Toward an Organizationally Diverse American Capitalism? Cooperative, Mutual, and Local, State-Owned Enterprise

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ABSTRACT

Discussions of economic reform focus on two strategies for tempering corporate excess and mobilizing corporations for growth and prosperity: restructuring markets via competition policies and various forms of countervailing power. Populists, Progressives, and New Dealers looked to anti-trust, regulatory states, and unions as counterweights to corporations. Contemporary efforts look to not-for-profit watchdogs, NGO certification and standard setting, privatization, and corporate governance reform to upgrade markets and deflect corporations from low road paths. This essay recovers a third strategy for regulating and reforming corporate capitalism: promoting organizational diversity via the formation of parallel systems of cooperative, mutual and local, state-owned enterprises. During the "era of corporate consolidation," producer and consumer groups in the US formed tens of thousands of such enterprises in just in agriculture, but also in banking, insurance, and technologically advanced industries like electricity and telephones. These efforts produced enduring *systems* of cooperatives and kindred enterprise in the American economy, creating alternatives to corporations and organizational legacies for present day problem solving. They provided regulators and policy makers with new options and capacities for state intervention. And they demonstrated possibilities for using mixed or-

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ganizational systems to discipline firms, create and upgrade markets, foster competition, and otherwise solve vexing problems of economic development.

I. INTRODUCTION

Discussions of revitalization and economic reform commonly focus on two strategies for tempering corporate excess and mobilizing corporations for development, growth, and prosperity: restructuring markets via competition policies and various forms of countervailing power. Progressive and New Deal reformers looked to the state and unions as the key counterweights to corporations. They viewed regulation by independent commission, trustbusting, social welfare policy, and collective bargaining as ways to rationalize capitalism, induce investments in productivity, and foster a more broadly shared prosperity.[1] More recent efforts to reform corporations look to not-for-profit watchdogs, nongovernmental certification and standard setting, privatization, and corporate governance as ways to harness the "market forces" of shareholder activism and informed consumer choice to upgrade corporate capitalism.[2] Based on historical analyses of organizational form in American infrastructure industries, this Article recovers a third strategy for contesting, regulating, and reforming corporations: promoting organizational diversity in the economy via the formation of parallel systems of cooperative, mutual, and local, state-owned enterprises. The logic of this strategy is to work around, complement, compete with, and even displace corporations by fostering self-organization among producers and consumers, and by

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1. *See generally* GERALD BERK, ALTERNATIVE TRACKS: THE CONSTITUTION OF AMERICAN ECONOMIC ORDER, 1865–1917 (1994); JOHN KENNETH GALBRAITH, AMERICAN CAPITALISM: THE CONCEPT OF COUNTERVAILING POWER (1952); THOMAS K. MCCRAW, PROPHETS OF REGULATION (1984); MICHEAL J. PIORE & CHARLES F. SABEL, THE SECOND INDUSTRIAL DIVIDE (1984); ELIZABETH SANDERS, ROOTS OF REFORM: FARMERS, WORKERS AND THE AMERICAN STATE, 1877–1917 (1999); Philippe C. Schmitter, *Corporatism is Dead! Long Live Corporatism!*, 24 GOV'T & OPPOSITION 54 (1989); Marc Schneiberg & Tim Bartley, *Organizations, Regulation, and Economic Behavior: Regulatory Dynamics and Forms from the 19th to 21st Century*, 4 ANN. REV. L. & SOC. SCI. 31 (2008).

2. *See* ARCHON FUNG, MARY GRAHAM & DAVID WEIL, FULL DISCLOSURE: THE PERILS AND PROMISE OF TRANSPARENCY (2007); Bruce Kogut & J. Muir Macpherson, *The Decision to Privatize: Economists and the Construction of Ideas and Policies*, *in* THE GLOBAL DIFFUSION OF MARKETS AND DEMOCRACY 104 (Beth Simmons, Frank Dobbin & Geoffrey Garrett eds., 2007); TRANSNATIONAL GOVERNANCE: INSTITUTIONAL DYNAMICS OF REGULATION (Marie-Laure Djelic & Kerstin Sahlin-Andersson eds., 2006); Timothy Bartley, *Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions*, 113 AM. J. SOC. 297 (2007); Catherine Daily, Dan Dalton & Albert Cannella Jr., *Corporate Governance: Decades of Dialogue and Data*, 28 ACAD. MGMT. REV. 371 (2003); Wendy N. Espeland & Michael Sauder, *Rankings and Reactivity: How Public Measures Recreate Social Worlds*, 113 AM. J. SOC. 1 (2007); Andrei Shliefer & Robert W. Vishny, *A Survey of Corporate Governance*, 52 J. FIN. 737 (1997).

creating enterprises that are structured for different purposes and constituencies.

Organizations scholars and law and economics researchers have probed the importance of legal, organizational, and ownership form for the operation and behavior of firms.[3] By eliminating independent shareholders and assigning authority and residual claims to consumers, producers, or peer groups of professionals, cooperatives and related alternatives to "investor-owned" corporations alter the relations and incentives among stakeholders within firms, creating possibilities for investments and activity that might not otherwise occur. Yet between pursuing historical–comparative analyses of capitalism and focusing on perfecting markets and corporations, academic and policy discussions often view cooperative and state enterprises as relics of small-town worlds now lost, artifacts of idiosyncratic conditions, or utopian experiments briefly revived in the 1960s, but ultimately swept aside by the triumph of the modern, and now global, corporation. Indeed, analysts across subfields commonly describe the rise and changing structure of the corporation as *the* central acts in the drama of U.S. economic development.[4]

