

PUBLIC SECTOR UNIONS NEED THE PRIVATE SECTOR

or why the Wisconsin protests were not labor's Lazarus moment

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Abstract

I argue that the extension of collective bargaining rights and formation of public sector labor unions requires the prior existence of these rights among significant sections of the private sector economy. The secular decline in private sector unionization will undermine the political bases of support for public sector unions. I demonstrate that public sector unionism emerged where private sector unions were initially strong. Declining private sector unionism has led to a marked decrease in support for public sector unions. The diminution of their allies in the private sector and the prospect of extended periods of austerity at the state and local level have put public sector unions in a precarious position that Republican governors and legislatures are taking full advantage of. The prospects for renewal in the labor movement are dim.

A year ago Wisconsin witnessed large and sustained mobilization in opposition to attempts to strip the state's public sector workers (excluding law enforcement and fire) of most collective bargaining rights. Less remarked upon were the provisions in the bill designed to hobble public sector unions financially and organizationally almost immediately.¹ While the governor's opponents mobilized dramatically in huge numbers—Reuters called it the “largest demonstrations in Wisconsin since the Vietnam War”—they ultimately lost. For his part, Republican Governor Walker went all in on his first hand. Less than three months

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¹Public sector unions are now forced to hold certification elections every year to maintain their bargaining status and government employers are now forbidden from withholding union dues from paychecks.

in to his term he effectively staked his governorship on an issue that was almost entirely absent from the 2010 campaign that brought him to power. Two Republican state senators were recalled in 2011 and the governor himself is likely to face a recall election this summer.

Progressive and union activists heralded the Wisconsin protests as the dawn of a new era of labor mobilization, the long sought-after moment when the incessant decline of American organized labor would finally be reversed. Even after their losses in the fight over the union bill and their attempt to engineer a mid-term flip in the partisan control of the state senate, Wisconsin activists are buoyed by the large number of people signing petitions to recall the governor. In the mean time several other states, formerly bastions of organized labor, have taken up legislation restricting union rights, including Indiana's recent enactment of a so-called "right-to-work" law.² All these events invite reflection on how we got to this position, why public sector unions have become the flash point for conflict, and the near-term prospects for organized labor.

Far from representing a moment of broad revitalization in the labor movement, I argue that the battles in Wisconsin and elsewhere expose organized labor's profound weakness. Republican attacks on public sector labor are clearly attacks on the organizational capacity of their political opponents. For their part, public sector unions have long failed to recognize their structural dependence on the support of private sector workers, preferring to focus on narrow electoral politics while defending the interests of public sector insiders. American labor market institutions and the organizational structure and governance of its labor movement are ill-suited to addressing these issues. I see no political opening for changing either in the near term.

More specifically, I argue the public sector unionism lagged the private sector in both

²"right to work" laws forbid unions and employers from agreeing to and "agency shop" in which workers represented by collective bargaining agents are required to either join their union or pay a representation fee as a condition of employment. The Taft-Hartley Act prohibited closed and union shops and enabled states to pass right-to-work legislation.

space and time; public sector workers relied on the moral and political support of organized private sector labor to win collective bargaining rights. Private sector workers (and voters) were willing to support collective bargaining rights in the public sector because, at the time they were implemented, many private sector workers already enjoyed these rights themselves. With the erosion of the private sector unions and the broad compositional shifts in the labor market, private sector workers, especially those without college degrees, have seen their pay stagnate, their rights at work diminished, and have come to bear a larger share of the cost and risks associated with sickness, unemployment, skill training, and retirement. Private sector workers have also seen deteriorating K-12 public education, a diminished public safety net, and widening gaps in income and opportunity (Freeman, 2007; Mishel, Bernstein and Shierholz, 2009). It is therefore unsurprising that calls for class consciousness ring hollow when uttered by college-educated workers whose job security and (relatively) generous health insurance and pension benefits are paid out of public tax revenues. Public sector unions have not taken leading roles in organizing private sector workers nor are they capable of using their own position to provide an effective floor for wages and working conditions elsewhere in the economy, as they can in countries with different labor market institutions. Instead public sector unions attempted to secure their position through political clout at the local level combined with the Democratic party's increasing reliance on public sector unions for grass-roots voter mobilization. Given the polarization of American politics and the prospect for extended austerity politics at the state and local levels, public sector unions find themselves increasingly exposed.

