Brian Cheffins and Steven Bank

Is Berle and Means Really a Myth?

Adolf Berle and Gardiner Means famously declared in 1932 that a separation of ownership and control was a hallmark of large U.S. corporations, and their characterization of matters quickly became received wisdom. A series of recent papers has called the Berle–Means orthodoxy into question. This survey of the relevant historical literature acknowledges that the pattern of ownership and control in U.S. public companies is not monolithic. Nevertheless, a separation between ownership and control remains an appropriate reference point for analysis of U.S. corporate governance.

In their famous 1932 book, *The Modern Corporation and Private Property*, law professor Adolf Berle and economist Gardiner Means claimed: "In the largest American corporations, a new condition has developed . . . [T]here are no dominant owners, and control is maintained in large measure apart from ownership."[1] Their assessment had a profound and enduring influence on debates about governance of public companies. As James Hawley and Andrew Williams observed in 2000, "The phenomenon Berle and Means identified in 1932—the divorce of ownership from control—would come to dominate most thinking about issues of corporate governance for the rest of the twentieth century."[2] Or, as Robert Monks and Nell Minow said in the 2008 edition of their text on corporate governance, "Most people begin the study of ownership in the context of the public corporation with . . . Berle and . . . Means."[3]

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[1] Adolf A. Berle and Gardiner C. Means, *The Modern Corporation and Private Property* (New Brunswick, N.J., 1997; first published 1932), 110–11.

[2] James P. Hawley and Andrew T. Williams, *The Rise of Fiduciary Capitalism: How Institutional Investors Can Make Corporate America More Democratic* (Philadelphia, 2000), 42. See also William W. Bratton, "Berle and Means Reconsidered at the Century's Turn," *Journal of Corporation Law* 26 (2001): 737.

[3] Robert A. G. Monks and Nell Minow, *Corporate Governance*, 4th ed. (Hoboken, N.J., 2008), 110.

Business History Review 83 (Autumn 2009): 443–474. © 2009 by The President and Fellows of Harvard College.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

The impact that the separation of ownership (in the sense of ownership of equity stakes in companies) and control (in the sense of having the authority to determine corporate policy) has had on the analysis of corporate governance can be readily explained. As Monks and Minow say, "Public companies have managers with agendas different from [those of] their owners."[4] Correspondingly, when corporations lack shareholders who hold sufficiently sizable stakes to exercise influence over the board of directors and the executives the board appoints, "agency costs" generated by inattentive or self-serving managers become a major potential concern. Various market-oriented mechanisms, such as monitoring by outside directors, performance-oriented compensation, and the market for corporate control, help to align the interests of management and shareholders. However, as the wholesale destruction of shareholder value in major publicly traded U.S. financial corporations during the recent market turmoil (e.g., AIG, Bear Stearns, Citigroup, and Lehman Brothers) illustrate, major gaps in managerial accountability can remain. Hence, as law professor Ronald Gilson has said, "The intellectual mission of American corporate governance took the form of a search for the organizational Holy Grail, a technique that bridged the separation of ownership and control by aligning the interests of shareholders and managers."[5]

In this paper, we survey from a historical angle the literature concerning the separation of ownership and control. Our departure point is a series of papers challenging the received wisdom on this subject. Business historian Leslie Hannah, in a 2007 paper, sought to debunk conventional thinking concerning the historical evolution of ownership and control; his main target was "the erroneous belief that America led in divorcing ownership from control."[6] Economists João Santos and Adrienne Rumble, in a 2006 article, highlighted the ownership stakes commercial banks hold in large U.S. public companies through trust businesses they operate, remarking that "the extent of banks' control over firms' voting rights . . . is surprising given the often-claimed separation between banking and commerce in the United States."[7] Fellow econo-

[4] Ibid., 94.

[5] Ronald J. Gilson, "Corporate Governance and Economic Efficiency: When Do Institutions Matter?" *Washington University Law Quarterly* 74 (1996): 327, 331. See also Bratton, "Berle and Means," 754; George W. Dent, "Toward Unifying Ownership and Control in the Public Corporation," *Wisconsin Law Review* (1990): 881.

[6] Leslie Hannah, "The Divorce of Ownership from Control from 1900: Re-calibrating Imagined Global Historical Trends," *Business History* 49 (2007): 404, 423.

[7] João A. C. Santos and Adrienne S. Rumble, "The American Keiretsu and Universal Banks: Investing, Voting and Sitting on Nonfinancials' Corporate Boards," *Journal of Financial Economics* 80 (2006): 419, 436.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

mist Clifford Holderness, in a 2008 article entitled "The Myth of Diffuse Share Ownership in the United States," relied on his research on ownership patterns in a sample of publicly traded companies to argue "that most public corporations in the U.S. have large-percentage shareholders, and the ownership concentration of U.S. corporations is similar to the ownership concentration of corporations elsewhere."[8]

Using Hannah's chosen reference date of 1900 as our departure point, we revisit Berle and Means's classic analysis and put into context the arguments advanced by Hannah, Santos and Rumble, and Holderness.[9] In so doing, we take into account sources now largely neglected. For instance, while Holderness has said that the 1980s yielded "the first papers to study ownership concentration after [a] fifty-year hiatus," we discuss various empirical studies of ownership and control conducted between the mid-1930s and 1980.[10] Our literature survey indicates that U.S. corporate governance has never been characterized by a wholesale divorce of ownership from control. On the other hand, the United States of 1900 was not the haven of family capitalism that Hannah suggests. Likewise, banks have never been as influential as stockholders as Santos and Rumble imply, nor has blockholding been as pervasive as Holderness indicates. Thus, the Berle and Means orthodoxy remains a valid starting point for analysis of U.S. corporate governance, both in historical and contemporary terms.

Ownership and Control at the Beginning of the Twentieth Century

The United States reputedly experienced a "corporate revolution" between 1880 and 1930 as the closely held companies that dominated most industries gave way to large, publicly traded corporations in which professional managers moved to the forefront.[11] Alfred D. Chandler Jr. has argued that the crucial transformation had occurred by World War I, saying that by this point major U.S. companies had developed more extensive managerial hierarchies than their counterparts elsewhere and

[8] Clifford G. Holderness, "The Myth of Diffuse Ownership in the United States," *Review of Financial Studies* 22 (2008): 1377, 1379.

[9] Nineteenth-century evidence is extremely patchy. For an exception, see Eric Hilt, "When Did Ownership Separate from Control? Corporate Governance in the Early Nineteenth Century," *Journal of Economic History* 68 (2008): 645.

[10] Holderness, "Myth of Diffuse Ownership," 1402.

[11] Walter Werner, "Corporation Law in Search of its Future," *Columbia Law Review* 81 (1981): 1611, 1641–42; Morton J. Horwitz, *The Transformation of American Law, 1870–1960: The Crisis of Legal Orthodoxy* (Oxford, 1992), 93–97; William G. Roy, *Socializing Capital: The Rise of the Large Industrial Corporation in America* (Princeton, N.J., 1997), 3, 17–18.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

had a more clear-cut separation of ownership and management.[12] Hannah challenges this version of events, chiding "those with faulty memories [who] reconstruct the financial and business past to match the capital market present. Some historians, lawyers and economists even persuaded themselves that the USA had invented this aspect of modern capitalism."[13] He aims to set the record straight, focusing on the ownership structure of railways, utilities, and industrial companies in the United States and three major European economies: Britain, France, and Germany. His verdict is that, as of 1900, "the contemporary extremes (were) substantial divorce of ownership and control (London) and persistent personal capitalism (New York)."[14]

Hannah performs admirable detective work on a time period that is "a statistical dark age."[15] Nevertheless, in various respects he pushes his argument too hard. In order to make his case that the United States was a stock-market laggard, he relies on data from 1900 indicating that it had markedly fewer companies with listed equity than Britain, France, and Germany, and that its aggregate market capitalization ranked a poor third when normalized by population and by gross domestic product, finishing barely ahead of Germany.[16] Hannah, however, sells the United States short in so doing, as he restricts his analysis to companies listed on the New York Stock Exchange (NYSE) and thus fails to take account of the full range of stock markets that were in operation.[17]

The NYSE and the London Stock Exchange, the American and British stock markets Hannah focused on, had radically different policies concerning listing securities for trading. Whereas the London Stock Exchange generally left its members free to deal in whatever financial instruments they chose, the New York Stock Exchange was selective in the securities it quoted, thus driving trading elsewhere and beyond the purview of Hannah's analysis.[18] Hence, while Hannah used as his de-

[12] Alfred D. Chandler Jr., "The United States: Seedbed of Managerial Capitalism," in *Managerial Hierarchies: Comparative Perspectives on the Rise of the Modern Industrial Enterprise*, ed. Alfred D. Chandler and Herman Daems (Cambridge, Mass., 1980), 9; Alfred D. Chandler Jr., *Scale and Scope: The Dynamics of Industrial Capitalism* (Cambridge, Mass., 1990), 52, 84–85.

[13] Hannah, "Divorce of Ownership," 425.

[14] Ibid., 421.

[15] Ibid., 415.

[16] Ibid., 406.

[17] For similar criticism of empirical work purporting to show that the United States had underdeveloped financial markets in global terms as of 1913, see Richard Sylla, "Schumpeter Redux: A Review of Raghuram G. Rajan and Luigi Zingales's *Saving Capitalism from the Capitalists*," *Journal of Economic Literature* 44 (2006): 391, 401.