3. For economics of organization approaches, see, e.g., HENRY HANSMANN, OWNERSHIP OF ENTERPRISE (1996); THE STUDY OF NON-PROFIT ENTERPRISE: THEORIES AND APPROACHES (Helmut K. Anheier & Avner Ben-Ner eds., 2003); Avner Ben-Ner, *On the Stability of the Cooperative Type of Organization*, 8 J. COMP. ECON. 247 (1984); Louis Putterman, *Some Behavioral Perspectives on the Dominance of Hierarchical over Democratic Forms of Enterprise*, 3 J. ECON. BEHAV. & ORG. 139 (1982); Eric Rasmussen, *Mutual Banks and Stock Banks*, 31 J. L. & ECON. 395 (1988). For professional-owned enterprises, see Ronald Gilson & Robert Mnookin, *Sharing Among the Human Capitalists: An Economic Inquiry into the Corporate Law Firm and How Partners Split Profits*, 37 STAN. L. REV. 313 (1985); Jonathan Levin & Steven Tadelis, *Profit Sharing and the Role of Professional Partnerships*, Q. J. ECON. 131 (2005). For organizational studies, see Raymond Russell & Robert Hanneman, *The Formation and Dissolution of Worker Cooperatives in Israel, 1924–1992*, *in* UTOPIA IN ZION: THE ISRAELI EXPERIENCE WITH WORKER COOPERATIVES 57–95 (R. Russell ed., 1995); Howard Aldrich & Robert N. Stern, *Resource Mobilization and the Creation of US Producer Cooperatives, 1835–1935*, 4 ECON. & INDUS. DEMOCRACY 371 (1983); Paul Ingram & Tal Simons, *State Formation, Ideological Competition, and the Ecology of Israeli Workers' Cooperatives, 1920–1992*, 45 ADMIN. SCI. Q. 25 (2000); Marc Schneiberg, Marissa King & Thomas Smith, *Social Movements and Organizational Form: Cooperative Alternatives to Corporation in the American Insurance, Dairy and Grain Industries*, 73 AMER. SOC. REV. 635 (2008); Udo Staber, *Organizational Foundings in the Cooperative Sector of Atlantic Canada: An Ecological Perspective,* 10 ORGANIZATIONAL STUD. 381 (1989).

4. Narratives often invoke the necessities of industrialization and globalization, the technical superiority of the corporate form, or how ruthlessly corporations drove alternatives from the stage to define the core logic of the American system. *See* BERK, *supra* note 1; ADOLF A. BERLE & GARDINER C. MEANS, THE MODERN CORPORATION AND PRIVATE PROPERTY (Transaction Pubs. 1991) (1932); ALFRED D. CHANDLER JR., THE VISIBLE HAND: THE MANAGERIAL REVOLUTION IN AMERICAN BUSINESS (1993); FRANK DOBBIN, FORGING INDUSTRIAL POLICY: THE UNITED STATES, BRITAIN AND FRANCE IN THE RAILWAY AGE (1994); COLEEN A. DUNLAVY, POLITICS AND INDUSTRIALIZATION: EARLY RAILROADS IN THE UNITED STATES AND PRUSSIA (1994); JOHN KENNETH GALBRAITH, THE NEW INDUSTRIAL STATE (Princeton Univ. Press 2007) (1967); NEIL FLIGSTEIN, THE TRANSFORMATION OF CORPORATION CONTROL (1990).

Such a vision too narrowly construes both the scope of these enterprises and the possibilities for using mixed organizational systems for revitalization and reform. During the "era of corporate consolidation," producer and consumer groups in the United States formed tens of thousands of cooperative, mutual, and local state enterprises not just in agriculture, but also in banking, insurance, and technologically advanced industries like electricity and telephones.[5] Producers and consumers organized such enterprises locally to solve immediate economic problems: to gain access to vital goods and markets, to bypass or counterbalance corporate combinations, and to support investments in quality and improvement. Yet anticorporate and reform movements also made cooperative forms centerpieces of broader efforts to contest corporate consolidation and to foster more decentralized, small stakeholder capitalisms of independent producers, farmers, and self-governing market towns. And as state and federal regulators struggled to rationalize American capitalism, they too drew on cooperatives, mutuals, and state firms, mobilizing them to regulate corporations, promote new forms of competition, and foster regional development. In so doing, Populists, Progressive reformers, and New Dealers not only established systems of cooperatives and kindred enterprise as parallel organizational paths within the American economy, making these forms available for present day efforts. They also demonstrated possibilities for using mixed organizational systems to discipline firms, create and upgrade markets, and solve vexing problems of development and economic infrastructure.

This Article first traces the evolution and scope of these systems, establishing them as durable and important elements of American corporate capitalism, rather than trivial remnants of a bygone era. It then presents case studies of how various groups used these systems to confront, transform, or bypass corporations and markets. Organizers and public officials turned to cooperative and public enterprise to do things corporations would not or could not do—to foster more balanced economic development, sustain investments in improvement, and expand states' regulatory capacities.