To provide some support for these admittedly provocative and somewhat speculative claims I briefly document the relative (and absolute) decline of private sector unions in the United States and the rise of public sector organizations. I then leverage cross-state variation in both early private sector union penetration and subsequent public sector bargaining rights and unionization to provide some empirical evidence that current public sector unionization

rates and prerogatives are largely a function of the prior strength of private sector unions. Both the data I marshal here and recent work by Walsh (2011) indicate that the political support enjoyed by teachers, firefighters, and other state employees is fast eroding. Public sector unions came about as government workers were falling behind their private sector counterparts, but now the shoe is on the other foot. Private sector workers fail to see why government workers should enjoy rights and benefits that they have lost.

1 public sector unions in the American labor movement

The phrase “union member” still conjures images of heavy industry and white, male workers living in cold parts of the country. Like many enduring images, this one is largely misleading. In the “house of labor” public sector unions now sit at the head of the somewhat impoverished table. This is not an uncontroversial claim. After all, Richard Trumka, the current president of the AFL-CIO, hails from the United Mine Workers; no AFL-CIO president has ever come from a public sector union. Nevertheless, the American Federation of State Country and Municipal Employees (AFSCME) and the American Federation of Teachers (AFT) are the two biggest unions in the AFL-CIO. The National Education Association (NEA) is the largest union in the country, though it is not affiliated with either the AFL-CIO or the breakaway faction, Change to Win. Since 2009 public sector union members have outnumbered those in the private sector (7.5 million against 7.2 million in 2011 according to the Bureau of Labor Statistics). The remaining private sector unions exist in highly skilled trades, strategic points in the economy (e.g., shipping and trucking), or in the remaining regulated areas of the economy, such as public utilities.

To see how public sector workers came to dominate the labor movement, one need only look at the long term trends in union density (percent of employed workers reporting union

membership).³ Figure 1 displays union density in the US since the passage of the Taft-Hartley Act that outlawed unions’ most effective organizing tactics. The figure highlights the long-term decline in American unionization as well as the generally higher level of—but steeper drop-off in—unionization in private sector manufacturing.

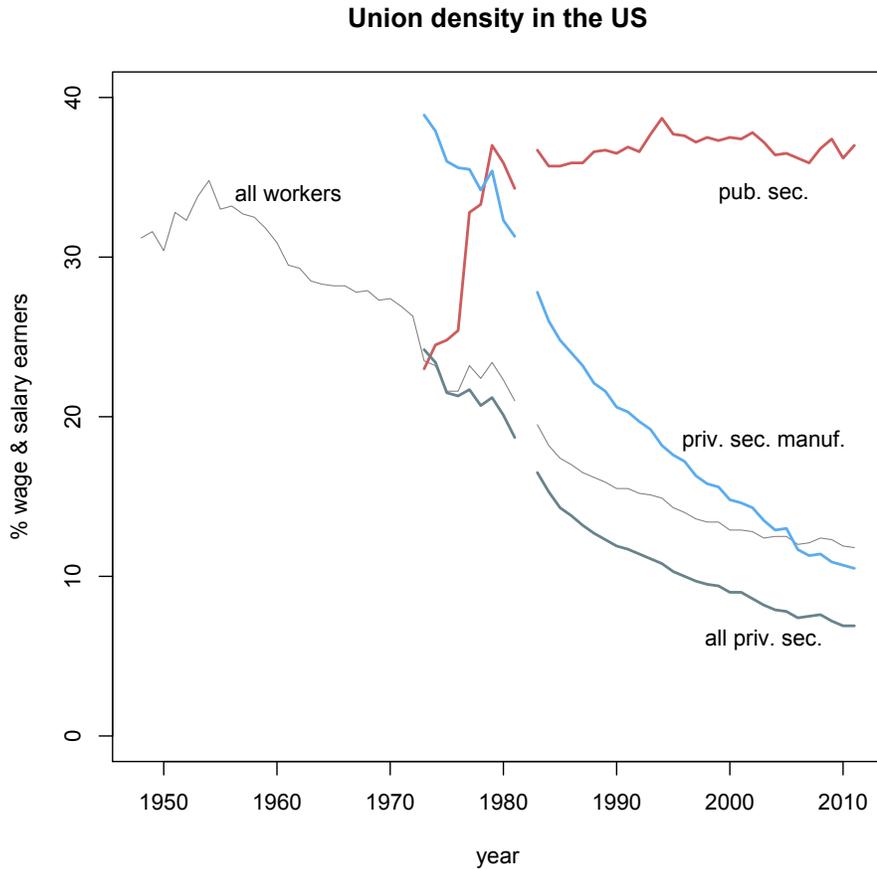


Figure 1: Union density in the public and private sectors, 1948-2011. *Source:* Hirsch and Macpherson (2003) and *Current Population Survey*.