[18] On the NYSE's approach compared with London's, see Lance E. Davis and Robert E. Gallman, *Evolving Financial Markets and International Capital Flows: Britain, the Americas, and Australia, 1865–1914* (Cambridge, U.K., 2001), 328, 341; Ranald C. Michie, "The

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parture point for analyzing the United States a figure of 123 companies listed on the NYSE, there were, as of 1900, a total of 296 companies traded on the Exchange, once "unlisted" companies are taken into account, and a total of 682 companies traded on stock markets throughout the United States.[19] These figures, moreover, do not include stocks traded on the New York "Curb Market," an outdoor market that only dealt in securities not traded on the NYSE and had shares of 157 companies trading on it by 1908.[20]

An additional difficulty with Hannah's analysis concerns railway companies. Hannah claims that, as of 1900, "many American railways were under personal control" and that "board control through dominant shareholdings of a significant railroad remained normal in America."[21] However, as he himself notes, there was in the U.S. railway sector "a lively market for corporate control," in the sense that predominant status was often achieved through the acquisition of shares on the open market.[22] This implies, in turn, that there was substantial diffusion of share ownership in the ordinary course of events. As the *New York Times* observed in 1902, "A wide distribution of shares is a direct incitement to idle capitalists," because "it is not very difficult to buy control of a railroad when 'blocks' of its shares are lying about in the hands of investors unaffected by the sentiment of control, and therefore open to the temptation of a good offer."[23]

Data compiled by Edward Herman for his 1981 book, *Corporate Control, Corporate Power,* confirm that there was significant dispersion of voting control among large U.S. railways.[24] Herman provided data on share ownership in forty large corporations as of 1900, implicitly equating stockholding with voting power, a sensible presumption, given that one-share–one-vote arrangements had by then largely displaced various schemes prevalent during the first half of the nineteenth century that had imposed limitations on the voting power a particular shareholder could exercise.[25] Herman, who argued that his findings

London and New York Stock Exchanges, 1850–1914," *Journal of Economic History* 46 (1986): 171, 185; John C. Coffee Jr., "The Rise of Dispersed Ownership: The Roles of Law and the State in the Separation of Ownership and Control," *Yale Law Journal* 111 (2001): 1, 34–39.

[19] Mary O'Sullivan, "The Expansion of the U.S. Stock Market: Historical Facts and Theoretical Fashions," *Enterprise & Society* 8 (2007): 489, 497, 500, 504, 523.

[20] Ibid.

[21] Hannah, "Divorce of Ownership," 410, 421.

[22] Ibid., 411.

[23] "The Ownership of Railroads," *New York Times*, 16 Apr. 1902, 8.

[24] Edward S. Herman, *Corporate Control, Corporate Power* (Cambridge, Mass., 1981).

[25] Colleen Dunlavy, "From Citizens to Plutocrats: Nineteenth-Century Shareholder Voting Rights and Theories of the Corporation," in *Constructing Corporate America: History, Politics, Culture*, ed. Kenneth Lipartito and David B. Sicilia (Oxford, 2004), 66, 79–84.

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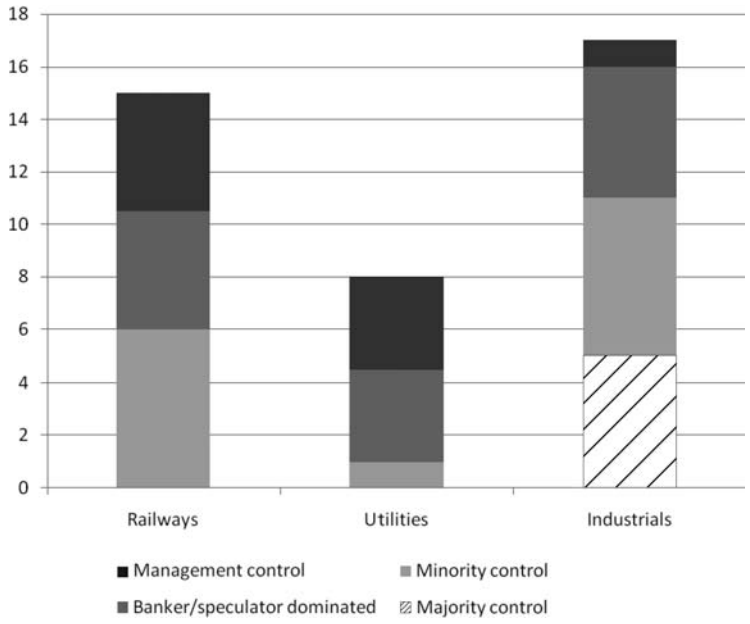


Figure 1. Control classification of a sample of forty of the largest U.S. non-financial corporations, 1900–1901. (Source: Compiled with data from Edward Herman, *Corporate Control, Corporate Power* [1981], 67, Appendix B.)

showed "the separation of ownership and control was already well advanced by the turn of the century," found that none of the railways he focused on had a majority shareholder (Figure 1). [26]

Hannah's analysis of industrial companies is also problematic. He observes, comparing the United States and Britain, that "among large industrials, plutocratic family ownership . . . remained more common in America," and that the typical level of board voting control "was plausibly as high as 50 per cent."[27] This claim is contestable, both from a British and an American perspective. Among the fifteen largest British industrial companies as of 1912, there remained a blockholder presence in fourteen.[28] As for the United States, among the forty companies in Herman's study, all five that were under majority control (Armour & Co., Consolidated Tobacco, Du Pont Powder, Lackawanna Steel, and

[26] Herman, *Corporate Control,* 67.
[27] Hannah, "Divorce of Ownership," 421.
[28] Brian R. Cheffins, *Corporate Ownership and Control: British Business Transformed* (Oxford, 2008), ch. 7.

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Standard Oil) were industrial companies.[29] However, contrary to Hannah's claim, majority-owned companies were in a minority, even in this sector. (See Figure 1.)

Ownership not only was more dispersed in the United States as of 1900 than Hannah implies, but also things were changing, and quicker than Hannah suggests. Hannah refers to "the remarkably fast retreat from personal capitalism in the 1920s USA that Berle and Means chronicled," thus implying that little had happened earlier.[30] He makes his point by saying that observers in Europe were drawing attention to a separation of ownership and control well before Berle and Means while no one was doing the same in the United States. However, a 1908 article in the *New York Times* referred to "the enormous increase in the number of shareholders in American corporations in the past four years" and indicated that, among fourteen of the biggest U.S. companies (seven railroads and seven industrial trusts), the shares of only one (Standard Oil) were closely held.[31] Likewise, Walter Lippmann, the well-known journalist and social commentator, said in 1914, "In the last thirty years or so American business has been passing through a reorganization so radical that we are just beginning to grasp its meaning."[32] He elaborated, saying, "The managers are on salary, divorced from ownership. . . . The motive of profit is not their personal motive. That is an astounding change."[33]

Changes that led U.S. observers to draw attention to a nascent separation of ownership and control were already occurring by 1900, Hannah's reference date. At this point, the United States was in the midst of its first major merger wave, which peaked between 1897 and 1903 and helped to promote diffusion of share ownership in major industrial enterprises.[34] As economists Marco Becht and Bradford De Long point out, among the two hundred largest nonfinancial U.S. corporations that had dispersed share ownership as of 1938, the origins of nearly three out of four were traceable back to this merger wave.[35] The critical

[29] Herman, *Corporate Control*, appendix B.

[30] Hannah, "Divorce of Ownership," 422.

[31] "Two Million Partners Own the Corporations," *New York Times*, 4 Oct. 1908, SM1.

[32] Walter Lippmann, *Drift and Mastery: An Attempt to Diagnose the Current Unrest* (1914; republished Englewood Cliffs, N.J., 1961), 38.

[33] Ibid., 43.

[34] Brian R. Cheffins, "Mergers and Corporate Ownership Structure: The United States and Germany at the Turn of the Twentieth Century," *American Journal of Comparative Law* 51 (2003): 473, 475–83; Lawrence E. Mitchell, *The Speculation Economy: How Finance Triumphed Over Industry* (San Francisco, 2007), 12–13.

[35] Marco Becht and Bradford de Long, "Why Has There Been so Little Blockholding in America?" in *A History of Corporate Governance Around the World: Family Business Groups to Professional Managers*, ed. Randall K. Morck (Chicago, 2005), 613, 646–48. The list of manufacturing companies, thirty-four in all, was drawn from the Temporary National Economic Committee study summarized in Appendix 1.

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distinguishing feature of the turn-of-the-century consolidation movement was its horizontal orientation, since the mergers typically involved the simultaneous amalgamation of many competitors in a single industry. In the industries affected, the companies acquired were typically locally or regionally based founder- or family-dominated competitors. When an amalgamation occurred, the family-oriented governance pattern was disrupted as formerly autonomous proprietors typically not only sold their controlling stake in return for cash or shares in the amalgamated company, but also either retired or managed the business subject to the direction of the new owners. A partial dispersal of ownership was one byproduct. The *New York Times* said of industrials in 1909, "It is remarkable how widely these shares have been scattered," citing the fact that, among forty leading industrial companies, the average shareholding was only eighty-eight shares.[36]

Data on shareholder numbers also suggest that there was a trend in favor of dispersion of share ownership at the beginning of the twentieth century. The National Civic Federation's Distribution of Ownership in Investments Subcommittee compiled shareholder statistics for seventy-five large corporations from 1901 to 1913, and its unpublished research showed that the aggregate number of shareholders in these firms rose from 141,000 to 415,000 during this period. These findings revealed, according to law professor Lawrence Mitchell, "a significant spread in share ownership across the population[,] . . . both directly, in holdings of less than one hundred shares, and indirectly in the form of increased stock ownership by insurance companies and savings banks."[37]

Research by H. T. Warshow corroborated the trend identified by the National Civic Federation. Based on evidence collected by questionnaire, Warshow listed the number of shareholders in sixty-eight railway, industrial, and utility companies as of 1900, 1913, and 1923.[38] Hannah relies on Warshow's evidence to make the point that "Britain's medium-sized firms also often had wider stockholdings than American equivalents," citing the fact that there was only one nonrailway company on Warshow's 1900 list with more than 10,000 shareholders. Warshow's data for 1913 reveal, however, that the trend was markedly upward. By that point, eight of the nonrailway companies had 10,000 or more shareholders, the number of shareholders had more than doubled in thirty-

[36] "What 'Small Buyers' Mean to Wall Street," *New York Times*, 9 May 1909, SM2.

[37] Mitchell, *Speculation Economy*, 202–3, citing documents on file in the National Civic Federation Archives, New York Public Library.

[38] H. T. Warshow, "The Distribution of Corporate Ownership in the United States," *Quarterly Journal of Economics* 39 (1924): 15, 21–25, particularly table 2. He also provides data on a subset of the companies for 1910, 1917, and 1920.