II. ORGANIZATIONAL DIVERSITY IN AMERICAN CAPITALISM: A SELECTIVE OVERVIEW

While cast as the "era of corporate capitalism," the 1870s through the 1950s was also an era in which cooperative, mutual, and state enter-

5. For an overview, see Marc Schneiberg, *What's on the Path? Path Dependence, Organizational Diversity and the Problem of Institutional Change in the US Economy, 1900–1950*, 5 SOCIO-ECON. REV. 47 (2007); see also Schneiberg et al., *supra* note 3.

prises emerged and endured in a surprising range of American industries. The best-known cases are producer-owned firms (or co-ops) in agriculture. These included grain elevator cooperatives, fruit processing cooperatives, and various forms of dairy businesses. Producer co-ops rapidly became the central, and in some subsectors the dominant, form of organizational structure.[6] Growers also organized cooperative firms as buyers to purchase farm implements and other inputs, as did consumers, creating food co-ops that incorporated elements of worker cooperatives. Historically, cooperatives in grain and dairy—the two agricultural sectors I study most closely—first appeared in the Northeast and Midwest in the 1840s and 1850s.[7] Grain elevator cooperatives spread south and west from the Midwest in two waves between the 1870s and 1920s, the period in which dairymen formed creamery, cheese, and milk marketing cooperatives in their greatest numbers. Together, the two groups organized nearly 6,000 cooperatives by the end of the 1920s, and the institutionalization of this form in agriculture in the 1920s and 1930s made agricultural cooperatives and their federations household names: Riceland, Land O' Lakes, Tillamook Cheese, Humbolt Cream, Sunkist, Sunmaid, Oceanspray, and Blue Diamond.[8]

Less familiar, but perhaps even more important, are cooperatives and mutuals in the finance, insurance, and real estate (FIRE) industries, including property insurance mutuals, fraternal life insurers, mutual banks, credit unions, and even housing cooperatives. These are all consumer-owned firms, although "consumers" and organizers in many cases are businesses, factories, and farms, as well as individuals. Like agricul-

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6. *See* WARD W. FETROW & R.H. ELSWORTH, AGRICULTURAL COOPERATION IN THE UNITED STATES (1947); RICHARD B. HEFLEBOWER, COOPERATIVES AND MUTUALS IN THE MARKET SYSTEM (1980); JOSEPH KNAPP, THE RISE OF AMERICAN COOPERATIVE ENTERPRISE: 1620–1920 (1969); GEORGE HAROLD POWELL, COOPERATION IN AGRICULTURE (1921); Elizabeth Hoffman & Gary Libecap, *Institutional Choice and the Development of U.S. Agricultural Policies in the 1920s*, 51 J. ECON. HIST. 397 (1991).

7. *See* FETROW & ELSWORTH, *supra* note 6; HEFLEBOWER, *supra* note 6; KNAPP, *supra* note 6; ERIC E. LAMPARD, THE RISE OF THE DAIRY INDUSTRY IN WISCONSIN: A STUDY IN AGRICULTURAL CHANGE, 1820–1920 (1963); Brigitte Young, *The Dairy Industry: From Yeomanry to the Institutionalization of Multilateral Governance*, *in* GOVERNANCE OF THE AMERICAN ECONOMY 236 (John L. Campbell, J. Rogers Hollingsworth & Leon N. Lindberg eds., 1991); Oscar Refsell, *The Farmers' Elevator Movement*, 22 J. POL. ECON. 872 (1914) [hereinafter Refsell, *Elevator Movement*]; Oscar Refsell, *The Farmers' Elevator Movement II*, 22 J. POL. ECON. 969 (1914) [hereinafter Refsell, *Elevator Movement II*]; Bob Croff & Truman Graff, *The History and Role of Dairy Cooperatives*, UNIV. OF WIS. CTR. FOR COOPERATIVES (Jan. 2001), www.uwcc.wisc.edu/info/dairy/history.pdf.

8. *See* HEFLEBOWER, *supra* note 6; Hoffman & Libecap, *supra* note 6; R.H. ELSWORTH, U.S. DEP'T OF AGRIC., AGRICULTURAL COOPERATIVE ASSOCIATIONS, MARKETING AND PURCHASING, 1925, at 77 (1928) [hereinafter ELSWORTH, AGRICULTURAL COOPERATIVES]; R.H. ELSWORTH, U.S. DEP'T OF AGRIC., COOPERATIVE MARKETING AND PURCHASING, 1920–1930, at 3 (1930) [hereinafter ELSWORTH, COOPERATIVE PURCHASING]. The USDA tallied a total of 12,000 agricultural cooperatives in operation in 1930. ELSWORTH, COOPERATIVE PURCHASING, *supra*, at 3.

tural cooperatives, property insurance mutuals predated the Civil War, and proliferated in a veritable tidal wave between 1870 and 1910. At least 3,500 insurance mutuals were organized in that period, writing 11%–12% of the total value of property insurance—or insurance in force—and capturing certain lines and regions by the 1920s, including commercial insurance for textile and flour mills, the farm business (40% market share), and states like Wisconsin (35%).[9] For better or worse, mutuals also dominated residential mortgage markets through the 1970s. There were over 4,000 mutual savings associations representing 85% of thrifts and 90% of thrift industry assets operating in 1975, on the eve of deregulation and financialization.[10] Those changes notwithstanding, over 7,700 credit unions currently operate in the United States, with over 91 million or 44% of the economically active population as members.[11]

Cooperative, mutual, and state enterprises even played central roles in technologically advanced "network" sectors in the form of telephone mutuals, cooperative and state-owned enterprises in electricity, and municipal gas and water companies. Numbering as many as 18,000 in 1907, telephone mutuals operating local exchanges and tiny cooperatively owned "farmers' lines" dominated rural markets in the early twentieth century. Many persist today, although mutuals now play a small overall role in telecom.[12] In electricity, however, both state-owned enterprise and cooperatives continue to play a surprisingly substantial role. In the early twentieth century, municipal electrical utilities proliferated alongside investor-owned utilities (IOUs), reaching nearly 3,000 by 1922. After a withering counterattack by IOUs, the number of municipals in the United States fell to 1,800 by 1932, but then recovered during the New Deal era, stabilizing in numbers in the 1940s. Roughly 2,000 still operate today, not just in small Midwestern cities, but also in urban centers like Los

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9. *See* JOHN BAINBRIDGE, BIOGRAPHY OF AN IDEA, THE STORY OF MUTUAL FIRE AND CASUALTY INSURANCE (1952); HEFLEBOWER, *supra* note 6; Marc Schneiberg, *Organizational Heterogeneity and the Production of New Forms: Politics, Social Movements and Mutual Companies in American Fire Insurance*, 1900–1930, 19 RES. SOC. ORG. 39 (2002).

