43.6 percent at the end of 1962. During the same period the proportion of Federal obligations to total assets fell from 11.5 to 7.7 percent. Corporate stockholdings, on the other hand, increased as a proportion of total assets from 27.4 percent in 1957 to 38.7 percent in 1962. The sharpest gainer in relative terms, however, was mortgages, increasing some three-fold in the five year period.

The trend is toward increasing the amount of corporate stock in pension fund portfolios. Pension fund trustees have been

---

<sup>4</sup>Reserves behind insured pension plans are not included in Table 3 because they are usually comingled with other life insurance reserves for purposes of investment. The distribution of assets of insured pension funds is, for the most part, tautological to the distribution of investment assets of the whole life insurance industry and is determined, to a large extent, by insurance law and custom.

TABLE 3.-- Distribution of assets, at book value, of all noninsured pension funds in billions of dollars, 1957-1962

Asset class	1957	1958	End of year:		1961	1962
			1959	1960		
Cash and deposits	.5	.5	.5	.6	.7	.7
Federal obligations	2.4	2.4	2.6	2.6	2.7	3.0
Corporate bonds	10.9	12.3	13.4	14.9	15.9	17.0
Corporate stock	5.7	7.1	8.8	10.6	13.0	15.1
Mortgages	.5	.6	.8	1.0	1.2	1.5
Other assets	.9	1.0	1.1	1.4	1.5	1.7
Total assets	20.8	23.9	27.3	31.1	35.1	39.0

Source: Adapted from Security and Exchange Commission's Statistical Series.

shifting their portfolios from public to private debt and from debt, in general, to equity. This reflects, in part, the fact that liquidity requirements in the funds are practically negligible. Cash flows into the funds have consistently exceeded cash outflows. The trend can also be explained in terms of economic growth (real and inflationary) as a long-run prospect. When investing for the long-pull, trustees are fully aware of the appreciation aspects of equity holdings.

Private pension funds as a share of financial wealth. Since the assets of private pension funds consist of claims on real property, a view of the funds as a portion of total financial wealth helps to

put them in proper perspective. The problem is to determine a measure of financial wealth that appropriately includes private pension funds but eliminates meaningless overlapping and double-counting. One way of doing this is to consider the assets of the funds as a portion of total primary securities (corporate bonds and stock, federal obligations, mortgages, etc.) outstanding. An alternative method is to view the funds as part of the financial savings of consumers, the end-holders of financial assets. Adapting this latter method, Table 4 shows savings in private pension funds as a share of the financial assets of consumers for the period 1945 through 1960.

Except for slight downturns in 1954 and 1958, the percentage share increased steadily, from 1.32 percent at the end of 1945, to 5.29 percent by the end of 1960. The 1954 and 1958 end-of-year reversals can be explained by the fact that corporate stock held directly by consumers is measured, in Table 4, in terms of market value while corporate stock held indirectly by consumers through pension funds is measured in terms of book value (present value in some funds, cost in others). This, in effect, yields a downward bias of the percentage share in times of stock market expansion, typical of the whole period, but especially relevant during the recovery phases of the 1953-4 and 1957-8 recessions.

Saving through private pension funds as a share of total financial saving. The valuation problem of the preceding section can be eliminated by converting the analysis from stock to flow.

TABLE 4.-- Savings in private pension funds as a share of the financial assets of consumers, 1945-1960

End of year	Financial assets of consumers	Savings in pension funds	Percentage share
1945	\$364.2 billion	\$4.8 billion	1.32%
1946	372.5	5.7	1.53
1947	382.2	6.7	1.73
1948	388.5	7.9	2.03
1949	406.1	9.1	2.24
1950	441.1	11.5	2.61
1951	476.2	13.8	2.90
1952	509.1	16.5	3.24
1953	520.6	19.4	3.74
1954	612.2	22.6	3.69
1955	688.7	26.1	3.79
1956	732.6	29.7	4.05
1957	718.5	34.0	4.73
1958	856.1	38.5	4.50
1959	922.6	43.8	4.75
1960	935.0	49.5	5.29

Source: Adapted from Federal Reserve System's Flow of Funds/Saving Accounts.

Flow figures reflect only net funds put into securities, while annual changes in stock figures, based on market value, reflect net funds put into securities plus appreciated value of beginning-of-year holdings.

Table 5 shows saving through private pension funds as a share of the net acquisition of financial assets by consumers for the period 1946 through 1960. For this period, the percentage share of the net acquisition that went into pension funds increased, substantially, from 4.9 percent in 1946 to 21.0 percent in 1960. This upward trend was oscillatory, however, as a steady and consistent growth in saving through the pension funds was more than offset by vacillations in total financial saving by consumers.

The economic ramifications of a large share of total financial saving in the form of net additions to private pension funds may be profound. There is the problem, for instance, whether or not this kind of forced saving will adversely affect the level, stability, and growth of national income. Interesting as this problem is, it is beyond the scope of the present study, and its solution is left to other students of the pension movement.

Share of total corporate stock outstanding in private pension funds. A rough measure of the power of pension funds to control and influence corporate enterprise is given by the ratio of corporate stock in the funds' portfolios to total holdings of corporate stock outstanding. It is rough because (1) financial administration of the funds is not wholly centralized, and (2) the funds are not invested uniformly

TABLE 5. -- Saving through private pension funds as a share of the net acquisition of financial assets by consumers, 1946-1960

Year	Net acquisition of financial assets by consumers	Share repre- sented by saving through pension funds	Percentage share
1946	\$18.4 billion	\$.9 billion	4.9%
1947	12.5	1.1	8.8
1948	11.7	1.2	10.3
1949	8.1	1.2	14.8
1950	15.5	1.9	12.3
1951	18.5	2.4	13.0
1952	22.7	2.6	11.5
1953	21.7	2.9	13.4
1954	19.6	3.2	16.3
1955	24.4	3.5	14.3
1956	26.8	3.5	13.1
1957	26.0	4.4	16.9
1958	30.9	4.4	14.2
1959	31.6	5.2	16.5
1960	21.9	4.6	21.0

Source: Adapted from Federal Reserve System's Flow of Funds/Saving Accounts.

in all individual issues of stock outstanding. Indeed, it will be shown that financial control of the funds is highly concentrated and that the bulk of the funds' stockholdings is in a narrow range of individual issues. What is presented here is a statement of the share of total corporate ownership by all pension funds. What will ultimately be sought is the extent to which ownership of individual companies is distributed among those who have control of the funds.

Table 6 shows the share of all corporate stock outstanding in the hands of corporate noninsured pension funds for each of the years-ending 1954 through 1960. The stockholdings of insured funds and those noninsured funds administered by unions, multi-employer boards, and nonprofit organizations are not included in Table 6 because of the lack of available data. Fortunately, however, these latter funds own such a small amount of stock in comparison to the corporate noninsured funds that the figures in Table 6 are nearly all-inclusive.

Although the year-end percentage shares listed in Table 6 are low in an absolute sense, relative rates of increase are sizable. In the five-year period ending in 1960, the share nearly doubled as it increased from 1.67 to 3.30 percent. At this rate it would not take many years for the funds to become the principal owners of corporate enterprise.

TABLE 6. -- Corporate stockholdings of corporate noninsured pension funds as a share of the total market value of all corporate stock outstanding, 1954-1960.

End of Year	Total market value of all stock outstanding	Stock held by corporate non-insured funds (market value)	Percentage share
1954	\$258.0 billion	\$3.8 billion	1.47%
1955	317.0	5.3	1.67
1956	338.0	6.2	1.83
1957	299.0	6.6	2.21
1958	418.0	10.1	2.42
1959	454.0	12.8	2.82
1960	442.0	14.6	3.30

Source: Adapted from Security and Exchange Commission's Statistical Series and Federal Reserve System's Flow of Funds/Saving Accounts.

Net stock purchases by pension funds as a share of net additions to total stock outstanding. The rate the pension funds are buying into corporate ownership becomes clearer by comparing net purchases of stock by the funds to net additions to total stock outstanding. For this purpose information is available on all noninsured funds and is shown in Table 7.

Reading from Table 7, net purchases of stock by noninsured pension funds, in 1946, amounted to \$.1 billion while net additions



TABLE 7. -- Net purchases of common and preferred stock by pension funds compared to net additions to total stock outstanding, 1946-1962

Year	Net additions to total stock outstanding	Net purchases of stock by nonin- sured funds	Percentage
1946	\$1.3 billion	\$.1 billion	7.69%
1947	1.4	.1	7.14
1948	1.3	.1	7.69
1949	1.6	.1	6.25
1950	1.8	.2	11.11
1951	2.7	.3	11.11
1952	3.1	.5	16.13
1953	2.3	.5	21.74
1954	2.6	.7	26.92
1955	3.0	.7	23.33
1956	3.6	.9	25.00
1957	3.8	1.1	28.95
1958	4.1	1.3	31.71
1959	4.3	1.6	37.21
1960	3.3	1.7	51.52
1961	5.2	2.0	38.46
1962	2.5	2.0	80.00

Source: Adapted from Security and Exchange Commission's Statistical Series and Federal Reserve System's Flow of Funds/Saving Accounts.

to total stock outstanding came to \$1.3 billion, the former equaling 7.69 percent of the latter. By 1962, net purchases by noninsured funds were \$2.0 billion while net additions to stock were \$2.5 billion, the former coming to 80.00 percent of the latter.<sup>5</sup> The interesting inference suggested by this data is that the pension funds will ultimately be purchasing stock in excess of additions to stock and that all other stockholders, taken together, will become net dis-investors of stock. Indeed, this prospect reinforces the contention that pension funds are a short time away from becoming the principal corporate owners.

#### C. PROJECTED GROWTH FOR 1970 AND 1980

The growth of a pension fund is broadly indicated by the equation,  $S_n = \frac{a(1+r)^n - a}{r}$ , where  $S_n$  is the size of the fund at the end of  $n$  years,  $a$  is the size of the annual contribution to the fund, and  $r$  is the rate of investment return. The equation is standard for showing the amount of an annuity, which, of course, a true pension fund is. As such,  $S_n$  increases geometrically as  $n$  increases arithmetically. However, this relation holds true only during the early stages of the growth of a pension fund. Eventually the corpus of a

---

<sup>5</sup>These percentages would be even greater, of course, if it were possible to compute them on net additions to stock issues of corporations in which pension funds invest rather than on net additions to stock issues of all corporations. This is so because pension funds concentrate their investments in a narrow range of high-grade stocks.

fund must be used for making benefit payments to retired employees. At some point these payments should exactly offset the cash flows, investment income and contributions, into the fund. When this happens, the fund has matured.<sup>6</sup>

Putting this into more concrete terms, suppose a company establishes an employee pension plan that is funded in accordance with the following conditions:

(1) Upon reaching the age of 65, each employee with at least ten years of continuous service is to receive an annual \$200 retirement benefit payment for life.

(2) All retired employees die at age 72.

(3) The rate of investment return on the fund is four percent.

(4) No more or less than one employee of every age up to 65 years is hired by the company.

(5) An employee must be at least 55 years old to qualify under the plan.

(6) No credit is given for service rendered prior to the establishment of the plan.

(7) The plan carries no provision for vesting.

(8) Employees over 54 years of age serve continuously and never change jobs.

---

<sup>6</sup>A mature fund will, nevertheless, grow in direct proportion to the growth of employee participation in a plan.

Given these conditions, it is possible to construct a simple arithmetical model of the growth and maturation of this hypothetical fund. This is done in Table 8.

The mechanics involved in the operation of this hypothetical pension fund are straightforward. Annual contributions to the fund turn out to be \$100 per eligible employee. One employee qualifies under the plan the first year, another the second year, etc., until the eleventh and ensuing years, when each new eligible employee is offset by another who retires. Benefit payments begin the eleventh year as the first retiree becomes eligible for payment of \$200. Each year, thereafter, an additional employee retires. Total benefit payments increase to \$1,400 by the seventeenth year, after which, they remain constant as each new retiree is offset by another who dies. The dollar value of the fund increases each year at an increasing rate for the first ten years and at a decreasing rate for the next six. By the end of the sixteenth year the fund has fully matured, remaining at a value of \$10,000 throughout its life.

From this hypothetical example a simple but general growth function of private pension funds is inferred. It is:

$s = f'(N, L, P, T, V, M, B, rS)$ , where  $\underline{s}$  is the rate of growth of private pension funds,  $\underline{N}$  is the number and age composition of employees covered,  $\underline{L}$  is the length of service and age requirements,  $\underline{P}$  is the amount of past-service credits,  $\underline{T}$  is labor turnover,  $\underline{V}$  is the extent of vesting,  $\underline{M}$  is mortality experience,  $\underline{B}$  is the level of

TABLE 8. -- Growth and maturation of a hypothetical pension fund

Year	Contributions to the fund	Investment income	Benefits paid	Addition to fund	Size of fund
1	\$100	\$0	\$0	\$100	\$100
2	200	4	0	204	304
3	300	12	0	312	616
4	400	24	0	424	1,040
5	500	41	0	541	1,581
6	600	63	0	663	2,244
7	700	89	0	789	3,033
8	800	121	0	921	3,954
9	900	158	0	1,058	5,012
10	1,000	200	0	1,200	6,212
11	1,000	248	200	1,048	7,260
12	1,000	290	400	890	8,150
13	1,000	326	600	726	8,876
14	1,000	355	800	555	9,431
15	1,000	377	1,000	377	9,808
16	1,000	392	1,200	192	10,000
17	1,000	400	1,400	0	10,000
18	1,000	400	1,400	0	10,000
19	1,000	400	1,400	0	10,000
20	1,000	400	1,400	0	10,000

Note: Figures are computed on the basis of conditions listed on p. 31.

retirement benefits, and  $rS$  is investment income earned at rate  $r$ . Unfortunately, this general expression cannot easily be adapted (due to the heterogeneity of the more than 60,000 existing pension plans) into a mathematical model for the purpose of predicting the aggregate size of private pension funds in future periods.

Projected growth of assets of all private pension funds.

Assuming the underlying factors going into complex estimates shape the future growth of the pension funds the same as they have in the past, the growth of the funds can be simply estimated by extrapolation of time series data. Accordingly, estimates of the aggregate size of private pension funds for future dates are derived here by extrapolating from the growth of the funds during the period from 1950 through 1962. The extrapolations are based on equations which were found parabolic through the process of differencing and whose constants were determined by the method of least squares.

The growth of private insured pension funds is based on the equation:  $S_i = .032(Y-1956)^2 + 1.37(Y-1956) + 12.6$ , where  $S_i$  is the book value of assets of private insured pension funds in billions of dollars at the end of any year  $Y$ . The growth of private non-insured pension funds is derived from the equation:

$S_u = .128(Y-1956)^2 + 2.77(Y-1956) + 17.9$ , where  $S_u$  is the book value of assets of private noninsured pension funds in billions of dollars at the end of any year  $Y$ . The growth of all private pension funds follows by summing these values and is represented by the equation:

$S = .16(Y-1956)^2 + 4.14(Y-1956) + 30.5$ , where  $\underline{S}$  is the book value of assets of all private pension funds in billions of dollars at the end of any year  $\underline{Y}$ .

Table 9 shows the estimated asset values for insured funds, noninsured funds, and all funds, for the years-ending 1970 and 1980.

TABLE 9. -- Estimated book values of assets of private insured pension funds, private noninsured pension funds, and all private pension funds, in billions of dollars, for the years-ending 1970 and 1980

End-of-Year	Insured funds		Noninsured funds		All funds	
	Actual	Estimated	Actual	Estimated	Actual	Estimated
1950	5.6	5.5	5.9	5.9	11.5	11.4
1951	6.6	6.5	7.3	7.3	13.8	13.8
1952	7.7	7.6	8.8	8.9	16.5	16.5
1953	8.8	8.8	10.6	10.7	19.4	19.5
1954	10.0	10.0	13.1	12.9	23.0	22.9
1955	11.2	11.3	15.3	15.3	26.6	26.5
1956	12.4	12.6	17.9	17.9	30.4	30.5
1957	14.1	14.0	20.8	20.8	34.9	34.8
1958	15.6	15.5	23.9	24.0	39.5	39.4
1959	17.6	17.0	27.3	27.4	44.9	44.4
1960	18.8	18.6	31.0	31.0	49.9	49.6
1961	20.2	20.2	35.1	35.0	55.3	55.2
1962	21.6	22.0	39.0	39.1	60.7	61.1
1970		38.1		81.8		119.8
1980		63.9		158.1		222.0

Source: Actual, or observed, values are from Security and Exchange Commission's Statistical Series. Estimated values are computed from second-degree trend equations based on observed values.

Reading from the Table, assets of all private pension funds are estimated to increase to \$119.8 and \$222.0 billion for the respective

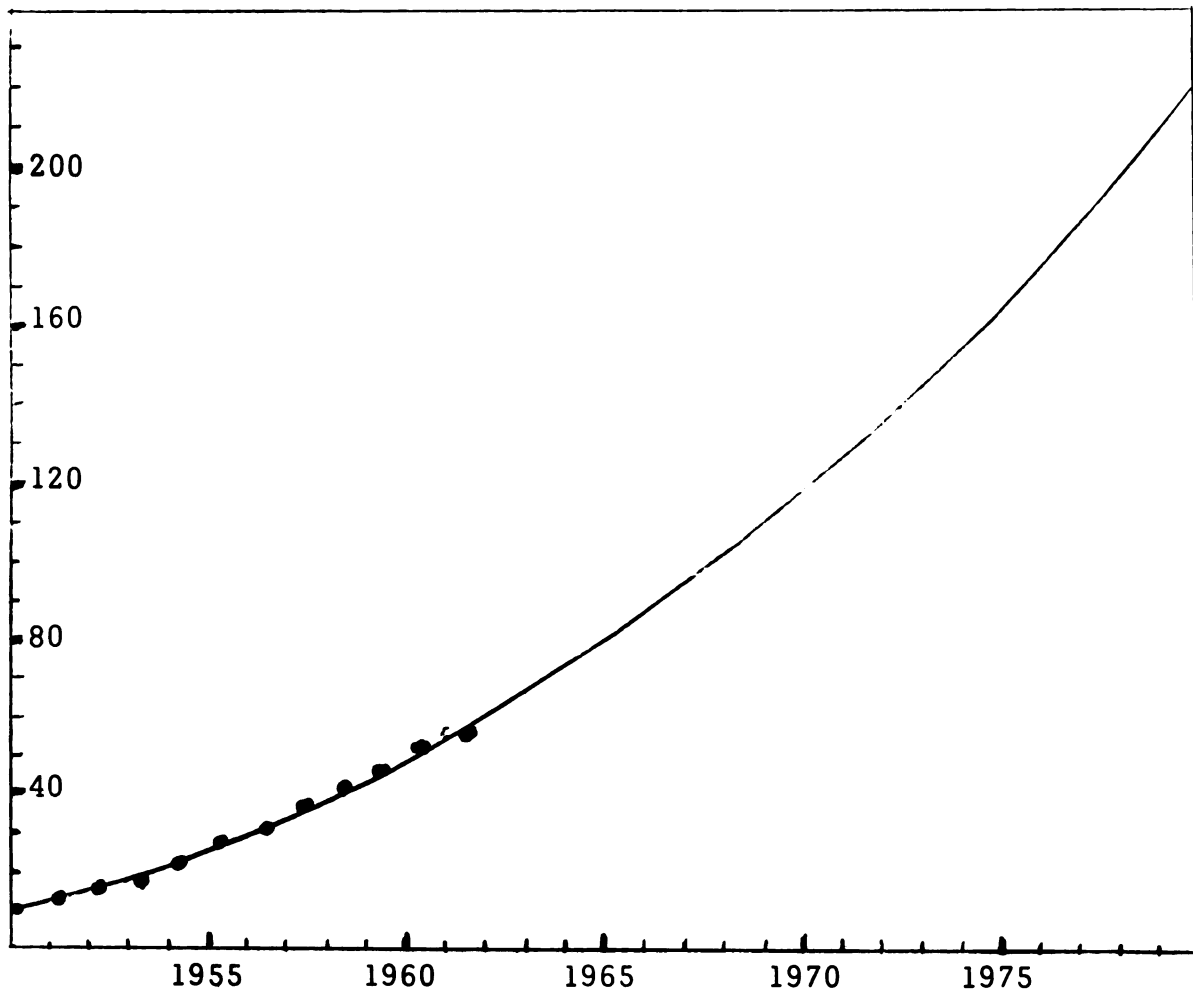
years-ending 1970 and 1980. Of interest is the estimated distribution of the funds into the insured and noninsured sectors. At the end of 1962, 64 percent of the funds were in the noninsured sector while 36 percent were in the insured sector. According to the projections in Table 9, this disparity in percentage shares will increase. The noninsured share is estimated to reach 68 percent by the end of 1970 and 71 percent by the end of 1980. Meanwhile, the insured portion is estimated to decrease to 32 and 29 percent.

Of course, all these estimates are based on the assumption that present trends will continue for nearly two more decades. But will they? According to Figure 1, the funds must grow at an increasing rate in order to reach a value of \$222 billion by the end of 1980. Because the growth rate must eventually level off as the funds mature, the \$222 billion estimate is reasonable only if this leveling off transpires beyond the period projected. If before, the estimate is too high.

It seems likely that pension fund growth will continue to maintain its present course through 1980. The average fund is less than 15 years old and should take at least 30 years to mature. At the same time, new funds should continue to enter the picture, offsetting the slow-down in growth of the older funds. Also, more extensive pension plan participation, a greater degree of vesting, increased life expectancy, and ever-rising benefit levels should help to sustain the trend. The prospect of earlier retirement, on the



FIGURE 1. -- Graphical projection of the growth in assets of private pension funds, in book value, in billions of dollars, for the period 1950-1980.



Source: Adapted from the least-square trend equation:  

$$\underline{S} = .16(Y-1956)^2 + 4.14(Y-1956) + 30.5$$
 where  $\underline{S}$  is the book value of assets of all private pension funds in billions of dollars at the end of any year  $\underline{Y}$ .

hand, should speed up maturation. On balance, however, the funds should continue to grow, as they have, for a good many years. The \$222 billion estimate of the funds' assets for 1980 seems reasonable.<sup>7</sup>

Projected distribution of assets of noninsured funds.

Assuming, again, that present trends continue, the future distribution of assets of private noninsured pension funds is estimated by extrapolation of time series data. End-of-year,  $\underline{Y}$ ; holdings of cash and deposits,  $\underline{C}$ ; federal obligations,  $\underline{F}$ ; corporate bonds,  $\underline{D}$ ; corporate stock,  $\underline{E}$ ; and mortgages,  $\underline{R}$ ; each measured in terms of book value and in billions of dollars, are derived, respectively, from the equations:  $C = .048(Y-1959)+.559$ ,

$$F = .111(Y-1959)+2.56,$$

$$D = 1.22 (Y-1959)+13.46,$$

$$E = .121(Y-1959)^2+1.77(Y-1959)+8.79, \text{ and}$$

$$R = .018(Y-1959)^2+.182(Y-1959)+.786.$$

Holdings of other assets,  $\underline{O}$ , measured at book value and in billions of dollars, is a balancing item and is defined by the equation:

$O = S_u - (C+F+D+E+R)$ , where  $\underline{S_u}$  is the book value of assets of all private noninsured pension funds.

---

<sup>7</sup>It is noteworthy that this estimate deviates only five per cent from the \$234.6 billion estimate computed for the same date by Daniel M. Holland for the National Bureau of Economic Research. Daniel M. Holland, "Projections of Private Pension Plans, 1960-80," The Uses of Economic Research (New York: National Bureau of Economic Research, May, 1963), pp.21, 56-59.

Based on these equations, Table 10 shows the estimated distribution of assets of noninsured funds for the years-ending 1970 and 1980. Of special interest are the projected holdings of corporate stock. In 1962, 39 percent of the assets of the noninsured funds was in corporate stock. According to the trend extrapolations, this share is estimated to increase to 52 and 63 percent for the years-ending 1970 and 1980 respectively. The prospect that the noninsured funds might become, by 1980, holders of \$100 billion worth of corporate stock, at book value, raises a number of questions, not the least of which concerns the impact on corporate voting control.

TABLE 10. -- Estimated distribution of assets of all private non-insured pension funds for the years-ending 1970 and 1980

Asset class	Book value, end-of-year:	
	1970	1980
Cash and deposits	\$1.09 billion	\$1.57 billion
Federal obligations	3.78	4.89
Corporate bonds	26.88	39.08
Corporate stock	42.90	99.32
Mortgages	4.97	12.55
Other assets	2.14	.70
Total assets	\$81.76 billion	\$158.11 billion

Source: Values are computed from trend equations based on observed values for the years-ending 1957 through 1962.

Projected share of total stock outstanding in corporate non-insured pension funds. Any judgment about the future capacity of the pension funds to influence or control corporations by voting their stockholdings would at this point be premature without considering first the probable growth in total stock outstanding. For unless it is true that pension fund stockholdings are growing faster than total stockholdings, it cannot be said that control is passing to the funds. In this regard, it was shown in Table 6 that the corporate noninsured funds have been increasing their relative share of corporate ownership and that, in 1960, this share amounted to 3.30 percent of total stock outstanding. Although still meager, voting control of corporate enterprise by the funds has been gradually increasing.

Using, once more, the experience of the past as a basis for projecting into the future, the percentage share,  $\underline{P_e}$ , of total corporate stock outstanding held by corporate noninsured pension funds is computed for any year,  $\underline{Y}$ , from the trend equation:

$$P_e = .027(Y-1957)^2 + .3(Y-1957) + 2.14.$$
 Estimated values of the percentage shares for the years-ending 1970 and 1980 are shown in Table 11. At the end of 1960, the corporate funds held only 3.30 percent of total stock outstanding. However, if the trend continues, this share will increase to 10.60 percent by the end of 1970 and to 23.32 percent by the end of 1980.

Likelihood that present trends will continue. Whether pension funds will own as much stock of the total outstanding as

TABLE 11. -- Estimated percentage share of total corporate stock outstanding held by corporate noninsured pension funds for the years-ending 1970 and 1980

End-of-year	Observed share	Estimated share	Deviation from observed share
1954	1.47%	1.48%	+.01%
1955	1.67	1.65	-.02
1956	1.83	1.87	+.04
1957	2.21	2.14	-.07
1958	2.42	2.47	+.05
1959	2.82	2.85	+.03
1960	3.30	3.28	-.02
1970		10.60	
1980		23.32	

Source: Observed values are adapted from Security and Exchange Commission's Statistical Series and Federal Reserve System's Flow of Funds/Saving Accounts. Estimated values are computed from the second-degree trend equation based on observed values.

projected depends on the long-run continuation of both the rate of demand for stock by the funds and the rate of supply of new stock issues. On the demand side, the increasing rate of stock purchases out of pension fund receipts should be sustained for a long time. Although cyclical considerations may bring about some portfolio shifting between stocks and bonds, there seems to be little financial reason for the pension fund trustees to hold back on their stock purchases in the long-run.

Several factors make continued stock investment imperative

for pension funds.<sup>8</sup> First, a fund must provide retirement benefits that are continuously being upgraded over time. Since benefits are determined in accordance with wage, salary, and cost-of-living levels; since the collectively-bargained plans are subject to re-negotiations; and since long-run price and wage inflation, however gradual, seems to be a permanent feature of the American economy; investment of a pension fund in fixed-obligation securities entails too much purchasing-power risk. Consequently, the pension fund is obliged to hedge against inflation by investing in common stock. Second, a pension fund is a large, permanent, and growing accumulation of financial assets, of which steady and recurring cash inflows (contributions and earnings) consistently exceed cash outflows (retirement benefit payments). As such there is almost no need for liquidity in the corpus of a fully funded pension trust. Thus, a fund can be invested heavily in equities with little or no risk of having to sell out under depressed market conditions. Third, and related to the above, a pension fund is especially suited for dollar-cost averaging, i.e., full and systematic investment of net cash inflows in diversified common stocks. A pension fund invests for the long-pull. It need not incur capital losses in the short-run. The dollar-cost averaging method of investment permits it to take full advantage of secular inflation in the

---

<sup>8</sup>These are discussed fully in: Paul L. Howell, "Common Stocks and Pension Fund Investing," Harvard Business Review, November-December, 1958, pp. 92-106.

stock market.<sup>9</sup> Finally, a qualified pension fund is exempt from income and capital gains taxation, it is generally immune from legislative investment restrictions, and it need not be distinguished between principal and income in recording capital appreciation and cash receipts. These special features facilitate the ease by which a pension fund can be invested in stock.