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one firms, and the aggregate number of shareholders had increased from 342,000 to 769,000.

The upshot is that Hannah's characterization of the United States of 1900 as a bastion of plutocratic family ownership oversteps the mark. A divorce of ownership from control was by no means the norm during a highly personalized era in American capitalism, exemplified by business titans such as J. P. Morgan and John D. Rockefeller.[39] However, ownership had separated from control in the United States to a greater extent than Hannah suggests, and there was a trend in favor of greater dispersion. Thus, contrary to Hannah's assertions, the United States was not a haven for "persistent personal capitalism."

1915–1950: A "Revolutionary" Shift in Corporate Ownership

Hannah acknowledges, as mentioned above, that stock-market capitalism flourished in the United States in the 1920s, an observation borne out by the fact that the number of companies traded on stock exchanges increased from 682 in 1900 to 970 in 1915, and to 2,659 in 1930.[40] With respect to the composition of stock ownership, particularly dramatic changes occurred during World War I and the immediate postwar period. A sharp wartime increase in taxation of the income of the wealthy encouraged those in top income brackets to switch to tax-favored investments, while a combination of a booming economy, liberal monetary policy, and Liberty Bond marketing campaigns promoting the idea of securities investment prompted middle-class investors to buy equities.[41] Data compiled by Means on dividends received by taxpayers in different income brackets confirmed the point, showing that, between 1916 and 1921, the number of Americans who owned shares rose dramatically, and that the distribution of shareholding became considerably more middle class in orientation.[42] He and Berle described the process in *The Modern Corporation and Private Property* as "a shift in corporate ownership . . . of almost revolutionary proportions."[43]

[39] Glenn Porter, *The Rise of Big Business, 1860–1920*, 2nd ed. (Wheeling, Ill., 1992), 23–24.

[40] O'Sullivan, "Expansion of the U.S. Stock Market," 523.

[41] B. Mark Smith, *Toward Rational Exuberance: The Evolution of the Modern Stock Market* (New York, 2001), 64–70; Steven A. Bank and Brian R. Cheffins, "Tax and the Separation of Ownership and Control," in ed., Wolfgang Schön, *Tax and Corporate Governance* (Berlin, 2008), 111, 136–37.

[42] Gardiner Means, "The Diffusion of Stock Ownership in the United States," *Quarterly Journal of Economics* 44 (1930): 561.

[43] Berle and Means, *Modern Corporation*, 60.

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When high marginal tax rates began to fall in 1921, the divestment of shares by upper-income individuals halted abruptly.[44] However, due to a combination of a buoyant stock market, economic optimism fortified by revelations of new products and technologies, plentiful credit, and an element of speculative excess, demand for shares continued to broaden.[45] The number of individuals owning stock in publicly traded companies correspondingly grew dramatically. According to one estimate, the total increased from half a million in 1900 to two million in 1920, and again to ten million in 1930.[46]

The trend was not lost on contemporaries, who in turn inferred that major changes were occurring in the ownership structure of corporations. Thorstein Veblen argued in his 1923 book, *Absentee Ownership*, that captains of industry were obsolete, having been displaced by impersonal corporations whose owners focused on earnings and had little or nothing to do with day-to-day management.[47] F. Edson White, president of the meatpacking firm Armour and Company, claimed in a 1924 interview, "Big business is rapidly becoming decentralized in ownership—and it desires to be."[48] In 1925, the *New York Times* hailed "a revolution in the ownership of industry," argued that a "widespread diffusion of corporate ownership [was] unquestionably in full swing," and announced that "the 'closed corporation' of any great size [had] all but passed away."[49] William Ripley, a Harvard economist, similarly asserted in his 1927 book, *Main Street and Wall Street*, "The prime fact confronting us as a nation is the progressive diffusion of ownership on the one hand and the ever-increasing concentration of managerial power on the other."[50]

While the diffusion of stock ownership was widely discussed during the 1920s, there was a dearth of hard data on ownership concentration

[44] Means, "Diffusion of Stock Ownership," 573–74; Smith, *Toward Rational Exuberance*, 67.

[45] Steve Fraser, *Wall Street: A Cultural History* (New York, 2005), 340–50.

[46] Jonathan Barron Baskin and Paul J. Miranti Jr., *A History of Corporate Finance* (Cambridge, 1997), 190. Means estimated in his 1930 article that the number of stockholders rose from 4.4 million in 1900 to 8.6 million in 1917 to 18 million in 1928, but in so doing he made no adjustment for the fact that investors in shares often owned stock in more than one company. See Means, "Diffusion of Stock Ownership," 595; Smith, *Toward Rational Exuberance*, 65.

[47] Thorstein Veblen, *Absentee Ownership and Business Enterprise in Recent Times* (New York, 1923), 59–61, 105–13, 215–16. Unlike Berle and Means, however, Veblen treated the banker, not the hired manager, as the central personality and did not stress the potential conflict of interest between managers and owners.

[48] "The Silent Revolution in American Finance," *Magazine of Wall Street*, 20 Dec. 1924, 262, 263.

[49] Evans Clark, "15,000,000 Americans Hold Corporation Stock," *New York Times*, 22 Nov. 1925, XX5.

[50] William Z. Ripley, *Main Street and Wall Street* (Boston, 1927), 131.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

within particular corporations. *The Modern Corporation and Private Property* filled the statistical void, which contributed to its subsequent academic prominence.[51] While the book contained several subthemes (e.g., an emphasis on the growing concentration of economic power in large corporations), its main theme was that the United States was entering a new era of economic organization characterized by the separation of ownership and control in large business enterprises.[52] As Berle and Means wrote, "We have reached a condition in which the individual interest of the shareholder is definitely subservient to the will of a controlling group of managers even though the capital is made up of the aggregated contributions of perhaps many thousands of individuals."[53] Berle and Means, borrowing heavily from a 1931 paper by Means, supported their argument with data on share ownership patterns in the two hundred largest U.S. nonfinancial companies.[54]

Berle and Means inferred from their data, summarized in Appendix 1 of this article, that there "had come a dispersion in . . . ownership such that an important part of the wealth of individuals consists of interests in great enterprises of which no one individual owns a major part."[55] The evidence on the separation of ownership from control was, though, not clear-cut.[56] Not only did a majority of companies fall outside Berle and Means's "management-controlled" category, but also only twenty-one of those that qualified did so by meeting the "bright line" standard they used to define management control, namely, the absence of a shareholder with a voting stake of 20 percent or more, itself a high threshold compared with subsequent studies of ownership and control.[57] The remainder of the "management-controlled" list was composed of companies in which the locus of control was doubtful but "presumed" to be held by

[51] George J. Stigler and Claire Friedland, "The Literature of Economics: The Case of Berle and Means," *Journal of Law and Economics* 26 (1983): 237, 241; Thomas K. McCraw, "Berle and Means," *Reviews in American History* 18 (1990): 578, 579.

[52] Stigler and Friedland, "Literature of Economics," 238–39; McCraw, "Berle and Means," 582, 584.

[53] Berle and Means, *Modern Corporation*, 244. Despite the reference to a "controlling group of managers," Berle and Means did not directly equate management with control. See book 2, ch. 5 ("The Legal Position of Management"), and ch. 6 ("The Legal Position of Control"). On this point, see Kenneth Lipartito and Yumiko Morii, "Rethinking the Separation of Ownership from Management in American History," unpublished working paper, 2007.

[54] Gardiner C. Means, "The Separation of Ownership and Control in American Industry," *Quarterly Journal of Economics* 46 (1931): 68.

[55] Berle and Means, *Modern Corporation*, 64.

[56] Dennis Leech, "Corporate Ownership and Control: A New Look at the Evidence of Berle and Means," *Oxford Economic Papers* 39 (1987): 534, 538–39; Yoser Gadhoum, Larry H. P. Lang, and Leslie Young, "Who Controls US?," *European Financial Management* 11 (2005): 339, 341–42.

[57] Berle and Means, *Modern Corporation*, 98–101.

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management, and of companies categorized as "ultimately" management controlled on the basis that their major shareholders were themselves corporations that were management controlled.[58]

While Berle and Means's data did not offer unequivocal proof of their separation-of-ownership-and-control thesis, research by Robert A. Gordon soon affirmed their message. Gordon relied on newly available Securities and Exchange Commission (SEC) filings to update Berle and Means's study for the 155 of the 200 companies for which data were available (see Appendix 1). His finding that the directors, officers, and outside investors owning 10 percent or more of the shares held collectively, on average, only 18 percent of the equity in the sample companies led him to conclude, "In these very large corporations the separation of both management and control from ownership has proceeded far."[59]

Additional fresh data soon became available in the form of a 1940 study by the Temporary National Economic Committee (TNEC), which had been established jointly by Congress and the president to investigate the concentration of economic power in the United States. The TNEC assembled data on the percentage of shares owned by the twenty biggest shareholders in the two hundred largest nonfinancial corporations as of 1938, and its efforts were generally praised for both accuracy and reliability.[60] The TNEC inferred from its findings, summarized in Appendix 1, that control through ownership (albeit usually minority control) was the typical situation in the giant corporation, noting that "a wide dispersion of ownership . . . is more apparent than real."[61] Economist Paul Sweezy, in a 1942 article entitled "The Illusion of the 'Managerial Revolution,'" characterized the TNEC's findings more forcefully, saying, "It is clear the idea of absentee ownership as usually interpreted is largely a fiction."[62] The TNEC, however, did not have the last word.

[58] Ibid., 90–97.

[59] Robert A. Gordon, "Ownership by Management and Control Groups in the Large Corporation," *Quarterly Journal of Economics* 52 (1938): 367, 395, 396. See also Frank P. Smith, *Management Trading: Stock Market Prices and Profits* (New Haven, 1941), 72–82 (discussing data released by the SEC indicating that, on aggregate, "insiders"—directors, officers and investors owning 10 percent or more of the shares—owned 21 percent of the shares of the 1,736 companies registered with the SEC as of December 31, 1935).