The decline in private sector unionism is much debated, but there is consensus that some combination of structural shifts in the economy, changes in the composition of the workforce, and markedly increased employer hostility to unions have all played important

³Findings and figures are quite similar if we look at union coverage (percent of workers covered under a union-negotiated contract) rather than density.

roles (Bronfenbrenner, 2009; Farber and Western, 2001, 2002; Freeman, 1988). The last point is worth noting since deunionization has not proceeded with the same pace and depth in most other OECD economies, save the UK (Freeman, 1988; Golden, Wallerstein and Lange, 1999; Wallerstein and Western, 2000; Western, 1997).

Prior to the mid-century civil service reforms, public sector employment at the state and local level was largely a creature of patronage politics. As Lichtenstein (2002) explains, the impetus for public sector unionism built on the rapid post-War growth of the public sector and the fact that white-collar public sector wages fell behind those of organized blue-collar workers.⁴ The civil service reforms instituted as machine politics broke down attracted workers from racial minorities who were otherwise shut out of many workplaces (and many private sector unions, especially in the construction trades). One need only think of the Martin Luther King Jr.'s visible involvement in the 1968 Memphis sanitation strike to see how larger political goals were deeply bound up with public sector unionism, especially at the local level.

The original National Labor Relations Board (NLRB) machinery for union recognition and strike management did not include public sector workers. Opponents of unionization relish quoting FDR and labor leaders of the 1940s and 50s expressing their skepticism that government workers could be incorporated into the industrial relations institutions put in place in the 1930s. They did not see how government workers could credibly bargain with a democratically elected government under the threat of strike. Nevertheless, Wisconsin became the first state to legalize collective bargaining for state workers in 1959. In 1962 Kennedy issued Executive Order 10988 recognizing federal workers' unions. Public sector unionism, governed by state law, spread rapidly but unevenly across the country. It was frequently—though by no means exclusively—pushed by Democratic legislatures and governors.

⁴Lichtenstein (2002:181) cites Blumberg (1980:65-87) when saying “by the early 1960s truck drivers earned more than school teachers and autoworkers more than post office clerks.”

Some states directly imported the NLRB paradigm treating public sector workers as if they faced a private sector employer, while other states allowed public sector unions more limited rights. The ability of public sector workers to strike varies by state and job category, with public safety workers (police and fire) more likely to be prohibited from striking (Valleta and Freeman, 1988).

Figure 2 displays the growth in employment and unionization at different levels of government. It is clear that local government is where the action is. Local government is the only area of the public sector seeing a sustained increase in manpower relative to the labor force. It is also worth noting that unionization rates at all levels of government have been stable for some time.