10. *See* Richard Masulis, *Changes in Ownership Structure: Conversion of Mutual Savings and Loan to Stock Charter*, 18 J. FIN. ECON. 29, 34 (1987); OFFICE OF THRIFT SUPERVISION, DEP'T OF THE TREASURY, 2005 FACT BOOK: A STATISTICAL PROFILE OF THE THRIFT INDUSTRY (Apr. 2006), *available at* http://www.ots.treas.gov/_files/2005FactBook.pdf.

11. WORLD COUNCIL OF CREDIT UNIONS, 2009 STATISTICAL REPORT: CREDIT UNIONS WORLDWIDE, http://www.woccu.org/publications/statreport (last updated Dec. 31, 2009).

12. DEP'T OF COMMERCE & LABOR, BUREAU OF THE CENSUS, TELEPHONES AND TELEGRAPHS 1902 (1906) [hereinafter TELEPHONES AND TELEGRAPHS]; DEP'T OF COMMERCE & LABOR, BUREAU OF THE CENSUS, TELEPHONES: 1907 (1910); William Barnett & Glenn Carroll, *Competition and Mutualism among Early Telephone Companies*, 32 ADMIN. SCI. Q. 400 (1987); Claude Fischer, *The Revolution in Rural Telephony, 1900–1920*, 21 J. SOC. HIST. 5 (1987); CLAUDE S. FISCHER, AMERICA CALLING: A SOCIAL HISTORY OF THE TELEPHONE TO 1940 (1992).

Angeles, Seattle, San Antonio, and Memphis.[13] Electrical cooperatives also emerged in force during the New Deal, yielding by the late 1940s a system of over 950 such enterprises that also still operate today. Each of these systems has delivered steadily growing volumes of electricity to steadily growing numbers of consumers. Together, municipals and electrical cooperatives currently serve nearly 87 million customers, or roughly 27% of consumers served by all utilities (and 26% of the kilowatt hours), supported in part by large-scale, federal power-generating projects, including TVA, Bonneville, and Parker Canyon.[14]

The accompanying figure and table, and multivariate analyses of cooperative enterprises, shed light on both these firms' distribution across regions, and the conditions that support them. As the maps in the figure reveal, there is pronounced regionalism in the evolution and resulting density of cooperative, mutual, and local state enterprises.[15] This pattern persists even when the size of states and geographical distribution of the industries involved are taken into account. Cooperative forms emerged first and most heavily in upper Midwestern states like Wisconsin, Minnesota, and Illinois (but also in upstate New York and rural Pennsylvania). They continued to proliferate in the upper Midwest as organizers pursued cooperative and related forms in other industries, spreading into the Plains, West, and then South through the first half of the twentieth century.

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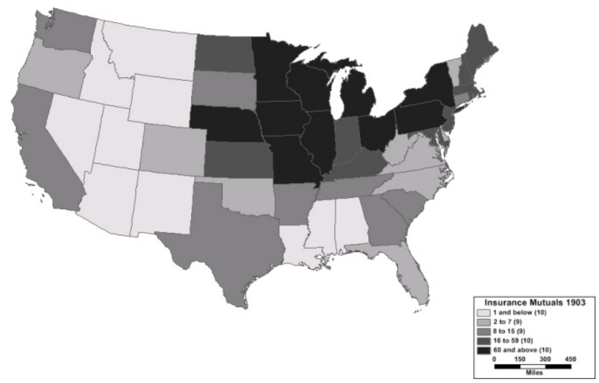
13. The American Public Power Association provides annual data on U.S. municipal electrical utilities and electrical cooperatives, including numbers, customers, and sales figures. *See, e.g.*, AMERICAN PUBLIC POWER ASSOCIATION, PUBLIC POWER, APPA ANNUAL DIRECTORY & STATISTICAL REPORT (1982); AMERICAN PUBLIC POWER ASSOCIATION, PUBLIC POWER, APPA ANNUAL DIRECTORY & STATISTICAL REPORT, 20, 22 (2011–2012) [hereinafter APPA DIRECTORY 2011–12]; *see also* RURAL ELECTRIFICATION ADMIN., STATISTICAL REPORTS, RURAL ELECTRIC BORROWERS (1936–1979); RURAL UTILITIES SERV., STATISTICAL REPORTS, RURAL ELECTRIC BORROWERS (1980–1992).

14. APPA DIRECTORY 2011–12, *supra* note 13, at 22, 24.

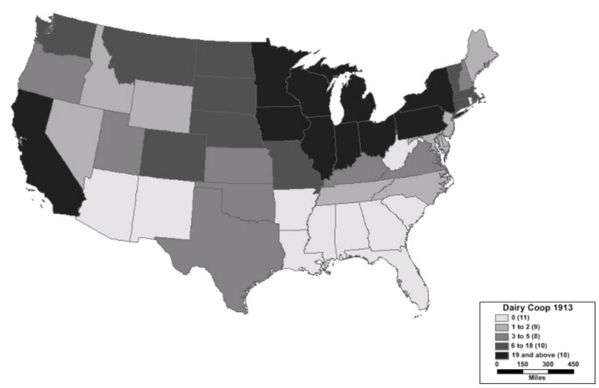
15. The maps provide the numbers, per state, of cooperative, mutual, or state-owned enterprises in successive periods as they emerged in different sectors. Data presented in the maps and table on the number of insurance mutuals per state were compiled by the author as described in Schneiberg, *supra* note 9, at 67. For data on telephone mutuals per state, see TELEPHONES AND TELEGRAPHS, *supra* note 12. Data on dairy and grain elevator cooperatives per state were collected as described in Schneiberg et al., *supra* note 3, at 645. For data on municipal utilities per state, see DEP'T OF COMMERCE, BUREAU OF THE CENSUS, CENSUS OF ELECTRICAL INDUSTRIES, CENTRAL ELECTRIC LIGHT AND POWER STATIONS: 1922, at 72–73 (1925). Data for electrical cooperatives per state were compiled by the author from RURAL ELECTRIFICATION ADMIN., 1941 STATISTICAL REPORTS, RURAL ELECTRIC BORROWERS (1942); RURAL ELECTRIFICATION ADMIN., 1947 STATISTICAL REPORTS, RURAL ELECTRIC BORROWERS (1948). Data on the number of state credit unions per state were compiled by the author using data from Credit Union National Association, *Long-Run Trends (1939 To Present: Aggregates)*, CREDIT UNION NAT'L ASS'N, http://www.cuna.org/econ/long_run.html (last visited Mar. 28, 2011).