[60] Dennis Leech, "Ownership Concentration and Control in Large U.S. Corporations in the 1930s: An Analysis of the T.N.E.C. Sample," *Journal of Industrial Economics* 35 (1987): 333; Philip H. Burch, *The Managerial Revolution Reassessed: Family Control in America's Large Corporations* (Lexington, Mass., 1972), 128.

[61] Raymond Goldsmith et al., *The Distribution of Ownership in the Two Hundred Largest Nonfinancial Corporations*, TNEC Investigation of Concentration of Economic Power, Monograph No. 29 (Washington, D.C., 1940) (hereafter, "TNEC Report"), 15.

[62] Paul M. Sweezy, "The Illusion of the 'Managerial Revolution,'" *Science and Society* 6 (1942): 1, 6 (quoting from an article in *Fortune*).

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Instead, Gordon, in a 1945 book, reexamined its evidence and concluded that a separation of ownership and control was in fact the norm in large firms.[63]

Gordon said that 24 of the 200 companies that the TNEC studied should have been eliminated from consideration on the basis that they were majority owned by another corporation.[64] With regard to the remaining 176 corporations, the TNEC found a dominant stockholding group in 118, but Gordon pointed out that, in 60 of these 118 companies, "control" was represented by minority interests of less than 30 percent and that, in 33 of these 60 companies, the minority interest was divided among two or more families or corporations. He also indicated that, in nearly half of the 77 companies where there was "ownership control" due to family blocks (34 in all), "control" represented the combined holdings of two or more families. Gordon correspondingly inferred "that probably in less than a third of the 176 companies does a small, compact group of individuals exercise 'control' . . . by virtue of the size of its own stockholdings."[65] Gordon's reassessment of the TNEC report helped to convince numerous observers that management control predominated in the largest U.S. nonfinancial corporations of the 1930s.[66]

The 1950s, 1960s, and 1970s: Consolidation of the Separation between Ownership and Control

General Trends. Gabriel Kolko, citing the fact that the managerial class was the largest single group in the stockholding population, claimed in 1962, "To talk of a separation between management and major stockholders in the United States is obviously quite impossible; they are virtually one and the same."[67] His was very much a minority point of view. According to Davita Glasberg and Michael Schwartz, Berle and Means's 1932 book "initiated a 30-year era of almost unquestioned acceptance of the managerial portrait of the American economy."[68]

[63] Robert A. Gordon, *Business Leadership in the Large Corporation* (Washington, D.C., 1945), 42.

[64] Ibid., 25. To be precise, Gordon excluded twenty-one from consideration on the basis of majority ownership. The other three, all railroads, were excluded because they had been leased to and were controlled by other railroads.

[65] Ibid., 43.

[66] Robert J. Larner, *Management Control and the Large Corporation* (New York, 1970), 7.

[67] Gabriel Kolko, *Wealth and Power in America: An Analysis of Social Class and Income Distribution* (New York, 1962), 68.

[68] Davita S. Glasberg and Michael Schwartz, "Ownership and Control of Corporations," *American Review of Sociology* 9 (1983): 311–12.

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To illustrate, Edward Mason argued in 1959 that "almost everyone now agrees that in the large corporation, the owner is, in general, a passive recipient; that typically control is in the hands of management; and that management normally selects its own replacements."[69] Berle observed similarly in 1962, "No one . . . now denies the essential separation of ownership of the large corporation from its control."[70] Berle indeed argued that the separation of ownership and control had accelerated markedly in the thirty years following the publication of *Modern Corporation*, a seemingly logical contention, given an increase in the number of retail investors owning shares from 6.5 million in 1952 to 15 million in 1961 and surging demand for shares by institutional investors.[71] The upshot, according to a 1968 *Washington Post* book review, was that "today's generation of young adults has been nurtured on the idea that corporate ownership is becoming more and more diffused."[72]

The consensus concerning the separation of ownership and control initially developed despite the fact that, as Don Villarejo said in 1961, "Data on the largest stockholders is (*sic*) all too often scanty or badly out of date."[73] Holderness maintains that there was a dearth of empirical research up to the 1980s and suggests that the absence of fresh empirical data helped to solidify the received wisdom on dispersed ownership.[74] However, various studies conducted in the 1960s and 1970s helped to fill the statistical void, drawing primarily on data that companies were required to file under securities law. Not only were directors, officers, and individuals who owned 10 percent or more of the shares required to file, from 1935 onward, a statement of holdings and to report changes monthly, but, from 1942 onward, publicly traded companies had to disclose similar ownership data in publicly accessible proxy filings, assuming that management asked shareholders to give written permission to vote shares owned.[75] The proxy-disclosure threshold for major outside investors was reduced to 5 percent in 1977.[76]

[69] Edward S. Mason, "Introduction," in *The Corporation in Modern Society*, ed. Edward S. Mason (Cambridge, Mass., 1959), 1, 4.

[70] Adolf A. Berle, "Modern Functions of the Corporate System," *Columbia Law Review* 62 (1962): 433, 437.

[71] Smith, *Toward Rational Exuberance*, 179; Berle, "Modern," 437.

[72] Frank Porter, "The American Plutocracy," *Washington Post*, 6 Aug. 1968, A10.

[73] Don Villarejo, "Stock Ownership and the Control of Corporations (Parts I, II)," *New University Thought* (Autumn 1961): 33, 49; see also Burch, *Managerial Revolution Reassessed*, 9.

[74] Holderness, "Myth of Diffuse Ownership," 1402.

[75] On the 1935 rules, see Securities Exchange Act of 1934, sec. 16(a); Robert A. Gordon, "Stockholdings of Officers and Directors in American Industrial Corporations," *Quarterly Journal of Economics* 50 (1936): 622, 623 n3. On 1942, see Securities and Exchange Commission Release Notice, release no. 33-2287, 34-3347 (18 Dec. 1942), sch. 14A, item 5(C), E(3).

[76] See Securities and Exchange Commission Release Notice, release no. 33-5609, release

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A number of the studies done in the 1960s and 1970s indicated, in the spirit of Berle and Means, that dispersed ownership was the norm (see Appendix 2). Robert Larner, author of the most widely cited of these studies, claimed that his results showed that the "managerial revolution" was "close to complete."[77] However, other studies, summarized in Appendix 3, suggested that only a minority of companies had fully dispersed share ownership, which implied that a separation of ownership from control was not as prevalent as was widely assumed.

In 1974, sociologist Maurice Zeitlin drew upon the "discrepant findings on the alleged separation of ownership and control in the United States" to argue that "the 'separation of ownership and control' may well be one of those rather critical, widely accepted pseudofacts with which all sciences occasionally have found themselves burdened and bedeviled."[78] Similarly, Melvin A. Eisenberg, a leading U.S. corporate law academic, said in a 1976 monograph that "the more recent data indicates that the kind of concentration found by the T.N.E.C. still prevails," and he also observed that "there is substantial data showing the presence of a significant degree of concentration of shareholdings even where one would least expect it—among the very largest of the very largest."[79]

Nevertheless, the received wisdom on ownership and control remained largely undisturbed. Law professor J. A. C. Hetherington said in 1979:

> There are two facts about shareholders and managers of publicly held companies on which commentators of all shades agree. The first is the existence of the separation of ownership and control. While the extent of the separation has been questioned [citing Eisenberg], it is generally agreed that absent a proxy fight, takeover attempt, or other special circumstance shareholders of publicly held companies play an entirely passive role in the election of directors.[80]

Fellow law professor George Dent argued similarly a decade later, "Berle and Means precipitated what remains the central controversy in

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no. 34-11616, release no. 35-19140 (25 Aug. 1975) (proposing an amendment to drop the threshold to 5 percent); Robert D. Hershey, "S.E.C. is Tightening Rule on Disclosing Big Stockholders," *New York Times,* 25 Feb. 1977, 73 (confirming the reduction).

[77] Robert J. Larner, "Ownership and Control in the 200 Largest Nonfinancial Corporations, 1929 and 1963," *American Economic Review* 56 (1966): 777, 787.

[78] Maurice Zeitlin, "Corporate Ownership and Control: The Large Corporation and the Capitalist Class," *American Journal of Sociology* 79 (1974): 1073, 1107.

[79] Melvin A. Eisenberg, *The Structure of the Corporation: A Legal Analysis* (Boston, 1976), 44–45.

[80] J. A. C. Hetherington, "When the Sleeper Wakes: Reflections on Corporate Governance and Shareholder Rights," *Hofstra Law Review* 8 (1979): 183, 184.

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corporate law," and he indicated that "most commentators accept the Berle–Means thesis."[81]

Intellectual inertia may help to explain why the inconsistent empirical findings were insufficient to displace the received wisdom concerning ownership and control. In addition, however, the evidence overall suggests that diffuse-share ownership was a common characteristic in large public companies, even if blockholding was by no means unknown. The 1967 *Fortune* study summarized in Appendix 2 is instructive on this point. *Fortune* argued that its findings failed to support "sweeping generalizations," claiming that the "individual entrepreneur or family that holds onto the controlling interest" was "a rare exception, something of an anachronism."[82] *Fortune* was correct, in that its study showed a sizable minority of companies had a major shareholder. However, in general terms, the results—70 percent of the sample companies were not "controlled" (i.e., the largest shareholder held a stake of 10 percent or less)—lent support to Berle and Means's thesis regarding the separation of ownership and control.[83]

Also significant is the ownership/control benchmark used in the studies summarized in Appendix 3.[84] In each, with the exception of a 1963 SEC study that focused on companies with shares traded "over the counter" rather than on large business enterprises, a 5 percent test was adopted in determining whether there was "control." A 5 percent threshold has been used often in studies of patterns of corporate ownership.[85] This, however, is as strict a test as can be realistically adopted, since a smaller stake is very unlikely to have a determinative influence on the outcome of shareholder voting. Though it is impossible to do more than speculate, it seems likely that if a 10 percent threshold—another popular ownership-concentration benchmark—had been adopted in the studies cited in Appendix 3, managerial control would have been found to have been more prevalent than not.

[81] Dent, "Toward Unifying Ownership," 884, 894.

[82] Robert Sheehan, "Proprietors in the World of Big Business," *Fortune*, June 15, 1967, 178, 180.