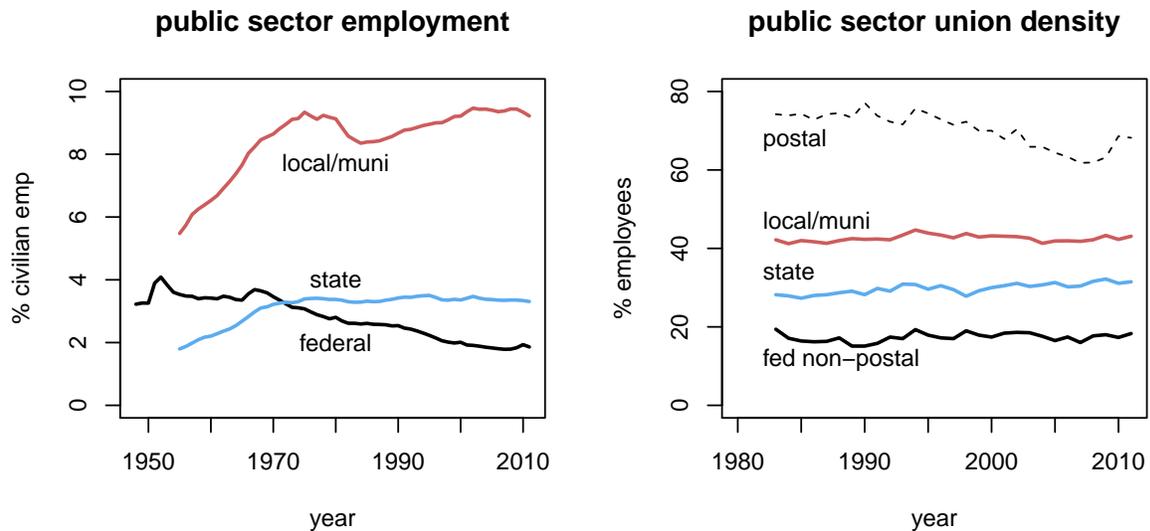


Figure 2: The growth of the public sector. *Source:* Hirsch and Macpherson (2003) and *Current Population Survey* .

Public sector unionism is clearly a political project, enacted by politicians who saw some benefit to doing so. Beginning with New York City’s 1958 extension of collective bargaining rights to city workers, private sector unions have been vocal supporters of public sector unionization. For their part, public sector workers, especially teachers, took to union

representation rapidly. As Freeman (1986:42) notes, “general lack of management opposition to public sector unionism, possibly due to the political power of unions, has been important for union victories in representation elections in the public sector.”

In organizing public sector workers, unions have been able to use tactics that proved highly effective in the pre-Taft-Hartley period: they can organize the employers. It is relatively less expensive to organize the public sector compared to mounting risky campaigns in the private sector while facing increased employer resistance. This lesson extends beyond the traditional public sector unions. Several of the fastest growing unions, among them The Service Employees’ International Union (SEIU), the International Brotherhood of Teamsters (IBT), and the United Autoworkers (UAW), are generally thought of as representing private sector workers. Nevertheless much of their recent organizing success has come through organizing public sector or quasi-public sector workers, sometimes through permissive legislation. For example, homecare workers are notoriously difficult to organize: the industry is fragmented, workers, often immigrants and women of color, do not have a central worksite and they work unusual and flexible hours. They are among the most poorly paid workers in the health services industry. They are generally treated as independent contractors⁵ even though they are often paid by out of federal or states budgets such as Medicaid or Veterans’ Affairs. SEIU has succeeded in organizing these workers in several states using legislation at the local and state levels. In Oregon and Washington SEIU relied voter initiative.

The motives and ability of public sector unions to become involved in electoral politics are well-documented, especially in local elections where voter interest and awareness is low (Freeman, 1986; Trejo, 1991). Although it is still unknown whether public sector unions are more inclined to get involved in electoral politics than their private sector counterparts, public sector unions have built a formidable lobbying and voter mobilization infrastructure while becoming major players in national-level Democratic party politics. Public sector

⁵implying they do not receive health or retirement benefits of any kind

unions' high profile in politics contrasts with their lack of public leadership in attempting to reverse the decline of private sector unionism. They are not notable contributors to major organizing drives nor do we see much direct political activity by public sector unions on behalf of private sector workers. Rather than cultivate long-term support among private sector workers (and voters), public sector unions, like most unions in America, have focussed their political and industrial efforts on public budgets, work rules, and collective bargaining issues directly germane to the workers they represent.

2 the political dependence of public sector unions on private sector workers

I argue that the emergence of public sector unionism depends on prior labor market penetration by unions in the private sector. Voters are willing to extend to public servants the rights and privileges they themselves already enjoy. But with the gradual erosion of union representation in the private sector voters may come to view public sector workers' benefits as excessive. Figure 3 plots 2008 state-level public sector union density as a function of 1964 state level union density⁶ (left panel) and 1983 density in the private sector⁷ (right panel). States with private sector "right to work" laws in 1964 (left) and 1983 (right) are in red font. The grey curve describes the the non-parametric (loess) regression line. Earlier private sector unionization is clearly positively associated with current public sector union density. As expected, right-to-work states are clustered in the bottom left of the plots. The "S" curve in the right panel is also worth highlighting: the shift reflects the decline in private sector unionization (a compression of the x -axis) compared to 1964.

⁶1964 is the earliest year for which state-level data are available. Public sector unionism did not really take in most states until the 1970s, so I am comfortable treating the 1964 variable as describing private sector union penetration.