Certain institutional factors, on the other hand, could restrict the funds' demand for stock. The fear on the part of pension fund trustees that government may react toward trustee control of large blocks of stock by passing new legislative restrictions or by applying the antitrust laws could curb the present rate of stock acquisition somewhat. Also, full maturation of the funds should curtail net stock demand. However, the full force of these factors will not likely be felt for a long time.

On the supply side, the trend toward increased corporate ownership by pension funds could be offset by a substantial increase in the rate of new stock issues. This could provide more than enough slack in the market to satisfy the demand of pension funds and to keep relative shares of corporate voting power intact. The prospect of a large and sustained increase in new stock flotations

---

<sup>9</sup>The Dow-Jones average for industrials has increased at a three percent rate per annum for the past 50 years on an average basis. For long-pull investors, dollar-cost averaging has proven to be a much more rewarding method of stock investment than the formula-timing plans, whose success depends more upon short-run market fluctuations than long-run market advances.

looks good considering that the business outlook and the tax climate both favor stepped-up capital expansion, while inflation in the stock market is reducing both the absolute and relative costs to corporations of equity financing.<sup>10</sup> Especially, if pension funds and other institutional investors continue to take up the good equities as they have, the corporations are increasingly going to find in these intermediaries a direct and relatively cheap source of investment capital.

On balance, it is possible but not probable that the pension funds will own as much stock of the total outstanding as projected. Almost certainly the funds' net demand will hold up. Because of market conditions, however, the supply of new stock issues could increase substantially. This would decrease the rate at which the funds' relative share of corporate ownership is increasing. Therefore, the projections are probably on the liberal side and allowance should be taken for this.

#### D. CONCLUSION

Several key phenomena about the size and growth of private pension funds in the aggregate should be apparent. The funds, especially the noninsured, have been rapidly accumulating many billions

---

<sup>10</sup> Rising stock prices and sticky dividends have been causing dividend yields to drop. Bond yields, on the other hand, have remained healthy. This means, for the issuing corporation, that the cost of equity financing has decreased relative to the cost of debt financing.



of dollars worth of financial assets. This accumulation in recent years has been mainly in corporate stock. The funds are purchasing more stock on a net basis than all other investors combined. Although their current percentage share of total issues held is relatively small, the trend indicates that the funds will become dominant stockholders in the not-too-distant future. However, there is no guarantee that this trend will be sustained.

This chapter has been concerned, above all, with broad relationships that may have little meaning when it comes to specific cases. The measure of the percentage share of ownership of all corporations by all pension funds, for example, takes no cognizance that the stockholdings are in a narrow range of individual issues or that voting control of these holdings is highly concentrated among a few trustees. Indeed, it is disaggregation in the subject of pension funds and corporate control that is missing in the literature and to which the following chapters are addressed.

## CHAPTER III

### THE CONCENTRATION OF FINANCIAL CONTROL OF PRIVATE PENSION FUNDS

#### A. INTRODUCTION

In Chapter II, private pension funds were regarded as a huge single entity. Actually, the total value of the funds is the sum value of assets accumulated under each of more than 60,000 separate and distinct pension plans currently in operation in this country. Financial control of the funds, however, is not distributed evenly among as many as 60,000 autonomous funding agencies. This chapter shows that most of the pension fund assets are held in a small number of funds. Moreover, it is demonstrated that these assets are further concentrated with respect to financial control. Certain large banks, life insurance companies, and powerful individuals are shown to have investment power over the bulk of pension fund assets.

#### B. CONCENTRATION OF ASSETS IN INDIVIDUAL PENSION FUNDS

Because insured pension reserves are comingled for investment purposes with other life insurance reserves, and because life insurance companies have not been permitted until recently to maintain

separate accounts for their pension clients, there is no available information on the asset values of individual insured funds. Consequently, the concentration of assets in individual pension funds can only be determined for the noninsured sector.

Previous studies on the size distribution of individual non-insured funds indicate a high concentration of assets in the largest funds. In the New York State Banking Department study of 1,024 noninsured funds held in trust in New York State at the end of 1953, it was found that 61.09, 78.32, 86.34, and 96.64 percent of the total assets of these funds were held by only 3.91, 8.79, 14.45, and 36.03 percent of the funds respectively.<sup>1</sup> Similarly, in the Securities and Exchange Commission study of all corporate noninsured funds in the United States at the end of 1954, it was found that 59.0 percent of the total assets were held by only 1.9 percent of the funds, while, at the other extreme, 38.6 percent of the funds accounted for only 1.2 percent of the assets.<sup>2</sup>

Today the concentration is much the same as it was a decade ago. Table 12 shows the concentration of assets in individual non-insured pension funds as estimated from the sample of 232 funds. Here it is indicated that 62.9 percent of the assets of all noninsured

---

<sup>1</sup>George A. Mooney, Pension and Other Employee Welfare Plans (New York: New York State Banking Department, 1955), p.31.

<sup>2</sup>U.S., Securities and Exchange Commission, Survey of Corporate Pension Funds, 1951-1954 (Washington: U.S Government Printing Office, 1956), p. 31.

funds are owned by those funds whose assets are valued at \$20,000,000 or more. Yet, 98.1 percent of all funds considered in Table 12 are valued at less than this amount.

**TABLE 12. -- Estimated concentration of assets in individual noninsured pension funds for the year-ending 1962**

Size category of assets (in dollars)	Percent of all funds in this category	Percent of total assets in this category
100,000,000 and over	.2	38.2
20,000,000 - 99,999,999	1.7	24.7
10,000,000 - 19,999,999	2.0	9.9
5,000,000 - 9,999,999	1.7	4.3
2,500,000 - 4,999,999	4.3	5.0
1,000,000 - 2,499,999	17.8	9.4
500,000 - 999,999	17.4	4.1
Under 500,000	54.9	4.4

Source: Computed from the asset values of noninsured funds in the stratified sample of 232 pension funds drawn at random at the Office of Welfare and Pension Plans, Silver Spring, Maryland. In making these estimates, the stratification in the sample was corrected by a weighting process.

That a few large funds have most of the assets is readily seen by looking at the absolute sizes of some of the largest trusts. Table 13 shows the book value of assets for each of the twelve largest noninsured funds in the sample. Recalling from Chapter II that the

TABLE 13. -- Book values of assets of twelve largest noninsured pension funds in the stratified random sample of 232 funds

Name of plan	Book value of trust assets <sup>1</sup>
Sears, Roebuck and Company Employees' Savings and Profit Sharing Pension Fund . . . . .	\$1,759,079,568
United States Steel Employee Pension Benefit Plan . . . . .	1,541,154,003
General Electric Pension Plan . . . . .	1,160,144,798
Western Electric Company Employees' Pension, Disability Benefit and Death Benefit Plan . . . . .	749,998,547
E. I. duPont de Nemours Pension and Retirement Plan . . . . .	712,223,090
General Motors Hourly-Rate Employees' Pension Plan . . . . .	602,225,670
General Motors Salaried Employees' Retirement Program . . . . .	534,886,833
New York Telephone Company Pension Disability Benefit and Death Benefit Plan . . . . .	432,192,322
Westinghouse Electric Corporation Pension Plan . . . . .	404,964,107
Ford Motor Company General Retirement Plan . . . . .	352,008,401
Ford Motor Company U.A.W. Retirement Plan . . . . .	336,400,115
General Electric Savings and Security Program . . . . .	298,764,560

<sup>1</sup>As recorded from the most recent financial report. In most cases this was for the year-ending 1962.

Source: Annual financial reports (D-2 statements) filed at the Office of Welfare and Pension Plans, Silver Spring, Maryland.

total book value of assets of all private noninsured pension funds was \$39 billion at end-of-year 1962, the twelve funds described in Table 13 account for over 22 percent of this total. Over half of this share is in the three largest funds, each of which has more than a billion dollars worth of financial assets. It is also interesting to note that the third and twelfth, the fourth and eighth, the sixth and seventh, and the tenth and eleventh largest plans are common to single employers.<sup>3</sup>

This kind of concentration should not be surprising. The sponsoring companies of the largest funds are the largest corporations in the United States. They hire the most employees and pay the highest wages, including such fringe benefits as pensions. Since corporate enterprise is highly concentrated as to size, it follows that this would be the case with the pension funds.

### C. CONCENTRATION OF FINANCIAL CONTROL BY CORPORATE TRUSTEES

The figures showing the concentration of assets in individual noninsured pension funds do not accurately depict the concentration of financial control of the funds in the hands of those who manage them. Some funds are invested by the employers creating them, but most are invested by large corporate trustees who individually have

---

<sup>3</sup>They are General Electric, American Telephone and Telegraph, General Motors, and Ford Motor.

financial control over many funds. Thus, while a relatively small number of the funds hold a relatively large share of the assets, a still smaller number of trustees have the power to manage these assets.

Concentration of pension funds in individual banks. With few exceptions, the corporate trustees who manage the investment affairs of pension funds are large banks. Indeed, each of the largest of these banks handle several hundred or more pension fund accounts. Moreover, these accounts are usually quite large. Thus, banks like the Chase Manhattan and Bankers Trust in New York City have come into financial control of billions of dollars worth of assets of corporate-trusted funds.

The charge that most of the corporate-trusted pension funds have been placed in the hands of only several large banks is confirmed by empirical evidence. First, in the New York State Banking Department study it was found that thirteen of the largest banks in the state possessed 98.45 percent of the assets of all pension funds trusted by New York banks.<sup>4</sup>

Second, in the 1955 hearings on welfare and pension plans before the Senate Committee on Labor and Public Welfare, testimony of Messrs. Balderston and Masters of the Federal Reserve System revealed that the largest 38 state bank members held nearly \$6 billion of pension and other employee benefit funds, while the next largest

---

<sup>4</sup>Mooney, loc.cit.

23 state bank members held but \$127 million of the funds.<sup>5</sup>

Third, upon investigation by the staff of the Welfare and Pension Plans Subcommittee of the Senate Committee on Labor and Public Welfare, it was discovered that the bulk of the pension trust business was handled by 19 large banks, each of which had more than 100 pension accounts.<sup>6</sup> These banks and the number of funds administered by each are listed in Table 14.

TABLE 14. -- Banks administering one hundred or more pension funds in 1955

Name of bank	Number of pension fund accounts
Chase Manhattan, New York . . . . .	432
Bankers Trust, New York . . . . .	279
National Bank of Detroit . . . . .	239
Bank of America, San Francisco . . . . .	231
Continental Illinois National Bank and Trust, Chicago. . . . .	186
First National Bank of Chicago . . . . .	155
Detroit Wabeek Bank and Trust . . . . .	155
City Bank Farmers Trust, New York . . . . .	154
Old Colony Trust, Boston. . . . .	153
Northwestern National Bank, Minneapolis. . . . .	148
Chemical Corn Exchange Bank, New York . . . . .	143
Wachovia Bank and Trust, Winston-Salem . . . . .	141
Mellon National Bank and Trust, Pittsburgh . . . . .	137
Cleveland Trust . . . . .	125
Hanover Bank, New York . . . . .	118
Guaranty Trust, New York . . . . .	116
Harris Trust and Savings Bank, Chicago . . . . .	115
Manufacturers Trust, New York . . . . .	111
Central National Bank, Cleveland . . . . .	103

Source: Adapted from unpublished documents of the Senate Committee on Labor and Public Welfare.

<sup>5</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Hearings, 84th Cong., 1st Sess., 1955, pp. 888-890.

<sup>6</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Final Report, 84th Cong., 2nd Sess., 1956, p. 360.



Fourth, the high concentration of corporate-trusteed pension funds in individual banks was indicated in a special report appearing in Business Week in 1959.<sup>7</sup> Here it was found that: (1) Assets of all noninsured pension funds at the end of 1957 were valued at \$19.3 billion;<sup>8</sup> (2) Of this \$19.3 billion, about 75 percent (\$14.4 billion) was trustee'd by banks;<sup>9</sup> (3) Of this \$14.4 billion, close to \$10 billion was handled by six New York banks--Bankers Trust, Chase Manhattan Bank, First National City Bank, Hanover Trust (now Manufacturers Hanover Trust), Guaranty Trust and J. P. Morgan (now Morgan Guaranty Trust);<sup>10</sup> and (4) Of this \$10 billion, over \$5 billion was trustee'd by Bankers Trust.<sup>11</sup>

Fifth, the concentration of pension funds in individual banks is illustrated by the 125 corporate-trusteed funds in the random sample. Grouping the assets of these funds according to the various banks holding them, Table 15 shows that over 58 percent of the assets of the funds in the sample are in three New York banks--Bankers Trust, Chase Manhattan Bank, and Morgan Guaranty Trust. However, the percentage bank-holdings of Table 15 may deviate considerably from

---

<sup>7</sup>"The Startling Impact of Private Pension Funds," Business Week, January 31, 1959, pp. 89-105.

<sup>8</sup>Ibid., p. 96

<sup>9</sup>Ibid.

<sup>10</sup>Ibid.

<sup>11</sup>Ibid., p. 92.

TABLE 15. -- Sample distribution of assets of 125 randomly selected pension funds among leading banks for the year-ending 1962

Name of bank	Book value of pension trust asset-holdings <sup>1</sup>	Percent of total asset-holdings
Bankers Trust	\$1,918,744,000	29.46%
Chase Manhattan Bank	1,184,332,000	18.19
Wilmington Trust	712,223,000	10.94
Morgan Guaranty Trust	680,093,000	10.44
Mellon National Bank and Trust	468,683,000	7.20
First National Bank of Chicago	337,619,000	5.18
First National Bank of Boston	227,423,000	3.49
Cleveland Trust	178,089,000	2.73
Manufacturers Hanover Trust	98,190,000	1.51
First National City Bank of New York	96,682,000	1.48
Old Colony Trust	87,123,000	1.34
Continental Illinois National Bank and Trust	72,786,000	1.12
Hartford National Bank and Trust	61,849,000	.95
Harris Trust and Savings Bank	38,730,000	.59
National Bank of Detroit	35,323,000	.54
National City Bank of Cleveland	33,158,000	.51
45 additional banks	281,327,000	4.32
Total	\$6,512,374,000	99.99%

<sup>1</sup>Unknown asset-values for multi-corporate-trusteed funds are derived by prorating the assets in proportion to annual trustee fees for investment service, or, if fees are also unknown, in equal proportions among co-trustees.

Source: From the annual financial reports of the 125 corporate-trusteed pension funds in the stratified random sample of 232 funds. The reports are filed at the Office of Welfare and Pension Plans, Silver Spring, Maryland.

actual holdings. In the first place, the sample is small in relation to the population. Thus, by chance, the Wilmington and Cleveland banks rank among the eight leaders.<sup>12</sup> Furthermore, the sample is highly stratified; larger funds appear in greater proportions. This tends to lend an upward bias to the concentration ratios. (Large funds tend to be placed with the small number of large banks.) Finally, the assets of multi-corporate-trusteed funds in the sample are prorated among the co-trustees in an arbitrary fashion, which may or may not correspond to the actual amount of funds held by any one bank. Nevertheless, there is some truth in the figures in Table 15. The ranking of Bankers Trust and the Chase Manhattan Bank as numbers one and two in the pension trust business, for example, can hardly be disputed.

Factors leading to concentration. According to the competitive standard, the pension funds should be distributed among the various corporate trustees in such a way that all given sets of benefits can be provided at the lowest possible cost. A competitive explanation of the highly concentrated distribution rests, then, in showing an inverse relation between the average cost of funding and the volume of pension business connected with each corporate trustee.

The cost factors that the corporate trustee has some control

---

<sup>12</sup>The Wilmington bank trustees the \$712 million duPont fund while the Cleveland bank handles the \$178 million Republic Steel fund.

over are (1) the rate of return on investments, and (2) the fee for investment service. The former is especially important since a small variation in the rate of return can lead to a sizable differential in the long-run cost of a pension fund. One authority has estimated, for example, that an increase of one-fourth of one percent in the earnings rate may be expected to produce a savings of six or seven percent in costs.<sup>13</sup> The fee for investment service, on the other hand, is a lesser element of cost, although it can become sizable for the large funds.<sup>14</sup>

Relating these cost factors to the number of pension fund clients for each of the banks responding to the questionnaire on corporate-trusteed pension funds, Table 16 shows no discernible tendency for the banks with the greatest number of pension trust accounts to earn the highest average rates of investment return. Nor does it firmly indicate that smaller banks charge higher investment service fees. This does not recognize, however, the possibility that larger banks may provide their pension fund clients with supplementary services not available from smaller banks. It is possible that product

---

<sup>13</sup>Dan McGill, Fundamentals of Private Pensions (Homewood, Illinois: Richard D. Irwin, 1955), p. 169.

<sup>14</sup>The typical arrangement is a graduated scale of charges based on the market value of the fund. Three-tenths of 1 percent for the first million, 2/10 of 1 percent for the second million, 1/10 of 1 percent for the next eight million, 1/15 of 1 percent for the next 15 million, and 1/20 of 1 percent for all over 25 million is representative.

competition has been substituted for price competition in the pension trust business. Nevertheless, the primary function of the corporate trustee is to maximize investment return and to maintain the safety of the trust corpus. That any one bank has much of an absolute advantage in performing this function cannot be supported by the evidence.

TABLE 16. -- Number of pension trust accounts, average rate of return on investments, and typical trustee fee for investment service, for each of eighteen banks responding to the questionnaire on corporate-trusteed pension funds

Location of bank <sup>1</sup>	Number of pension trust accounts	Average rate of return on investments	Fee for investment service <sup>2</sup>
New York	750	n.a.	\$3,000
Boston	650	n.a.	3,200
Chicago	500	4.50%	3,500
Detroit	500	3.85	n.a.
Detroit	450	4.60	3,500
Philadelphia	450	4.48	3,600
St. Louis	255	4.38	2,850
Philadelphia	232	n.a.	3,600
Chicago	150	4.65	3,000
Minneapolis	150	4.00	n.a.
Hartford	130	4.15	2,500
Cincinnati	87	n.a.	3,300
Seattle	85	n.a.	2,500
Louisville	67	4.00	n.a.
Hartford	50	4.00	2,500
Baltimore	32	4.24	2,500
Portland	25	4.80	2,750
Seattle	16	3.90	3,600

<sup>1</sup>Names of banks unavailable because of confidential nature of questionnaire.

<sup>2</sup>The typical trustee fee arrangement is a graduated scale of charges based on the market value of the fund. Since each bank has its own scale, the fees listed are computed on \$1,000,000 of investment assets for one year.

If it is true that the largest banks do not provide substantial cost-savings for their clients, then the concentration of funds must be explained by other factors. One such factor seems to be location. The concentration of pension funds in the New York and Chicago banking markets, for example, appears to be because these markets are located in the main centers of industrial activity. Table 17 shows that 72 percent of the 125 randomly selected corporate-trusteed funds are handled either wholly or in part by banks located in the same states as the employers sponsoring the funds. Combining the New Jersey and New York markets and the Indiana and Illinois markets, this proportion increases to 81 percent.

TABLE 17. -- Location of corporate trustee of each of 125 pension funds in reference to location of sponsoring company

Location of sponsor of fund by state	Number of funds trustee:			Total
	Wholly in-state	Partly in-state	Wholly out-state	
New York	22	1	1	24
Ohio	9	3	3	15
Illinois	10	0	4	14
Michigan	4	1	7	12
California	9	0	2	11
Pennsylvania	8	1	2	11
New Jersey	0	0	7	7
Indiana	0	0	4	4
Massachusetts	4	0	0	4
15 other states	18	0	5	23
Total	84	6	35	125

Source: Computed from D-1 statements of the 125 corporate-trusteed funds in the sample of 232 pension funds.

While location may account for inter-market concentration, it does not explain why certain banks within a market carry on a larger pension business than their rivals. Most attempts to resolve the latter phenomenon have centered around two approaches: (1) concentration due to prior connections, favoritism, interlocking directorates, etc., and (2) concentration due to reputation and long experience in the field. According to Professor James E. McNulty, Jr. of the University of Pennsylvania, "it does appear that prior connections which the funding agency may have with the client or with key client executives and, to some extent, key advisors do often provide the push which turns the pension business to a particular funding agency."<sup>15</sup> In opposition to this view, Mr. C. Canby Balderston, testifying on behalf of the Federal Reserve System, said that if the concentration "were merely a matter of pull or influence, whether proper or improper, all large banks would participate in this business, whereas that is not the case, at least among State member banks."<sup>16</sup> Contrariwise, Mr. Balderston affirmed that the concentration could be explained primarily in terms of "competency, experience, and skill of those banks that had an early start."<sup>17</sup>

---

<sup>15</sup>James E. McNulty, Jr., Decision and Influence Processes in Private Pension Plans (Homewood, Illinois: Richard D. Irwin, 1961), p. 77.

<sup>16</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Hearings, p.897.

<sup>17</sup>Ibid.

As a partial test of the validity of Mr. Balderston's first contention, Table 18 shows that the number of pension fund clients of each of the seventeen banks listed is far from being a constant proportion of the number of interlocking directorates that each bank has with employers who sponsor the funds. Instead, it indicates

TABLE 18. -- Interlocking directorates between 17 large banks and 125 pension fund clients

Name of bank	Number of inter- lockings	Number of pension clients	Number of interlocked clients
Morgan Guaranty Trust	14	10	8
Manufacturers Hanover Trust	13	5	4
First National City Bank	12	3	2
Irving Trust	10	3	3
Chase Manhattan Bank	8	18	4
Chemical Bank New York Trust	8	1	0
Harris Trust and Savings Bank	7	3	1
Continental Illinois National Bank and Trust	6	5	0
National City Bank of Cleveland	6	3	3
Bankers Trust	5	17	4
Mellon National Bank and Trust	5	5	5
National Bank of Detroit	5	3	2
Crocker-Anglo National Bank	4	1	1
First National Bank of Chicago	3	9	1
First National Bank of Boston	3	2	2
Girard Trust Corn Exchange Bank	3	1	0
Toledo Trust	3	2	2
Total	115	91	42

Source: Considering all the interlocking directorates (as indicated in corporation directories) between the sponsors and the corporate trustees of the 125 corporate-trusteed funds in the sample, seventeen of the corporate trustees were found to have interlocking directorates with three or more of the sponsors of the 125 funds, hence, the first column of figures. The next column shows the number of trustee-client relationships between the seventeen banks and the sponsors of the 125 funds, while the last column shows the number of these that involve interlocking directorates.



that the banks doing the most pension business tend to have the highest ratios of clientele to interlockings. Thus, Mr. Balderston's contention appears to be confirmed. However, while such banks as the Chase Manhattan and Bankers Trust have the most pension fund accounts because of their experience and pioneering in the field, it is also true that banks are interlocked with their pension fund clients in 46 percent of the cases in Table 18. Furthermore, if the experiences of Bankers Trust and the Chase Manhattan Bank are not considered, the proportion increases to 61 percent. That this could be the result of sheer coincidence is highly improbable. Thus, as far as can be determined, both long experience and big business contacts and interlockings have played major roles in contributing to the concentrated placement of corporate-trusted pension funds. It appears that employers typically place their funds with their favorite banks, if the latter are skilled in this field, and, if not, with those banks having the strongest reputations of trustee-leadership.

Actual extent of financial control by banks. The concentration of pension funds in individual banks is an overstatement of the concentration of financial control by the banks because of investment conditions and restrictions imposed on the banks explicitly by governing trust agreements and implicitly through informal channels of influence by the funds'sponsors. With respect to restrictions of a formal nature, agreements of trust between the

banks and the sponsoring companies typically contain: (1) provisions relating to the kind and quantity of different classes of investments, (2) provisions granting various degrees of discretion over individual investments, and (3) provisions for trust termination.

Although most pension trust agreements provide that investments shall be unrestricted with regard to their kind or quality, a sizable minority are restricted in this sense. A typical restrictive provision limits the amount of certain securities or classes of securities in the investment portfolio in order to ensure some degree of diversification. Another confines investments to those legal for fiduciaries or insurance companies under state law. Still another prohibits investments in the securities, obligations, or other property of the employer, its subsidiaries, or affiliates.<sup>18</sup> Moreover, combinations of these and similar provisions are not uncommon in pension trust agreements.

The most important type of trust agreement provision that affects the financial power of the corporate trustee pertains to the degree of discretion that the trustee is to have in making specific investments. At one extreme, the trustee may be given sole discretion over individual investment decisions, while at the other, he

---

<sup>18</sup>The provision to prohibit self-dealing appears in one form or another in approximately ten percent of the trust agreements governing the pension funds in the random sample.

may be empowered only to act upon decisions made by the sponsoring company. In between are a number of arrangements in which the bank is given investment discretion subject to the sponsoring company's power to veto, direct, or approve. However, in the majority of cases, the trustee is given sole discretion in this matter.<sup>19</sup>

Although trustees may have sole discretion in the investment of most of the funds, it may mean little in terms of financial power if this discretion is subject to general quantitative and qualitative restrictions. Indeed, in examining 89 pension trust agreements filed at the Office of Welfare and Pension Plans, it was found that corporate trustees were unconditionally free in their investment decisions in only 18 cases.<sup>20</sup> Moreover, all 89 agreements had a provision reserving the right of the sponsoring employer to terminate

---

<sup>19</sup>In the report by Mooney, op. cit., p. 30, responsibility for investments, other than own-company, was found to be with the trustee alone in 68.55 percent of the funds studied. Similarly, banks responding to the questionnaire reported that they have full investment discretion over the bulk (78 percent on the average) of their pension fund assets.

<sup>20</sup>In 42 cases, investment discretion was given to the corporate trustee. Of these, 18 contained no investment restrictions, eight contained classification and diversification restrictions, five restricted investments to legals for fiduciaries or insurance carriers under state law, five were unrestricted except for prohibitions against self-dealing, and six were restrictive in terms of various combinations of the above. At the other extreme, investment discretion was retained by the employer in 16 cases. Of these, 15 contained no investment restrictions, while one was unrestricted except for a prohibition against self-dealing. Joint investment discretion between the trustee and the employer was the rule in the remaining 31 cases:

the trust upon proper notice at any time of his choosing. Thus, given the employer's privilege to choose the corporate trustee, ultimate control of the pension funds is in the hands of their creators.<sup>21</sup>

In addition to trust agreement restrictions, the power of the trustee is further limited by certain informal channels of influence. These include: (1) the periodic pension fund performance reviews that are held by the boards of directors of sponsoring employers, and (2) the day-to-day conversations between the trustees and employer liaison men.<sup>22</sup> The review process gives the employer board of directors a chance to raise questions about the fund's

---

in six cases, investment discretion was given to the trustee subject to the advice of the employer; in five cases, unrestricted investment discretion was given to the trustee except that the employer could direct any desired investment; in four cases, unrestricted investment discretion was granted to the trustee except that the employer could direct purchases of insurance policies; in three cases, restricted investment discretion was granted to the trustee except that the employer could direct investments within the restricted range; in three cases, unrestricted discretion rested with the trustee except that the employer had to approve all investments; while in two more, the employer had the option to direct investments. Only purchases of own-company securities could be directed by the employer in one case, while in two more, the employer also had to approve all other investments, otherwise investment discretion was given to the trustee. In the remaining five cases, various combinations of the above conditions applied.

<sup>21</sup>The threat that a client may choose to do business with another bank may have a discernible effect on the investment behavior of the trustee.

<sup>22</sup>See McNulty, op. cit., pp. 40-46. It is Professor McNulty's contention that these informal channels of influence constrain trustees to a much greater extent than the language of most trust agreements.

general performance and about particular investments in its portfolio. It may also bring pressure on the trustee to cater to the board's investment preferences, especially if the trustee is afraid of losing a valuable client to a rival.