[83] Burch, *Managerial Revolution Reassessed*, 5.

[84] Jean Marie Chevalier, "The Problem of Control in Large American Corporations," *Antitrust Bulletin* 14 (1969): 173 (using the benchmark adopted to explain the differences between his results and those of Larner, "Management Control"); Harold Demsetz, "The Structure of Ownership and the Theory of the Firm," *Journal of Law and Economics* 26 (1983): 388 (making the general point that the number of companies identified as owner controlled "varies inversely with the toughness of the criterion adopted").

[85] See studies cited in Cheffins, *Corporate Ownership and Control*, 13–16, 22 (British studies published between 1953 and 2007); John Cubbin and Dennis Leech, "The Effect of Shareholding Dispersion on the Degree of Control in British Companies: Theory and Measurement," *Economic Journal* 93 (1983): 351, 351–52 (British and American studies published between 1932 and 1979).

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Banks as Shareholders. While law professor Jeffrey Gordon has argued that "the Berle–Means corporation of the twenty-first century exhibits the traditional separation of ownership and control," he also has claimed that the separation has taken on a new form, in that institutional shareholders, which can coordinate at much lower cost than dispersed retail investors, have moved to the forefront.[86] This analysis seems plausible currently, since, as of 2008, U.S.-based mutual funds, pension funds, and insurance companies collectively owned 47 percent of corporate equity in the U.S.[87] Such an argument was much more difficult to make in the 1960s and 1970s, given that, as of 1970, the equivalent figure was only 18 percent.[88] Peter Drucker did claim boldly in his 1976 book *The Unseen Revolution* that pension funds already controlled most major U.S. industrial corporations.[89] However, a different form of institutional owner was more commonly identified as compromising the separation of ownership and control, namely, banks' trust departments.

Due to legal restrictions in place as far back as 1864, U.S. commercial banks have typically had little scope to own shares on their own behalf.[90] However, since selection of trust investments is one of the fiduciary duties banks commonly perform, and since the trust activities of banks have long been recognized as a service immune from restrictions on direct-share ownership, U.S. commercial banks have, in fact, had the scope to hold and vote shares in publicly traded companies.[91] Victor Perlo, in a 1958 paper, calculated that trust departments of commercial banks held more shares than all other types of institutional investor put together, and he remarked upon frequent bank representation on boards of directors.[92] A decade later, the House Committee on Banking and Currency's Subcommittee on Domestic Finance published a study, known as the Patman Report because the subcommittee was chaired by

[86] Jeffrey N. Gordon, "Proxy Contests in an Era of Increasing Shareholder Power: Forget Issuer Proxy Access and Focus on E-Proxy," *Vanderbilt Law Review* 61 (2008): 475, 477.

[87] Percentages derived from data set out in Board of Governors of the Federal Reserve System, *Flow of Funds Accounts of the United States: Flows and Outstandings*, third quarter 2008, at 90, table L213 (11 Dec. 2008).

[88] Hawley and Williams, *Rise of Fiduciary Capitalism*, 53.

[89] Peter Drucker, *The Unseen Revolution* (New York, 1976), 1–2.

[90] Mark J. Roe, *Strong Managers, Weak Owners: The Political Roots of American Corporate Finance* (Princeton, N.J., 1994), 54–55; Joseph G. Haubrich and João A. C. Santos, "Alternative Forms of Mixing Banking with Commerce: Evidence from American History," *Financial Markets, Institutions and Instruments* 12 (2003): 121, 126–27.

[91] Santos and Rumble, "American Keiretsu," 429; Haubrich and Santos, "Alternative Forms," 134–35; Thomas J. Schoenbaum, "Bank Securities Activities and the Need to Separate Trust Departments from Large Commercial Banks," *Journal of Law Reform* 10 (1976–77): 1, 4–5.

[92] Victor Perlo, "'People's Capitalism' and Stock-Ownership," *American Economic Review* 48 (1958): 333, 343–44, 346.

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Wright Patman, that provided hard data on the share-ownership point. The Patman Report said its findings on banks, summarized in Appendix 4, showed that "the trend of the last 30 to 40 years toward a separation of ownership from control because of the fragmentation of stock ownership has been radically changed toward a concentration of voting power in the hands of a relatively few financial institutions."[93]

The Patman Report provided the platform for various challenges to the Berle and Means orthodoxy. In a 1968 interview, Berle himself acknowledged that the complexion of U.S. capitalism was changing, saying, "About fifteen or twenty of the big banks through their trust departments could today mobilize voting control of a very large percentage of American industry."[94] In a 1970 article, Robert Fitch and Mary Oppenheimer argued, "The dramatic rise in institutional shareholding during the 1960s broke down the effective separation of ownership and control on which the theory of managerialism rested. Once again ownership and control were united in the trust departments of the great Wall Street banks."[95] David Kotz wrote in his 1978 book, *Bank Control of Large Corporations in the United States*, "The Patman Report appeared to weaken the managerial thesis," and he drew on his own empirical analysis of institutional shareholdings in the largest two hundred U.S. nonfinancial companies to argue that "ultimate power rests with the bankers who are the major stockholders in and creditors of the modern large corporation. It is still a plutocracy."[96]

Despite garnering considerable attention in the 1960s and 1970s, the bank-control theory generally failed to gain adherents, as critics made a number of telling points.[97] First, bank-control theorists advanced generalizations that were too sweeping, given the available data. Most strikingly, since 148 of the 200 nonfinancial corporations that Kotz investigated were not under any form of banker control (see Appendix 4), his claim that "ultimate power" was in the hands of banks lacked a sound empirical foundation. As Herman tartly observed, Kotz's assertions constituted "ideological self-indulgence."[98]

[93] U.S. Congress, House Banking and Currency Committee, Subcommittee on Domestic Finance, *Commercial Banks and their Trust Activities*, 90th Cong., 2nd sess. (1968) (hereinafter Patman Report), 13.

[94] "The New Realities of Corporate Power," *Dun's Review* (Dec. 1968): 43, 44.

[95] Robert Fitch and Mary Oppenheimer, "Who Rules the Corporations? Part 2," *Socialist Revolution* 1, no. 5 (1970): 61, 68.

[96] David M. Kotz, *Bank Control of Large Corporations in the United States* (Berkeley, 1978), 10, 148.

[97] On the notion of "imposing criticisms" in this context, see Beth Mintz and Michael Schwartz, *The Power Structure of American Business* (Chicago, 1985), 74.

[98] Edward S. Herman, "Kotz on Banker Control," *Monthly Review* (Sept. 1979): 46, 54. See also Benjamin J. Klebaner, "Review of *Bank Control of Large Corporations in the United States*," *Journal of Economic History* 38 (1978): 1017, 1018; Robert J. C. Lussier, "Review of

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Second, regardless of equity owned or directorships held, bankers generally refrained from becoming involved in corporate decision-making, save for crisis-driven interventions undertaken in the capacity of lender.[99] As Beth Mintz and Michael Schwartz stated in a 1985 study of the power structure in U.S. corporations, in which they generally subscribed to the notion that "financial hegemony conditions the economic sector," "Institutional investing cannot be viewed as a systematic mechanism for establishing bank control or for gaining a position of influence over a set of corporations."[100] The manner in which banks exercised stockholder rights illustrated their defensive stance. As Herman said, sizable stock acquisitions by a bank's trust department were "regarded by the portfolio company as a vote of confidence and an act of loyalty by an ally who is a reliably friendly investor."[101] This was because, while trust departments of banks would occasionally vote against management to show they were not "patsies," they generally responded to disappointing managerial performance by exercising "the Wall Street rule" and selling out, rather than by challenging the executives and agitating for change.[102]

There was a similar attitude toward directorships. Herman, in his 1981 book, acknowledged that banks were well represented on boards of public companies, but he argued that "banker presence or absence on boards is a limited and potentially misleading measure of bank power."[103] The standard arrangement, Herman claimed, was "where eminent bankers serve on the board but have close to zero control. The bankers on mainstream model boards are almost always invited to be on the board by the top insiders of the companies; they are not there because they asked to serve."[104]

Third, it was no accident that banks failed to use their trust departments as a base for establishing control over publicly traded companies. Instead, countervailing pressures militated against such an effort. For instance, if a bank's trust resources were used to increase bank control

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Bank Control of Large Corporations in the United States," *Southern Economic Journal* 46 (1980): 976, 977.

[99] Herman, *Corporate Control*, 156; Mintz and Schwartz, *The Power Structure*, 76–82; Glasberg and Schwartz, "Ownership," 311, 324.

[100] Mintz and Schwartz, *The Power Structure*, 100, 103.

[101] Edward S. Herman, "Do Bankers Control Corporations?" *Monthly Review* (June 1973): 23.

[102] Mintz and Schwartz, *The Power Structure*, 98–99; Herman, "Kotz on Banker Control," 53–54; Herman, "Do Bankers Control Corporations?" 12, 23–24.

[103] Herman, *Corporate Control*, 129, 136.

[104] Ibid., 134. See also Neil Fligstein and Peter Brantley, "Bank Control, Owner Control, or Organizational Dynamics: Who Controls the Large Modern Corporation?" *American Journal of Sociology* 98 (1992): 280, 285.