⁷This is the first year for which state-level unionization is broken out by sector

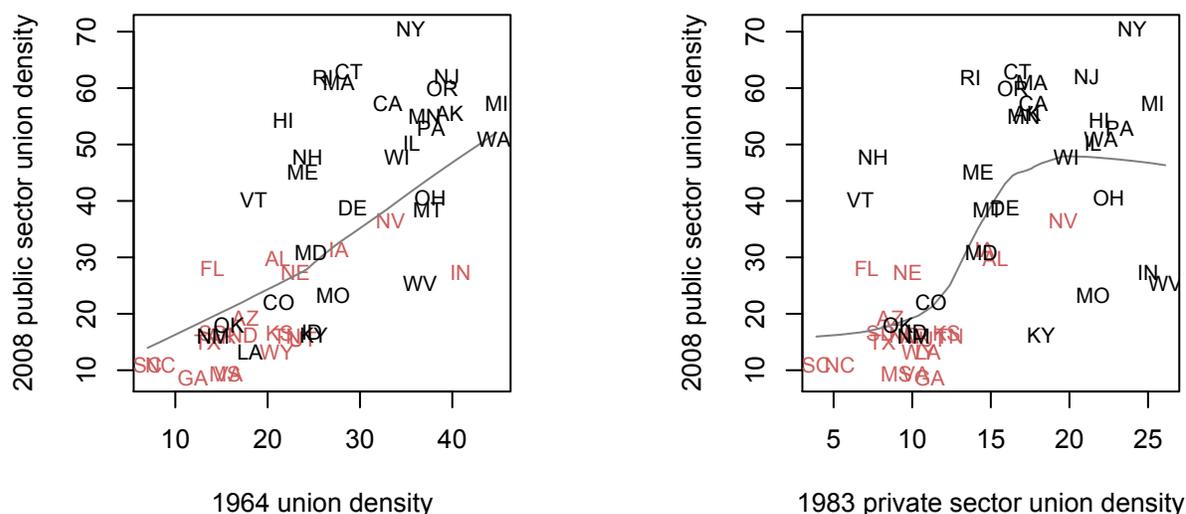


Figure 3: 2008 public sector union density by state as a function of earlier levels of private sector unionization. Red text denotes “right to work” states in 1964 (L) and 1983 (R). Loess curves in grey. *Source*: Hirsch and Macpherson (2003) and *Current Population Survey* .

2.1 multivariate evidence

We can extend the analysis into a multivariate context. In Table 1 I regress 2002 public sector union density on a variety of covariates. In addition to prior private sector unionization and right-to-work status I include the 1983-2002 decline in private sector density (i.e., a positive value represents a bigger loss of union membership) in models 2 and 4. I also include 2002 population density, 2002 Black population percentage, and 2002 per capita income based on findings summarized in Freeman (1986:Table 4).⁸ I also include a dummy variable for Southern states.

While this analysis is admittedly preliminary, the results are striking. First, regardless of whether we start in 1964 or 1983, earlier private sector unionization is a strong predictor

⁸population density and Black population are taken from the *State Politics & Policy Quarterly* dataset (http://academic.udayton.edu/sppq-TPR/tpr_data_sets.html). Per capita income comes from the Bureau of Economic Analysis (<http://www.bea.gov/iTable/iTable.cfm?ReqID=70&step=1&isuri=1&acrdn=1>)

Table 1: OLS regression of 2002 public sector density

	Model 1	Model 2	Model 3	Model 4
(Intercept)	-15.84 (15.27)	-8.30 (13.61)	-17.43 (18.28)	-5.46 (12.34)
1964 density	0.80* (0.18)	1.05* (0.21)		
1983 pvt. sec. den.			1.11* (0.33)	2.34* (0.45)
Pvt. sec. den decline (83-02)		-1.04 (0.53)		-2.53* (0.83)
“Right to Work” (1964)	-10.22* (2.94)	-9.54* (2.72)	-11.16* (2.84)	-9.17* (2.62)
2002 pop density	0.02 (0.01)	0.02* (0.01)	0.02 (0.01)	0.02* (0.01)
South	7.21 (5.23)	6.79 (5.10)	6.63 (5.67)	8.46 (4.79)
2002 % Black	-0.34 (0.23)	-0.31 (0.22)	-0.46 (0.26)	-0.56* (0.19)
2002 income per cap	0.00 (0.00)	0.00 (0.00)	0.00* (0.00)	0.00 (0.00)
N	50	50	50	50
adj. R^2	0.79	0.80	0.76	0.82
Resid. sd	8.01	7.73	8.51	7.44

Robust standard errors in parentheses

* indicates significance at $p < 0.05$

of current levels of public sector density. States with a 1% higher rate of private sector unionization decades in the past have a 1-2% more unionized public sector in 2008, all else constant. What’s more, even conditioning on prior private sector density, the 1983-2002 *decline* in private sector density has an analogous relationship. A 1% decline in private sector unionization in that period is associated with a 1-2.5% reduction in 2008 public sector density. All these relationships are “significant” at conventional thresholds. Looking at the other covariates we see that right-to-work states have about 10% lower public sector density rates. Other variables show mixed relationships; the lack of a “Southern effect” is unsurprising once we consider “right-to-work” and percent Black.