The day-to-day conversations, encouraged by banks for the purpose of maintaining good will, involve a trustee representative informing an employer liaison man of the investment operations of the pension fund. The reactions of the liaison man are then noted by the representative. In some cases the liaison man is able to influence, if not determine, investment decisions that might not be made otherwise.

#### D. CONCENTRATION OF FINANCIAL CONTROL BY INDIVIDUAL TRUSTEES

A sizable proportion of noninsured pension funds are held in trust by individuals rather than banks. Though one person may legally serve as the trustee of a pension fund, in the typical case of individual trustees there is a board of several members. This board is usually made up of directors and officers in the case of employer administered funds. In jointly administered funds there is a joint board composed of equal numbers of employer and union representatives. Board member trustees in wholly union administered funds are generally key union officers. In all three cases the trustees are required to perform in accordance with the provisions of

a written plan, trust indenture, or bargaining agreement.

The number of pension funds that are trustee'd by individuals is considerably less than the number of corporate-trustee'd funds. This shows up in the random sample of 232 funds, where, out of a total of 174 noninsured funds, 49 (28 percent) and 125 (72 percent) are trustee'd by individuals and banks respectively. However, the 49 funds have \$5.4 billion (45 percent) of assets compared to \$6.5 billion (55 percent) for the 125 corporate-trustee'd funds. That 28 percent of the funds in the sub-sample have 45 percent of the assets is because the three billion-dollar-plus funds in the sample are all trustee'd by individuals rather than banks. This may be a coincidence, but it is more likely that the largest funds have good reason for self-trusteeship. Since giant corporations already have their own staffs of investment analysts and experts, they are well equipped to integrate the investment aspects of their pension funds with their over-all enterprise financial plans.<sup>23</sup>

If it is true that the largest noninsured pension funds are not hired out to banks as frequently as the smaller ones, then it is also true that the degree of concentration of pension fund assets in the hands of individual trustees, as in the case of corporate

---

<sup>23</sup>This is certainly true of Sears and General Electric, and probably true of other large corporations. But, according to McNulty, op. cit., p. 36, ". . . a plan which does not use a corporate trustee or an insurance company is not necessarily one whose financial management is most closely integrated into the affairs of the sponsoring firm."

trustees, is greater than the degree of concentration of assets in individual funds per se. In this regard, Table 19 shows that 82.7 percent of the assets of the aforementioned 49 funds are held by the

TABLE 19. --Sample distribution of pension fund assets among the individual trustees of 49 randomly-selected funds

Trustees identified by fund	Book value of assets, end of 1962	Percent of total assets
Sears Employees Pension	\$1,759,080,000	32.6%
U.S. Steel Employee Pension	1,541,154,000	28.6
General Electric Pension	1,160,145,000	21.5
General Electric Savings and Security	298,765,000	5.5
Teamsters Pension	169,354,000	3.1
First National Bank of Chicago Pension	84,909,000	1.6
Electrical Industry Annuity	61,891,000	1.2
Dress Industry of New York Retirement	47,468,000	.9
Bakery and Confectionary Union and Industry Pension	36,788,000	.7
Amalgamated Lithographers Local 1 Pension	30,152,000	.6
39 other funds	199,131,000	3.7
Total	\$5,388,837,000	100.0%

Source: From the annual financial reports (D-2 statements) of the 49 pension funds trusteeed by individuals in the stratified random sample of 232 funds. No correction is made in the table for the bias caused by the stratification.

individual trustees of the three largest funds. Admittedly, the degree of concentration shown in Table 19 is biased upward as larger funds appear in greater proportions in the sample. However, compensating

for the stratification would still produce a greater concentration than is shown, for example, in Table 12.

Table 19 also indicates the prevalence of jointly and wholly union administered pension funds in the ranks of those funds trusteeed by individuals rather than banks.<sup>24</sup> Of these, the Teamsters' fund is the largest, although small in comparison with the Sears, U.S. Steel, and General Electric funds.

With regard to the extent of financial control of the funds, the individual trustee, like the corporate trustee, is bound in his actions by a formal agreement of trust. Unlike his legal counterpart, however, the individual trustee is typically given, and frequently assumes, more latitude in his investment decisions. This might be expected where the principal parties to the trust agreement are more or less in the same family.

#### E. CONCENTRATION OF FINANCIAL CONTROL BY INSURANCE CARRIERS

In addition to the corporate-trusteed pension funds and the funds that are trusteeed by individuals, there are the insured pension funds. The typical insured pension plan is financed through a group annuity policy with a life insurance carrier. The sponsoring company pays premiums to the carrier, who, in turn, guarantees income benefits

---

<sup>24</sup>Only five of the eighteen jointly administered funds in the sample are trusteeed by banks. Of the four wholly union administered funds, none are.



for the company's employees as they retire. Like all financial intermediaries, the carrier puts accumulated reserves to work by investing them in bonds, stock, etc. Unlike the corporate trustees, however, the life insurance carriers have not been permitted, until recently, to maintain separate accounts for their pension fund clients.

Distribution of pension fund business among leading life insurance carriers. Without separate accounts, and on the basis of the 76 insured funds in the sample, it is not possible to show the distribution of pension plan reserves among the various life insurance carriers. However, it is possible to show the dollar amounts of pension contributions or premiums received by the leading carriers.<sup>25</sup> Accordingly, Table 20 shows, in connection with the 76 insured funds in the sample, that some \$200 million in premiums were paid to 33 carriers in 1962, and that 91.5 percent of the total went to only seven (21.2 percent) of the carriers. In fact, The Prudential Life Insurance Company of America received some \$58 million in premiums, or 28.9 percent of the total for the 33 carriers. Thus, a high degree of concentration is indicated.

The seven carriers, Aetna, Connecticut General Life, Equitable Life Assurance, John Hancock, Metropolitan Life, Prudential, and

---

<sup>25</sup> Administrators of the 76 insured funds are required under the Welfare and Pension Plans Disclosure Act to disclose the total amount of their annual contributions or premiums paid as well as the identity of the receiving carriers.

TABLE 20. -- Distribution of pension plan premium income among 33 life insurance carriers in connection with 76 randomly-selected plans, 1962

Name of carrier <sup>1</sup>	Premiums received <sup>2</sup>	Percentage share
Prudential (9)	\$57,945,000	28.9%
Connecticut General Life (10)	33,882,000	16.9
Aetna (5)	27,409,000	13.7
Equitable Life (20)	26,437,000	13.1
Metropolitan (3)	18,818,000	9.3
John Hancock (3)	11,009,000	5.5
Travelers (2)	8,243,000	4.1
Bankers Life (5)	4,616,000	2.3
Occidental Life (2)	3,186,000	1.6
Northwestern Mutual (3)	2,327,000	1.2
23 other carriers (31)	6,765,000	3.4
Total	\$200,637,000	100.0%

<sup>1</sup>Numbers in parentheses indicate the number of policyholders for each carrier. The total number of policyholders is greater than the number of plans under consideration because some of the plans are insured with more than one carrier listed.

<sup>2</sup>Values for multi-carrier insured funds are derived by prorating the premiums in equal proportions among the co-carriers where the actual proportions are not disclosed.

Source: From the 1962 financial reports of the 76 insured pension funds in the stratified random sample of 232 funds. No correction is made in the table for the bias caused by the stratification.

Travelers, are shown, also, in Table 21, to have received 81.3 percent of all group annuity premiums paid to United States life insurance companies in 1960. Since most insured pension plan premiums represent group annuity premiums, and vice versa, the findings in Tables 20 and 21 are roughly comparable and indicate firmly that a few carriers handle the bulk of the insured pension fund business.

TABLE 21. -- Distribution of group annuity premium income among all United States life insurance companies, 1960

Name of carrier	Premiums received	Percentage share
Prudential Life	\$232,148,772	21.3%
Equitable Life Assurance	187,886,536	17.3
Metropolitan Life	167,167,154	15.4
Aetna Life	104,766,496	9.6
John Hancock Life	93,877,077	8.6
Connecticut General Life	49,671,744	4.6
Travelers Life	48,828,673	4.5
All other companies	203,653,548	18.7
Total	\$1,088,000,000	100.0%

Source: Adapted from Best's Life Insurance Reports 1961 and Institute of Life Insurance's Life Insurance Fact Book 1961.

Factors leading to concentration. The pension fund business of life insurance carriers is highly rivalistic. In order to capture a

greater market share of this business, each of the leading carriers engage in promotional price and product competition. The prospective client is faced with a wide variety of insurance plans that provide an even greater variety of guarantees and benefits, each available in the context of a variable time dimension. By varying the product, the carrier can ostensibly vary the price, or the cost, to the client. While this type of multidimensional pricing policy may swing business one way or another among the more naive buyers, the sophisticated client knows exactly what he is paying for. The real costs of insured pension programs of reputable carriers are clustered in a narrow range because they reflect uniform mortality assumptions and similar experiences regarding interest accretions and administrative expenses. Thus, price competition per se probably has not been the key factor in the placement of pension plan policies.

Factors that appear to have played more important roles in the concentration of pension fund business with a few large carriers include: (1) sales promotion schemes, (2) carrier experience and reputation, (3) close intercorporate ties, and (4) financial reciprocation. The first two factors are generally well understood and require no further elaboration. As for close intercorporate ties, it is not surprising that pension plans have been frequently turned over by employers to their "favorite" insurance companies. The existence, for example, of interlocking directorates between insurance companies

and large corporation-clients in a great many cases<sup>26</sup> suggests that insured pension contracts are not always placed on the basis of competitive bidding.<sup>27</sup> With regard to financial reciprocation, it appears that contracts are occasionally awarded to carriers who are willing to extend ready credit to their new clients.<sup>28</sup> In the mid-1950's Senate investigation of welfare and pension plans, a number of cases were found in which the placement of insurance contracts might have depended more on financial transactions than low net cost:

The American Investment Company of Illinois borrowed \$5 million in 3% debentures from John Hancock Insurance on September 28, 1950. In 1954 the company borrowed another \$3 million in 3 1/2% and 4% notes. Effective May 1, 1955, the company bought a group insurance policy from John Hancock with annual premiums reported as \$208,246.

Between June 20, 1951, and March 30, 1953, Chemstrand Corporation took up \$15 million in 3 1/2% first mortgage bonds from John Hancock Insurance. On February 1, 1953, Chemstrand bought group insurance from John Hancock with an annual premium of \$546,846.

Metropolitan Life loaned Avco Manufacturing Company \$15 million in 1949 and 1950. On February 2, 1950, Leroy Lincoln, a director of Metropolitan, was put on Avco's Board. On June 20, 1951, Avco bought a group insurance policy from Metropolitan. The current premium ran about \$2.5 million.

---

<sup>26</sup>Approximately one-third of the total premiums received by the carriers in Table 20 came from employers who were interlocked with the carriers.

<sup>27</sup>According to AFL-CIO President George Meany, corporate management has occasionally rejected union proposals to submit pension insurance contracts to competitive bidding by placing them, instead, with closely-tied carriers. U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Legislation, Hearings, 85th Cong., 1st Sess., 1957, pp. 191-95.

<sup>28</sup>Professor McNulty states: "Some companies in their promotional literature for pensions mention the availability of loans to clients and others do this in a way that implies preferential treatment." McNulty, op. cit., p. 83.

The Atlantic Refining Company leased two Metropolitan Life Insurance Company properties in 1950 and 1951. On February 1, 1951, the company took out a group policy with Metropolitan whose annual premium is reported as \$700,000.

Metropolitan Life loaned Chemstrand Corporation \$45 million. These loans were secured by 3 1/2% first mortgage bonds issued between January 1, 1951, and March 30, 1953. On January 1, 1953, Chemstrand bought an annuity policy from Metropolitan with an annual premium of \$241,000.

On December 18, 1950, Elgin Watch borrowed \$10 million in notes from Metropolitan Insurance. On August 1, 1952, the company took out insurance with Metropolitan with annual premiums of \$331,000.

Reynolds Metals borrowed \$60 million from the Metropolitan Life Insurance Company beginning in 1951. On April 1, 1952, Reynolds purchased a group insurance policy from Metropolitan with annual premiums of \$3,000,000.

On May 1, 1951, Prudential Life Insurance Company extended \$47.5 million in 3 1/2% notes to Goodyear Tire. On October 1, 1953, Goodyear took out group insurance with Prudential with annual premiums of \$8.3 million.

On March 24, 1952, U.S. Rubber borrowed \$24.5 million from Prudential Life. On June 1, 1953, the company purchased insurance from Prudential with annual premiums of \$1,429,039.

On January 11, 1950, Prudential Life extended \$995,000 in notes to Liebman Breweries. On April 1, 1950, the company purchased a group policy from Prudential with annual premiums of \$334,390.<sup>29</sup>

While it is possible that all of these transactions were completely unrelated to the placement of the contracts, the probability of this is certainly remote.

Actual extent of financial control by insurers. Whereas trustees

---

<sup>29</sup>These cases are transcribed from unpublished documents of the Senate Committee on Labor and Public Welfare.

are constrained in their financial control of pension funds by governing trust agreements, insurers are subject to the strict life insurance investment laws of the several states. Based on the Armstrong investigation in New York State in 1905, the Hughes legislation of the following year prohibited life insurance companies, doing business in the state, from investing in common stocks and set the pattern of investments throughout the country. Although state insurance laws have since been liberalized,<sup>30</sup> the proportion of total assets of life companies in common stock today is very small.<sup>31</sup>

#### F. CONCLUSION

Financial control of the investment assets of private pension funds is highly concentrated with a few banks, individuals, and life insurance companies. This concentration is partly attributable to close intercorporate ties, financial dealings, and other big business relationships. Although control of the funds is tempered in accordance with the provisions of ruling trust agreements and state life insurance laws, some of the trustees, nevertheless, have considerable investment power over billions of dollars of financial assets.

---

<sup>30</sup>In 1962, for example, New York State Law was amended to permit life insurance carriers in the state to maintain separate accounts for qualified pension funds, with authority to invest the funds in common stocks. Up to this time, the carriers had been complaining that they could not compete with the banks, who are much less restricted in this matter.

<sup>31</sup>It is, roughly, about three percent.

As part of these assets are corporate stocks, the trustees may have considerable voting power as well. This possibility is considered next.



## CHAPTER IV

### CORPORATE TRUSTEES AND PORTFOLIO COMPANY CONTROL

#### A. INTRODUCTION

"The trustee shall have the power and authority in the administration of the trust fund to exercise, personally or by general or limited power of attorney, any right, including the right to vote, appurtenant to any securities or other property held by it at any time."<sup>1</sup>

The power of a corporate trustee to vote portfolio company common stock is characteristically granted in nearly every pension trust agreement.<sup>2</sup> This means that a bank trustee who manages a considerable number of pension funds and has a considerable amount of investment power over them may, likewise, accumulate a considerable amount of voting control of portfolio companies. Since sufficient voting power may lead to influence or control of corporation management, it is not

---

<sup>1</sup>Provision of a specimen form of trust agreement of a New York bank.

<sup>2</sup>According to 19 large banks responding to the questionnaire, over 97 percent of the trust agreements to the 4,974 pension funds trusted by them give common stock voting rights to the corporate trustee.

surprising that some students of the pension fund movement are vitally concerned about the possibility of corporate trustees of pension funds coming into control of their portfolio companies. Notably, Professor Adolf A. Berle, Jr., and Dr. Paul P. Harbrecht, S.J., have written that the pension trustees are increasing their proportionate stockholdings at a rate that can hardly fail to leave them in a position of potential working control (ten percent or more voting power) of the largest corporations.<sup>3</sup>

Although it is clear that pension trustees in the aggregate are investing their way into control of a number of large corporations, this tendency is in itself not enough to deduce dominant voting control of specific companies by individual corporate trustees. What also must be known is whether or not the combined control by the trustees is so diffused as to leave each individual trustee powerless. Unfortunately, this knowledge has not been produced in the literature.

The present chapter attempts to remedy this shortcoming by disaggregating the data on bank control of corporations. It strives to show the extent of individual-bank holdings of individual portfolio companies. Also examined is the general behavior of the bank trustees

---

<sup>3</sup>Adolf A. Berle, Jr., Economic Power and the Free Society (Santa Barbara, California: Center for the Study of Democratic Institutions, 1957), p. 12; Adolf A. Berle, Jr., Power Without Property (New York: Harcourt, Brace and Company, 1959), p.54; and Paul P. Harbrecht, S. J., Pension Funds and Economic Power (New York: The Twentieth Century Fund, 1959), p. 248.

as stockholders. The allegation that the trustees follow a uniform voting policy is considered, with special emphasis given to the policy's impact upon corporate management determination.

## B. CORPORATE TRUSTEE HOLDINGS OF PORTFOLIO COMPANY STOCKS

In considering corporate trustee stockholdings as instruments of voting power, it is necessary to include the discretionary holdings in all trust accounts, nonpension as well as pension, that are under the bank's unifiable control. Since the trustee, as a corporate unit, handles many different kinds of trusts, any of which may involve stockholdings, a true statement of a fiduciary's voting power must be based on total accumulated holdings, of which only a part may be located in pension trusts. In other words, the amount of common stock held in pension funds must be taken together with the amounts held in other trusts of a bank in order to determine the bank's voting power.

The typical large bank and trust company handles several kinds of trust and agency accounts, the principal ones being: (1) employee benefit trusts (predominantly pension and profit-sharing trusts), (2) personal trusts (living and testamentary trusts, guardian accounts and funds of incompetents), (3) common trust funds, (4) estates, (5) custody and safekeeping accounts, (6) investment advisory and

management accounts, (7) corporate trusts and agencies, (8) personal agencies, and (9) insurance trusts. Of these, the pension and deferred profit-sharing funds<sup>4</sup> and the personal trusts have in them the vast bulk of common stocks subject to bank voting control.

In terms of sheer magnitude, personal trusts under control of corporate trustees exceed in value pension trusts. The 1960 market value of assets in personal trust accounts in the United States was \$62.3 billion while the same for assets in corporate pension funds was \$32.2 billion.<sup>5</sup> Moreover, the percentage share of the personal trust assets held in common stock was 64.9 percent, compared to only 43.5 percent for the corporate pension funds.<sup>6</sup> However, it is the pension trusts that are of primary importance in the contention that banks are coming into control of their portfolio companies. In the first place, the pension funds are much larger net purchasers of common stock than are the personal trusts. In fact, the pension funds purchase, net, more stock than all other investors combined. Second, the pension funds are much more concentrated than the personal trusts in their placement. The distribution of pension funds among all banks is not nearly so wide as it is for personal trusts. Thus, pension funds

---

<sup>4</sup> Profit-sharing plans with retirement features are considered as pension plans for the purpose of this study.

<sup>5</sup> Gordon A. McLean, Report of National Survey of Personal Trust Accounts (New York: American Bankers Association); and U.S. Securities and Exchange Commission, Corporate Pension Funds, 1962, Statistical Series Release No. 1902, May 24, 1963.

<sup>6</sup> Ibid.

have more of a concentrating effect on voting power. Third, individual pension funds are larger than individual personal trusts, they are subject to fewer legal restrictions, and they give to the trustee considerably more discretion in their investment management. All of this makes the pension fund the greatest vehicle of voting power that the corporate trustee has.

Possibly the reason why the students of the control issue have worked with aggregate stockholdings in bank-trusteed pension funds instead of individual-bank holdings of individual stock issues is because there is no published data on the latter phenomenon, nor is there even public access to such information. Bank holdings of portfolio company stocks are generally registered in the names of bank nominees. (This is done in order to avoid delays in transferring stock.) Since a large bank typically has many such nominees, each of which may be an owner of record of shares of stocks of the same portfolio companies, knowledge of unifiable bank control of the voting shares of specific companies is extremely difficult to come by. Banks are not willing to divulge such information freely, nor are they required to do so under public law.<sup>7</sup>

---

<sup>7</sup> E.g., the Securities and Exchange Commission does not require, per se, any information on bank holdings of individual stock issues, though it does require disclosure of the owners of record of ten percent or more of the outstanding stock of a listed corporation. However, it is possible for a bank to bypass this by having its holdings registered in nominee names.

In spite of this problem, some very useful information on individual-bank holdings of individual portfolio companies was uncovered-- information that had been assembled, but never published, by the Senate Committee on Labor and Public Welfare in connection with its 1955 investigation of welfare and pension plans. In the course of the investigation, the staff of the Subcommittee on Welfare and Pension Plans sent letters to 65 banks believed to have held the majority of assets of all pension trusts. Along with other information, each letter requested:

A list of any common or voting stocks, any portion of which is held in a pension trust and wherein the bank holds in a fiduciary or other voting capacity, including holds in personal trusts, an aggregate of such stock amounting to 5 percent or more of the issue outstanding.<sup>8</sup>

Of the 64 banks that responded to the letter, 26 acknowledged one or more holdings of five percent or more of the stock of an individual company.<sup>9</sup> Altogether, 100 such holdings were reported.<sup>10</sup> The names of the banks and portfolio companies involved in 99<sup>11</sup> of these holdings (reported in and around the end of 1955) are shown in Table 22.

The names in Table 22 reveal more than a simple identification of a substantial number of cases in which individual banks had

---

<sup>8</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Final Report, 84th Cong., 2nd Sess., 1956, p. 359.

<sup>9</sup>Ibid., pp. 360-61

<sup>10</sup>Ibid., p. 361.

<sup>11</sup>In examining the Labor and Public Welfare Committee's documents, only 99 of the 100 holdings referred to were uncovered.

TABLE 22. -- Cases in which a bank held a voting stock in a pension trust and in which the amount held, together with the amounts held in other trusts of the bank, exceeded five percent of the total stock outstanding, for the year-ending 1955

Name of bank and stock held	Percent of total issue held
Bank of America, Los Angeles	
Mode O'Day . . . . .	16.6
Bank of California, San Francisco	
Chas. H. Lilly Company . . . . .	8.6
Bankers Trust, New York	
American Can . . . . .	5.5
Connecticut General Life Insurance . . . . .	5.1
Dixie Cup . . . . .	13.7
Houston Oil . . . . .	6.8
Minneapolis-Honeywell Regulator . . . . .	6.7
National Cash Register . . . . .	7.5
West Virginia Pulp and Paper . . . . .	5.9
Camden Trust, Camden, New Jersey	
Campbell Soup . . . . .	*
Camden Trust . . . . .	*
Chase Manhattan Bank, New York	
Bankers and Shippers Insurance . . . . .	5.6
Basic Refractories . . . . .	11.7
Birdsboro Steel Foundry and Machine. . . . .	6.7
Brubaker Tool . . . . .	5.6
County Trust, White Plains. . . . .	6.6
Greenwich Gas . . . . .	6.1
H. L. Green Pension Holding Corporation. . . . .	100.0
Iberia . . . . .	13.1
R. H. Macy and Company . . . . .	6.6
Manufacturers National Bank of Detroit. . . . .	7.9
Merchants Fire Assurance . . . . .	35.7
Moore McCormack Lines. . . . .	6.4
Ozark Building Corporation. . . . .	100.0
Union Tank Car. . . . .	6.1
Wabash Monroe Building. . . . .	100.0
Western Auto Supply. . . . .	10.8
S. Whitman and Son. . . . .	13.9
City Bank Farmers Trust, New York	
South Eastland Corporation. . . . .	100.0
South Kilbourn Avenue Corporation . . . . .	100.0

South Second Corporation. . . . .	100.0
Thrift Plan Royalty Company . . . . .	100.0
West Whitehall Corporation. . . . .	100.0
Cleveland Trust, Cleveland	
Witherbee-Sherman. . . . .	*
Detroit Wabeek Bank and Trust, Detroit	
Cunningham Drug Stores . . . . .	6.7
R. C. Mahon Company . . . . .	13.7
First National Bank of Chicago, Chicago	
Chicago Mill and Lumber . . . . .	*
First National Bank of Chicago. . . . .	*
Iberia . . . . .	*
Jewel Tea . . . . .	*
William Wrigley, Jr. Company . . . . .	*
First Pennsylvania Banking and Trust, Philadelphia	
Pennsylvania Salt Manufacturing . . . . .	*
First Trust Company of St. Paul, St. Paul	
Bliss and Laughlin . . . . .	14.2
Gould National Batteries . . . . .	16.7
Waldorf Paper Products. . . . .	8.5
First Wisconsin Trust Company, Milwaukee	
First Wisconsin Trust Company . . . . .	5.8
Girard Trust Corn Exchange Bank, Philadelphia	
H. L. Green Company . . . . .	*
United Gas Improvement . . . . .	*
Guaranty Trust, New York	
Addressograph-Multigraph. . . . .	6.1
Harris Trust and Savings Bank, Chicago	
Bell and Howell. . . . .	16.5
Signode Steel Strapping . . . . .	15.6
Hartford National Bank and Trust, Hartford	
Aetna Life Insurance. . . . .	*
Hartford Electric Light. . . . .	*
Travelers Insurance . . . . .	*



## Manufacturers Trust, New York

Burlington Hawk-Eye . . . . .	*
Chanute Publishing. . . . .	*
Hutchinson Publishing . . . . .	*
Ottawa Herald. . . . .	*
Pension Realty . . . . .	*
Salina Journal. . . . .	*

## Mellon National Bank and Trust, Pittsburgh

Aluminum Company of America . . . . .	6.8
Armstrong Cork . . . . .	5.2
Diamond Alkali . . . . .	13.4
General Reinsurance . . . . .	6.9
Harbison-Walker Refractory . . . . .	9.0
Kearney and Trecker Corporation . . . . .	7.0
Monongahela Light and Power . . . . .	46.4
G. C. Murphy Corporation . . . . .	5.3
Pittsburgh Plate Glass . . . . .	6.9

## Mercantile-Safe Deposit and Trust, Baltimore

U.S. Fidelity and Guaranty Company. . . . .	*
---	---

## National Bank of Detroit, Detroit

Michigan National Bank . . . . .	6.4
----------------------------------	-----

## Northern Trust, Chicago

Owens-Illinois Glass. . . . .	5.9
United States Gypsum . . . . .	9.7

## Old Colony Trust, Boston

Boston Insurance . . . . .	*
----------------------------	---

## Second Bank-State Street Trust, Boston

Ashworth Brothers, Inc. . . . .	6.1
---------------------------------	-----

## Security First National Bank, Los Angeles

Consolidated Engineering. . . . .	7.2
-----------------------------------	-----

## St. Louis Union Trust, St. Louis

Anheuser-Busch . . . . .	*
First National Bank of St. Louis . . . . .	*
LaCled Steel . . . . .	*
Mercantile Trust, St. Louis . . . . .	*

Olin Oil and Gas . . . . .	*
Olin Mathieson Chemical . . . . .	*
Pet Milk . . . . .	*
Ralston Purina . . . . .	*
St. Joseph Lead . . . . .	*
Wagner Electric . . . . .	*

Wachovia Bank and Trust, Winston-Salem

Blue Bell . . . . .	*
Burlington Industries . . . . .	*
Chatham Manufacturing . . . . .	*
Hanes Dye and Finishing . . . . .	*
Hanes Hosiery Mills . . . . .	*
Milner Stores . . . . .	*
Mount Olive Pickle . . . . .	*
New South Insurance . . . . .	*
R. J. Reynolds Tobacco . . . . .	*
Sherford Mills . . . . .	*
Wachovia Bank and Trust . . . . .	*
Washington Mills . . . . .	*
Wysong and Miles . . . . .	*

---

\* Holding exceeds five percent but reporting did not specify amount or percent of issue held.

Source: Documents assembled by the Senate Committee on Labor and Public Welfare and filed in the National Archives, Washington, D. C.

sizable holdings in individual portfolio companies. Indeed, a great deal about the nature and significance of these holdings is revealed:

(1) The holdings represent diversified companies of different sizes. Forty of the 99 holdings are in companies whose securities are listed on a national securities exchange and are registered with the Securities and Exchange Commission. Of these, 28 are in manufacturing industries, two are in transportation, three are in electric and gas companies, four are in the wholesale and retail trades, and three are in insurance. Of the 28 holdings in manufacturing industries, five are in food products, one is in cigarets, one is in textiles, one is in paper products, two are in chemicals, two are in glass products, three are in nonmetallic structural products, two are in steel, two are in nonferrous metals, one is in cans, two are in metalworking machinery, two are in office machines, two are in electrical equipment, and two are in technical instruments. The remainder of the 99 holdings are in small corporations, banks, and real estate companies and properties.