Mutual, Cooperative & Municipal Enterprise in the United States

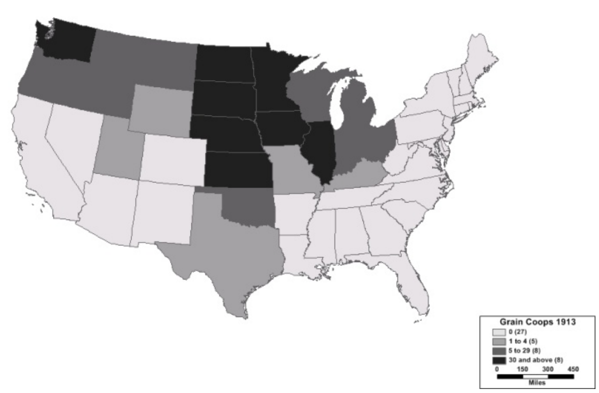
Insurance Mutuals



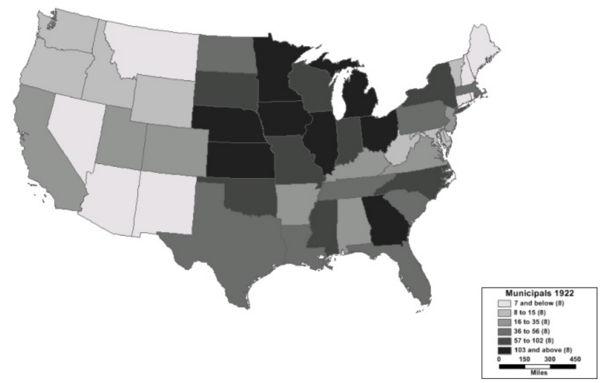
Dairy Cooperatives



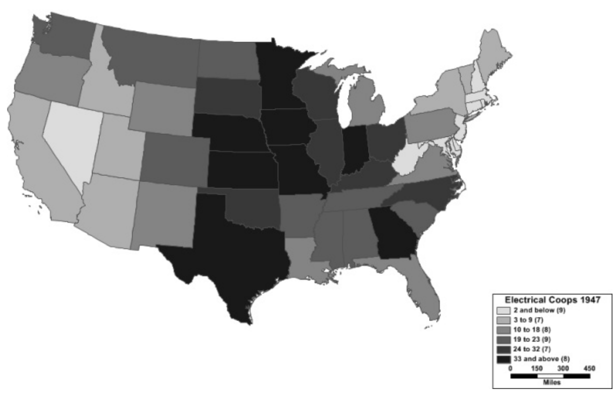
Grain Cooperatives



Municipal Utilities



Electrical Cooperatives



The table of pair-wise correlations among the counts, per state, of seven different enterprise forms likewise reveals this pronounced regionalism. Successive waves of organization occurred in many of the same places despite shifting geographies of development and varied industries and technologies. Groups organized dairy and grain cooperatives most heavily in places where insurance and telephone mutuals were best-established; they turned to municipal electrical utilities most extensively in places with the densest concentrations of mutuals and agricultural cooperatives; they embraced electrical cooperatives and state credit unions most forcefully in places with the greatest numbers of already existing mutuals, cooperatives, and municipal firms. Over the course of the late nineteenth and early twentieth centuries, producers and consumers did not just organize isolated or scattered enterprise alternatives to corporations. To the contrary, they produced correlated systems of organizational diversity, generating dense and overlapping ecologies of cooperative and related forms in certain regions—and market shares reaching three and four times the national figures.[16]

Qualitative and multivariate analyses also indicate that these correlated systems of enterprise are themselves correlated with the character of local communities, broader anticorporate and reform movements, and self-reinforcing processes of organizational interlocking. Cooperative forms emerged and endured most extensively in stable and homogenous communities; in places with histories of extensive Scandinavian and German immigration; and in communities rich in traditional, producerist or cross-class associations like bowling clubs, labor unions, and local newspapers. During the early twentieth century, standard deviation increases in population stability and percent foreign-born whites, respectively, increased the densities of cooperatives and mutuals by 22% to 50% and by 43% to 93%, net of economic and political conditions.[17]

16. By 1990, municipals and cooperatives combined served over 26% of electricity customers in Texas and Florida, 34% and 35% in Kansas and Nebraska, respectively, 39% in Minnesota, and 43% in Georgia. Calculations by author using data from EDISON ELEC. INST., 1990 STATISTICS OF NON-INVESTOR OWNED UTILITIES 13, 22 (1990); EDISON ELEC. INST., HISTORICAL STATISTICS OF THE ELECTRICAL UTILITY INDUSTRY THROUGH 1992, at 391 (1995). According to the American Public Power Association, over 21% of California's residential customers, 36% of Arizona's, 50% of Washington's, nearly 69% of Tennessee's, and over 98% of Nebraska's residential customers received their electricity just from public power sources in 2008. APPA DIRECTORY 2011–12, *supra* note 13, at 42.