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over companies for the advantage of the bank's commercial business, the bank could face lawsuits alleging violation of its fiduciary duty to do its best as a prudent investor for its trust customers.[105] Competitive rivalry also came into play.[106] If a bank's trust department adopted an investment policy dominated by the goal of controlling large nonfinancial companies, it ran a serious risk of delivering investment returns inferior to those generated by rivals that practiced diversification and adopted flexible trading strategies based on anticipated risk-adjusted returns. A control-based investment strategy, therefore, could be a disastrous marketing error. Indeed, banks' trust departments, being eager to avoid inconvenient corporate entanglements, typically had internal rules limiting their holdings to less than 10 percent of a given class of securities.[107]

Santos and Rumble, for the purposes of their 2006 paper on shares owned and directorships held by bank trust departments, glossed over the prior literature. They said that "little attention" had been paid to "the extensive control that American banks have over firms' voting rights through the trust business," claiming that their findings were "novel for the United States."[108] Nevertheless, their paper harkens back to the heyday of bank-control theory. Based on data they compiled on equity holdings and directorships (see Appendix 4), they claimed that major banks made "sizeable equity investments in firms through their trust departments and, as a result, [controlled] important voting stakes in these firms" and that "bankers [were] more likely to join the corporate board of a firm in which their [bank] controls a large voting stake."[109]

It is unlikely that Santos and Rumble's research will prompt greater acceptance of bank-control theory than previous studies. Banks' trust departments remain conservative in nature and pro-management in outlook.[110] Market and legal factors that militate against bank intervention appear unchanged. Moreover, the trust departments of banks have declined in importance as investors in shares of public companies, accounting for 3.5 percent of ownership of total corporate equity

[105] Herman, *Corporate Control*, 149–50; Klebaner, "Review," 1018; Paul M. Sweezy, "The Resurgence of Financial Control: Fact or Fancy?" *Monthly Review* (Nov. 1971): 1, 3.

[106] Herman, "Do Bankers Control Corporations?" 21–22; Lussier, "Review," 978; Steven R. Hunsicker, "Conflicts of Interest, Economic Distortions, and the Separation of Trust and Commercial Banking Functions," *Southern California Law Review* 50 (1977–78): 611, 672.

[107] Robert M. Soldofsky and Warren J. Roe, "Institutional Holdings of Common Stock: 1969, 1972, and New Developments," *Quarterly Review of Economics and Business* 15 (1975): 47, 55.

[108] Santos and Rumble, "American Keiretsu," 421; see also 451.

[109] Ibid., 435–36, 451.

[110] Hawley and Williams, *Rise of Fiduciary Capitalism*, 58–59.

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outstanding in 1998, compared with 10.5 percent in 1969.[111] The upshot is that investments by banks' trust departments have never compromised in any fundamental way the separation of ownership and control in U.S. public companies, nor do they seem likely to do so soon.

Bringing the Story up to Date

The separation-of-ownership-and-control thesis retains vitality today.[112] For instance, Monks and Minow say in their 2008 text on corporate governance, "Today, with rare exceptions like Bill Gates of Microsoft and the late Sam Walton of Wal-Mart, large companies are led by men whose stakes in the company are dwarfed by the holdings of institutional investors."[113] The durability of the Berle and Means orthodoxy is explicable, given the available data. Andrei Shleifer and Robert Vishny did claim, in a 1986 paper examining ownership patterns in *Fortune* 500 corporations, that "large shareholdings are extremely widespread and very substantial where present."[114] Other post-1980 studies of very large U.S. companies, summarized in Appendix 5, likewise indicated that there were numerous examples of big firms where an individual, a family, or the board of directors owned a dominant voting bloc. However, this ownership pattern remained the exception to the rule, as the majority of companies in these studies fell short of the benchmarks of concentrated-share ownership.

Very large companies play an outsized role in the U.S. corporate economy. For instance, the firms that make up the Standard and Poor's (S&P) 500 stock-market index account for approximately 75 percent of the U.S. equity market by market value, despite constituting just over 10 percent of the 4,500 or so U.S. companies listed on the NYSE and traded on the NASDAQ.[115] Also, the 50 most profitable companies in the *Fortune* 500 as of 2007 accounted for nearly one-quarter of all profits generated by U.S. corporations.[116] Understandably, therefore,

[111] Ibid., 58.

[112] Gadhoum, Lang, and Young, "Who Controls US?" 343.

[113] Monks and Minow, *Corporate Governance*, 110.

[114] Andrei Shleifer and Robert W. Vishny, "Large Shareholders and Corporate Control," *Journal of Political Economy* 94 (1986): 461, 462.

[115] SP 500 Factsheet at Standard & Poor's Web site (2008), available at http://www2.standardandpoors.com/spf/pdf/index/SP_500_Factsheet.pdf (last visited 5 Oct. 2008); NYSE Listings Directory at NYSE Web site, available at http://www.nyse.com/about/listed/lc_ny_overview.html, entry under Region/United States (last visited 29 Sept. 2008) (eighty pages of listed companies with twenty companies per page, except for the final page, yielding nearly sixteen hundred companies); NASDAQ Facts available at NASDAQ Web site, available at http://www.nasdaq.com/reference/nasdaq_facts.stm (last visited 29 Sept. 2008) (3,200 companies traded, 335 from outside the U.S.).

[116] U.S. Census Bureau, *Statistical Abstract of the United States: 2009* (Washington, D.C., 2008), 506 (table 761).

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evidence concerning ownership patterns in very large companies has perpetuated the idea that a split between ownership and control characterizes U.S. corporate governance.

Holderness acknowledges that the findings in his "The Myth of Dispersed Ownership" paper, summarized in Appendix 6, are dissimilar to what others have reported.[117] It is not surprising that his results differ from the studies of share-ownership patterns in very large companies. Holderness's sample was drawn from publicly traded companies of all sizes, not just very large corporations, and it has long been known that big firms have more diffuse share ownership than their smaller counterparts.[118]

More striking is how Holderness's findings differ from studies encompassing public companies extending well beyond the very largest (see Appendix 6).[119] His data on the percentage of shares held collectively by directors and officers are broadly consistent with studies of this nature. On the other hand, while Holderness found that 96 percent of his sample companies had a shareholder owning 5 percent or more of the shares, others reported that a sizable proportion of companies lacked a shareholder of this sort. Particularly notable is the size of the largest block. Holderness found among his sample companies that had a blockholder—again, virtually all of them—the largest shareholder held on average more than one-quarter of the shares. This sort of stake is much larger than those reported in studies by Frank Heflin and Kenneth Shaw, who found that blockholders collectively held, on average, 12 percent of the shares in the sample companies, and by Sanjai Bhagat, Bernard Black, and Margaret Blair, who reported that nearly four out of five of their sample companies lacked a shareholder owning 10 or more percent of the shares for a period of two years or longer.[120]

[117] Holderness, "Myth of Diffuse Ownership," 1383.

[118] Sweezy, "The Illusion of the 'Managerial Revolution,'" 5; Villarejo, "Stock Ownership, I and II," 52; John P. Palmer, "The Separation of Ownership from Control in Large U.S. Industrial Corporations," *Quarterly Review of Economics & Business* (1972): 12, 58.

[119] Ownership-oriented research accelerated beginning in the 1980s, due primarily to the emergence of electronic databases with commercially available share ownership data. Appendices 5 and 6 are not intended to provide a comprehensive survey of the relevant studies. For instance, samples biased in favor of companies with special characteristics have not been included, such as Laura C. Field and Dennis P. Sheehan, "IPO Underpricing and Outside Blockholdings," *Journal of Corporate Finance* 10 (2004): 263 (firms that had recently carried out IPOs); David J. Denis, Diane K. Denis, and Atulya Sarin, "Ownership Structure and Top Executive Turnover," *Journal of Financial Economics* 45 (1997): 193 (firms experiencing CEO turnover); Manohar Singh and William N. Davidson, "Agency Costs, Ownership Structure, and Corporate Governance Mechanisms," *Journal of Banking and Finance* 27 (2003): 793 (sample was biased strongly in favor of companies that had diversified).

[120] Frank Heflin and Kenneth W. Shaw, "Blockholder Ownership and Market Liquidity," *Journal of Financial and Quantitative Analysis* (2000) 35: 621; Sanjai Bhagat, Bernard S. Black, and Margaret M. Blair, "Relational Investing and Firm Performance," *Journal of Financial Research* (2004) 27: 1.

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A "size effect" helps to explain the discrepancy, because Holderness's sample incorporated more small publicly traded firms than did Heflin and Shaw's (an average market capitalization of $1.1 billion versus $3.4 billion) and Bhagat, Black, and Blair's (a sample of 1,100 large companies versus a cross-section of approximately 4,300 companies). A "size effect," however, cannot be used to explain the discrepancy between Holderness's data and the findings of Marco Becht and of Yoser Gadhoum, Larry Lang, and Leslie Young, who provided data on the full range of U.S. corporations listed on major stock exchanges.[121] As Holderness points out, his sample "is essentially a random sub-set of Becht's sample."[122]

It may be that Holderness's data-collection efforts were superior to those of Becht and of Gadhoum, Lang, and Young, given that Holderness hand collected data company by company using filings made under securities law, rather than relying on commercial data providers.[123] However, the findings of Becht and Gadhoum, Lang, and Young are corroborated by additional evidence indicating that blockholding levels among the full range of publicly traded U.S. companies are not as high as Holderness's findings suggest. In 2004, S&P reweighted its stock-market indices to take into account the "investable weight factors" (IWFs) of the companies involved, attributing a reduced weighting to companies with "strategic" shareholders whose ownership of shares depended on concerns such as maintaining control, rather than on the economic fortunes of the company (i.e., holdings by one corporation in another; government holdings; and stock ownership by board members, founders, and current and former directors and officers).[124] For companies in which a "strategic" investor falling into one or more of these three groups held a voting stake exceeding 10 percent, the holdings were excluded from the share count to be used in index calculations, and the IWF was reduced accordingly.[125] Companies lacking any such blockholders were given an IWF of 1.00.

Among the S&P 500, 395 companies (79 percent) had IWFs of 1.00 as of 2004.[126] This finding is not particularly surprising, given that

[121] Marco Becht, "Beneficial Ownership in the United States," in *The Control of Corporate Europe*, ed. Fabrizio Barca and Marco Becht (Oxford, 2001), 285; Gadhoum, Lang, and Young, "Who Owns US?"

[122] Holderness, "Myth of Diffuse Ownership," 1384.

[123] Ibid., 1380–81, 1384, discussing Becht's study. Holderness does not cite the Gadhoum, Lang, and Young study.

[124] Standard & Poor's, "S&P Releases Details of Full Float Adjustment for U.S Indices," press release, 28 Sept. 2004, available at http://www2.standardandpoors.com/spf/pdf/index/092804FloatFinalPR.pdf (accessed 8 Sept. 2008).

[125] Standard & Poor's, "Float Adjustment FAQ," 28 Sept. 2004, 5, available at http://www2.standardandpoors.com/spf/pdf/index/Float%20FAQ.pdf (accessed 8 Sept. 2008).