(2) The percentage holdings of the stock issues outstanding of the larger corporations are not as great as the percentage holdings in the smaller companies. While the average reported percentage holding of all 99 portfolio companies is 23.2 percent, the average of the 40 companies, having securities listed on a national securities exchange and registered with the Securities and Exchange Commission, is but 10.0 percent. Moreover, if only those holdings of companies

whose stocks are traded on the New York Stock Exchange are considered, the average decreases to 8.7 percent. Finally, the percentage holding in the largest portfolio company, Alcoa, is an even smaller 6.8 percent. Thus the degree of portfolio company control is less for the larger companies.

(3) The holdings are in companies whose numbers represent only a small fraction of all American corporations. Given the tens of thousands of companies in this country, the 99 portfolio companies listed in Table 22 are not very many. Neither are the 40 of these that are among the 4,411 listed corporations filing annual reports with the Securities and Exchange Commission. Here the ratio is still less than one in a hundred.

(4) Although some of the holdings represent very large corporations (Alcoa, Pittsburgh Plate Glass, American Can, etc.), none are in the truly giant corporations (American Telephone and Telegraph, General Motors, U. S. Steel, General Electric, Standard Oil of New Jersey, etc.). This may seem a little strange as most of the pension fund money for common stock has been going for the gilt-edged blue chips.<sup>12</sup> However, it is understandable considering that (a) the pension

---

<sup>12</sup> According to a study made in 1956 by the Senate Committee on Banking and Currency, one-fourth of all stock acquisitions by pension funds were to that time confined to a list of 25 blue chip stocks, including General Electric, Standard Oil of New Jersey, Texaco, American Telephone and Telegraph, General Motors, Union Carbide and Carbon, duPont, Standard Oil of California, Sears, U.S. Steel, and others. U.S., Congress, Senate, Committee on Banking and Currency,

funds are relative newcomers in the business of buying into corporate ownership, while (b) the blue chip corporations are old, firmly established, and have huge amounts of stock outstanding. The fact that the holdings of Table 22 include relatively few blue chip companies in spite of heavy stock buying by the bank trustees reflects by and large the very old and very broad base of ownership of these companies.

(5) The holdings are concentrated in those banks that are the recognized leaders in the pension trust field. Five of the 26 banks have 56 of the 99 holdings. Moreover, these five (Bankers Trust, Chase Manhattan Bank, Mellon National Bank and Trust, St. Louis Union Trust, and Wachovia Bank and Trust) hold most of the largest portfolio companies (American Can, Minneapolis-Honeywell Regulator, National Cash Register, Macy's, Union Tank Car, Alcoa, Pittsburgh Plate Glass, Olin Mathieson Chemical, R. J. Reynolds Tobacco, etc.). Since much of the source of the financing of these holdings came from pension funds, it is not surprising that four of the five leading holders named also happened to have been leaders in the pension trust business.<sup>13</sup> With the high degree of concentration in

---

Institutional Investors and the Stock Market, 84th Cong., 2nd Sess., 1956, p. 25. Similarly, the New York State Banking Department study of the previous year reported that 50 percent, 66 2/3 percent, and 90 percent of the common stock assets of pension funds trusteeed by New York banks were in but 35 issues, 60 issues, and 200 issues respectively. George A. Mooney, Pension and Other Employee Welfare Plans, New York State Banking Department, 1955, pp. 3-4.

<sup>13</sup>Table 14 in Chapter III shows that the Chase Manhattan Bank, Bankers Trust, Wachovia Bank and Trust, and the Mellon National Bank and Trust are ranked first, second, twelfth, and thirteenth respectively in banks administering the largest number of pension funds in and around the end of 1955.

the distribution of pension fund money among corporate trustees, there seems to be cause for the distribution of portfolio company holdings, procured in large part with this money, to be similarly concentrated.

(6) Given the concentration of holdings, the inclusion of additional banks in the sample would probably produce much less than a proportionate addition in holdings. The 65 banks written to by the Subcommittee were believed to have been the leading banks in the trust business. Of the 65, only 26 reported one or more stockholdings of five percent or more of a single company. Of the 26, only 10 had three or more holdings of this type. Thus it is doubtful that the hundreds of trust companies not included in the sample had between them any significant number of equivalent holdings.

(7) The inclusion of portfolio company holdings at the one percent or more rather than the five percent or more level of control likely would produce a substantial increase in the number of reported holdings. Excluding the several 100 percent holdings in Table 22, each of which represents a special situation, 4 percent, 26 percent, and 70 percent of the specified percentage holdings are in the 20-99 percent, 10-19 percent and 5-9 percent categories respectively. From this it is inferred that the bulk of all portfolio company holdings involve individual-company voting control of less than five percent. Since one percent voting power may be sufficient to give a holder some influence in corporate management determination,<sup>14</sup> identification of all portfolio

---

<sup>14</sup>According to a 1942 House committee report, 10-50 percent voting power is "working control" and 1-10 percent voting power is a

company holdings equal to or in excess of this amount might have proven instructive.

(8) Given the growth of stockholdership by corporate trustees in recent years, the number of holdings reported for the end of 1955 is no doubt less than the number of holdings that would be reported if a similar survey were made today. At the end of 1955, corporate pension fund holdings amounted to 1.67 percent of the total market value of all corporate stock outstanding.<sup>15</sup> At the end of 1963, they came to approximately 4.00 percent.<sup>16</sup> Assuming this increase in ownership is indicative of the growth of bank stockholdership between these dates, almost certainly there would be at the latter date in a similar study (a) a greater number of banks with one or more holdings of five percent or more of individual portfolio companies, (b) a greater number of such holdings per bank, and (c) larger percent-of-total-issue-outstanding holdings in those portfolio companies that were previously held.

### C. BEHAVIOR OF CORPORATE TRUSTEES AS STOCKHOLDERS

As a general proposition, the corporate trustees of pension funds behave as stockholders of their portfolio companies much in

---

"working interest." U.S., House, Committee on Interstate and Foreign Commerce, Investment Trusts and Investment Companies (House Document No. 246), 77th Cong., 1st Sess., 1942, p. 5.

<sup>15</sup> See Table 6, Chapter II.

<sup>16</sup> Based on the trend equation:  $P_e = .027(Y-1957)^2 + .3(Y-1957) + 2.14$ , where  $P_e$  is the percentage share at the end of year  $Y$ .

the same way as all large institutional investors, i.e., they seek to hold stock for its investment worth rather than as a ploy for determining corporation organization or policy. In the words of a leading financial columnist:

Because they have easy access to the top management, most large shareholders, and particularly, institutional investors, banks, trusts, insurance companies, and pension funds, seldom participate in proxy fights, seldom have representatives make speeches at stockholders' meetings, seldom make proposals on proxies for the consideration of other shareholders.

They achieve their ends through direct consultation. And if they feel that the management is unconstructive or unwilling to listen to their ideas, they sell--they divest themselves of their rights as stockholders--and look around for another investment niche for their money. They do not assume the role of champions of stockholders' rights.<sup>17</sup>

However, this does not mean that the trustees are not concerned about corporation management nor that their behavior as stockholders has no effect upon it. As shown in this section, their voting behavior and their contacts with management have a decided influence, however subtle, on how and by whom corporations are run.

Voting behavior. The power of banks and their nominees to vote stock held by them in custody and fiduciary accounts is not subject to any administrative or legislative regulations.<sup>18</sup> In practice,

---

<sup>17</sup>J.A. Livingston, The American Stockholder (Philadelphia and New York: J. B. Lippincott Company, 1958), pp. 64-65.

<sup>18</sup>Edward Ross Aranow and Herbert A. Einhorn, Proxy Contests for Corporate Control (New York: Columbia University Press, 1957), p. 228.



however, the large banks differentiate between stock held in custody accounts and stock held in fiduciary accounts, e.g., pension trusts. With the latter, they tend to vote their holdings in accordance with their own discretion, usually voting in favor of incumbent management.<sup>19</sup> With stock held in custody accounts, the banks generally confer with the beneficial owners as to how the stock should be voted.<sup>20</sup> However, there is no uniform practice in consulting with beneficial owners, nor is there any guarantee that they will be consulted at all:

Some banks forward all solicitation material to the beneficial owner with a form requesting instructions with respect to the execution of proxies and the voting on matters to come before the meeting. Under this practice no distinction is made between contested and uncontested elections or with respect to the materiality of the matters on which action is to be taken.

Other banks actually execute a proxy in favor of management and forward it to the beneficial owner together with the solicitation material. The beneficial owner is requested to forward the executed proxy to the company if he desires such proxy to be given. Where there is a contest, the solicitation material for both sides is forwarded to the beneficial owner, usually accompanied by an executed proxy to the management and a blank proxy for the opposition. The beneficial owner is informed that if he desires to vote for management he should forward the executed proxy to the company's management. On the other hand, if he desires to support the opposition, he is requested to return to the bank a form directing the bank to execute a proxy to the opposition. Many other banks apparently do not undertake to consult the beneficial owners of the stock held in their custody accounts and automatically execute proxies for such stock solely on the basis of their own judgment.<sup>21</sup>

---

<sup>19</sup>Ibid., pp. 228-29.

<sup>20</sup>Ibid., p. 228.

<sup>21</sup>Ibid., p. 229.

As a practical matter, the owners of record, or banks, have a great deal more power to determine how the stock shall be voted than the beneficial owners. Consequently, bank held stock usually means bank voted stock.

In voting this stock, the corporate trustees support, with few exceptions, the managements of their portfolio companies. They execute their proxies in favor of managements' nominees for board positions and for managements' proposals on such matters as executive compensation, stock options, bonuses, pensions, etc. On the other hand, they almost never support independent stockholder proposals,<sup>22</sup> nor are they disposed toward voting for insurgents in proxy contests for control. Presumably, if a bank does not like incumbent management, it votes neither for the incumbents nor the insurgents, but disposes of its holdings instead. This is known in the trade as the "vote for management or sell the stock" policy, to which practically all bank trustees say they adhere. As one New York banker expressed:

If we like management of a company, we vote for the management by buying their stock. If, subsequently, we become disenchanted with management, we sell their stock. Hopefully, we try to do this before other investors do so, so that we meet the best purchase price and the best selling price. Our contacts with management are informal meetings at which our security analysts endeavor to find out all they can about

---

<sup>22</sup>For a detailed account of how the large New York banks in their trustee capacity vote for management proposals and against independent stockholder proposals, see the relevant sections in: Lewis D. and John J. Gilbert, Annual Report of Stockholder Activities at Corporation Meetings (New York: Lewis D. and John J. Gilbert, Annual).

the company and its plans. While we own the stock, we therefore invariably exercise our proxies on behalf of management.<sup>23</sup>

Rigid application of this policy, however, is difficult to conceive. A trustee with a large holding in an undesirable stock may not be able to dispose of it without realizing excessive capital losses. Moreover, if other bank trustees are selling their holdings of the same issue, thereby effecting a buyers' market, the problem of liquidation is compounded. Thus, strict adherence to the policy may not always work.

The policy is also difficult to justify. Because a corporation is well-managed and profitable, and its stock is a good investment, does not mean that its management deserves support on every issue put to a vote before the stockholders. Certainly there are genuine conflicts of interest between the stockholders and management, e.g., executive compensation, stock options, methods of selecting directors, etc., which warrant careful consideration by the voting trustees. To endorse management on every proxy proposal, without scrutinizing the issues, is to vote blindly and to neglect the fiduciary responsibility to the beneficial owners.

Finally, the policy works distinctly to management's advantage with regard to proxy contests for control. By categorically denying support to insurgents, the trustees help to insulate management from

---

<sup>23</sup> Statement of a New York banker in response to the writer's questionnaire on corporate-trusteed pension plans.

effective challenge. The more stock owned or controlled by banks and other institutional investors, the more difficult it is for insurgents to solicit a winning margin of votes. The decline of contests for control in recent years reflects this factor.

Contacts with portfolio company managements. While the bank trustees are perfectly willing to leave management alone on matters put to a vote before stockholders, they nevertheless keep surveillance of management by maintaining close contacts with the companies in which they are heavily invested. These contacts frequently take the form of personal visits or field trips by trust company officers and analysts to their portfolio company offices, or they may involve nothing more than a few appropriately placed letters or telephone calls.

Generally, the contacts are for the purpose of exchanging information and ideas. Bank trustee security analysts are always interested in advance knowledge concerning sales trends, product development, profits, capital expansion plans, etc. In exchange for this information, portfolio company officials seek or are given the opinions and advice of the bankers on matters such as dividend policy, financing of plant and equipment expenditures, merger plans, officer and director selection, etc. Whereas the bankers' suggestions are nearly always considered and frequently adopted by management, it can be said that the bank trustees have a voice in management's internal affairs.

#### D. CONCLUSION

In this chapter a number of phenomena regarding "corporate trustees and portfolio company control" have been brought to light. First, the corporate trustees, or banks, are buying into positions of corporate ownership primarily because of the necessity to fill their pension trust portfolios with common stock. Second, this effort has led to a considerable number of cases in which individual banks have accumulated sizable holdings in individual corporations, as evidenced by the facts assembled in the 1955 inquiry of the Senate Committee on Labor and Public Welfare. Third, information on current bank holdings of individual companies is not available and represents a definite gap in the data that needs to be filled. Fourth, the corporate trustees are not as yet interested in using their stockholding power to vote in managements of their own choosing, but by consistently casting their votes with management, they are inadvertently shielding the incumbents from effective challenge by outside stockholders. Finally, the bank trustees as large stockholders are frequently able to exercise some influence in shaping the policies and operations of their portfolio companies through their personal visits and close contacts with these companies.

## CHAPTER V

### THE INVESTMENT OF PRIVATE PENSION FUNDS IN OWN-COMPANY SECURITIES

#### A. INTRODUCTION

While a bank trustee of several hundred pension funds may come into substantial voting control of a portfolio company in the normal course of building diversified investment portfolios for each pension fund client, a trustee of a single fund may achieve the same result by investing the fund heavily into the stock of a single company. In this regard, it is not at all unusual for a pension or deferred profit-sharing fund to be invested in the stock or other securities of the sponsoring organization.<sup>1</sup> In fact, a number of such funds are invested almost entirely in own-company stock, with the occasional result that the fund becomes the dominant stockholder of the company.

This chapter analyzes several aspects of the investment of private pension funds in own-company securities. First, the number

---

<sup>1</sup>This is especially true of the profit-sharing fund, where the employer is not obligated to make contributions except out of profits. Here investment in the employing company's stock provides a double incentive for participating employees to increase their productivity, for higher profits will not only increase contributions, but they will increase the value and earnings of the fund itself.

of pension funds that are invested, either wholly or in part, in own-company securities is established. Second, the own-company securities in these funds are examined from the point of view of determining their nature, i.e., the amount of assets in own-company stock, bonds, notes, etc. Third, the income performance of pension funds invested in own-company securities is computed and compared to the performance of funds that have no such investments. Finally, the effect of own-company stock investment upon corporate control is analyzed. Since it is technically possible for a company-appointed trustee to invest a company-created pension fund in own-company stock to an amount sufficient to give the trustee dominant voting control of the company, the question is to what extent such a process has been carried out in actual cases. This chapter seeks an answer.

## B. NUMBER OF PENSION FUNDS INVESTED IN OWN-COMPANY SECURITIES

Several writers have indicated that only a small minority of pension funds are invested in the securities of their sponsoring companies:

"Own-company" transactions affect only a small minority of pension funds.<sup>2</sup>

---

<sup>2</sup>Robert Tilove, Pension Funds and Economic Freedom (New York: The Fund for the Republic, 1959), p. 57.

It seems quite clear . . . that incidents of self-dealing investment demands by employers . . . are not important as a practical matter and probably not possible in most pension situations.<sup>3</sup>

The SEC and the New York State Banking Department have . . . looked into the extent of "self-dealing" in the investment policies of pension programs. Their studies reveal that the practice is limited to a small percentage of the funds.<sup>4</sup>

Expressed numerically, the New York State Banking Department study found that, although only 31.74 percent of the funds specifically prohibited in their trust agreements investments in the stock or obligations of the employer or the employer's affiliates, 88.40 percent had not made any such investments.<sup>5</sup> Similarly, the Senate Labor and Public Welfare Committee investigation discovered that 94% of the funds did not hold employers' assets or obligations, even though such investment was specifically prohibited in only 20 percent of the trust agreements.<sup>6</sup>

The primary reason why these studies came up with a large divergence between the number of funds legally authorized to be invested in own-company securities and the number of funds actually

---

<sup>3</sup>James E. McNulty, Jr., Decision and Influence Processes in Private Pension Plans (Homewood, Illinois: Richard D. Irwin, 1961), p. 41.

<sup>4</sup>Paul P. Harbrecht, S.J., Pension Funds and Economic Power (New York: The Twentieth Century Fund, 1959), p. 84.

<sup>5</sup>George A. Mooney, Pension and Other Employee Welfare Plans, New York State Banking Department, 1955, p. 28.

<sup>6</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Final Report, 84th Cong., 2nd Sess., 1956, p. 52.



so invested is that all of the funds studied were trustee'd by banks, known to oppose and discourage such investments. As stated in the Labor and Public Welfare Committee's final report:

The investment of pension funds in the stock of the employing companies. . . is discouraged. Banks attempt to prevent such self-investments and seek to insert clauses in the trust agreements prohibiting it.<sup>7</sup>

Where bank trustees invest in their clients' securities, they almost invariably assume a passive rather than active role. They do not make these investments unless their clients request them.

Given this opposition, many companies avoid bank trusteeship, investing in their own securities themselves. In fact, the proportion of self-trusteed funds invested in own-company securities is considerably larger than that for the bank-trusteed funds. This shows up clearly in the stratified random sample:

Percent of 125 bank-trusteed funds in sample with party-in-interest investments and loans . . . . .	23.20%
Percent of 49 self-trusteed funds in sample with party-in-interest investments and loans . . . . .	30.61%
Percent of 174 bank and self-trusteed funds in sample with party-in-interest investments and loans . . . . .	25.29%

Combining both groups, the proportion of funds with party-in-interest investments and loans is 25.29 percent. Although this may be an

---

<sup>7</sup>  
Ibid., p. 298.

overstatement of the actual frequency,<sup>8</sup> it is, nevertheless, greater than previously believed.

### C. NATURE OF OWN-COMPANY INVESTMENTS

Given the estimate that 20-25 percent of all trustee pension funds hold securities of the funds' sponsors, the next questions to be answered pertain to the nature of these investments. What percentage of the total value of each of the pension funds do own-company investments comprise? What kinds of securities do own-company investments entail? What can be said about the quality or grade of own-company investments?

Collective investment in own-company securities. Information about the nature of own-company investments in pension funds in the aggregate is afforded by the 1955 New York State Banking Department study and by statistics developed and released annually by the Securities and Exchange Commission. Covering all funds trustee by banks in New York State, the Banking Department study revealed that own-company assets amounted to more than \$315 million, or 6.44 percent of \$4,894 million in total assets.<sup>9</sup> Of this, 89.15 percent was in bonds, 3.57 percent in preferred stocks, 2.94 percent

---

<sup>8</sup>Correcting for the stratification in the sample, the over-all proportion is less, or 20.16 percent. This is because larger funds, appearing in greater proportions in the sample, tend, more than smaller funds, to be invested in own-company securities.

<sup>9</sup>Mooney, op. cit., p. 29.

in common stocks, 2.25 percent in real estate lease-backs, 2.07 percent in promissory notes, and .02 percent in notes secured by second mortgages.<sup>10</sup> Only .59 percent of the own-company securities were of substandard investment quality.<sup>11</sup>

Where most own-company investments were in corporate bonds in 1955, they are mainly in corporate stock today. According to the Securities and Exchange Commission,<sup>12</sup> corporate pension fund investments in own-company common stock have, since 1958, exceeded in value own-company investments in corporate bonds:

	Book value (\$000,000) end of year:					
	<u>1957</u>	<u>1958</u>	<u>1959</u>	<u>1960</u>	<u>1961</u>	<u>1962</u>
Own-company bonds	641	638	674	736	755	853
Own-company stock	584	646	773	874	1,025	1,167

This reflects the general trend of investing larger proportions of pension fund money in common stock. It is also indicative of the remarkable growth of profit-sharing pension funds, typically invested in own-company stock.

Own-company securities in individual pension funds. The above figures are interesting, but they are not very instructive for

---

<sup>10</sup>Ibid.

<sup>11</sup>Ibid.

<sup>12</sup>U.S., Securities and Exchange Commission, Corporate Pension Funds, 1962, Statistical Series Release No.1902, May 24, 1963, p. 5.

showing the nature of own-company investments in individual pension trusts. This is because the investments cover a very wide range from one pension fund to another. On the one hand, a number of funds of large corporations are invested in small amounts of own-company stock or bonds, just as any well-managed fund might be invested in the same securities. For example, General Motors' pension funds are invested in small quantities of General Motors stock in the perfectly normal course of assembling balanced, diversified, and profitable investment portfolios. On the other hand, there are a number of retirement funds in which a large proportion of the assets are in own-company securities, or in which the own-company investment is of marginal grade, or both.

The variety of own-company arrangements is well illustrated by Table 23, which is based on the party-in-interest investments and loans in 44 funds in the stratified random sample. Here it is shown that nearly a third of the funds have less than two percent of their assets in such investments and loans. The investments for this third are generally of high investment grade. Cincinnati Gas and Electric common stock, First National Bank of Chicago capital stock, General Motors debenture bonds are good examples. On the other hand, almost half of the funds shown in Table 23 have more than ten percent of their assets in own-company securities, with almost half of these having 50 percent or more invested this way. The investments for this group (Abbott Laboratories, Kimber Farms, Ohio Oil, Sears,

TABLE 23. -- Party-in-interest investments and loans in 44 pension funds in the stratified random sample of 232 funds

Sponsor of fund and description of investment or loan	Percent of total book value of fund
<b>Abbott Laboratories</b>	
211,214 shares Abbott common	
cost: \$11,409,864.19 . . . . .	98.00
<b>Armstrong Rubber</b>	
Armstrong Rubber common	
present value: \$1,608,840.00 . . . . .	29.00
<b>Beaver-Gear Company</b>	
4% loan to member of fund's managing committee	
amount outstanding: \$4,498.86. . . . .	1.60
<b>Bell and Howell</b>	
Bell and Howell common	
present value: \$2,074,557.00 . . . . .	9.59
loans to participants of fund	
amount outstanding: \$181,605.00. . . . .	.84
<b>Brewer-Titchener Company</b>	
Brewer-Titchener common	
present value: \$28,215.00 . . . . .	1.50
<b>Champion Paper and Fibre</b>	
5,100 shares Champion Paper and Fibre common	
present value: \$190,612.50. . . . .	1.71
<b>Chemical Bank New York Trust</b>	
55,009 shares Chemical Bank New York Trust common	
present value: \$4,620,756.00 . . . . .	32.89
<b>Cincinnati Gas and Electric</b>	
12,500 shares Cincinnati Gas and Electric common	
cost: \$393,799.99 . . . . .	.95
300 shares Cincinnati Gas and Electric preferred	
cost: \$26,842.30 . . . . .	.06
<b>Clorox Company</b>	
listed party-in-interest securities	
present value: \$43,750.00. . . . .	7.90



Cooperative G.L.F. Exchange	
10 year mortgage loans	
present value: \$300,000.00 . . . . .	1.90
4% cumulative preferred stock of company	
present value: \$548,300.00 . . . . .	3.48
Crown Cork and Seal	
Crown Cork and Seal common	
cost: \$6,821,264.74 . . . . .	99.30
Dallas Federal Savings and Loan	
savings and investment shares of company	
present value: \$6,478.72 . . . . .	1.00
real estate mortgage loans serviced by employer	
present value: \$298,939.53 . . . . .	48.10
party-in-interest loans	
amount outstanding: \$2,534.92 . . . . .	.04
Dorn's Transportation Company	
chattel mortgage on equipment of company	
present value: \$19,547.00 . . . . .	56.00
Fetzer Broadcasting Company	
Fetzer Broadcasting common	
cost: \$36,960.00 . . . . .	7.82
First National Bank of Chicago	
\$20 par capital stock of company	
cost: \$1,258,140.31 . . . . .	1.48
Ford Motor Company	
Philco Corporation sale and leaseback	
cost: \$953,553.83 . . . . .	.27
General Electric	
General Electric common	
General Motors	
General Motors common	
cost: \$5,109,382.00 . . . . .	.85
General Motors debenture bonds	
cost: \$326,625.00 . . . . .	.05
General Motors	
General Motors common	
cost: \$5,417,940.00 . . . . .	1.01

General Motors debenture bonds	
cost: \$201,000.00 . . . . .	.04
GMAC notes	
cost: \$1,990,001.00 . . . . .	.37
International Brotherhood of Teamsters	
party-in-interest loans	
amount outstanding: \$3,193,025.91 . . . . .	1.88
International Harvester	
International Harvester listed securities	
cost: \$4,690,035.00 . . . . .	3.20
Jewel Tea Company	
Jewel Tea common	
present value: \$5,699,250.00 . . . . .	10.36
Kimber Farms Company	
Kimber Farms class A common	
present value: \$143,330.00 . . . . .	33.40
Kimber Farms class B common	
present value: \$238,600.00 . . . . .	55.60
Mutual National Bank of Chicago	
2,000 shares Mutual National Bank common	
present value: \$72,960.00 . . . . .	28.60
Northern Indiana Public Service Company	
NIPS common	
cost: \$31,241.20 . . . . .	.20
NIPS 4 1/4% cumulative preferred	
cost: \$18,335.35 . . . . .	.10
Ohio Oil Company	
Ohio Oil common	
cost: \$15,421,757.16 . . . . .	71.05
Pullman Trust and Savings Bank	
2,385 shares Pullman Trust and Savings Bank common	
present value: \$94,914.77 . . . . .	6.21
savings certificates of Pullman Trust and Savings	
present value: \$56,000.00 . . . . .	3.67
Rea and Derick	
4 1/2% mortgages on Rea and Derick properties	
present value: \$132,348.17 . . . . .	9.30



Republic Steel Corporation	
Republic Steel listed securities	
cost: \$1,810,986.00 . . . . .	1.00
Rexall Drug Company	
Rexall capital stock	
present value: \$6,956,002.00 . . . . .	64.28
Schering Corporation	
18,179 shares Schering common	
cost: \$904,633.00 . . . . .	19.00
Sears, Roebuck and Company	
Sears common	
present value: \$1,487,451,427.00 . . . . .	84.80
Signode Steel Strapping Company	
Signode Steel Strapping common	
present value: \$4,403,145.00 . . . . .	27.00
Southern Pacific	
Southern Pacific equipment trust certificates	
cost: \$4,405,409.00 . . . . .	14.90
Springs Cotton Mills	
Springs Cotton Mills common	
present value: \$4,542,925.00 . . . . .	41.57
Spring Mills common	
present value: \$3,754,125.00 . . . . .	34.35
Standard Oil of New Jersey	
Standard Oil of New Jersey listed securities	
present value: \$2,070,552.00 . . . . .	1.20
United Insurance Company	
100,985 shares United Insurance common	
present value: \$6,765,995.00 . . . . .	55.81
loans to members of fund's board of trustees	
amount outstanding: \$22,629.30 . . . . .	.19
United Parcel Services	
United Parcel Services common	
present value: \$29,274.00 . . . . .	8.56
United States Steel	
United States Steel serial debentures and first mortgages	
cost: \$24,024,222.00 . . . . .	1.57

## Westinghouse Electric

## Westinghouse common

cost: \$3,261,468.00 . . . . .	.81
--------------------------------	-----

## Westinghouse sale and leaseback properties

cost: \$9,914,218.00 . . . . .	2.45
--------------------------------	------

## Whirlpool Corporation

## 107,681 shares Whirlpool common

cost: \$2,751,894.00 . . . . .	26.20
--------------------------------	-------

## Wisconsin Public Service Corporation

## Wisconsin Public Service common

cost: \$188,819.00 . . . . .	1.40
------------------------------	------

## Wisconsin Public Service preferred stocks

cost: \$29,311.00 . . . . .	.23
-----------------------------	-----

## Wooster Brush Company

## 3,677 shares Wooster Brush common

cost: \$230,302.00 . . . . .	71.00
------------------------------	-------

## Zenith Radio Corporation

## Zenith Radio listed securites

cost: \$6,870,056.00 . . . . .	21.17
--------------------------------	-------

Source: 1961 and 1962 D-2 statements filed at the Office of Welfare and Pension Plans, Silver Spring, Maryland.