17. Schneiberg et al., *supra* note 3, at 655.

Correlations Between Geographical Distributions of Alternative Organizational Forms

	Telephones	Insurance	Dairy	Grain	Municipals	State CUs	E Coops
Number telephone mutuals 1902	1.0000						
Number insurance mutuals 1903	0.7067	1.0000					
Number dairy cooperatives 1913	0.3218	0.5571	1.0000				
Number grain elevator coops 1913	0.5176	0.4439	0.5409	1.0000			
Number municipal utilities 1922	0.4776	0.4818	0.3900	0.5896	1.0000		
Number state credit unions 1940	0.6199	0.7603	0.4831	0.3534	0.4335	1.0000	
Number electrical cooperatives 1941	0.4780	0.3342	0.4290	0.3723	0.5875	0.4756	1.0000

Five decades later, during the 1970s and 1980s, the same increases in population stability, ethnic homogeneity, and local associations each *reduced* the odds that a mutual bank would convert to a for-profit corporation by 15% to 48%.[18] These figures confirm historical accounts. Immigrants to the United States from Germany and the Nordic countries in the late nineteenth century brought with them experiences with cooperatives, and templates for collective enterprises that proved easiest to organize—and sustain—among communities and groups where stability, homogeneity, and existing associations fostered enduring networks and a wealth of social capital.[19]

Cooperatives also received vital support from anticorporate and reform movements that fought to establish more local and regionally balanced, small-stakeholder forms of capitalism in the United States.[20] These groups included municipal and public ownership leagues, Western progressives, and Southern agrarians during the New Deal. They included reformer-policymakers who turned repeatedly to mutual savings associations to promote prosperous Main Streets and thriving, peaceful, and self-sufficient communities of virtuous householders. They also included the Grange and the Farmers Alliance—two national movements that figured particularly prominently in American cooperativism.[21] Both movements rejected "corporate liberal" programs of development concentrated in corporations, national markets, and a few urban metropolis-

18. Marc Schneiberg, Adam Goldstein & Matthew Kraatz, Embracing Market Liberalism? Community Embeddedness, Associationalism, and Mutual Savings and Loan Conversions to Stock Company Form 55 (Mar. 11, 2011) (unpublished manuscript on file with author).

19. *See* Schneiberg, *supra* note 9, at 65–66, 76–78 and sources cited.

20. *See generally* JAY L. BRIGHAM, EMPOWERING THE WEST: ELECTRICAL POLITICS BEFORE FDR (1998); Kathleen Donahue, *From Cooperative Commonwealth to Cooperative Democracy: The American Cooperative Ideal, 1880–1940*, *in* CONSUMERS AGAINST CAPITALISM? CONSUMER COOPERATIVES IN EUROPE, NORTH AMERICA, AND JAPAN, 1840–1990, at 115 (Ellen Furlough & Carl Strikwerda eds., 1999); PHILIP J. FUNIGIELLO, TOWARD A NATIONAL POWER POLICY: THE NEW DEAL AND THE ELECTRIC UTILITY INDUSTRY, 1933–1941 (1973); Victoria C. Hattam, *Institutions and Political Change: Working-Class Formation in England and the United States, 1820–1896*, *in* STRUCTURING POLITICS 155 (Sven Steinmo, Kathleen Thelen & Frank Longstreth eds., 1992). *See also* DAVID L. MASON, FROM BUILDINGS AND LOANS TO BAIL-OUTS (2004); DAVID E. NYE, ELECTRIFYING AMERICA: SOCIAL MEANINGS OF A NEW TECHNOLOGY (1992); DANIEL T. RODGERS, ATLANTIC CROSSINGS: SOCIAL POLITICS IN A PROGRESSIVE AGE (1998); Kim Voss, *The Collapse of a Social Movement: The Interplay of Mobilizing Structures, Framing, and Political Opportunities in the Knights of Labor*, *in* COMPARATIVE PERSPECTIVES ON SOCIAL MOVEMENTS 227 (Doug McAdam, John D. McCarthy & Mayer N. Zald eds., 1996); Aldrich & Stern, *supra* note 3; Heather A. Haveman & Hayagreeva Rao, *Structuring a Theory of Moral Sentiments: Institutional and Organizational Coevolution in the Early Thrift Industry*, 102 AM. J. SOC. 1606 (1997).

21. *See* BERK, *supra* note 1; LAWRENCE GOODWYN, THE POPULIST MOMENT: A SHORT HISTORY OF AGRARIAN REVOLT IN AMERICA (1978); KNAPP, *supra* note 6; D. SVEN NORDIN, RICH HARVEST: A HISTORY OF THE GRANGE, 1867–1900 (1974); SANDERS, *supra* note 1; MICHAEL SCHWARTZ, RADICAL PROTEST AND SOCIAL STRUCTURE: THE SOUTHERN FARMERS' ALLIANCE AND COTTON TENANCY, 1880–1890 (1976).

es. Both sought instead to promote "producer-republican" programs of decentralized development and "cooperative commonwealths" of independent producers, farmers, regional markets, and self-governing towns. To those ends, both fought for antitrust laws, regulation, and cooperative and state enterprise. Standard deviation increases in Grange strength during its first late nineteenth-century peak boosted the number of cooperatives and mutuals into the early twentieth century by 21% to as much as 154%, net of economic and community factors.[22] Moreover, during its early twentieth-century revival, increased Grange strength fostered broader social orientations and networks of collaboration, which reduced the dependence of cooperatives on solidaritistic local communities, helping institutionalize them as general organizing forms.[23]