[126] Standard & Poor's, "Impact of Float Adjustment of U.S. Indices," 28 Sept. 2004, 18, available at http://www2.standardandpoors.com/spf/pdf/index/Float%20Impact.pdf (accessed 8 Sept. 2008).

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studies undertaken since the 1960s have indicated that, among the largest companies in the United States, while blockholders are by no means unknown, they are not the norm (see Appendices 2 and 5). More striking was the pattern in S&P's MidCap 400, which encompasses four hundred companies having a market capitalization of between $1 billion and $4.5 billion and a public float of 50 percent or more, and in the S&P SmallCap 600, which encompasses six hundred companies having a market capitalization of between $250 million and $1.5 billion and the same size public float.[127] While Holderness's findings imply that most of the companies in these indices would have had an IWF of less than 1.00, among the MidCap 400 only 120 (30 percent) qualified; among the SmallCap 600, this was the case for only 214 firms (36 percent).[128] The discrepancy can be accounted for partly on the basis that S&P did not treat institutional investors as "strategic" shareholders for the purpose of calculating IWFs, but since families constituted the largest blockholder in just over half of Holderness's companies (see Appendix 6), institutional investors were not the driving force behind his findings.

Conclusion

The proposition that a separation of ownership and control is a hallmark of U.S. corporate governance has been subjected to considerable criticism recently. Should the conventional wisdom be discarded? It appears not. While Hannah argues that, as of 1900, the United States was dominated by a persistent personal capitalism to an extent unmatched by leading European industrialized countries, there were numerous publicly traded U.S. companies by this time, and ownership was beginning to split from control in the largest corporations. As Santos and Rumble point out, banks, through their trust departments, currently have sizable equity portfolios and representation on the boards of numerous public companies. Nevertheless, banks have historically adopted a "hands-off" approach to corporate governance when their trust departments own shares in public companies, and there is little reason to expect the pattern to change. Holderness, in an empirical study of a cross-section of the full range of companies traded on the NYSE and NASDAQ, found that fully dispersed ownership was extremely rare. Other evidence on ownership patterns encompassing small and mid-sized public companies indicates, however, that blockholding is not as prevalent as Holderness's findings imply.

[127] See Standard & Poor's Web site for a link to S&P MidCap 400 and S&P SmallCap 600 under United States, http://www2.standardandpoors.com/ (accessed 9 Sept. 2008).

[128] Standard & Poor's, "S&P Releases Details"; Standard & Poor's, "Impact of Float Adjustment," 18.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

While recent critiques of the received wisdom fail to justify a fundamental reappraisal of corporate governance arrangements in U.S. public companies, a review of the literature reveals that the pattern of ownership and control in U.S. public companies has been anything but monolithic. Though Berle and Means are commonly credited with proving empirically that ownership was divorced from control in large U.S. companies, in fact fewer than half of the two hundred companies they examined were under what they categorized as managerial control. The TNEC's 1940 study verified that blockholding remained commonplace in big firms. Share ownership likely became more widely dispersed following World War II, but studies of ownership and control carried out in the 1960s and 1970s offered only qualified endorsements of the separation-of-ownership-and-control thesis. The pattern revealed by more recent studies is similar.

While there clearly has never been a total divorce of ownership from control in U.S. public companies, the premise so commonly associated with Berle and Means is more than a "pseudofact" or "myth." Studies of the largest U.S. public companies extending back at least to the 1960s generally show that while blockholders are by no means unknown, the typical very large firm lacks a shareholder owning a dominant stake. The biggest companies are very much giants among their corporate brethren. As a result, a separation between ownership and control remains an appropriate reference point for those seeking to come to terms with the historical development of U.S. corporate governance and current arrangements in public corporations.

Appendix 1
Empirical Studies of Ownership and Control, 1930s[129]

Study	*Sample*	*Data Sources*
Berle and Means (1932)	Largest 200 U.S. nonfinancial corporations, ranked by assets as of 1929 (42 railroads, 52 public utilities and 106 industrials).	Industrial manuals, press reports and "street knowledge."
	Findings 1) Private ownership: 12 (6%); 2) majority control: 10 (5%); 3) "minority control" (individual/small group holding a sufficiently large minority stake to dominate): 46.5 (23%); 4) "control through legal device" (use of corporate "pyramids," etc., to secure right to vote a majority of the voting shares): 41 (21%); 5) "management control" (no individual or small group having a minority interest large enough to dominate): 88.5 (45%); 6) in receivership 2 (1%).	

[129] Berle and Means, *Modern*, 19, 67–85, 108–9; Gordon, "Ownership," 369–70; TNEC Report.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

Study	*Sample*	*Data Sources*
Gordon (1938)	155 companies in the Berle and Means sample that 1) had made SEC filings in 1935; 2) were not in receivership; and 3) had not been dissolved by merger.	SEC filings.
	Findings On average, the combined stake of directors, officers and important holdings outside of management (i.e., 10+%) was 18%. In 86 of the companies, the figure was below 10%.	
TNEC (1940)	Largest 200 U.S. nonfinancial corporations, ranked by assets, as of 1938.	Primarily questionnaires submitted to the 200 corporations.
	Findings No center of control: 61 (31%); family control: 77 (39%); controlled by other corporations: 56 (28%); joint family/corporate control: 6 (3%). A center of control was deemed to exist either where a dominant group held a sizable concentration of equity or had managerial representation and remaining shareholdings were highly dispersed.	

Appendix 2
Studies Confirming Ownership Dispersion (1960s/1970s)[130]

Study	*Sample*	*Data Sources*
Larner (1966)	Replicating Berle and Means's sample as of 1963.	Proxy statements filed with the SEC; annual reports filed with federal regulators by railroads and utilities.
	Findings Measured by "ultimate control" (i.e., identifying ownership structure of corporate owners), the breakdown was: 1) privately owned: 0; 2) majority owned: 5 (3% of total); 3) minority "control" (10% or more of voting stock held by an individual, family, or corporation): 18 (9%); 4) control "by legal device" (e.g., pyramiding/voting trust): 8 (4%); 5) no base of control: 169 (85%).	
Fortune (1967)	1967 Fortune 500.	Not revealed.
	Findings 148 (30%) of the Fortune 500 (and 11 of the top 100) were "proprietary"/family controlled (i.e., the largest individual shareholder or a family had a stake of 10% or more).	

[130] Larner, "Ownership"; Sheehan, "Proprietors"; Larner, *Management*; Palmer, "Separation," p. 55; Herman, *Corporate*, pp. 54–65; Michael P. Allen, "Power and Privilege in the Large Corporation: Corporate Control and Managerial Compensation," *American Journal of Sociology* 86 (1981): 1112; Demsetz, "Structure."

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Study	*Sample*	*Data Sources*
Larner (1970)	Same as Larner (1966), plus a study of the 500 largest non-financial corporations as of 1963.	Same as Larner (1966).
	Findings For the 200 largest corporations, similar to Larner (1966). The breakdown for the 500 largest corporations was: 1) privately owned: 5 (1%); 2) majority owned: 18 (4%); 3) minority controlled: 72 (14%); 4) legal-device control: 26 (5%); 5) management control: 377 (75%).	
Palmer (1972)	The 488 of the 1965 Fortune 500 companies for which data were available.	Moody's Industrial Manual; S&P Corporation Records; Value Line Investment Survey; Villarejo, 1961 (see Appendix 3).
	Findings 33% of the companies were under owner control (the dominant group owned 10% or more of the voting stock); 67% fell into the residual category, labeled "management control."	
Herman (1981)	200 largest public nonfinancial companies, measured by asset size as of 1974.	Government studies (e.g., the Patman Report, discussed in Appendix 4); SEC filings; the financial press; interviews.
	Findings Measured by ultimate control, 1) majority owned: 3 (2%); 2) government owned: 1 (0.5%); 3) "financial" control: 1 (0.5%); 4) receivership: 1 (0.5%); 5) minority ownership ("control" group owning 5+% of the stock): 29 (15%); 6) management control: 165 (83%).	
Allen (1981)	218 of the 284 largest industrial companies ranked by assets and sales as of 1975. Excluded companies that had recent CEO turnover, or were subject to another company's minority control.	SEC filings, the financial press; previous studies of ownership and control.
	Findings 142 (65%) of the companies were under management control (i.e., no member of the board held a 5+% block of shares).	
Demsetz (1983)	50 companies, 30 from the 1975 Fortune 500, 10 randomly selected from outside the Fortune 500 and 10 public utilities, randomly selected.	Value Line Survey of Corporations
	Findings Directors and officers collectively owned, on average, 17.5% of the shares, 1973–1982.	

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Appendix 3
Studies Questioning Ownership Dispersion (1960s/1970s)[131]

Study	*Sample*	*Data Sources*
Villarejo (1961)	The 232 companies among the 250 largest U.S. industrial corporations as of 1960 (ranked by assets) that were publicly traded and were not subsidiaries.	SEC filings, news sources; information supplied by large insurers and investment companies.
	Findings There was "potential working control" in 141 (61%) of the companies (i.e., the share ownership of the directors and officers, key institutional investors and other major shareholders collectively exceeded 5%).	
Securities and Exchange Commission (1963)	1530 "over-the-counter" issuers in which the broker-dealer community showed interest in 1961.	SEC questionnaire.
	Findings In 825 of the sample companies (54%), the 10 largest record holders held collectively 50% or more of the shares.	
Chevalier (1969)	200 largest U.S. manufacturing companies as of 1965, ranked by sales.	SEC filings; the financial press; "numerous private sources."
	Findings 1) Majority control: 11 (6%); 2) minority control (control group represented on the board and owned 5+% of the shares): 93 (47%); 3) "dominant influence" (strong evidence of working control but no proof of ownership of 5+% of the shares): 16 (8%); 4) management control (the residual category): 30 (40%).	
Burch (1972)	The top 300 companies in the 1965 Fortune 500, ranked by sales, the top 50 merchandising companies (ranked by sales), the top 50 transportation companies (ranked by revenue) and the top 50 banks (ranked by assets).	Financial press, Moody's corporate data; SEC filings "only when no other data were available" (see Burch, *Managerial*, p. 28).
	Findings Of the 300 Fortune 500 companies, 43% were "probably under family control" (PF) (5+% of the shares held by an individual or family with representation on the board), 16% were "possibly family" (F?) (signs of family influence—e.g., board representation—but insufficient data to establish control), and 41% were "probably management" (PM) (no evidence of family control). Of the other 150 companies examined, 41% were PF, 18% were F? and 41% were PM.	