Wooster Brush, etc.) are almost invariably in own-company common stock. Some of these common stock investments are not of the highest investment grade. A few appear to carry too much risk from the standpoint of maintaining the security of the pension beneficiaries. Thus, it is evident that the investments and loans in Table 23 are heterogeneous, representing the broad spectrum of own-company arrangements in the investment of pension funds.

#### D. INCOME PERFORMANCE OF PENSION FUNDS INVESTED IN OWN-COMPANY SECURITIES

One main objective in the investment of a pension trust is to maximize investment income without impairing the security of the trust corpus. This objective is usually accomplished by diversified investment in high-grade stocks and bonds. It is also said to be accomplished in those pension funds invested in own-company securities. In this regard, those responsible for making investment decisions of the own-company sort argue that their intimate knowledge of their companies' affairs leads them to take advantage of the income potential of their companies' securities. Ostensibly, then, investment in own-company securities is consistent with maximizing return on investment. But is it? Unless it can be shown that the income performance of pension funds invested in own-company securities is at least as high as it is for funds with no such investments, it is not true that the own-company arrangements are compatible with the income maximizing objective.

In analyzing the 174 noninsured funds in the stratified random sample, it was found that there is considerably more variation in the rate of investment return for funds that are invested in own-company securities than for funds that are not invested this way. Yet no significant difference was found between the mean rates of investment return. Measuring the rate of return on investment in

each fund as income from dividends, interest, and rent divided by the average of total book value of assets at the beginning and end of year, less one-half investment income, simple frequency distributions of the rate of return were drawn from three sample sets: (1) the pension funds having no party-in-interest investments and loans, (2) the pension funds having party-in-interest investments and loans amounting to less than ten percent of total assets, and (3) the pension funds having greater than ten percent of total assets in party-in-interest investments and loans. Subsequently, the mean and variance of each of the three sample sets were found:

	<u>Set (1)</u>	<u>Set (2)</u>	<u>Set (3)</u>
Sample mean . . . . .	3.80%	3.80%	3.60%
Sample variance. . . . .	.47%	1.01%	1.99%
Number of funds observed <sup>13</sup> . . . . .	125.0	23.0	21.0

While the differences in the mean rates of return are insignificant, this is not the case with the variances. The variation in the rate of return is greatest for the funds most deeply invested in own-company securities, while it is least for the funds having no investments of this type. This means, then, that own-company investments in pension funds involve an unnecessary amount of risk. While they enhance the probability of obtaining greater investment

---

<sup>13</sup>The total number of funds observed was 169 rather than 174 (the number of noninsured funds in the stratified random sample) because investment income was not reported for five of the funds studied.

gains, they also increase the chances of greater losses. Yet they do not earn, on the average, any higher rate of investment return.

This is what would be expected intuitively knowing that many of the own-company arrangements are in violation of the financial principle of diversification of investment. However, since these arrangements are also in violation of the principle of investing only at arm's length, it would likewise be expected that pension funds invested in own-company securities would earn a lower mean rate of investment return than funds not so invested. Trustees who must simultaneously serve the employer and the employees may not always serve the latter by investing their funds in own-company securities. Even if their intentions are good, there is always the possibility that own-company investment decisions may be influenced by subjective attitudes, unconscious motivations, or ulterior considerations of a cognizant nature.<sup>14</sup> In any case, it would seem that any compromising behavior should have, on the average, a negative effect on the rate of return on investment. Unfortunately, however, this did not show up in the above analysis.

---

<sup>14</sup>The contention, for example, that own-company investments are sometimes made in order to obtain easy company financing, to bolster the market position of a company's securities, or to secure some other financial advantage, has been promulgated through several sources: Harbrecht, op. cit., p. 79; Martin House, Private Employee Benefit Plans: A Public Trust, New York State Insurance Department, 1956, pp. 128-29; "The Startling Impact of Private Pension Funds," Business Week, January 31, 1959, p. 98; Tilove, op. cit., p. 59.

## E. PENSION FUND INVESTMENT IN OWN-COMPANY STOCK AND ITS EFFECT UPON CORPORATE CONTROL

As stated in the introduction to this chapter, one possible consequence of investing a pension fund in own-company common stock is that the pension fund may end up in control of the company. Considering that the company has control of the pension fund to start with, heavy investment of the fund in own-company stock could lead to circular and self-contained control by a management oligarchy, which may own almost no stock of its own. The precise extent to which this is actually happening is unknown, although it is believed to be rare. Apparently, however, no one up to now has even begun to measure the amount of own-company voting power in individual pension funds.

Voting power of pension funds invested in own-company stock. Approximately one-sixth of all noninsured pension funds have holdings in the common stock of their sponsoring companies. At least this is surmised judging from the own-company stock investments in 30 of the 174 noninsured funds in the sample. This does not mean, however, that every sixth fund has a controlling block of its sponsor's stock. Indeed, as Table 23 shows, a number of the own-company stockholdings constitute only a small fraction of invested assets and, consequently, can hardly be large enough to affect voting control. On the other hand, some of the holdings are more substantial

and appear to represent considerable voting power.

The extent to which these 30 funds have come into own-company voting control is more clearly indicated in Table 24, which shows the percentage amount of own-company stock outstanding that is held in each fund. Here it is found that 12 (40 percent) of the funds own less than one percent of the outstanding stock of their sponsoring companies, while 12 more (another 40 percent) own between one and five percent. Five funds (16  $\frac{2}{3}$  percent) own between five and ten percent, leaving only one fund (3  $\frac{1}{3}$  percent) with more than ten percent of its sponsoring company's stock.

TABLE 24. -- Approximate amount of own-company stock in each of 30 pension funds in the stratified random sample of 232 funds, expressed as a percent of total shares outstanding

- 
- A. Funds with 10% or more of sponsor's stock outstanding
    - 1. Sears, Roebuck and Company Employees' Savings and Profit Sharing Pension Fund
  - B. Funds with 5-10% of sponsor's stock outstanding
    - 1. Abbott Laboratories Stock Retirement Plan
    - 2. Crown Cork and Seal Pension Plan
    - 3. Rexall Drug Company Profit Sharing Retirement Trust
    - 4. Signode Steel Strapping Company Employees' Savings and Profit Sharing Trust Fund
    - 5. Wooster Brush Company Retirement Plan
  - C. Funds with 1-5% of sponsor's stock outstanding
    - 1. Armstrong Rubber Company Deferred Profit Sharing Plan
    - 2. Bell and Howell Profit Sharing Retirement Trust
    - 3. Fetzer Broadcasting Company Profit Sharing Plan
    - 4. First National Bank of Chicago Bank Pension Plan
    - 5. Jewel Tea Company Retirement Estates
    - 6. Kimber Farms Employees' Profit Sharing Plan
    - 7. Mutual National Bank of Chicago Profit Sharing Plan
    - 8. Ohio (Marathon) Oil Company Thrift Plan

9. Pullman Trust and Savings Bank Retirement Plan
  10. Springs Cotton Mills Non-Salaried Employees' Profit Sharing Plan and Trust
  11. United Insurance Company Savings and Profit Sharing Pension Fund
  12. Whirlpool Corporation Savings and Profit Sharing Plan
- D. Funds with less than 1% of sponsor's stock outstanding
1. Brewer-Titchener Corporation Employees' Saving and Profit-Sharing Retirement Plan
  2. Champion Paper and Fibre Company Retirement and Disability Plan
  3. Chemical Bank New York Trust Company Deferred Compensation Plan
  4. Cincinnati Gas and Electric Company Retirement Income Plan
  5. General Electric Savings and Security Program
  6. General Motors Hourly-Rate Employees' Pension Plan
  7. General Motors Salaried Employees' Retirement Plan
  8. Northern Indiana Public Service Company Pension Plan
  9. Schering Corporation Employees' Profit-Sharing Incentive Plan
  10. United Parcel Services New York Retirement Plan
  11. Westinghouse Electric Corporation Pension Plan
  12. Wisconsin Public Service Corporation Employees' Retirement Plan

---

Source: 1961 and 1962 D-2 statements filed at the Office of Welfare and Pension Plans, corporation annual reports, corporation directories, stock reports, etc.

Of course, it is difficult to say what effect these holdings have upon corporate control without knowing, also, who the other owners of the companies are and the size distributions of their holdings. It is probably true that the holdings of less than one percent of shares outstanding carry with them too little voting power to matter. The holdings of between one and five percent and between five and ten percent are likely insufficient to control a company yet perhaps



large enough to wield some influence. It should be pointed out, however, that these holdings are company-administered and, as such, are invariably voted in behalf of managements, who, under normal conditions, do not need to own the votes that are cast in their favor.

With as much as ten, 20, or 30 percent ownership, a pension fund could conceivably control a company whose stock was otherwise widely held. Such control would especially be of value to the sponsoring company's management in the event of a proxy contest, or better yet, it would ensure against even the threat of any contest for control.

The Sears, Roebuck and Company case. The best known case in which a pension fund has come into extensive control of its sponsoring company is that of Sears, Roebuck and Company. The facts surrounding this case were revealed in 1955 by General R. E. Wood (then chairman of the board of trustees of the Sears savings and profit sharing pension fund) in testimony before the Senate Committee on Banking and Currency.<sup>15</sup> In the course of General Wood's testimony, a number of pertinent facts were revealed:

(1) The trustees of the fund were (and still are) appointed by the board of directors of the company.<sup>16</sup>

---

<sup>15</sup>The full text is in: U.S., Congress, Senate, Committee on Banking and Currency, Stock Market Study, Hearings, 84th Cong., 1st Sess., 1955, pp. 495-518.

<sup>16</sup>Ibid., p. 496.

(2) Three of the five members of the board of trustees of the fund were company directors.<sup>17</sup> (Now it is four out of seven.)

(3) The trustees could invest the fund at their discretion, although the rules of the fund provided for investment in Sears capital stock so that Sears' employees could share in the success of the company.<sup>18</sup>

(4) At the end of 1954, there were 6,331,814 shares of Sears stock in the fund, an amount of about 26 percent of the 24,845,000 shares outstanding.<sup>19</sup> (At the end of 1962, the fund owned 19,317,551 shares, which had a market value of \$1,487,451,427 and represented 25.5 percent of total shares outstanding.)

(5) Twenty-six percent ownership was admittedly sufficient to constitute control of a large company like Sears.<sup>20</sup>

(6) The stock was voted in accordance with the instructions given by the trustees of the fund at their discretion.<sup>21</sup>

(7) Since the trustees of the fund were appointed by the directors of the company, and since three of the five trustees were

---

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

<sup>19</sup>Ibid., pp. 496-97.

<sup>20</sup>Ibid., p. 497

<sup>21</sup>Ibid., p. 503

directors themselves, their power to vote 26 percent of Sears stock was admittedly sufficient to ensure permanent entrenchment of management.<sup>22</sup>

While the Sears management probably did not need this power to ensure its continued existence, a situation had arisen wherein management was no longer bound to answer to the demands of the company's remaining stockholders. As Professor Adolf A. Berle, Jr., in 1957, expressed this development:

. . . Sears Roebuck is socializing itself via its own pension trust fund, and is discovering that it is running into the same difficulty which a socialist or any other form of oligarchic government has--that it has self-contained control, and management is thus responsible to itself.<sup>23</sup>

Thus, with the threat of any challenge for control removed, the management of Sears was theoretically subject to no mandate other than its own.

Pass-through of voting rights. Obviously sensitive to public and stockholder opinion, Sears, Roebuck and Company amended the rules of the profit-sharing pension fund in 1958, permitting the stock voting rights, previously exercised by the fund's trustees, to pass through to the beneficial owners, the employees of the company. For the first time in Sears history, some 80,000 employees were eligible to vote their vested stock interests. In April, 1959, 84.7

---

<sup>22</sup>Ibid., p. 508.

<sup>23</sup>Adolf A. Berle, Jr., Economic Power and the Free Society (Santa Barbara, California: Center for the Study of Democratic Institutions, 1957), p. 11.

percent of these employees sent their confidential voting instructions to Price Waterhouse in Chicago for tabulation, indicating a keen interest in their newly acquired right to vote.

The pass-through of voting rights is by no means, however, standard procedure in pension funds invested in own-company stock. According to Lewis D. and John J. Gilbert, who keep a running account on companies that do and companies that do not receive voting instructions from the beneficial owners, most company officials have adopted the attitude that the pass-through procedure is inordinately expensive and to be avoided as long as public apathy permits.<sup>24</sup> Thus, while a few companies have succumbed to the pass-through in the past few years, the majority continue to vote the stock without employee consultation.

## F. CONCLUSION

Approximately one-fifth to one-fourth of all pension trusts are invested in the bonds, stocks, notes, etc. of their sponsoring companies. In a third of these trusts the investments represent less than two percent of the assets of each fund. On the other hand, almost half of the trusts have in excess of ten percent of their assets in own-company securities, usually common stock. Although the pension funds with own-company securities earn the same rate of investment return on the average as the funds that are not invested this way, the variance of the rate earned is considerably

<sup>24</sup>Lewis D. and John J. Gilbert, Twenty-Third Annual Report of Stockholder Activities at Corporation Meetings (New York: Lewis D. and John J. Gilbert, 1963), pp. 272-78.

greater for the former. This follows logically from the fact that the portfolios of these funds are not sufficiently diversified.

Approximately one-sixth of all pension trusts have holdings in the common stock of their sponsoring companies. In about 40 percent of these trusts the holdings are small enough so as not to involve more than one percent of a company's total stock outstanding. In another 40 percent the holdings constitute from one to five percent control, while in practically all of the remaining cases there is less than ten percent ownership. This hardly seems like an excessive amount of voting power. But since these holdings are fated to grow, situations could result in which a management has the power to entrench itself through its pension fund. Because this happened to Sears, Roebuck and Company, it could happen to other companies, unless, like Sears, the trustees of the fund take a stand to provide for the pass-through of voting rights to the beneficial owners.

## CHAPTER VI

### THE INVESTMENT OF PRIVATE PENSION FUNDS IN THE STOCKS OF COMPETITOR, SUPPLIER, AND CUSTOMER COMPANIES

#### A. INTRODUCTION

Thus far the extent of corporate control by pension fund trustees has been analyzed from three perspectives: (1) individual-bank control of individual portfolio companies, (2) corporate influence by bank trustees through their uniform voting behavior and their contacts with managements, and (3) trustee voting control of holdings of own-company stock. Now it is time to turn to the fourth type of control, namely, the investment of pension funds in the stocks of competitor, supplier, and customer companies. Just as the trustees of a pension fund may decide to invest the fund in the stock of the employer company, so may they choose also to invest in the stock of a related company. Whereas the investment may be a substantial one, there is the question of whether the trustees may end up with control of the related company, thereby effecting some sort of corporate integration.

The extent to which corporate pension funds are invested in the stocks of other companies is a subject on which very

little has been written. Other than the four-page treatment, "Investment in Other Companies for Control," in Robert Tilove's report,<sup>1</sup> the subject has not been specifically examined in any of the literature to date. This could be because there is no direct access to information showing pension fund holdings in other companies. The only holdings that must be reported under the Welfare and Pension Plans Disclosure Act are own-company holdings. Except for this, the pension funds are not legally required to reveal any of their holdings in specific companies under any Federal statute.

The present chapter attempts to compensate for the absence of good data by examining the attitudes and policies of trustees toward acquiring related-company stock. In addition, a few cases are presented in which a company fund has been known to invest in another company's stock for the purpose of influence or control. Thus, from the prevailing trustee policies and the character of the cases the problem of other-company control is approached.

#### B. TRUSTEE POLICIES REGARDING INVESTMENT IN THE STOCKS OF RELATED COMPANIES

Perhaps the best way to judge the extent of related-company stockholdings in pension funds is by examining the policies of the trustees responsible for the funds' investment. Although the trustees

---

<sup>1</sup>Robert Tilove, Pension Funds and Economic Freedom (New York: The Fund for the Republic, 1959), pp 66-69.

do not like to disclose their specific investment decisions, they are usually willing to divulge the general guidelines affecting actual decisions.

In answering the questionnaire on corporate-trusteed pension funds, the bank trustees responded that they are opposed to making unduly large investments in the securities, obligations, or other property of the competitors, suppliers, or customers of the employers whom they serve in the trustee capacity. On the other hand, they indicated that they do not hesitate to make such investments if these investments are small and of high quality. The basic policy, they concurred, is to purchase securities on their investment merits and not on other considerations.

Occasionally, the bank trustees are requested by clients to invest in stocks of other companies to an amount which the trustees deem excessive and improper. In these cases, the trustees attempt to resist their clients' requests. If the resistance is strong, the trust fund clients usually withdraw their requests. However, the clients may threaten to take their business elsewhere, and in some instances they do. In his report, Robert Tilove describes this pattern of behavior:

The major trust companies are opposed to investments of this sort, which are undertaken for the interest of the employer and not primarily for the benefit of the trust, just as they frown on "own-company" investments, except for the customary small participation in high-quality bonds or stocks. This attitude is more than simply an appropriate posture for the record. Several of the larger corporate trustees can quote cases when



they resisted pressure from employers to effect a transaction involving . . . investment in another company in which some influence was sought . They can cite specific instances in which important pension fund accounts have been withdrawn because of the trust company's refusal to agree to a transaction of this sort, accompanied perhaps by loss of the commercial account as well.<sup>2</sup>

Turning now to the individual-company boards of trustees of pension funds, it is much more difficult to judge the extent of related-company stockholdings on the basis of the broad investment policies followed by the trustees, for their numbers are larger and their policies are less well known. However, given the reluctance of the bank trustees to cater to self-dealing or self-serving requests from client-companies, these arrangements may be facilitated in funds trusted directly by the employing companies. On this point, Mr. Tilove remarks that:

Pension funds with portfolios directed by the company itself, or by an investment advisor or investment house, may of course be managed with as much integrity as any bank-managed trust fund. The only point is that their acts are freer: they are less liable to the checkrein of a corporate trustee, which is intensely concerned about its legal liability, its reputation in discharging fiduciary responsibilities, and, in the case of the large companies, its having at some point to stand up to public scrutiny.<sup>3</sup>

Although individual trustees may feel more free than corporate trustees to invest in related-company stock, it is noteworthy that some trust agreements are set up to prohibit this kind of investment.

---

<sup>2</sup>Ibid., p. 67.

<sup>3</sup>Ibid., p. 68.

This is usually done as a matter of good investment practice, but also as a measure to avoid any possible indictment of violating the antitrust laws:

Some of the larger firms studied apparently have also deemed it necessary to insert prohibitions against the purchase of competitors' common stock and against excessive purchases of any company's securities in order to stay at peace with the Antitrust Division of the U.S. Department of Justice.<sup>4</sup>

In the case of General Motors, for example, the governing trust agreements to the company's two main pension funds prohibit investment in other companies to an amount where control could become an issue:

. . . In order to insure that the trustees and the corporation will avoid any possible charge that control or management responsibility is being acquired in any company through the pension funds, investments of each trustee in the voting stocks of any one company should not exceed three-fourths of 1 percent of any company's voting stock. A higher percentage limitation of this type of investment may be established by any trustee or trustees, with the approval of the coordinator, to the extent that any other trustee or trustees do not wish to take full advantage of an investment, with their respective trust funds, of three-fourths of 1 percent in the voting stocks of any company and accept a lower percentage limitation--provided that the investments of the combined trust funds in the voting stocks of any one company do not exceed 5 percent of such company's voting stock.<sup>5</sup>

Although a number of trust agreements contain restrictions to this effect, most are silent, permitting the trustees to invest in their

---

<sup>4</sup>James E. McNulty, Jr., Decision and Influence Processes in Private Pension Plans (Homewood, Illinois: Richard D. Irwin, 1961), p. 42.

<sup>5</sup>U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Hearings, 84th Cong., 1st Sess., 1955, p. 1137.

discretion. In this regard, the vast majority of trustees probably invest conscientiously for the exclusive benefit of the participants. However, there are a few known cases in which a pension fund has been invested in the stock of a related company for the purpose of control. Unfortunately, the degree to which these cases are atypical is a question that cannot be answered given the limited available data.

### C. CASES INVOLVING THE USE OF A PENSION FUND TO PROMOTE CORPORATE INTEGRATION

Known instances in which a pension fund has purchased stock in another company for control are few. Those which are known, however, embrace a considerable variety of forms by which pension fund investment may implement attempts to integrate corporate control. The cases discussed below entail many of these forms.

The United Mine Workers case. The case of Pennington v. United Mine Workers of America<sup>6</sup> is significant for it involves a charge of conspiracy to monopolize the soft coal industry on the part of the UMW and the Trustees of the UMW Welfare and Retirement Fund. Moreover, it involves the use of the Fund's money to finance a number of stock acquisitions in large coal mines, rail and shipping concerns (coal carriers), electric power companies (coal consumers),

---

<sup>6</sup>Pennington v. United Mine Workers of America, Trade Reg. Rep. (1963 Trade Cas.) 70972, at 78850 (CA-6 Dec. 18, 1963).

etc., thereby effecting both horizontal and vertical concentration of control in the industry.

The original action in the case was by John L. Lewis and the other Trustees of the Fund against James M. Pennington, et. al., owners of Phillips Brothers Coal Company, for nonpayment into the Fund of 40 cents per ton of coal produced. In retort to the complaint, Phillips Brothers filed a cross claim against the UMW, charging that the union and certain large coal producers had conspired in violation of Sections 1 and 2 of the Sherman Act to drive Phillips Brothers and other small producers out of business by means of the profit squeeze. Here it was contended that the union had used its Welfare and Retirement Fund, along with other union monies, to buy working control in the West Kentucky Coal Company and its subsidiary, Nashville Coal Company, and that coal from these producers had been dumped on the spot coal market of TVA at constantly reduced prices without regard to profit, forcing Phillips Brothers out of this market and subsequently out of business.

The case was tried in the U.S. District Court for the Eastern District of Tennessee, Northern Division. On May 17, 1961, the jury found the union guilty as charged. The case was then appealed to the U.S. Court of Appeals for the Sixth Circuit. On December 18, 1963, the previous judgment was affirmed. According to Circuit Judge Miller, the jury's conclusion was not unreasonable in light of the union's financial dealings:

There was evidence showing that UMW acquired outright 85,400 shares, out of 857,264 shares outstanding, of the common stock, and the entire 50,000 shares of the preferred stock of West Kentucky Coal Company, one of the major coal companies, of which Nashville Coal Company was a subsidiary. The common stock was acquired at a price of about \$25.00 per share. Later, the stock market quotation rose to about \$40.00 a share and thereafter declined to about \$11.00 per share. The preferred stock was acquired at about \$50.00 per share. The preferred stock became voting stock when dividends were in arrears. Arrearage dates back to April 1, 1958. On June 30, 1960, it was \$309,375.00. In addition to the stock owned outright, UMW held substantial blocks of the stock of the two companies as collateral on loans. Under the provisions of many of these notes, which the collateral secured, the borrower was relieved from personal liability upon surrender of the collateral. The notes were renewed annually. If the interest was not paid, usually because dividends were not paid on the stock held as collateral, it was added to the principal of the renewal note. If the stock held as collateral declined in value, there was no demand for additional collateral. One of these loans in the amount of \$2,513,895.18, secured by 90,600 shares of common stock of West Kentucky Coal Company, was to Cyrus S. Eaton, Chairman of the Board of West Kentucky Coal Company and Nashville Coal Company. . . . This direct and indirect interest in the two coal companies totaled over \$25,000,000.00. The shares of common stock of West Kentucky Coal Company owned outright and held as collateral totaled more than one-half of the outstanding common stock. It was not unreasonable for the jury to conclude from these facts that it was the purpose of the UMW to have a very material voice, if not the dominant one, in determining the policies and operations of these two major coal companies, which, as is hereinafter pointed out are charged with playing an important role in the alleged conspiracy.<sup>7</sup>

Not only did the evidence establish UMW control of the West Kentucky Coal Company and the Nashville Coal Company, but, as Judge Miller pointed out, the facts confirmed price-cutting tactics on the part of these two large producers:

---

<sup>7</sup>Ibid., p. 78859.

Contracts for less than \$10,000.00 were not subject to the wage determination of the Walsh-Healey Act. Phillips sold coal on the TVA spot market under contracts for less than \$10,000.00, thus avoiding the wage determination of the Walsh-Healey Act. About the end of 1956 the price of coal on the spot market began to decline, which continued through 1957 and 1958. During 1956, 1957 and 1958 Pittsburg-Midway Coal Co., Peabody Coal Co., West Kentucky Coal Co. and Nashville Coal Co., four of the large coal producing companies, made large offerings of tonnage on the TVA spot market at generally declining prices, with a number of such bids being successful. There was evidence that West Kentucky coal was sold extensively in the middle western market, most of it up and down the Mississippi Valley, that the middle western utility market had held up well, but that the distress coal which was for sale by West Kentucky Coal Co. and Nashville Coal Co. was for the most part thrown into the TVA market rather than the other market. There was also evidence that West Kentucky Coal Co., Nashville Coal Co. and Peabody Coal Co. did not make an analysis of the profit on the coal sold to TVA, the President of Peabody Coal Co. stating that he was "afraid to look at some of them." There was also evidence that the heavy offerings of West Kentucky coal on the TVA spot market would have the effect of bearing down on the price heavily.<sup>8</sup>

Considering all of the evidence, Judge Miller upheld the jury's verdict of exclusion of Phillips Brothers Coal Company by the large producers in conspiracy with the UMW:

We believe it was a reasonable deduction which the jury could make that the wage determination for the coal industry under the Walsh-Healey Act and the dumping of West Kentucky coal on the TVA spot market materially and adversely affected the operations of Phillips in the important TVA market, thus contributing to the elimination of the company as a competitor to the large coal producing companies operating in that area, including the West Kentucky Coal Company, in which the UMW had such a dominant interest.<sup>9</sup>

In addition to the holdings in the two coal-producing companies, the union was found to have purchased through its Retirement

---

<sup>8</sup>Ibid., p. 78860.

<sup>9</sup>Ibid.

and Welfare Fund and other monies the stocks of coal-carrying and coal-buying companies. As reported by Nathan G. Caldwell and Gene S. Graham, both of the Nashville Tennessean, the UMW purchased \$16 million worth of the stock of one of the major coal-hauling railroads--the Chesapeake and Ohio.<sup>10</sup> It invested \$3.4 million in the stock of one of the major coal-hauling steamship lines--American Coal Shipping Company--for a 33 percent interest in it.<sup>11</sup> And it advanced loans, mostly to Cyrus Eaton, secured by collateral stocks in Cleveland Electric Illuminating Company, Tampa Electric Company, Union Electric Company of Missouri, Illinois Central Railroad, and Tri-Continental Corporation (Eaton Investment Company).<sup>12</sup> Finally, the UMW obtained working control of the National Bank of Washington, Washington, D.C.<sup>13</sup> Through the bank, the union loaned money to large coal companies to mechanize their plants and equipment.