I also look at the cross-state variation in public sector bargaining using the dataset and

coding in Valleta and Freeman (1988) as updated through 1996.⁹ Specifically, I examine whether state law permits various categories of public employees to strike as of 1996. Covariates are as described above.

Table 2: Logistic regression of 1996 state-level public sector right-to-strike, by occupation

	teachers	state employees	police	fire
(Intercept)	0.94 (4.67)	-2.10 (5.29)	14.21 (12.56)	-1.25 (8.38)
1964 density	0.15* (0.07)	0.17* (0.08)	0.27 (0.16)	0.21 (0.19)
Pvt. sec. den decline (83-02)	-0.30 (0.20)	-0.25 (0.21)	-0.40 (0.36)	-0.02 (0.32)
1996 pub. sec. R2W	-18.12 (2270.25)	-17.27 (2287.00)	-24.13 (4438.50)	3.04 (3.07)
1996 % Black	-0.08 (0.10)	-0.06 (0.11)	0.22 (0.25)	-0.03 (0.10)
1996 income per cap	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)
<i>N</i>	47	47	47	47
AIC	41.52	38.86	20.45	25.16
BIC	85.93	83.26	64.85	69.56
log <i>L</i>	3.24	4.57	13.78	11.42

Standard errors in parentheses

* indicates significance at $p < 0.05$

Table 2 displays results. Teachers and state employees are significantly more likely to have the right to strike in 1996 in states where the private sector unions were strong in 1964. More recent declines in private sector unionization are negatively associated with these workers' right to strike under state law, though this relationship does not cross conventional significance thresholds. In contrast with Farber (2005)'s findings of a strong effect for state level regulation, public sector "right-to-work" states are no less likely to let public sector workers strike, though this is estimated with considerable imprecision. A second noteworthy finding is that a different logic seems to be at work for public safety workers. Earlier private sector unionization has no discernible relationship with the right-to-strike for police and

⁹Data can be found here <http://www.nber.org/publaw/>

firefighters.

2.2 micro-level evidence

I find that public sector union density is higher in states where private sector unions were strong decades ago. Indeed, I experimented with a variety of variables and specifications and the history of strong private sector unions was the single most consistent predictor across specifications and subsamples. Even within right-to-work states, those with higher private sector union density in the past had higher public sector density in 2008.

But does this resonate with more micro-level evidence? I argue that it does. While more systematic examination is surely needed, recent work by Walsh (2011) using fieldwork and interviews across the state of Wisconsin are consistent with my claims. She systematically selected locations around the state and repeatedly visited groups who meet of their own accord. She finds that “the resentment toward public employees was ubiquitous, many-layered, and intense.” (p. 8) She says “People often communicated their ire toward the public employees by contrasting them with private employees. They complained that public workers had health care and other benefits (particularly pensions) that were extremely generous compared to the benefits private sector workers received. And who was paying for these benefits? Taxpayers, and they were angry about it.” (p. 13-14) She goes on to describe the view of unions: “this resentment toward public employees was intertwined with resentment toward unions. This took the following general form: Unions were the reason public employees did not have to work hard, had exorbitant benefits and salaries that were busting the public budget. In addition, unions prevented school districts, universities, or other parts of the government from firing inefficient or ineffective workers.” (p. 16) It is worth noting that Walsh identifies several of her informants as private sector, blue collar workers, some former union members.

2.3 implications

The analysis above puts public sector unions and, by extension, the labor movement, in a precarious position. Is there any likelihood that things might change in the ways advocated by Levi (2003)? I am pessimistic for two reasons: American labor market institutions are not up to the task and neither is the American labor movement.