Finally, early organizing successes induced self-sustaining dynamics of organizational interlocking, serving as infrastructures for the subsequent organization of cooperative and related forms in other regions and industries. Cooperatives and related forms diffused across states within regions, across industries within states, and across related forms.[24] Some of this reflected direct transfers of templates, information, and legitimacy, as well as financial support, services, organizational experience, and already-formed collectives of cooperators. Yet early successes also promoted organizational federation—Wisconsin reinsurance pools, electrical generating and transmission cooperatives, credit union service organizations, and state grain associations—as well as state and federal policies that supported subsequent cooperative and mutual organization. During the 1930s and 1940s, for example, the presence of an insurance mutual, the presence of a municipal electrical utility, and a one standard deviation increase in agricultural cooperatives within a county each raised the odds that an electrical cooperative would form there by 13% to 20%.[25] Standard deviation increases in the densities of electrical cooperatives already organized elsewhere within and outside the state increased those odds, respectively, by as much as 65% and 190%, while being in the service area of federal power projects raised the odds of cooperative formation by 130% to 160%. Decades later, during the 1970s and 1980s, existing communities of cooperatives likewise had preservative effects,

22. Schneiberg et al., *supra* note 3, at 650.

23. *Id.* at 655–57.

24. Marc Schneiberg, Movements as Political Conditions for Diffusion: Anti-Corporate Movements and the Spread of Cooperative Forms in American Capitalism (2010) (unpublished manuscript on file with author).

25. Author's analyses are from an ongoing project, Marc Schneiberg, Federal Intervention, Local Self-Organization and Infrastructure for Alternative Enterprise Formation: Electrical Cooperatives and the New Deal (unpublished manuscript on file with author).

reducing the odds that mutual banks would convert to stock corporations by 11% to 35%.[26]

III. FORMS IN USE: DEVELOPMENT, UPGRADING, AND PROBLEM-SOLVING CAPACITIES

As the organizational demographics just presented show, cooperatives and related forms are far more widespread and viable than triumphalist accounts of American corporate capitalism generally allow. I now trace how actors mobilized these enterprises in particular industries to contest corporations and to solve vexing problems of investment and economic development.

Organizations and systems of organizations are infrastructure for economic activity. Their structures shape the purposes they serve, the identities and aspirations they support, and the kinds of activity, investment, and development that likely result.[27] Structurally, cooperatives and related forms eliminate the independent owner–shareholder, unifying ownership and sometimes control with the producer or consumer. As such, they mitigate conflicts of interest between ownership and production or consumption, and shift the purposes and masters served by the firm from profit maximization and shareholder value to provision and the substantive interests of consumers and producers. In fact, these kinds of firms enabled producers, consumers, and state officials to counterbalance or bypass corporate combinations, gain access to vital goods and markets, and do things that corporations were unable or unwilling to do. They helped actors make and upgrade markets by fostering new forms of competition and inducing investments in services, improvement, and capital formation. They created possibilities for asset creation and business formation, fostering economic self-sufficiency, small-stakeholder capitalism, and more even regional development. And they helped temper predatory behavior and deflect corporations toward public-regarding ends, expanding regulatory capacities.

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26. Author's analyses from an ongoing project, Marc Schneiberg, Purging the Path? Community, Organizational Form, and the Fate of Mutual Banking in the United States (Mar. 25, 2011) (unpublished manuscript on file with author).

27. The importance of organizational form and an appreciation for the differences between corporations, cooperatives, and related types of enterprise unite quite disparate approaches to organizations. *See, e.g.*, Ben-Ner, *supra* note 3; BERK, *supra* note 1; ELISABETH S. CLEMENS, THE PEOPLE'S LOBBY: ORGANIZATIONAL INNOVATION AND THE RISE OF INTEREST GROUP POLITICS IN THE UNITED STATES, 1890–1925 (1997); MICHAEL T. HANNAN, LÁSZLÓ PÓLOS & GLENN R. CARROLL, LOGICS OF ORGANIZATION THEORY: AUDIENCES, CODES, AND ECOLOGIES (2007); HANSMANN, *supra* note 3; JOYCE ROTHSCHILD & J. ALLEN WHITT, THE COOPERATIVE WORKPLACE: POTENTIALS AND DILEMMAS OF ORGANIZATIONAL DEMOCRACY AND PARTICIPATION (1986); OLIVER E. WILLIAMSON, THE ECONOMIC INSTITUTIONS OF CAPITALISM (1985); Gilson & Mnookin, *supra* note 3; Haveman & Rao, *supra* note 20; Ingram & Simons, *supra* note 3.

A. Cooperatives in Agriculture

Cooperatives in grain were key organizational weapons in growers' struggles with railroads and others over the control of distribution and the fruits and contours of American economic development.[28] During the late nineteenth century, grain growers organized cooperatives in response to "line elevator" companies that concentrated and then dominated the "river of grain" that terminated in Chicago and a few other urban exchanges. Line elevator companies were syndicates of commission firms, grain dealers, and exporters that monopolized distribution along railroad lines. They owned up to 800 or 900 elevators, were densely interlocked with railroads and terminal elevators through shared directorates and ownership ties, and received notoriously favorable terms from railroads and terminal warehouses. With these and other advantages, line elevator companies worked ruthlessly to eliminate, acquire, and coerce independent elevators into submission, paying farmers high rates for grain in places where competition existed, and low rates where it did not. Line companies also infuriated growers by docking them for mixtures of grain, requiring bushels over legal weight standards, imposing high handling charges, paying growers for lower grade grain that was then resorted and sold as higher grain, and taking advantage of storage facilities to withhold or smooth shipments during gluts and famines.