The Sears, Roebuck and Company case. Chapter V stated that the Board of Trustees of the Sears, Roebuck and Company Employees Savings and Profit Sharing Pension Fund had for many years followed the policy of buying large amounts of Sears common

---

<sup>10</sup> Nathan G. Caldwell and Gene S. Graham, "The Strange Romance Between John L. Lewis and Cyrus Eaton," Harper's Magazine, December, 1961, p. 31.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> A recent study shows that the union owns 39 percent of the bank's outstanding shares. U.S., Congress, House, Select Committee on Small Business, Chain Banking, Stockholder and Loan Links of 200 Largest Member Banks, 87th Cong., Jan. 3, 1963, p. 179.

stock for the Fund. On March 11, 1955, General R. E. Wood, then Chairman of the Fund's Board of Trustees, testified before the Senate Committee on Banking and Currency that this policy had had the effect of reducing the floating supply of Sears stock and of raising its price, and that, consequently, the Trustees had turned to buying the common stocks of some of Sears' supplier companies.<sup>14</sup> It was learned that the Fund had purchased 30 percent of the outstanding shares of Whirlpool Corporation, supplier of Sears' washing machines.<sup>15</sup> It was also learned that the Fund had a large holding in Sears' supplier of refrigerators--Seeger Corporation.<sup>16</sup> Finally, it was admitted that Sears had holdings, though small, in other supplier companies, including Birtman Electric, American Rockwool Company, Graybar Company, and General Lane Products Company.<sup>17</sup> However, according to General Wood, none of these holdings were sufficient to give Sears practical control over any of the companies in question.<sup>18</sup>

In July, 1955, a proposed merger to include Whirlpool, Seeger, and RCA's stove and air-conditioning division (Hamilton, Ohio) was

---

<sup>14</sup>U.S., Congress, Senate, Committee on Banking and Currency, Stock Market Study, Hearings, 84th Cong., 1st Sess., 1955, p. 512.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.



confirmed by Elisha Gray II, President of Whirlpool. The merger, it was recognized, could place considerable voting control in the hands of Sears and RCA. However, under the merger plan, Sears and RCA agreed not to extend their combined interest in the new company beyond 50 percent, nor to vote more than 20 percent of the stock held, the rest to be voted by Gray.<sup>19</sup>

In September, 1955, Whirlpool-Seeger Corporation was born. Later the name was changed to Whirlpool Corporation.

On December 31, 1962, the Sears group (including Sears, Roebuck and Company; Allstate Insurance Company; Allstate Fire Insurance Company; Sears, Roebuck and Company Employees Savings and Profit Sharing Pension Fund; Sears, Roebuck Foundation; and Allstate Foundation) owned 25.9 percent of Whirlpool preferred and 18.9 percent of Whirlpool common.<sup>20</sup>

These facts suggest that Sears made a conscientious effort not to get majority control of Whirlpool. On the other hand, the percentage holdings mentioned are too large not to imply some degree of influence or control. As Sears owned large blocks of stock of both Whirlpool and Seeger, it is hardly unreasonable to infer that these holdings may have played a key role in effecting the Whirlpool-Seeger merger. And with the present ownership, Sears undoubtedly has the potential to influence W's affairs

<sup>19</sup> Business Week, July 23, 1955, p. 52.

<sup>20</sup> Moody's Industrial Manual, 1963 (New York: Moody's Investors Service, Inc., 1963), p. 85.

potential to influence Whirlpool's affairs.

The steel companies case. In the Douglas Committee hearings in 1955, several references were made to a case in which a steel company, through investment of its pension fund, had acquired indirect voting control over a large block of stock of another steel company, with which the first company was seeking to merge.<sup>21</sup> Though the names of the companies involved were not mentioned, the deduction from the references made is that the case concerned Bethlehem Steel and Youngstown Sheet and Tube.<sup>22</sup> The issue in the case was whether the pension fund in question and others like it could be used to promote mergers and other forms of horizontal integration. In this regard, several witnesses testified that tactics of this sort were possible.

Two cases involving conglomerate control. Thus far the discussion has dealt only with instances of pension fund investment in the stocks of suppliers, customers, and competitors, effecting various forms of horizontal and vertical control. Pension funds have also been known, however, to acquire large blocks of stock in unrelated companies, with conglomerate control resulting. One such case

---

<sup>21</sup> U.S., Congress, Senate, Committee on Labor and Public Welfare, Welfare and Pension Plans Investigation, Hearings, 84th Cong., 1st Sess., 1955, pp. 894, 1051-52, 1135-36, 1167.

<sup>22</sup> This deduction was confirmed by Paul J. Cotter, Chief Counsel for the Douglas Committee, in a verbal statement to the writer in July, 1962.

was that of the Springfield Republican-Daily News Employees Beneficial Fund and the Springfield Union Employees Beneficial Fund. As reported in 1959, these two funds owned 79 percent of the stock in Atlas Tack Corporation, a manufacturer of tacks and hardware; 70 percent of the stock in Exchange Buffet Corporation, a cafeteria chain (now bankrupt); and 87 percent of Longchamps, Inc., a restaurant chain.<sup>23</sup> Another case was that of General Tire and Rubber. In this instance the company purchased with its pension fund the Dan Lee Mutual Broadcasting System of California.<sup>24</sup> Though in both cases the companies owned by the pension funds were small, this kind of control on a larger scale is possible.

#### D. CONCLUSION

The extent to which corporate pension funds are invested in other companies for control is a subject on which there is little information. It is known, however, that bank trustees are against such maneuvers in the funds they manage. It is also known that some sponsoring companies prohibit the practice by inserting appropriate investment restrictions in the governing trust agreements. Nevertheless, some cases of pension fund investment for control in

---

<sup>23</sup>The Startling Impact of Private Pension Funds," Business Week, January 31, 1959, p. 99.

<sup>24</sup>Robert M. Ball for the Joint Committee on the Economic Report, Pensions in the United States (Washington: U.S. Government Printing Office, 1952), p. 50.

other companies, related or not, have been reported. In these cases the investments have led to various forms of corporate integration and to possible lessening of competition. In light of this, it would seem desirable to have some new means of information by which the actual extent of other-company control by pension funds might be determined.

## CHAPTER VII

### PUBLIC CONTROL OF PRIVATE PENSION FUNDS

#### A. INTRODUCTION

Thus far in the analysis it has been shown that the bank trustees of private pension funds are on the threshold of becoming the principal stockholders of corporations, with the potential voting power to determine their managements. It has also been shown that the pension funds of individual companies are frequently invested in own-company stock, where dominant voting control of the company by the fund is the occasional result. Furthermore, it has been demonstrated that corporate integration can be achieved by investing a company pension fund in a controlling block of the stock of a competitor, supplier, or customer company. However, little has been indicated with regard to the framework of law and public regulation by which the funds, in their accumulation of voting power, are affected. No attempt has been made to bring in governmental regulation as a moderating force in the expansion of corporate voting control by private pension funds.

This chapter uncovers those Federal and state regulations that bear directly upon the operations of private pension funds. It

demonstrates that the funds are subject to statutory provisions ranging from simple disclosure of information to prohibition of certain practices.

## B. FEDERAL REGULATION OF PRIVATE PENSION FUNDS

The Welfare and Pension Plans Disclosure Act. The Welfare and Pension Plans Disclosure Act of 1958, as amended in 1962, provides for the registration, reporting, and disclosure of employee welfare and pension plans.<sup>1</sup> The Act applies to all private pension plans that cover more than 25 employees, except those administered by nonprofit organizations exempt from taxation under the provisions of section 501 (a) of the Internal Revenue Code of 1954.<sup>2</sup> Each plan administrator who is covered is required to publish and submit to the Secretary of Labor two copies of a description of the plan and, if the plan covers 100 or more participants, two copies of an annual report of financial operations.<sup>3</sup> The descriptions and annual reports are then made public information.<sup>4</sup>

The description of the plan is supposed to include: (1) the names and addresses of the person or persons acting as the administrator of the plan, their official positions relating to the plan,

---

<sup>1</sup>Public Law 85-836, as amended by Public Law 87-420.

<sup>2</sup>Ibid., sec. 4.

<sup>3</sup>Ibid., sec. 8.

<sup>4</sup>Ibid., sec. 10.

their relations to the employer or to any union, and all offices, positions, or employment held by them; (2) the name and address of the plan; (3) the type of administration of the plan; (4) the schedule of benefits under the plan; (5) the names, titles, and addresses of any trustees of the plan; (6) whether or not the plan is mentioned in a collective bargaining agreement; (7) copies of the plan, bargaining agreement, trust agreement, and other instruments under which the plan is operated; (8) the source of the financing of the plan and the names of all organizations that provide benefits; and (9) the procedures used in presenting benefit claims and the remedies available for any redress of claims.<sup>5</sup>

Required information in the annual report varies and depends upon whether the plan is funded or unfunded and, if funded, whether the plan is insured or noninsured. The annual report for a noninsured plan requires the following: (1) the amount of employer and employee contributions to the fund; (2) the amount of benefits paid; (3) the number of employees covered; (4) a statement of assets and liabilities, specifying the amounts of cash, Government bonds, non-Government bonds and debentures, common stocks, preferred stocks, common trust funds, real-estate loans and mortgages, operated real estate, other real estate, and other assets; (5) a statement of receipts and disbursements; (6) a statement of salaries, fees, and commissions

---

<sup>5</sup>Ibid., sec. 6

charged to the plan and the purposes, amounts, and recipients of these money transactions; (7) the type and basis of funding, the actuarial assumptions used, and the amount of current and past service liabilities; (8) a list of all investments in the securities and properties of any party-in-interest of the plan, including the cost and present value of each party-in-interest investment; and (9) a list of all loans made to any party-in-interest of the plan, including the terms of each loan and the names and addresses of the borrowers.<sup>6</sup>

Each pension plan administrator who must submit a plan description has to maintain detailed records on all matters of which disclosure is required and to keep such records available for examination by the Secretary of Labor.<sup>7</sup> In addition, each administrator, officer, or employee who handles pension plan monies must be bonded for an amount of not less than ten percent of the funds handled, provided the bond shall amount to not less than \$1,000 nor more than \$500,000.<sup>8</sup>

If there is cause to believe that investigation may disclose violations of the Act, the Secretary of Labor is empowered to make such investigations as he deems necessary.<sup>9</sup> He may, in his discretion, bring actions in the Federal courts to enjoin practices

---

<sup>6</sup>Ibid., sec. 7.

<sup>7</sup>Ibid., sec. 11.

<sup>8</sup>Ibid., sec. 13.

<sup>9</sup>Ibid., sec. 9 (d).



which he considers unlawful under the Act.<sup>10</sup> In turn, the Federal courts have jurisdiction, for cause shown, to restrain violations of the Act.<sup>11</sup>

Any person who is found to have willfully violated any provision of the Act may be fined as much as \$1,000, imprisoned up to six months, or both.<sup>12</sup> The 1962 amendments to the United States Code make it a Federal offense for anyone to steal or embezzle from an employee benefit plan; to make false statements or to conceal facts in relation to any document required under the Act; or to offer, accept, or solicit any thing of value to influence the operations of an employee benefit plan.<sup>13</sup> Any person found guilty of committing any of these crimes may be fined up to \$10,000, imprisoned up to five years, or both.<sup>14</sup>

The Internal Revenue Code. Substantial tax advantages are available to pension funds that qualify in accordance with certain provisions of the Internal Revenue Code of 1954. First, employer contributions to qualified funds are deductible as an ordinary and

---

<sup>10</sup>Ibid., sec. 9 (f).

<sup>11</sup>Ibid., sec. 9 (g).

<sup>12</sup>Ibid., sec. 9 (a).

<sup>13</sup>Added to Title 18, United States Code, by section 17 of the Welfare and Pension Plans Disclosure Act Amendments of 1962.

<sup>14</sup>Maximum imprisonment in the case of offer, acceptance, or solicitation to influence employee benefit plan operations is three rather than five years.

necessary business expense during the taxable year in which paid.<sup>15</sup> Second, employer contributions are not taxable as employee income in the taxable year when paid but are taxable later when received by employees in the form of retirement benefits.<sup>16</sup> Finally, the income of qualified pension trusts is exempt from income taxation in the year when earned and is taxable later when received by employees in the form of retirement benefits.<sup>17</sup> In other words, preferential tax treatment is given to income saved indirectly through pension funds over income saved directly from take-home wages and salaries. Consequently, participation in a qualified pension fund enables an employee to increase his life-time income after taxes at no extra cost to the employer.

The Internal Revenue Service regulates pension fund operations only in the sense that the funds must qualify under sections 401 (a) and 503 of the Internal Revenue Code of 1954 to take advantage of the tax-exempt provisions listed above. The main requirements of these sections are:

(1) The fund must be for the exclusive benefit of the employees or their beneficiaries.<sup>18</sup> The cost of securities in the fund must not

---

<sup>15</sup>Internal Revenue Code of 1954, sec. 404 (a).

<sup>16</sup>Ibid., secs. 402 and 403.

<sup>17</sup>Ibid., sec. 501 (a).

<sup>18</sup>Ibid., sec. 401 (a) (1).

exceed their fair market value at the time of purchase. The fund must provide a fair return on investment. It must be kept liquid enough to provide benefit payments in accordance with the terms of the plan. It must have a diversified portfolio. Own-company investments must not be made unless their purpose is for the benefit of the employees or their beneficiaries.

(2) The fund must be established on the basis of a definite written plan.<sup>19</sup> The written plan must contain all the provisions necessary for qualification under the Code. Noninsured funds must exist under valid trust agreements. Contracts for insured funds must be executed and issued.

(3) The plan must be communicated to the employees either by furnishing each employee with a copy of the plan or by informing the employees that a copy of the plan is available for their inspection.<sup>20</sup>

(4) The plan must be a permanent and continuing program.<sup>21</sup> A plan that is established during years of high tax rates and is abandoned a few years later when profits fall does not qualify. Contributions must be substantial and recurring.

(5) Diversion of any part of the principal or income of the fund, other than for the exclusive benefit of employees or their

---

<sup>19</sup>Ibid.

<sup>20</sup>Ibid.

<sup>21</sup>Ibid.

beneficiaries, must be impossible under the trust agreement.<sup>22</sup> No part of the trust fund may revert to the employer, unless, after all employee claims have been paid, a surplus remains because of overfunding.

(6) The plan must benefit employees in general and cover a sufficient proportion of them.<sup>23</sup> Excluding, seasonal, temporary, and part-time employees, the plan must cover 70 per cent or more of all employees, or at least 80 percent of all eligible employees (provided that 70 percent or more of all employees are eligible to benefit under the plan). In lieu of meeting these requirements, the plan must benefit a classification of employees, where such classification does not discriminate in favor of officers, stockholders, supervisors, or highly-compensated employees.

(7) The plan must not discriminate in favor of officers, stockholders, supervisors, or highly-compensated employees with respect to contributions to the fund or benefits paid from it.<sup>24</sup>

(8) Finally, the fund must not be used for making: personal loans that are not adequately secured or are made at unreasonable rates of interest; payments of fees and commissions that exceed the value of funding services rendered; or purchases or sales of securities at dollar values that represent more or less than adequate

---

<sup>22</sup>Ibid., sec. 401 (a) (2).

<sup>23</sup>Ibid., sec. 401 (a) (3).

<sup>24</sup>Ibid., sec. 401 (a) (4).

consideration.<sup>25</sup>

In order to demonstrate compliance to the requirements listed above, a pension fund must file an annual information return with the Internal Revenue Service. The Service may examine and audit the information return for accuracy. However, failure to qualify or to demonstrate compliance carries no penalty other than the loss of the tax privileges.

The Labor Management Relations Act. Section 302 of the Labor Management Relations Act of 1947, as amended by the Labor Management Reporting and Disclosure Act of 1959, is designed to prevent labor unions and their officers from diverting to other uses funds established for the exclusive benefit of employees. Covering only union and jointly administered funds, the Act brings approximately 20 percent of all private pension plans under its purview.<sup>26</sup>

Except under certain conditions, the Act prohibits payments, loans, or deliveries of any thing of value to employees or employee organizations from employers or employer associations.<sup>27</sup> Excepted, however, are employer payments into trust funds established for the exclusive benefit of employees and their beneficiaries, provided:

(1) payments are held in trust for the purpose of paying welfare and

---

<sup>25</sup>Ibid., sec. 503.

<sup>26</sup>Of the 28,100 pension plans that were registered with the Secretary of Labor on July 1, 1961, 5,470 were jointly administered and 230 were wholly union administered plans.

<sup>27</sup>Labor Management Relations Act of 1947, sec. 302.

pension benefits, (2) payments are made in accordance with specified and written agreements, (3) trust funds are administered by an equal representation of employee and employer personnel, (4) trust funds are audited annually, and (5) pension contributions are made to distinct pension trusts invested for no purpose other than providing benefits for retirement.<sup>28</sup>

Penal in nature, the Act provides that any person who willfully violates any provision of section 302 is guilty of a misdemeanor and subject to a maximum fine of \$10,000, a maximum imprisonment of one year, or both.<sup>29</sup> The Act also provides that violations of section 302 are to be restrained under the jurisdiction of the District Courts of the United States.<sup>30</sup>

Federal supervision of corporate trustees. Practically all corporate trustees of private pension funds are subject to supervision by one or more of three agencies at the Federal level. The Comptroller of the Currency is responsible for supervising the fiduciary activities of all national banks; the Federal Reserve Banks are empowered to look after the trust affairs of their state member banks; and the Federal Deposit Insurance Corporation has the authority to

---

<sup>28</sup>Ibid., sec. 302 (c) (5).

<sup>29</sup>Ibid., sec. 302 (d).

<sup>30</sup>Ibid., sec. 302 (e).

examine any insured member bank. Only those corporate trustees that are neither national banks, members of the Federal Reserve System, nor belong to the Federal Deposit Insurance Corporation are free from Federal supervision. Fiduciaries in this category, if any, are nevertheless regulated under the banking laws of the various states.

The key regulatory tool of each of these Federal agencies is the bank examination, usually conducted on an annual basis and without advance notice. The examination is essential for checking up on corporate trustees, determining whether their operations conform to the provisions of ruling trust agreements, and verifying that they have not misused the statutory power given them.

In examining the corporate trust departments of national banks, the Comptroller of the Currency checks to see that there have been no transgressions of the authorized fiduciary powers of national banks.<sup>31</sup> Important mandates that the national banks are required to follow include:

(1) All personnel engaged in trust activity must be adequately bonded.<sup>32</sup>

(2) Fiduciary records must be kept separate from other bank service records, and records of full information on each trust account

---

<sup>31</sup> These powers are subject to the provisions of Regulation 9 of the Comptroller of the Currency.

<sup>32</sup> Regulation 9 of the Comptroller of the Currency, sec. 9.7 (b).

must be retained by the bank for examination.<sup>33</sup>

(3) Audits of the trust department must be made at least once a year and must ascertain whether the trust department has been administered in accordance with the law.<sup>34</sup>

(4) Fiduciaries must invest funds in accordance with the trust agreements creating the fiduciary relationships, or, in the absence of any written specifications, with local law.<sup>35</sup>

(5) Funds must not be invested in the securities of the fiduciary unless lawfully authorized.<sup>36</sup>

(6) Investments of each account must be kept separate from the assets of the fiduciary and the investments of all other accounts unless the investments are part of a lawful collective investment fund.<sup>37</sup>

(7) Funds may be invested collectively in a fund consisting entirely of assets of retirement benefit trusts, provided that each trust is exempt from taxation under the Internal Revenue Code.<sup>38</sup>

(8) No more than ten percent of the market value of a collective investment fund may be invested in the securities of any one firm or corporation unless the collective fund consists entirely of assets of retirement benefit trusts.<sup>39</sup>

---

<sup>33</sup>Ibid., sec. 9.8 (a).

<sup>34</sup>Ibid., sec. 9.9.

<sup>35</sup>Ibid., sec. 9.11 (a).

<sup>36</sup>Ibid., sec. 9.12 (a).

<sup>37</sup>Ibid., sec. 9.13.

<sup>38</sup>Ibid., sec. 9.18 (a) (2).

<sup>39</sup>Ibid., sec. 9.18 (b) (9) (ii).



The Federal Reserve Banks and the Federal Deposit Insurance Corporation in their examinations look for similar things. The former examine the trust operations of their state member banks, while the latter looks into the trust affairs of banks that are not members of the Federal Reserve System.

### C. STATE REGULATION OF PRIVATE PENSION FUNDS

Every state has written into law some kind of regulation or supervision of the banks and life insurance companies located or doing business within its borders. As part of this business is the funding of pension plans, there may be considerable supervision of pension fund operations at the state level. Although the statutes on bank and life insurance company supervision are not uniform, i.e., some states are more stringent than others in this matter, there are certain broad phases of supervision that are common to all. These have been summarized by Edwin W. Patterson, Cardozo Professor Emeritus of Jurisprudence, Columbia University.<sup>40</sup> Drawing completely from Professor Patterson's account, this section indicates the essential features of state regulation of private pension funds.

---

<sup>40</sup>Edwin W. Patterson, Legal Protection of Private Pension Expectations (Homewood, Illinois: Richard D. Irwin, 1960), pp. 114-215.

State regulation of corporate trustees. The more important aspects of state control of corporate trustees concern organizational requirements, investment requirements, auditing requirements, and administrative supervision by means of the bank examination. Of these, the latter three may directly affect the pension trust operations of banks.

With regard to investment requirements, some states use "prudent man" rules. Other states have laws that specify the kinds of securities in which fiduciaries can invest. These securities are normally of top investment grade and are known as "legals." In New York and other important pension fund states prescribing "legal lists," a trustee is relieved from investment in "legals" if greater latitude is permitted in the ruling trust agreement. In this connection, most pension trust agreements provide that investment shall not be restricted to securities authorized for investment by trustees under state law. Corporate trustees nevertheless bear the "legals" in mind when they go to purchase securities since they may be held liable in case of investment loss due to negligence.

The board of directors of a trust company is required in many states to conduct an annual audit of the assets and records of private trusts. This audit affects pension trust operations as it includes "the handling, counting, and checking of the securities in the pension funds and reconciliation with the records of receipts, disbursements,

and transactions."<sup>41</sup> By scrutinizing the activities of persons in positions of trust, the internal audit helps to protect the safety of trust funds.

Of course, the internal audit does not obviate the need for periodic examination by state officials. Trust company examinations by state officials, required in every state but Iowa, are normally conducted on an annual basis and without advance notice. In these examinations the assets of pension trusts are typically checked on a sampling basis. Here the physical presence of securities shown on the books are checked in order to determine whether a trust has been breached. However, state examination of trusts is not comprehensive in coverage. In 24 states, examination is not required of trusts that are already scrutinized by a Federal Reserve Bank or by the Federal Deposit Insurance Corporation. Since most state banks with trust departments are members of the Federal Reserve System, the F.D.I.C., or both, the number of trust companies subject to required state examination in the 24 states is quite small. In the remaining 26 states, official supervisors use the reports of Federal examiners and the internal audits by bank directors to supplement their own investigations.

State regulation of life insurance carriers. The McCarran Act of 1945 leaves the task of regulating insurance carriers up to the

---

<sup>41</sup>Ibid., p. 181.

several states.<sup>42</sup> The several states, in turn, have produced a myriad of regulations affecting every phase of the insurance business. In this section attention is focused upon the general powers of the states to regulate investments by life insurance companies in the pension business.

Each of the fifty states has laws which restrict the investments of life insurance companies located or doing business within its borders. These laws are designed to provide investment security by specifying the classes of securities in which the insurers are permitted or forbidden to invest. Securities in the permissible investment classes are known as "legals" for life insurance companies, and from these the companies' investment portfolios are determined.

Fixed-obligation securities are recognized as permissible investments in every state. Public bonds may normally be purchased in unrestricted amounts. Corporate bonds and debentures may be freely purchased, provided these instruments qualify in accordance with such quality tests as the "not-in-default" test, the "ratio-of-debt-to-security" test, or the "earnings" test. Real-estate mortgages are permissible investments, although some upper limit of the "ratio-of-debt-to-security" test is almost always prescribed. Investments in commercial paper, receivers' and trustees' certificates, etc., subject

---

<sup>42</sup> Although Congress has consented to regulation of interstate insurance by the several states, the commerce clause of the Constitution gives Congress the potential authority to regulate this business.

to certain quality tests, are also recognized as legitimate and authorized investments for life insurance companies.

Equity securities, on the other hand, can not be purchased so freely. Preferred stocks and the capital stocks of financial institutions are typically authorized investments only when the "no-default," "earnings," and other quality tests are met. Common stocks are subjected to quantity as well as quality tests. The most common quantity test places an upper limit on the total amount of common stock that an insurer can hold in his investment portfolio.<sup>43</sup> This ranges from two percent of the insurer's assets in Utah to 25 percent in Nevada, with five percent typical in many states. A number of states also limit the amount an insurer may hold of the common stock of any single corporation, with one percent of the insurer's assets typifying the maximum. Quality tests vary from state to state, but generally include: (1) registration on a national stock exchange, (2) eligibility of all other securities of the issuing corporation for investment, and (3) an "earnings" test. Like the quantity tests, the quality test provisions are designed to prevent excessive risk-bearing.

The power of the states to stipulate the legal investments of life insurance companies is reinforced by the power of the respective

---

<sup>43</sup>However, more states are liberalizing their insurance laws on common stock investments, especially with regard to the funding of pension plans. In 1962, for example, New York Insurance Law was amended to permit life insurance companies to establish and maintain separate accounts, with broad power to invest in common stocks, for funds received under group annuity contracts for qualified retirement plans.

state supervisory officials to examine the companies' affairs. The better-staffed insurance departments do a thorough job of scrutinizing insurers and their investment behavior.

State disclosure laws. Disclosure of individual pension fund affairs to official state supervisors<sup>44</sup> is required in Washington, New York, Wisconsin, California, Connecticut, and Massachusetts. The Washington disclosure law covers all pension funds except those trusted by banks, provided that the banks are examined either by the state banking commissioner or a federal examiner; the New York law, only jointly administered funds; the Wisconsin law, all funds that receive \$2,000 or more in annual contributions from Wisconsin employers or that pay benefits to 25 or more Wisconsin employees; the California and Connecticut laws, only those jointly administered funds not trusted by banks subject to state or Federal examination; and the Massachusetts law, all plans which claim membership of 25 or more employees of the state.

The administrators of these covered pension plans are required, in each of the six states except Washington, to submit sworn registration statements and essential plan documents to the official state

---

<sup>44</sup>In California, Connecticut, Washington, and Wisconsin, the disclosure law is administered and enforced by each state's commissioner of insurance. In Massachusetts, the statute is administered by the Commissioners of Banks, of Insurance, and of Labor and Industry. In New York, the Superintendent of Banks has jurisdiction over corporate-trusted funds, while all other funds are subject to the supervision of the Superintendent of Insurance.

supervisors in charge of the disclosure laws. They also must file annual statements, disclosing information called for in the twenty-page uniform blank drafted by the Committee on Blanks of the National Association of Insurance Commissioners. While these annual statements are much more detailed and comprehensive than the annual financial reports (D-2 statements) required under the Welfare and Pension Plans Disclosure Act, the scope of their coverage in terms of numbers of funds reporting is not nearly as great.

In addition to the information received in accordance with the registration and reporting requirements, the official supervisor in each of the six states is empowered to examine the records of any fund covered under the law. In California, New York, Washington, and Wisconsin, each trust fund must be examined periodically;<sup>45</sup> in Massachusetts, a court order is required to examine a fund;<sup>46</sup> while in Connecticut, an examination may take place only if requested by a specified number of persons involved in the plan.<sup>47</sup>

---

<sup>45</sup>At least once in every three years in California; at least once in every five years in New York, Washington, and Wisconsin.

<sup>46</sup>The supervisory commissioners must apply to a judge of a probate court for an order to examine a fund. If good cause is shown, the judge may approve of the examination.

<sup>47</sup>Either 30 percent of the contributing employers, 30 percent of the participating unions, ten percent of the covered employees, 100 covered employees, a majority of employee trustees, or a majority of employer trustees.

As far as substantive regulations are concerned, all six states except Washington expressly prohibit pension fund transactions that involve rebating, diversion of funds, or conflicts of interest. With the exceptions of Connecticut and Massachusetts, the disclosure statutes require that the records of each covered pension fund must be maintained in accordance with prescribed methods of accounting. Moreover, the laws in Massachusetts, California, and New York provide that employer contributions to pension funds must be paid in accordance with the terms established under written agreements. Finally, in Massachusetts, New York, and Wisconsin, individual trustees as well as corporate trustees are responsible for pension funds in a fiduciary capacity.