American labor market institutions are built on a fragmented vision of industry where unions must fight for recognition workplace-by-workplace. A simple merger or buyout of an employer is enough to break unions in many workplaces. The employer penalties for violating worker protections in organizing and collective bargaining situations (as opposed to EEOC or OSHA violations) are trivial and therefore honored more in the breach. The NLRB is one of the most highly politicized of any government agency (Gould, 2000; Levi, Moe and Buckley, 2004; Moe, 1985). At the time of writing political gridlock in Washington prevents the NLRB from having enough members to even make decisions. Add to this the pressures of globalization and technological change and it is unsurprising the private sector unions are having a hard go. Those that still exist find themselves threatened on all sides. Public sector unions have been able to function largely unmolested by these forces until recently. But even with a newly elected Democratic president, Democratic control of both houses of Congress, and a collapsing financial system largely blamed on financiers, the union movement could not force a vote on the Employee Free Choice Act¹⁰ out of committee.¹¹ The prospects for major reform to labor market regulation look dim.

But it is worth noting that where public sector unions are bound together with private sector unions in more centralized bargaining institutions things can be different. Garrett and Way (1999) show that where labor market institutions centralize bargaining and subordinate public sector demands to the needs for broader economic competitiveness they have been

¹⁰EFCA would alter union recognition rules to make them more like Canada's.

¹¹Arlen Specter's (D(?)-PA) opposition was the final nail in the coffin.

entirely compatible with good economic performance. Martin and Thelen (2007) go even further, arguing that the public sector has a pivotal role in sustaining “egalitarian capitalism”; they can use their influence to provide an effective floor for labor in the rest of the economy.

The governance rules of the AFL-CIO have shown themselves unable to accommodate competing internal pressures. As Ahlquist (forthcoming) shows, AFL-CIO rules are designed to prevent smaller, weaker affiliates from demanding excessive resources from the strong. The AFL-CIO has been unable to redistribute resources from stronger affiliates to organize in other areas. Ultimately the dispute came to a head in 2005 when the IBT, SEIU, and several other unions threatened to leave the AFL-CIO if resources weren’t shifted from politics to organizing. The counterproposal, spearheaded by AFCSME, would increase union involvement in politics. What’s more, AFCSME and SEIU were involved in a bitter jurisdictional fight over who had the right to organize (public sector) childcare workers in Illinois. In the end several of the largest and fastest-growing unions in the AFL-CIO, including the IBT and SEIU, seceded to form a parallel labor confederation, a move several observers referred to as “rearranging deck chairs on the Titanic.”

3 Conclusion

Public sector unionism emerged most forcefully where private sector workers’ organizations were strong. Much of that strength has evaporated and now public sector unions find themselves under attack as state and municipal budgets face extended periods of austerity politics. The analysis above does not bode well for public sector unions in the United States.

American public sector unionism was once a major topic in political science, emerging out of the urban politics and bureaucracy literatures. But most of the recent work on public sector unions and their political and economic consequents has been done by economists,

historians and economic sociologists.¹² But there is still a tremendous amount we do not know; much of the literature looking at public sector unions has tended to import models and expectations derived from the private sector experience. Our understanding of when, how, and why public sector unions will get involved in electoral politics is still hazy. It is not even clear what public sector unions are maximizing in both bargaining and political situations (wages? wage bill? employment security for members? etc.) The conditions under which they might be induced to fight for increased private sector organization are totally unknown. And there is precious little, even in comparative politics, that might help us understand the types of institutions that might reduce the perverse effects of public sector unions on local budgets, bureaucratic flexibility, and the like.

Let me close with a prediction for Wisconsin. It is well-known that successful recalls of incumbent politicians, especially executives, are difficult and therefore rare. And while governor Walker is unpopular, he has substantial resources at his disposal. The recall election, then, seems like an extraordinarily high-risk gamble. Even if Walker wins by the narrowest of margins he still wins—and claims popular vindication. The recall runs the very real risk of turning a one-term governor in to a two-term governor with a high national profile. So why the strong push for the recall? From the perspective of the public sector unions the recall has a perverse damned-if-you-do, damned-if-you-don't logic. If Walker's union law stands then very few of the state's public sector unions will be around to fight him when he comes up for reelection. Those that are around will be substantially weakened. If they mount a recall movement and lose then they have actually lost little, whereas if they win they stand a chance of reversing the law. Whether this push is in the interests of the larger population who may disagree with the governor is not obvious.

¹²Moe (2009, 2011) are notable exceptions in the case of teacher's unions.

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