[131] Villarejo, "Stock"; Securities and Exchange Commission, *Report of the Special Study of Securities Markets of the Securities and Exchange Commission*, H.R. Doc. No. 95, 88th Cong., pt. 3, 19-20, 30, chart IXa; Chevalier, "Problem"; Burch, *Managerial*; Lawrence Pedersen and William K. Tabb, "Ownership and Control of Large Corporations Revisited," *Antitrust Bulletin* 21 (1976): 53.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

Study	*Sample*	*Data Sources*
Pedersen and Tabb (1976)	The 1970 Fortune 500, the 50 largest retailing firms and 47 other companies otherwise large enough to be among the top 500 industrials.	SEC filings; Patman Report (see Appendix 4).
	Findings 1) "Single-party control" (i.e., a single party owning 5+% of the shares): 383 (64%); 2) insider control (management collectively owned 5+% of the shares): 126 (21%); 3) management control (i.e., other companies): 88 (15%).	

Appendix 4
Empirical Studies of Ownership Stakes Held by Bank Trust Departments[132]

Study	*Sample*	*Data Sources*
Patman Report (1968)	The top 500 U.S. industrial companies, the top 50 transportation companies, the top 50 retail trade companies and the top 50 utilities, ranked by sales.	Survey by House Banking and Currency Committee's Subcommittee on Domestic Finance.
	Findings Among the 650 companies, in nearly one out of three the trust department of one of 49 major commercial banks held a stake of 5% or more of the common stock, and in nearly three out of five one of the banks had representation on the board.	
Kotz (1978)	Largest 200 nonfinancial companies as of 1969 (ranked by assets).	Patman Report (1968); SEC, Institutional Investor Study Report (1971).
	Findings Commercial banks "controlled" 52 of the 200 sample companies. Control was either "partial" (i.e., a bank had voting authority over 5+% of the shares and there was no 10+% shareholder), or "full" (i.e., a bank held voting authority over 10+% of the shares, there was no other 10+% shareholder and the bank either was a leading supplier of capital or had strong representation on the board).	
Santos and Rumble (2006)	403 nonfinancial companies in the S&P 500, as of 2000.	Regulatory filings by investment managers of banks.
	Findings 71 of the 100 largest U.S. banks collectively owned 12% of the shares of nonfinancial companies in the S&P 500. 20% of the sample companies had a director employed at one of the 71 banks, and these banks held a larger percentage of shares in companies with a banker on board (10.8%) than those without (9.7%).	

[132] Patman Report; Kotz, *Bank*; Santos and Rumble, "American."

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Appendix 5
Studies of Ownership Dispersion Focusing on Very Large U.S. Companies (e.g., the *Fortune* 500), *c.* 1980–2005[133]

Study	*Sample*	*Data Sources*
Shleifer and Vishny (1986)	Fortune 500 as of 1980, excluding 44 companies that were subsidiaries, cooperatives, privately held, or had disappeared by merger.	Corporate Data Exchange, which relied on SEC documentation to prepare ownership data.
	Findings 78% of the sample companies had a shareholder owning a 5+% stake. On average, the largest shareholder owned 15.4% of the shares and the five largest shareholders owned 28.8%.	
La Porta, Lopez-de-Silanes and Shleifer (1999)	The top 20 U.S. firms ranked by market capitalization as of 1995.	SEC filings, typically for 1997.
	Findings 16 of the 20 companies lacked a shareholder owning 10% or more of the shares.	
Anderson and Reeb (2003)	The S&P 500 at the end of 1992, excluding banks and public utilities (403 companies).	SEC filings; corporate proxy statements.
	Findings 65% of the companies were not "family firms," meaning they lacked a member of the founding family owning shares or sitting on the board. In the 141 family firms (35%), the family owned on average 18% of the equity.	
Villalonga and Amit (2009)	The 515 firms in the Fortune 500 between 1994 and 2000, other than financial services firms and utilities, for which Compustat data were available on sales, assets and market value.	Proxy statements, Spectrum data on institutional holdings, company Web sites, SEC filings.
	Findings 305 of the 515 firms (59%) were not family firms (i.e., those in which the founder or a member of the family was an officer or director or the founder/family owned 5+% of the shares). Of the 210 family firms, founders or their families owned, on average, 15% of the shares and controlled 19% of the votes.	

[133] Shleifer and Vishny, "Large"; Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer, "Corporate Ownership Around the World," *Journal of Finance* 54 (1999): 471; Ronald C. Anderson and David M. Reeb, "Founding-Family Ownership and Firm Performance: Evidence from the S&P 500," *Journal of Finance* 58 (2003): 1301; Belen Villalonga and Raphael Amit, "How Are U.S. Family Firms Controlled?" *Review of Financial Studies* 22 (2009): 3047.

https://doi.org/10.1017/S0007680500002968 Published online by Cambridge University Press

Appendix 6
Studies of Ownership Dispersion Covering a Broader Range of U.S. Companies, *c.* 1980– 2005[134]

Study	*Sample*	*Data Sources*
Demsetz and Lehn (1985)	The 511 largest U.S. companies for which detailed ownership, accounting and security price data were available as of 1980 (average market capitalization: $1.2 billion).	Corporate Data Exchange.
	Findings The largest five shareholders collectively owned, on average, 24.8% of the shares and the largest 20 owned 37.7%.	
Mikkelson and Partch (1989)	240 companies, derived from a cross-section of companies included in the Moody's Industrial Manual and traded on NYSE or AMEX.	Annual proxy statements.
	Findings The mean proportion of votes controlled by directors and senior officers was 20% in 1973, 21% in 1978 and 19% in 1983.	
La Porta, Lopez-de-Silanes and Shleifer (1999)	As of 1995, the smallest 10 U.S. firms with a market capitalization of at least $500 million.	As in La Porta et al. (see Appendix 5).
	Findings Half of the 20 "medium-sized" companies lacked a shareholder owning 10+% of the shares. Eighteen of the 20 lacked a shareholder owning 20+% of the shares.	
Holderness, Kroszner and Sheehan (1999)	4202 corporations traded on the NYSE, AMEX and NASDAQ (1995 data).	Compact Disclosure, which contained information from proxy statements and annual reports.
	Findings Directors and officers collectively owned, on average, 21% of the shares. The figure dropped to 1.5% for the largest 420 companies.	

[134] Harold Demsetz and Kenneth Lehn, "The Structure of Corporate Ownership: Causes and Consequences," *Journal of Political Economy* 93 (1985): 1155; Wayne H. Mikkelson and M. Megan Partch, "Managers' Voting Rights and Corporate Control," *Journal of Financial Economics* 25 (1989): 263; La Porta, Lopez-de-Silanes and Shleifer, "Corporate"; Clifford G. Holderness, Randall S. Kroszner, and Dennis P. Sheehan, "Were the Good Old Days That Good? Changes in Managerial Stock Ownership since the Great Depression," *Journal of Finance* 54 (1999): 435; Heflin and Shaw, "Blockholder"; Becht, "Beneficial"; Bhagat, Black and Blair, "Relational"; Gadhoum, Lang and Young, "Who Owns US?"; Holderness, "Myth of Diffuse Ownership;" Klaus Gugler, Dennis C. Mueller, and B. Burcin Yurtoglu, "Insider Ownership, Ownership Concentration, and Investment Performance: An International Comparison," *Journal of Corporate Finance* 14 (2008): 688–705.

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Study	*Sample*	*Data Sources*
Heflin and Shaw (2000)	260 companies listed on the NYSE with transaction data available in the 1988 Institute for the Study of Securities Markets database (average market capitalization: $3.4 billion).	Annual proxy statements.
	Findings The average number of blockholders (i.e., shareholders owning 5+% of the shares) in the sample was two, and the average total block ownership was 12%. Eight-seven of the companies (34%) had no blockholder.	
Becht (2001)	1,309 corporations listed on the NYSE and 2,831 listed on NASDAQ.	Global Researcher Database as of May 1997, identifying blockholders by use of corporate proxy statements.
	Findings 49% of NYSE companies lacked a blockholder owning 5+% of the shares, and 68% lacked a blockholder owning 10+% of the shares. The equivalent figures for NASDAQ were 42% and 54%, respectively.	
Bhagat, Black and Blair (2004)	1,534 publicly traded companies, composed of the largest 1,000 nonfinancial firms and 100 largest financial firms, as of 1983 and 1992.	CDA/Spectrum, which compiled information from SEC filings into computer-readable form.
	Findings The number of companies with a "relational investor" (ownership of 10+% for two or more years) averaged 343 (22% of the sample) per year between 1983 and 1992.	
Gadhoum, Lang and Young (2005)	3,607 U.S. public companies as of 1996.	Worldscope Global 1996 Discloser; SEC.GOV Internet site.
	Findings 40% of the companies lacked a shareholder owning 10+% of the shares; 72% lacked a shareholder owning 20+%.	
Gugler, Mueller, and Yurtoglu (2008)	3,614 U.S. public companies, 1984–97.	Insider ownership from Compact Disclosure, which is based on annual proxy statements.
	Findings The mean proportion of shares owned in aggregate by directors and officers was 22%.	
Holderness (2008)	Random sample of 375 corporations traded on the NYSE, AMEX, and NASDAQ for 1995 (average equity capitalization: $1.1 billion).	Annual proxy statements; other SEC filings.
	Findings 360 of the 375 (96%) of the companies in the sample had a blockholder, defined as a shareholder owning 5+% of the shares. On average, the aggregate stock ownership of all blockholders was 39%. When a firm had a blockholder, the average size of the largest block was 26%. Families held the largest stake in 53% of the companies with blockholders.	

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