Enforcement provisions of the state disclosure laws are both civil and penal in scope. The Connecticut, New York, Massachusetts, Wisconsin, and California statutes provide for action to obtain redress for breaches of trust. In addition, the official supervisors of these states, with the exception of Massachusetts, are empowered to sue to obtain an injunction against any person who violates the law. With regard to penal enforcement, the California and Connecticut laws have no special provisions. In New York, any person who willfully violates any provision of the law is guilty of a misdemeanor. In Massachusetts, a maximum penalty of a \$10,000 fine and imprisonment for five years may apply to any person who takes insurance rebates, swears falsely, keeps false records, embezzles, or diverts funds. Any person who



fails to comply with the disclosure law in Washington faces a maximum fine of \$10,000 and imprisonment up to one year. Finally, the maximum penalty for willful violation of the Wisconsin law is a fine of \$5,000 and imprisonment for five years.

#### D. CONCLUSION

Private pension funds are by no means free from public control. They are subject to various kinds of governmental regulations at both the state and Federal levels. The Welfare and Pension Plans Disclosure Act of 1958, along with the pension plan disclosure laws of six states, serve to keep the public informed of the administrative and financial operations of individual pension funds. There is also a great deal of governmental supervision of the corporate trustees and the insurers of the funds. Finally, the way in which the Federal income tax laws are set up has a limited influence on how the funds are managed.

It has not been established, however, whether public regulation, as it stands today, is sufficient to keep pension fund voting power in line with the public interest. Given the findings of the previous chapters, one may wonder if there are truly adequate safeguards to prevent the funds from using this power to stifle competition. This issue, which can no longer be avoided, is the focus of attention in the subsequent and final chapter.

## CHAPTER VIII

### CONCLUSION

In a book review of Professor E. B. Cox's Trends in the Distribution of Stock Ownership, Dr. Simeon Hutner expressed well the lack of information on the holdings of private pension funds:

What is not to be found in the material which Cox reviews is a thorough analysis of the trends in stock ownership as between individuals and institutions and the trends among the institutions themselves. (The Stock Exchange specifically excludes from its surveys the holdings of all nonindividual stockholders.) Those who work closely with securities are acutely aware of the enormous impact on common stocks from the phenomenal growth of pension funds and their tendency to put increasing portions of their assets into stocks during the 1950's. Information on the holdings of pension funds, mutual funds, insurance companies and other institutional investors should be more valuable than data showing that individuals who own stock have better than average incomes, education, and liquid assets; that they tend to be older persons, and that they come from the professional, managerial, or entrepreneurial occupations.<sup>1</sup>

This thesis has attempted to answer the need for such information. Aggregate stockholdings of the funds have been anatomized to show the degree of corporate ownership and voting control by individual

---

<sup>1</sup>Simeon Hutner, Review of Trends in the Distribution of Stock Ownership, by E. B. Cox, American Economic Review, Vol. 54, March, 1964, p. 205.

pension fund trustees over individual portfolio companies. An effort has been made to see how close the trustees have come to the "prevailing control-stockholding position" foreseen in the 1950's by Professor Adolf A. Berle, Jr.<sup>2</sup> Attention has been focused on testing the hypothesis that pension fund trustees do indeed possess substantial voting power in many portfolio company cases and that the potential for control is sufficient to warrant serious public and legislative concern.

Findings. The evidence is scanty, but what there is of it supports the contention that the extent of corporate ownership by private pension funds is sizable enough to constitute a potential control problem. Specifically, the more important findings are these:

(1) Unfortunately, information on current portfolio company holdings of bank trustees is unavailable. However, in 1955, 26 of the 65 largest bank and trust companies had through their pension and other trust accounts as much as five percent or more record ownership in one or more corporations. In 30 of the 99 cases in all, the holdings amounted to more than ten percent voting control. Since many of the holdings were in large, listed, and widely-held companies, the bank trustees had with as little as five or ten percent ownership considerable potential for control. Today, the potential is undoubtedly

---

<sup>2</sup>Adolf A. Berle, Jr., Economic Power and the Free Society (Santa Barbara, California: Center for the Study of Democratic Institutions, 1957), p. 12.

greater, though by how much it is hard to say.

(2) Approximately one-sixth of all pension and deferred profit-sharing trusts have holdings in the common stock of their sponsoring companies. In about 40 percent of these trusts the holdings are small enough so as not to involve more than one percent of a company's total stock outstanding. In another 40 percent the holdings constitute from one to five percent control, while in most of the remaining cases there is less than ten percent ownership. Cases in which a pension fund owns a greater than 25 percent share of the employer's stock (e.g., Sears) are rare. Nevertheless, one out of every ten pension trusts holds at least one percent of its sponsor's stock. This much stock is sufficient in most cases to give to its holder some influence in corporate affairs.

(3) The over-all extent to which pension funds are invested in the stocks of competitor, supplier, and customer companies for the purpose of control cannot be determined on the basis of available sources of information. Several instances have been uncovered, however, in which a company or union has invested its pension trust in the stock of a related company to an extent sufficient to give the original party voting control of the company held. In some of these cases the voting control apparently led to corporate integration and a lessening of competition.

(4) The degree of corporate ownership and voting control by pension funds and their trustees, though sizable, has not yet reached

its zenith. The funds' stockholdings are slated to grow. The trend is toward increased corporate ownership. In the past three years, the funds have purchased, net, more stock than all other investors combined. Moreover, the growth rate of demand for stock by the funds vastly exceeds the growth rate of supply of new stock issues. Thus, pension fund trustees are now only on the threshold of realizing their full voting control potential.

Meaning and consequences of control. What does this voting control mean? What are its possible consequences? Will the pension trustees, as record owners of corporations, exercise their legal prerogative to gain operating control of business enterprise? Unfortunately, these questions have no easy answers. This thesis has dealt with voting control, not operating control. Yet the possible channelling of the former into the latter must be taken into consideration. The concentration of voting power in the hands of pension trustees could generate into a similar concentration of management power, a situation detrimental to the public welfare.

The use of voting power for corporate influence on the trustees' part is tempered by (1) the distribution of ownership and voting control of individual stock issues, and (2) the behavior of the trustees in exercising voting rights. Suppose a trustee has the power to vote ten percent of a corporate stock issue. His ability to realize operating control would then depend upon who has voting power of the remaining shares. If this 90 percent is distributed minutely

among a large number of investors, the trustee is left with the potential to determine management. If, on the other hand, the 90 percent is controlled by one party, the trustee is left (in the absence of cumulative voting) with no management-determining power. In this country, a wide distribution of stock ownership prevails, and, in a great many instances, a pension trustee would not need anything approaching majority ownership to determine management. Individual situations, however, vary considerably.

Given sufficient voting power to determine one or more management positions, the pension fund trustee may or may not use that power to achieve operating control. Most pension trustees behave passively in exercising voting rights. They conduct themselves as institutional investors, and they are aware of their fiduciary responsibility to beneficial owners. When they come into voting control of a portfolio company, it is unintentional. Control is not sought; it is incidental. As passive owners, the trustees are apt to go along with management on matters put to a vote before stockholders.

Not all trustee-stockholders behave passively. A few enjoy control and actively pursue it. Those who do not, may in the future. Control may be sought through various means for various reasons. One, previously discussed, is the purchasing of own-company stock to ensure management entrenchment. Another, also discussed, is the purchasing of other-company stock to promote vertical, horizontal,

or conglomerate integration. There are still others. A bank trustee may influence a portfolio company to do business with the bank. Deposit accounts, loans, and other financial arrangements may result from the bank trustee-portfolio company relationship. Also, a trustee may succeed in naming a director to the board of a portfolio company in which some influence is sought. A portfolio company interlock may prove useful for a variety of purposes. In addition, a trustee may effect a change in a portfolio company's financial policy. Dividends may be altered to benefit the controlling trustee, or the trustee may profit by realigning the capital structure of the portfolio company. Still another advantage of portfolio company control is the possible use of voting power to arrange and profit from a merger, consolidation, or other combination of the companies held.

These devices represent the use of power for profit at the public's expense. So far, only a few of the trustees with this power have exercised it for this purpose. As to the future, one can only speculate. Apparently, corporate voting control will become increasingly concentrated in the pension trusts. Hence, the trustees' potential to effect a concentration of operating control will probably increase.

Policy prescriptions. Given that this country is committed to a policy of maintaining a competitive rather than a concentrated economic climate, the question is whether existing policy tools are adequate to prevent the possible stifling of competition through the

pension funding medium. This study supports the belief that the law falls short of providing full public protection and that some new policy prescriptions are in order. The growth of the funds and their rapid accumulation of common stocks are inevitable. But an unhealthy concentration of economic power does not have to follow. Steps can be taken now to ensure against this potential danger.

The first thing that needs to be done is to provide for a more comprehensive disclosure of information regarding the stockholdings of pension fund trustees. If any one thing was clearly evident in the course of the analysis, it was that there is an almost total lack of access to this kind of information. The trustees are extremely reluctant to divulge any of their holdings and regard such information as confidential. Moreover, with the exception of the "party-in-interest investments and loans" section of the Welfare and Pension Plans Disclosure Act, there is no federal law requiring disclosure of pension fund holdings in portfolio companies.

Without full and recurrent knowledge of the stockholdings of pension trustees, there is no good way of gauging the potential problem of concentration of corporate voting control. Unlike the mutual funds and the life insurance companies, the pension trusts are not impelled to diversify their stock investments, making disclosure all the more necessary.<sup>3</sup> Of course, this by itself will not

---

<sup>3</sup>The Investment Company Act of 1940 limits open-end investment company (mutual fund) holdings in any one portfolio



directly prevent any trustee who seeks control from concentrating his stock purchases in a single issue, but it will nevertheless go a long way, especially in conjunction with a more positive antitrust program. As stated by Mr. Justice Louis D. Brandeis more than 50 years ago:

Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.<sup>4</sup>

Specifically, it is recommended that all pension fund trustees, banks and individuals alike, be required to divulge to a federal agency, like the Securities and Exchange Commission, every holding in a portfolio company which exceeds a prescribed percentage of the company's outstanding voting shares. Three percent would probably suffice. In the case of bank holdings, the bank would be required to include all holdings of all pension and nonpension trust accounts that are registered in its own name and in the names of its nominees. In the case of individual boards of trustees of individual pension

---

company to five percent of the total assets of the investment company and to ten percent of the outstanding voting shares of the portfolio company, for at least 75 percent of the total assets of the investment company. For life insurance companies, diversification requirements are even more restrictive under the statutes of several states. However, only a small minority of pension trust agreements mention any restrictions of this sort. Most of the agreements empower the trustee to invest in accordance with his full and unimpaired discretion.

<sup>4</sup>From Louis D. Brandeis's series of articles, "Other People's Money" (1913), cited by Paul L. Howell before the Subcommittee on Labor of the House Committee on Education and Labor, quoted in U.S., Congress, Senate, Committee on Labor and Public Welfare, To Amend the Welfare and Pension Plans Disclosure Act, 87th Cong., 1st Sess., 1961, p. 184.

funds, the trustee board would be required to include all holdings of which any member has full or partial voting control. The three percent level would be low enough to catch all important holdings and high enough so as not to be unduly burdensome and costly.

Since the mutual funds and the life insurance companies are limited by law in the amount of voting shares they can accumulate in any one company, there seems to be no good reason to exclude the pension trusts from similar legislation. After all, the pension trusts purchase, net, more stock than all the mutual funds and insurance companies combined. The philosophy of the Hughes legislation in New York State in the 1900's was to prevent life insurance companies from effecting through their purchases of common stock a concentration of corporate control. This was also the case in the Investment Companies Act of 1940 with regard to mutual funds. Today the pension trusts are even more advanced in the size of their stockholdings than the insurance companies were in 1905 or the mutual funds in 1939. Yet there are no federal or state laws to prevent a pension trust from buying up voting control of a portfolio company.

It is recommended that a three percent ceiling be set on the amount of stock that a pension trust can hold in any one portfolio company. This policy would safeguard the public against a concentration of voting power without unduly jeopardizing the pension trustee's freedom to invest. Three percent voting control of most corporations represents an ownership value far in excess of the total

value of assets of most pension trusts. Consequently, the policy would not represent compulsory diversification for the smaller trusts. The only funds that would be directly affected are a few deferred profit-sharing funds with large blocks of own-company stock and the funds that overtly seek control through self-dealing and self-serving measures. It is, of course, in these funds where the potential danger of a misuse of power lurks.

It should be recognized that the policy would not obviate the disclosure recommendation prescribed above. The three percent ownership ceiling would apply to pension trusts while the three percent disclosure level would apply to pension trustees, and herein lies the difference. If anything, the two policy prescriptions are complementary and together should go a long way toward insuring a wide distribution of power.

Ideally, the ultimate protective measure against excessive concentration of power should come from a rigorous application of the antitrust laws. The use of pension monies by pension trustees to effect corporate integration of the vertical, horizontal, and conglomerate varieties should in all cases be construed as unnatural monopolistic thrusts in violation of the law of antitrust, and the trustees who are responsible for such deeds should be held strictly accountable under the law. So far, the Antitrust Division of the Department of Justice has not taken any direct action against any pension fund trustee. While this is partially indicative of a general absence of

anticompetitive behavior on the trustees' part, there have been a few instances in which pension money has been used as leverage to prompt concentration of economic activity. Thus it is recommended that the Justice Department make itself aware of the problem and remain alert to violations.

Finally, a strong anti-bank-merger policy is advocated.

When two or more corporate trustees combine, there is a simultaneous combining of portfolio company voting power. Many large banks have merged in recent years and this undoubtedly has had a profound influence in bringing about the high concentration of corporate voting control by bank trustees.<sup>5</sup> Unfortunately, this phenomenon has not had a bearing in the Justice Department's decisions on merger proposals. It is felt that this is a mistake, and it is recommended that the Department consider trustee voting power in future bank merger decisions.

A policy such as the one outlined above would prevent an excessive concentration of corporate voting power by pension fund trustees. A "do nothing" or a "wait and see" policy could possibly lead to the undoing of "competitive capitalism." The findings of this thesis indicate a sizable and growing concentration of corporate ownership and voting control by the funds and their trustees. Unless

---

<sup>5</sup>The seven largest New York City banks, for example, hold over half of the common stocks in all corporate-trusteed pension funds. In 1951, the seven banks were 14 in number. Merging with each other, only one of the original 14 banks managed to escape the merger movement.

it can be firmly demonstrated that this will not lead to a greater concentration of control over all economic activity, preventive legislation should be enacted in the public interest.

## APPENDIX A

### DATA COMPILED ON EACH PLAN IN THE STRATIFIED RANDOM SAMPLE

D-1

(1)

1. Name of plan and address of its principal office
4. Group(s) of employees covered by the plan
5. Industry in which most of the participants are employed
6. Is the plan mentioned in a collective-bargaining agreement?
7. Party(ies) making contributions to the plan
8. A. Official name (or title) and address of plan administrator
- B. Is plan employer, joint employer-union, or wholly union administered?
- C. Individual names and addresses of persons constituting the administrator; official position with respect to the plan; relationship to employer(s) or to union(s); and any other offices, position, or employment held

- 9. A. Party maintaining records of plan participants
  - B. Party determining eligibility of individual claimants for receipt of benefits
  - C. Party processing claims for benefits under the plan
  - D. Party making determination on appeals
  - E. Party authorizing payment of benefits
  - F. Party making payments to beneficiaries
  - G. Party authorizing incurrence of expenses
  - H. Party selecting carrier or service organization
  - I. Party selecting corporate trustee
  - J. Party determining investment policy
- 
- 12. A. Summary of investment provisions as stated in the plan or bargaining agreement, trust agreement, contract, or other instrument under which the plan is operated

D-2

(3)

Year ending

1. Name of plan and address of its principal office
4. Official name (or title) and address of plan administrator
6. A.
  1. Amount contributed to the plan during the period by employers
  2. Amount contributed to the plan during the period by employees
  3. Amount contributed to the plan during the period by other (specify)
- B. Number of employees covered by the plan during the year
7. Amount of benefits paid or otherwise furnished by the plan either directly or through insurance during the year
8. If plan is completely unfunded, total benefits paid under plan, average number of employees eligible for participation, and total benefits paid to retired employees for this and preceding four years



D-2

(4)

## Exhibit A-1 (Welfare and Pension Insurance Data)

- A. 1. Name of carrier or service or other organization
3. Data for period
4. Class of benefits provided and approximate number of persons covered by each class of benefits
5. Total premium received
6. Total claims paid
7. Dividends or retroactive rate refunds paid
8. Commissions paid
9. Administrative service or other fees paid
- B. Name and address of each recipient of commissions or fees; amount of commissions paid each recipient; amount of fees paid each recipient; and purpose for which paid

**Exhibit B-1 (Summary Statement of Assets and Liabilities)**

1. Cash
2.
  - a. Government obligations
  - b. Nongovernment bonds
  - c. Total bonds and debentures
3.
  - a. Preferred stocks
  - b. Common stocks
4. Common trusts
5. Real estate loans and mortgages
6. Operated real estate
7. Other investment assets
8. Accrued income receivable on investments
9. Prepaid expenses
10. Other assets
11. Total assets
12. Insurance and annuity premiums payable
13. Reserve for unpaid claims (not covered by insurance)
14. Accounts payable
15. Accrued payrolls, taxes and other expenses
16. Total liabilities
17.
  - a. Reserve for future benefits and expenses
  - b. Total funds and reserves
18. Total liabilities and funds

## Exhibit B-2 (Summary Statement of Receipts and Disbursements)

1.   a.   Employer contributions
- b.   Employees contributions
- c.   Other (specify) contributions
2.   Interest, dividends, and other investment net income
3.   Gain (or loss) from disposal of assets, net
4.   Dividends and experience rating refunds from insurance companies
5.   Other receipts
6.   Total receipts
7.   Insurance and annuity premiums paid to insurance companies for participants benefits
8.   Benefits provided other than through insurance carriers or other service organizations
9.   a.   Salaries
- b.   Fees and commissions
- c.   Interest
- d.   Taxes
- e.   Rent
- f.   Other administrative expenses
10.   Other disbursements
11.   Total disbursements
12.   Excess (deficiency) of receipts over disbursements
13.   Fund balance at beginning of year
14.   Excess (deficiency) of receipts over disbursements
15.   Other increases or decreases in funds
16.   Fund balance end of year

## Schedule 1 (Salaries Paid and Charged to Plan)

To whom paid (1)	Purpose for which paid (2)	Amount of Salary (3)
---------------------	-------------------------------	-------------------------

---

## Schedule 2 (Fees and Commission Paid and Charge to the Plan)

To whom paid (1)	Purpose (2)	Commissions (3)	Fees (4)
---------------------	----------------	--------------------	-------------

---

**Exhibit C (Party-In-Interest Investments and Loans)**

**Tables A, B.** All investments in securities and property of parties in interest, including identity of each security, mortgage, loan, or property; name of party in interest and relationship; cost of each investment; present value of each investment; and percentage of the total fund represented by each investment

**Table C.** Fees and commissions incidental to the purchase or sale of all investments in securities or properties of party in interest, including name and address of recipient; purpose for which paid; and amount

**Table D.** Loans made or outstanding to party in interest, showing name and address of debtor, party in interest relationship to fund, dates loans made and when due, interest rate, and any other terms and conditions of such loans; also face amount of each loan; amount outstanding at end of year; and nature of collateral held

## APPENDIX B

### PENSION PLANS IN THE STRATIFIED RANDOM SAMPLE

#### Name of Plan

1. Abbott Laboratories Stock Retirement Plan
2. Ace Glass Pension Plan
3. Acme Tag Company Group Annuity Contract Plan
4. Aetna Insurance Company Retirement Income Program
5. Alabama By-Products Corporation Pension Fund
6. Alabama Power Company Pension Plan
7. Allegheny Ludlum Steel Corporation Group Annuity Plan
8. Allis-Chalmers Retirement and Pension Plan
9. Allis-Chalmers Salaried Employees' Retirement Plan
10. Amalgamated Association of Street, Electric Railway and Motor Coach Employees Old Age and Disability Benefits Plan
11. Amalgamated Lithographers of America Local 1 Pension Fund
12. Amchem Products Profit Sharing Retirement Plan
13. Amerace Corporation Pension and Severance Award Plan
14. Amerada Petroleum Corporation Employees' Retirement Income Plan
15. American Can Company Marathon Division Salaried Employees Retirement Plan
16. American Sanitary Manufacturing Company Pension Trust
17. American Viscose Corporation Retirement Plan
18. Ames Trust and Savings Bank Retirement Plan
19. Anchor Hocking Service Retirement Plan
20. Archer-Daniels-Midland District No. 50 UMW Pension Plan
21. Armstrong Rubber Company Deferred Profit Sharing Plan
22. Automotive Supply Company Employees' Profit Sharing Plan
23. Bakery and Confectionery Union and Industry National Pension Fund
24. Bakery and Confectionery Workers Local No. 3 Pension Fund
25. Bank of America Annuity Plan
26. Barber-Colman Employees' Trust
27. Barber Oil Corporation Retirement Income Plan
28. Beaver-Gear Profit Sharing and Retirement Fund
29. Beaverite Products Employees' Savings and Profit Sharing Retirement Plan

30. Beckett Paper Company Pension Trust Plan
31. Bell and Howell Profit Sharing Retirement Trust
32. Bendix Hourly Employees Pension Plan
33. Boston Five Cents Saving Bank Pension Benefit Plan
34. Braniff Airways Pilots' Retirement Plan
35. Brewer-Titchener Corporation Employees' Saving and Profit-Sharing Retirement Plan
36. Bucyrus-Erie Pension Plan
37. Budd Company Executive and Administrative Employees' Retirement Plan
38. Building Service Employees' Pension Trust
39. Building Trades Milwaukee and Vicinity United Pension Trust Fund
40. Butler Manufacturing Company Hourly Paid Factory Employees' Retirement Benefit Plan
41. California Butchers' Pension Trust Fund
42. California Packing Retirement Plan
43. California Texas Oil Company Annuity Plan
44. California-Western States Life Insurance Company Employee Retirement Program
45. Calumet and Hecla Employees' Pension Trust
46. Carlyle Johnson Machine Company Employees' Pension Trust
47. Carolina Narrow Fabric Company Profit-Sharing Retirement Plan
48. Carpenters of Western Washington Retirement Trust
49. Carter Publications Supplemental Retirement Plan
50. Champion Paper and Fibre Company Retirement and Disability Plan
51. Champion Spark Plug Company Salaried Pension Plan
52. Champion Spark Plug Company Toledo Hourly Pension Plan
53. Chemical Bank New York Trust Company Deferred Compensation Plan
54. Cincinnati Gas and Electric Company Retirement Income Plan
55. Clark Equipment Company Salaried Employees' Retirement Plan
56. Clorox Company Salaried Employees' Profit Sharing Plan
57. Clow, J. B., and Sons Salaried Employees' Retirement Income Plan
58. Coca Cola Bottling Company of Ohio Employees' Retirement Plan
59. Colorado Fuel and Iron Corporation Pension Plan
60. Columbia Gas System Companies Retirement Income Plan
61. Commodore Hotel Salaried Employees' Retirement Insurance Plan and Trust
62. Continental Can Company Hourly Pension Plan
63. Cooperative Grange League Federation Exchange Employees Retirement Plan

64. Corn Products Company Welfare Benefits Policy
65. Craddock-Terry Company Quarter Century Club
66. Crown Cork and Seal Company Pension Plan
67. Crown Zellerbach Retirement Plan
68. Curtiss-Wright Contributory Retirement Plan
69. Curtiss-Wright Pension Plan
70. Cutler-Hammer Employees' Pension Trust
71. Dairy Craftsmen's Retirement Plan
72. Dallas Federal Savings and Loan Profit Sharing Plan
73. Daystrom Salaried Employees' Retirement Plan
74. Detroit Stamping Company Hourly Employees Retirement Income Plan
75. Distillers Company and Gordon's Dry Gin Company Salaried Employees' Funded Pension Plan
76. Donnelley, R. H., Corporation Employees Retirement Plan
77. Dorn's Transportation Employees' Profit Sharing and Retirement Fund
78. Dravo Corporation Retirement Plan
79. Dress Industry of New York Retirement Fund
80. Dun and Bradstreet Employee Retirement Plan
81. duPont de Nemours, E. I., Pension and Retirement Plan
82. Durham Manufacturing Company Profit Sharing Plan and Trust
83. Eagle-Picher Company Chicago Vitreous Division Profit Sharing and Retirement Plan
84. Eastern Airlines Retirement Income Plan
85. Eastern Steel Barrel Corporation Employee Profit Sharing Plan
86. Edie Profit Sharing Plan and Trust
87. Electrical Industry Annuity Plan
88. Elgin Corrugated Box Company Employees' Profit Sharing Trust
89. Fairchild Stratos Corporation Retirement Benefit Plan
90. Farmers Union Central Exchange Savings-Sharing Plan
91. Farmers Union Grain Terminal Association Employees' Insurance and Retirement Plan
92. Fetzer Broadcasting Company Profit Sharing Plan
93. Fire Insurance Rating Organization of New Jersey Retirement Plan
94. First National Bank of Chicago Bank Pension Fund
95. Ford Motor Company General Retirement Plan
96. Ford Motor Company UAW Retirement Plan
97. Foy-Johnson Group Annuity Retirement Contract
98. Garlock Profit Sharing Plan
99. General Electric Pension Plan
100. General Electric Savings and Security Program
101. General Metal Products Company Pension Plan
102. General Motors Hourly-Rate Employees Pension Plan



103. General Motors Salaried Employees' Retirement Program
104. GT&E Service Corporation Employees' Pension Plan
105. Geuder, Paeschke, and Frey Company Pension Plan
106. Gottlieb and Associates Profit Sharing Trust
107. Guarantee Reserve Life Insurance Company Deposit Administration Group Plan
108. Hammond, C. S., and Company Profit Sharing and Retirement Trust
109. Hartford Electric Light Company Retirement Plan
110. Hood, H. P., and Sons Profit Sharing Trust
111. Hotel and Industry Local 150 Pension Fund
112. Illinois Power Company Retirement Income Plan
113. Imperial Refineries Corporation Employees Profit Sharing Trust
114. Independent Salt Company Pension Trust
115. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America Central States, Southeast and Southwest Areas Pension Plan
116. International Harvester Company Pension Plan
117. International Typographical Union Old Age Pension Plan
118. Jewel Tea Company Retirement Estates
119. Kansas City Power and Light Company Hourly-Rate Employees' Retirement Annuity Plan
120. Kelco Company Employees' Benefit Plan and Trust
121. Kimber Farms Employees' Profit Sharing Plan
122. Kirk and Blum Manufacturing Company Office Employees Retirement Plan
123. Krause Stamping and Manufacturing Company Profit Sharing Plan
124. LaCledde Steel Company Hourly Employees Pension Plan
125. Lancaster County National Bank Pension Plan
126. Lever Brothers Company Retirement Plan
127. Libbey-Owens-Ford Glass Company Gas Department Salaried Employees Retirement Plan
128. Liberty National Bank and Trust Company Retirement Plan
129. Mandeville and King Company Profit Sharing Retirement Plan
130. McLouth Steel Corporation Salaried Employees General Retirement Plan
131. Mellon National Bank and Trust Company Employees' Retirement Plan
132. Merck and Company Salaried Employees' Retirement Plan
133. Midland-Ross Corporation Salaried Employees' Pension Plan
134. Milk Wagon Drivers' Union and Milk Dealers' Severance Retirement Fund
135. Mississippi Valley Structural Steel Profit Sharing Plan
136. Moody's Investors Service Employees Participation Trust Plan

137. Morrison-Quirk Grain Corporation Profit Sharing Plan
138. Mutual National Bank of Chicago Profit Sharing Plan
139. Myers, F. E., and Brothers Company Supplemental Salaried Employees' Retirement Plan
140. National Bank of Detroit Employees' Retirement Plan
141. National Biscuit Company Pension Plan
142. National Distillers and Chemical Corporation Pension Plan
143. National Zinc Company Employees' Benefit Fund
144. Nebraska Farmer Company Salaried Employees Pension Trust
145. New York Telephone Company Pension, Disability Benefit and Death Benefit Plan
146. Norca Corporation Employees' Profit Sharing Trust
147. Norfolk County Trust Company Retirement Plan
148. Northern Indiana Public Service Company Pension Plan
149. Northern Trust Company of Chicago Officers' and Employees' Pension Trust
150. Ohio Oil Company Thrift Plan
151. Outboard Marine Corporation Employees' Retirement Plan
152. Owens-Corning Fiberglas Corporation Retirement Plan
153. P.H.S. Tobacco Company Employees' Retirement Plan
154. Peavey, F. H., Salaried Employees' Group Retirement Plan
155. Pennsylvania Wholesale Drug Company Profit Sharing Plan
156. Phelps Dodge Day's-Pay Employees' Pension Plan
157. Philadelphia Ladies' Garment Industry Retirement Fund
158. Pillsbury's Retirement Annuity Plan
159. Pittsburgh Plate Glass Company Glass Division--CIO Pension Plan
160. Plymouth Citrus Growers Association Pension Plan
161. Polaroid Corporation Profit-Sharing Retirement Plan
162. Producers Cotton Oil Company Pension Plan
163. Prudential Insurance Company Service Retirement Plan
164. Pullman Managerial Employees' Retirement Objective Policy
165. Pullman Trust and Savings Bank Retirement Plan
166. Rea and Derick Employees' Benefit Trust
167. Remington Rand Retirement Plan
168. Republic Aviation Corporation Pension Plan
169. Republic Steel Corporation Pension Plan
170. Revere Copper and Brass New Bedford Division Hourly Employees' Pension Plan
171. Rexall Drug Company Profit Sharing Retirement Trust
172. Ridgewood News and Associated Companies Pension Plan
173. Rulon, R. V., Salaried Employees' Retirement Plan
174. St. Clair Rubber Company and H. Scherer and Company Salaried Employees Retirement Plan
175. San Fernando Valley Federal Savings and Loan Profit Sharing and Retirement Plan

176. Sandia Corporation Group Annuity Retirement Plan
177. Schatz Manufacturing Company Employees' Trust
178. Schering Corporation Employees' Profit-Sharing Incentive Plan
179. Schnadig Corporation Profit Sharing Plan
180. Sears, Roebuck and Company Employees' Savings and Profit Sharing Pension Fund
181. Servicised Products Corporation Employees' Profit Sharing Trust
182. Shamrock Oil and Gas Corporation Employees' Pension Trust and Death Benefit Plan
183. Sheffield Corporation Exempt Employees Pension Plan
184. Signode Steel Strapping Company Employees' Savings and Profit Sharing Trust Fund
185. Simmons Company Retirement Plan
186. Snap-Tite Production and Maintenance Employee Pension Plan
187. Southern California Retail Clerk Unions and Food Employers Joint Pension Trust Fund.
188. Southern New England Telephone Company Employees' Pension, Disability Benefit and Death Benefit Plan
189. Southern Pacific Contributory Retirement Plan
190. Southland Life Insurance Company Retirement Plan
191. Southwestern Life Insurance Company Employees' Retirement Annuity Plan
192. Sparks, J. W., and Company Profit Sharing Plan
193. Sperry Rand Retirement Pension Plan
194. Springs Cotton Mills Non-Salaried Employees' Profit Sharing Plan and Trust
195. Standard Oil of California Annuity Plan
196. Standard Oil of Indiana Retirement Plan
197. Standard Oil of New Jersey Retirement Annuity Plan
198. Stapleton Service Laundry Corporation Employee Retirement Plan
199. Stokely-Van Camp Salaried Employees' Past Service Retirement Plan
200. Studebaker Corporation UAW-AFL-CIO Pension Plan
201. Teamsters Joint Council No. 43 and Affiliated Local Unions Retirement Plan
202. Texaco Group Life Insurance and Pension Plan
203. Texas Life Insurance Company Employees Retirement Plan
204. Thompson Ramo Wooldridge Bankers Plan
205. Thompson Ramo Wooldridge Supplementary Retirement Income Plan
206. Trans World Airlines Retirement Plan
207. Trucking Employees of North Jersey Welfare Fund Pension Account
208. Union Furniture Company Profit Sharing and Retirement Plan
209. United Air Lines Non-Union Employees' Fixed Benefit Retirement Income Plan

- 210. United Aircraft Corporation Retirement-Income Plan
- 211. United Biscuit Company Salaried and Certain Hourly-Paid Employees Retirement Plan
- 212. United Brotherhood of Carpenters and Joiners General Office Employees' Retirement and Pension Plan
- 213. United Insurance Company Savings and Profit Sharing Pension Fund
- 214. United Life and Accident Insurance Company Employees' Retirement Plan
- 215. United Parcel Services New York Retirement Plan
- 216. United States Steel Employee Pension Benefit Plan
- 217. Universal Leaf Tobacco Company Employee Pension Plan
- 218. Utility Metal Products Retirement Plan
- 219. Varian Associates Retirement Plan
- 220. Warner-Lambert Pharmaceutical Company Retirement Plan
- 221. Washington Gas Light Company Employees' Retirement Plan
- 222. Westchester Teamsters Pension Fund
- 223. Western Electric Company Employees' Pension, Disability Benefit and Death Benefit Plan
- 224. Westinghouse Electric Corporation Pension Plan
- 225. Wheeling Steel Corporation Pension Plan
- 226. Whirlpool Corporation Savings and Profit Sharing Plan
- 227. Wisconsin Electric Power Company Administrative Employees Retirement Plan
- 228. Wisconsin Public Service Corporation Employees' Retirement Plan
- 229. Wood, G. R., Pension Benefit Plan
- 230. Wooster Brush Company Retirement Plan
- 231. Yonkers Transit Corporation Pension Plan
- 232. Zenith Radio Corporation Profit-Sharing Retirement Plan

## APPENDIX C

### QUESTIONNAIRE ON CORPORATE-TRUSTEED PENSION FUNDS

Dear Trust Officer:

This questionnaire is one part of a current research project on the organization of the private pension system in the United States. The project is designed to fulfill the requirements for a doctorate in economics at Michigan State University.

The questions call only for numerical answers, opinions, and statements of general policy. Approximations can be entered where exact answers cannot be given.

In order to maintain this written interview on a confidential basis, names of persons, companies, and banks (including your own) are not requested.

Enclosed is a self-addressed, stamped envelope for your convenience in returning the questionnaire.

Your response will be greatly appreciated.

Very truly yours,

Dwayne Wrightsman  
Department of Economics  
Michigan State University

1. How many individual pension funds do you hold in trust? \_\_\_\_\_
  
2. What is the total book value of the assets of all pension funds held by you as corporate trustee? \$ \_\_\_\_\_
  
3. What is the total book value of the assets of the five largest pension funds held by you as corporate trustee? \$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_
  
4. What is the total book value of the assets of all pension funds of which you, as corporate trustee, have full and complete investment discretion? \$ \_\_\_\_\_
  
5. What is the total book value of the assets of all pension funds of which you, as corporate trustee, share investment discretion with employers or other pension plan administrators? \$ \_\_\_\_\_
  
6. What is the total book value of the assets of all pension funds of which investment decisions are, for practical purposes, directed by employers or other pension plan administrators? \$ \_\_\_\_\_
  
7. What proportion of pension trust agreements, between employers and yourself, direct, permit, or do not prohibit investments in the securities, obligations, or other property of the employer, its subsidiaries, or affiliates? \_\_\_\_\_%
  
8. What proportion of pension funds, which you hold in trust, actually have investments in the securities, obligations, or other property of the employer, its subsidiaries, or affiliates? \_\_\_\_\_%

9. What general policy do you follow in making investments in the securities, obligations, or other property of competitors, suppliers, or customers of employers of whom you serve as corporate trustee?
10. What is your typical fee for rendering ordinary pension trust service?
11. What is the average rate of investment return on the total book value of the assets of all pension funds held in trust by you? \_\_\_\_\_%
12. What proportion of the total book value of the assets of all pension funds held in trust by you is represented by:
- (a) cash? \_\_\_\_\_%
  - (b) U.S. Government obligations? \_\_\_\_\_%
  - (c) corporate bonds? \_\_\_\_\_%
  - (d) preferred stock? \_\_\_\_\_%
  - (e) common stock? \_\_\_\_\_%
  - (f) real estate loans and mortgages? \_\_\_\_\_%
  - (g) other assets? \_\_\_\_\_%
13. Given the combined holdings of individual issues of common stock in your pension trust portfolios, how many instances are there where you hold more than five per cent of any one outstanding issue of common stock of a "listed" corporation? \_\_\_\_\_
14. What proportion of pension trust agreements, between pension plan administrators and yourself, give common stock voting rights to the corporate trustee? \_\_\_\_\_%





## APPENDIX D

### CORPORATE TRUSTEES TO WHOM THE QUESTIONNAIRE WAS SENT

#### Name of Trustee

1. Bank of America, San Francisco
2. Bank of California, San Francisco
3. Bank of New York
4. Bankers Trust, New York
5. Camden Trust
6. Central National Bank of Cleveland
7. Central Trust, Cincinnati
8. Chase Manhattan Bank, New York
9. Chemical Bank New York Trust
10. Citizens Fidelity Bank and Trust, Louisville
11. Citizens National Bank, Los Angeles
12. Cleveland Trust
13. Connecticut Bank and Trust, Hartford
14. Continental Illinois National Bank and Trust, Chicago
15. Crocker-Anglo National Bank, San Francisco
16. Detroit Bank and Trust
17. Fidelity-Philadelphia Trust, Philadelphia
18. Fidelity Union Trust, Newark
19. First City National Bank of Houston
20. First National Bank of Boston
21. First National Bank of Chicago
22. First National Bank in Dallas
23. First National Bank of Oregon, Portland
24. First National Bank in St. Louis
25. First National City Bank, New York
26. First Pennsylvania Banking and Trust, Philadelphia
27. First Trust Company of St. Paul
28. First Wisconsin National Bank of Milwaukee
29. Franklin National Bank of Long Island, Mineola, N. Y.
30. Girard Trust Corn Exchange Bank, Philadelphia
31. Harris Trust and Savings Bank, Chicago
32. Hartford National Bank and Trust
33. Irving Trust, New York
34. Lincoln-Rochester Trust, Rochester
35. Manufacturers Hanover Trust, New York

36. Manufacturers National Bank of Detroit
37. Marine Midland Trust of New York
38. Marine Trust of Western New York, Buffalo
39. Meadow Brook National Bank, West Hempstead, N. Y.
40. Mellon National Bank and Trust, Pittsburgh
41. Mercantile-Safe Deposit and Trust, Baltimore
42. Mercantile Trust, St. Louis
43. Morgan Guaranty Trust, New York
44. National Bank of Commerce, Seattle
45. National Bank of Detroit
46. National City Bank of Cleveland
47. Northern Trust, Chicago
48. Northwestern National Bank of Minneapolis
49. Old Colony Trust, Boston
50. Philadelphia National Bank
51. Pittsburgh National Bank
52. Provident Tradesmens Bank and Trust, Philadelphia
53. Republic National Bank of Dallas
54. Rhode Island Hospital Trust, Providence
55. St. Louis Union Trust
56. Seattle-First National Bank
57. Security First National Bank, Los Angeles
58. State Street Bank and Trust, Boston
59. Toledo Trust
60. Trust Company of Georgia, Atlanta
61. Union Bank, Los Angeles
62. United California Bank, Los Angeles
63. United States National Bank of Portland
64. United States Trust, New York
65. Valley National Bank, Phoenix
66. Wachovia Bank and Trust, Winston-Salem
67. Wells Fargo American Trust, San Francisco
68. Wilmington Trust

## BIBLIOGRAPHY

### Articles and Periodicals

- Ackerman, Lawrence J. "Financing Pension Benefits," Harvard Business Review, Vol. 34, September-October, 1956, 63-74.
- Andrews, Victor L. "Interests at Stake in the Investment of Pension Funds," Monthly Labor Review, Vol. 82, July, 1959, 751-756.
- \_\_\_\_\_. "Pension Funds in the Securities Markets," Harvard Business Review, Vol. 37, November-December, 1959, 90-102.
- Broehl, Wayne G., Jr. "Are Institutions 'Controlling' Business?" Trusts and Estates, Vol. 95, January, 1956, 64-65.
- Caldwell, Nathan, and Graham, Gene S. "The Strange Romance Between John L. Lewis and Cyrus Eaton," Harper's Magazine, December, 1961, 25-32.
- Daniel, Eleanor S. "Retirement Funds, Capital Markets, and Growth," Federal Tax Policy for Economic Growth and Stability, Joint Committee on the Economic Report, 84th Cong., 1st Sess., 1955, 772-785.
- Douglas, Monteath, "Economic and Social Consequences of Fringe Benefits," Relations Industrielles, Vol. 15, April, 1960, 181-192.
- Fogarty, Michael P. "The Philosophy of Fringes," Review of Social Economy, Vol. 16, September, 1958, 119-138.
- Friend, Irwin. "New Influences in the Stock Market," Fortune, March, 1953.
- Gersh, Harry. "Labor's Money in Wall Street," Industrial Bulletin (New York State), Vol. 38, July, 1959, 3-7.

- Goodman, Isidore. "Multi-Employer Pension, Profit-Sharing and Stock Bonus Plans," Labor Law Journal, Vol.11, December, 1960, 1108-1119.
- Gordon, Edward M. "The Finances of Welfare and Pension Plans During 1959," Monthly Labor Review, Vol. 84, September, 1961, 935-938.
- "Guides Applicable to the Qualification of Stock Bonus, Pension, Profit-Sharing and Annuity Plans," Internal Revenue Bulletin, No. 1961-35, August, 1961.
- Guthmann, Harry G. "Effect on the Economy of Chanelling Savings through Pension Funds," Journal of Finance, May, 1952, 260-277.
- Hall, Challis A. "Retirement Contributions, the Spending Stream, and Growth," Federal Tax Policy for Economic Growth and Stability, Joint Committee on the Economic Report, 84th Cong., 1st Sess., 786-797.
- Holland, Daniel M. "The Pension Structure," Federal Expenditure Policy for Economic Growth and Stability, Joint Economic Committee, 85th Cong., 1st Sess., 1957, 985-1009.
- \_\_\_\_\_. "Projections of Private Pension Plans, 1960-80," The Uses of Economic Research, National Bureau of Economic Research, May, 1963, 56-59.
- \_\_\_\_\_. "What Can We Expect from Pensions?" Harvard Business Review, Vol. 37, July-August, 1959, 125-140.
- Howell, Paul L. "Common Stocks and Pension Fund Investing," Harvard Business Review, Vol. 36, November-December, 1958, 92-106.
- Hutner, Simeon. Review of Trends in the Distribution of Stock Ownership, by E. B. Cox, American Economic Review, Vol.54, March, 1964, 203-205.
- Kittner, Dorothy R. "Health, Insurance, and Pension Plan Coverage in Union Contracts," Monthly Labor Review, Vol.85, March, 1962.
- Kolodrubetz, Walter W. "Characteristics of Pension Plans," Monthly Labor Review, Vol. 81, March, 1958, 845 ff.
- "Legal Problems of Private Pension Plans," Harvard Law Review, Vol. 70, January, 1957, 490-509.

- Lockton, J. D. "Pension Trust Growth Rate: No Threat to Company Control," Trusts and Estates, Vol. 98, November, 1959, 1114 ff.
- MacIntyre, Duncan M. "Regulation of Employee Benefit Programs," Industrial and Labor Relations Review, Vol. 10, July, 1957, 554-578.
- Meyers, Frederic and Miller, C. R., "Investment Policies of Bilaterally Managed Pension Plans," Quarterly Review of Economics and Business, February, 1962, 47-58.
- Motter, David C. "Bank Mergers and Public Policy," National Banking Review, Vol. 1, September, 1963, 89-100.
- Murray, Roger F. "Economic Aspects of Pensions," The Uses of Economic Research, National Bureau of Economic Research, May, 1963, 20-25.
- \_\_\_\_\_. "Fresh Look at Pension Funds," Trusts and Estates, Vol. 94, November, 1955, 944 ff.
- \_\_\_\_\_. "Investment Aspects of the Accumulation of Pension Funds," Journal of Finance, May, 1952, 252-59.
- Natrella, Vito. "Implications of Pension Fund Accumulations," Proceedings, American Statistical Association, September, 1957, 140-153.
- Neenan, William B. "Pension Funds and the Equity Market," Labor Law Journal, Vol. 7, September, 1956, 552-557.
- Otis, Henry W. "Comparing Pension Costs," Harvard Business Review, Vol. 35, July-August, 1957, 58-66.
- "Regulation of Employee Benefit Plans: Activate the Law of Trusts," Stanford Law Review, Vol. 8, July, 1956, 655-672.
- Ross, Arthur M. "Fringe Benefits Today and Tomorrow," Labor Law Journal, Vol. 7, August, 1956, 476-482.
- Skolnik, Alfred M. "Employee-Benefit Plans, 1954-60," Social Security Bulletin, Vol. 25, April, 1962.
- Slichter, Sumner H. "Social and Economic Impact of the Pension Trend," Pensions and Fact Finding in Labor Relations (Personnel Series No. 133), American Management Association, 1950, 3-13.
- "The Startling Impact of Private Pension Funds," Business Week, January 31, 1959, 89-105.
- Tilove, Robert. "Social and Economic Implications of Private Pensions," Industrial and Labor Relations Review, Vol. 14, October, 1960, 24-34.

Walter, James E. "Some Implications of Private Pension Funds," Southern Economic Journal, Vol. 22, October, 1955, 230-242.

Warters, Dennis N. and Rae, William M. "The Risks in Equity Investment for Pension Funds," Transactions, Society of Actuaries, November, 1959.

### Books and Reports

Aaron, Benjamin. Legal Status of Employee Benefit Rights under Private Pension Plans. Homewood, Illinois: Richard D. Irwin, 1961.

Aranow, Edward Ross, and Einhorn, Herbert A. Proxy Contests For Corporate Control. New York: Columbia University Press, 1957.

Bankers Trust Company. 1960 Study of Industrial Retirement Plans. New York: Bankers Trust Company, 1960.

Berle, Adolf A., Jr. Economic Power and the Free Society. Santa Barbara, California: Center for the Study of Democratic Institutions, 1957.

\_\_\_\_\_. Power Without Property. New York: Harcourt, Brace and Company, 1959.

Bernstein, Merton C. The Future of Private Pensions. New York: Free Press of Glencoe, 1964.

Best's Life Insurance Reports. New York: Alfred M. Best Company, 1961-1963.

Bureau of National Affairs. Pensions and Profit Sharing. Washington: Bureau of National Affairs, 1956.

CCH Trade Cases. Chicago: Commerce Clearing House, 1959-1963.

Cox, Edwin Burk. Trends in the Distribution of Stock Ownership. Philadelphia: University of Pennsylvania Press, 1963.

Dearing, Charles L. Industrial Pensions. Washington: The Brookings Institution, 1954.

Fricke, Cedric V. The Variable Annuity: Its Impact on the Savings-Investment Market. Ann Arbor, Michigan: University of Michigan Bureau of Business Research, 1959.

Gilbert, Lewis D. and John J. Annual Report of Stockholders Activities at Corporation Meetings. New York: Lewis D. and John J. Gilbert, 1957-1962.

Goldsmith, Raymond W. Financial Intermediaries in the Savings and Investment Process in the American Economy, 1900-1952. Princeton, New Jersey: Princeton University Press, 1957.

\_\_\_\_\_. A Study of Saving in the United States, Princeton, New Jersey: Princeton University Press, 1955.

Hamilton, James A. and Bronson, Dorrance C. Pensions. New York: McGraw-Hill, 1958.

Harbrecht, Paul P., S.J. Pension Funds and Economic Power. New York: The Twentieth Century Fund, 1959.

Holland, Daniel M. Suggestions for Research in the Economics of Pensions. New York: National Bureau of Economic Research, 1957.

House, Martin. Private Employee Benefit Plans; A Public Trust. New York State Insurance Department, 1956.

Life Insurance Fact Book. New York: Institute of Life Insurance, 1961-1963.

Livingston, J.A. The American Stockholder. Philadelphia: J. B. Lippincott Company, 1958.

McGill, Dan M. Fulfilling Pension Expectations. Homewood, Illinois: Richard D. Irwin, 1962.

\_\_\_\_\_. Fundamentals of Private Pensions. Homewood, Illinois: Richard D. Irwin, 1955.

\_\_\_\_\_. Pensions: Problems and Trends. Homewood, Illinois: Richard D. Irwin, 1955.

McLean, Gordon A. Report of National Survey of Personal Trust Accounts. New York: American Bankers Association.

McNulty, James E., Jr. Decision and Influence Processes in Private Pension Plans. Homewood, Illinois: Richard D. Irwin, 1961.

Moody's Industrial Manual. New York: Moody's Investors Service, 1961-1963.

Mooney, George A. Pension and Other Employee Welfare Plans. New York State Banking Department, 1955.

- National Industrial Conference Board. Handbook on Pensions (Studies in Personnel Policy No. 103). New York: National Industrial Conference Board, 1950.
- National Planning Association. Private Pension Plans (Special Report No. 49). Washington: National Planning Association, 1956.
- New York Stock Exchange. Institutional Investors and the Stock Market. New York: New York Stock Exchange, 1955.
- Patterson, Edwin W. Legal Protection of Private Pension Expectations. Homewood, Illinois: Richard D. Irwin, 1960.
- Pensions and Profit Sharing. Washington: Bureau of National Affairs, 1956.
- Poor's Register of Directors and Executives. New York: Standard and Poor's Corporation, 1961-1963.
- Rappaport, Louis H. S E C Accounting Practice and Procedure. New York: Ronald Press, 1959.
- Rauschenbush, Hilmar S. Pensions in Our Economy. Washington: The Public Affairs Institute, 1955.
- Stewart, Bryce M. and Couper, Walter J. Profit Sharing and Stock Ownership for Wage Earners and Executives. New York: Industrial Relations Counselors, 1945.
- Tilove, Robert. Pension Funds and Economic Freedom. New York: The Fund for the Republic, 1959.

#### Public Documents

- Antitrust Laws with Amendments, 1890-1962. Washington: U.S. Government Printing Office, 1962.
- Ball, Robert M. Pensions in the United States. Joint Committee on the Economic Report, 82nd Cong., 2nd Sess., 1952.
- Federal Reserve System, Board of Governors. Flow of Funds/Savings Accounts, 1946-1960. Washington, 1961.
- Text of Labor Management Relations Act, 1947, as Amended by Public Law 86-257, 1959. Washington: U.S. Government Printing Office, 1959.



- U.S. Congress, House of Representatives. Self-Employed Individuals Tax Retirement Act of 1962, Conference Report (Report No. 2411). 87th Cong., 2nd Sess., September 18, 1962.
- U.S. Congress, House, Committee on Interstate and Foreign Commerce. A Study of Mutual Funds (House Report No. 2274). 87th Cong., 2nd Sess., 1962.
- \_\_\_\_\_. Investment Trusts and Investment Companies (House Document No. 246). 77th Cong., 1st Sess., 1942.
- U.S. Congress, House, Select Committee on Small Business. Chain Banking, Stockholder and Loan Links of 200 Largest Member Banks. 87th Cong., 2nd Sess., January 3, 1963.
- \_\_\_\_\_. Interlocking Directorates and Officials of 135 Large Financial Companies of the United States. 85th Cong., 1st Sess., 1957.
- U.S. Congress, Senate, Committee on Banking and Currency. Institutional Investors and the Stock Market. 84th Cong., 2nd Sess., 1956.
- \_\_\_\_\_. Stock Market Study, Hearings. 84th Cong., 1st Sess., 1955.
- U.S. Congress, Senate, Committee on Labor and Public Welfare. To Amend the Welfare and Pension Plans Disclosure Act, Hearings. 87th Cong., 1st Sess., July 31, 1961.
- \_\_\_\_\_. Welfare and Pension Plan Investigation, Interim Report. 83rd Cong., 2nd Sess., 1955.
- \_\_\_\_\_. Welfare and Pension Plans Investigation, Final Report. 84th Cong., 2nd Sess., 1956.
- \_\_\_\_\_. Welfare and Pension Plans Investigation, Hearings. 84th Cong., 1st Sess., 1955.
- \_\_\_\_\_. Welfare and Pension Plans Investigation, Interim Report (Panel Discussion, Review of Selected Plans, Two Plans Evidencing Corrupt Operation). 84th Cong., 1st Sess., 1955.
- \_\_\_\_\_. Welfare and Pension Plans Legislation, Hearings. 85th Cong., 1st Sess., 1957.
- U.S. Congress, Senate, Select Committee on Small Business. Recent Developments in the Structure of Banking. 87th Cong., 2nd Sess., 1962.

- U.S. Congress, Temporary National Economic Committee. Investigation of Concentration of Economic Power (Parts 4, 10, 10-A, 13, and 28). Washington: U.S. Government Printing Office, 1940.
- U.S. Department of Labor. Characteristics of 144,700 Welfare and Pension Benefit Plans. Washington, 1962.
- U. S. Department Of Labor, Bureau of Labor Standards, Division of Welfare and Pension Reports. Selected Financial Data for 118,660 Welfare and Pension Benefit Plans, 1959. Washington, July, 1961.
- U.S. Department of Labor, Bureau of Labor Statistics. Digest of One-Hundred Selected Pension Plans Under Collective Bargaining, Spring 1961 (BLS Bulletin No. 1307). January, 1962.
- \_\_\_\_\_. Multiemployer Pension Plans Under Collective Bargaining, Spring 1960 (BLS Bulletin No. 1326). June, 1962.
- \_\_\_\_\_. Prevalence and Characteristics of Unfunded Pension Plans (Preliminary Release). January, 1963.
- U.S. Department of Labor, Office of Welfare and Pension Plans. Welfare and Pension Plans Statistics, 1960, February, 1963.
- \_\_\_\_\_. Welfare and Pension Plan Statistics: The 100 Largest Plans, 1959-1961. Washington, 1963.
- U.S. Internal Revenue Service. Pension Trust Procedures and Guides for Qualification under Section 401(a) of the Internal Revenue Code of 1954 (Publication No. 377). Washington, 1957.
- U.S. Securities and Exchange Commission. Corporate Pension Funds, 1962 (Statistical Series Release No. 1902). May 24, 1963.
- \_\_\_\_\_. Corporate Pension Funds, 1961 (Statistical Series Release No. 1828). May 22, 1962.
- \_\_\_\_\_. Corporate Pension Funds, 1960 (Statistical Series Release No. 1750). May 3, 1961.
- \_\_\_\_\_. Corporate Pension Funds, 1959 (Statistical Series Release No. 1680). May 31, 1960.
- \_\_\_\_\_. Corporate Pension Funds, 1958 (Statistical Series Release No. 1605). May 26, 1959.

- \_\_\_\_\_. Corporate Pension Funds, 1957 (Statistical Series Release No. 1533). June 8, 1958.
- \_\_\_\_\_. Corporate Pension Funds, 1956 (Statistical Series Release No. 1474). August 16, 1957.
- \_\_\_\_\_. Corporate Pension Funds, 1955 (Statistical Series Release No. 1426). December 31, 1956.
- \_\_\_\_\_. Corporate Pension Funds, 1954 (Statistical Series Release No. 1335). October 12, 1955.
- \_\_\_\_\_. Survey of Corporate Pension Funds, 1951-1954. Washington: U.S. Government Printing Office, 1956.
- \_\_\_\_\_. Directory of Companies Filing Annual Reports with the Securities and Exchange Commission. 1962.
- U.S. Treasury, Comptroller of the Currency. Fiduciary Powers of National Banks and Collective Investment Funds (Regulation 9). Washington, 1963.
- The Welfare and Pension Plans Disclosure Act, As Amended. Washington: U.S. Government Printing Office, 1962.

ROOM USE ONLY

- JUN 25 1968

DEPT 21

11-11-68

MICHIGAN STATE UNIVERSITY LIBRARIES



3 1293 02938 0312