Growers broke the squeeze by combining cooperative enterprise with political attacks against the "elevator trust." Through cooperatives, growers collectively integrated forward along the chain. Grain elevator cooperatives were local associations that built elevators; purchased, sorted, graded, and stored grain for farmer-members; and then shipped it to terminal markets for storage or sale to commission merchants. Grain farmers likewise formed state associations, terminal marketing agencies, and regional elevators, and even pursued cooperative exchanges and wheat pools in an effort to bypass commission houses entirely. To support these efforts, growers also organized politically. They sought laws

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28. *See* DIV. OF COOP. MKTG., BUREAU OF AGRIC. ECON., THE PRESENT STATUS OF FARMER-OWNED GRAIN MARKETING ASSOCIATIONS IN THE UNITED STATES: A PRELIMINARY REPORT (1928); WILLIAM CRONON, NATURE'S METROPOLIS: CHICAGO AND THE GREAT WEST (1992); LAWRENCE FARLOW, HISTORY OF THE FARMERS GRAIN DEALERS ASSOCIATION OF ILLINOIS (1963); H. CLYDE FILLEY, COOPERATION IN AGRICULTURE (1929); JOSEPH B. KENKEL, THE COOPERATIVE ELEVATOR MOVEMENT: A STUDY IN GRAIN MARKETING AT COUNTRY POINTS IN THE NORTH CENTRAL STATES (1922); KNAPP, *supra* note 6; HENRIETTA M. LARSON, THE WHEAT MARKET AND THE FARMER IN MINNESOTA, 1858–1900 (AMS Press 1969) (1926); HERMAN STEEN, COOPERATIVE MARKETING: THE GOLDEN RULE IN AGRICULTURE (1923); Refsell, *Elevator Movement*, *supra* note 7; Refsell, *Elevator Movement II*, *supra* note 7; Theodore Salutos, *The Rise of the Equity Cooperative Exchange*, 32 MISS. VALLEY HIST. REV. 31 (1945); Maurice Wessen, *The Co-operative Movement in Nebraska*, 28 J. POL. ECON. 477 (1920); E. G. Nourse, *Fifty Years of Farmers' Elevators in Iowa*, IOWA ST. UNIV. AGRIC. EXPERIMENT STATION BULL. 236 (1923).

that forced railroads to provide sites for elevators; filed antitrust suits in Kansas and Nebraska that put grain dealers in jail; pushed for antidiscrimination measures that made it harder for line elevators to overbid for members' business; and advocated for a 1906 Interstate Commerce Commission investigation that ended railroad opposition to the farmers' elevator movement.

Unlike dairy farmers, grain growers failed to extend cooperativism beyond elevators to create broad systems of market control through cooperative exchanges and wheat pools.[29] But forward integration and self-organization via elevator cooperatives were quite successful, reducing farmer dependence on corporate combinations, and letting growers and their local economies capture more of the fruits of economic development in agriculture. Elevator cooperatives broke line elevator company monopolies, eliminated handling costs, and let growers exploit the benefits of sorting, grading, and smoothing that otherwise would have flowed, along with capital, to distant urban centers.

Dairy farmers also combined cooperative self-organization with politics to contest corporations and secure for themselves the conditions and fruits of economic development.[30] Part of the problem dairy farmers faced was that markets and for-profit corporations under-produced key "goods" and created too few incentives for investments in quality. At first, markets simply under-produced butter and cheese factories, leaving farmers seeking manufacturing facilities to their own cooperative devices. For-profit factories and cream "centralizers" subsequently appeared, but prior to the Babcock test, they could not reliably discern fat content in milk and thus paid one price for all milk grades. Through such practices, farmers felt for-profit businesses discriminated unfairly between quality producers and those who watered milk, effectively appropriating investments farmers made in feed, animal care, and equipment to produce high-fat milk. In contrast, the central problem for fluid milk producers was dependency and concentration in milk distribution. City milk dealers who colluded to cut prices created monopolies in urban markets, placing farmers at the mercy of "the milk trust." Dairy farmers were acutely vul-

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29. *See* KNAPP, *supra* note 6; James Guth, *Farmer Monopolies, Cooperatives and the Intent of Congress: Origins of the Capper-Volstead Act* 56 AGRIC. HIST. 67 (1982); Hoffman & Libecap, *supra* note 6.

30. *See* FLORENCE C. BELL, FARMER CO-OPS IN WISCONSIN (1941); R.C. DORSEY, FARMER CO-OPS IN IOWA (1939); HENRY ERNEST ERDMAN, THE MARKETING OF WHOLE MILK (1921); KNAPP, *supra* note 6; LAMPARD, *supra* note 7; STEEN, *supra* note 28; Brigitta Young, Leon N. Lindberg & J. Rogers Hollingsworth, *The Governance of the American Dairy Industry: From Regional Dominance to Regional Cleavage*, *in* REGIONALISM, BUSINESS INTERESTS AND PUBLIC POLICY 127 (William D. Coleman & Henry J. Jacek eds., 1989); Croff & Graff, *supra* note 7; H.E. Erdman, *The "Associative Dairies" of New York as Precursors of American Agricultural Cooperatives*, 36 AGRIC. HIST. 82 (1962); Young, *supra* note 7.

nerable in this transaction as seasonal surpluses and the perishable nature of milk made it impossible for farmers to strategically withhold their produce.

Creamery and cheese cooperatives helped restore incentives for improvement, enabling dairymen processors to monitor their own inputs collectively and capture gains from investments in higher-quality production. Yet as, if not more important, were milk marketing cooperatives—which enabled fluid milk producers to counterbalance and bargain collectively with city milk dealers—and their incorporation into regulatory systems of milk marketing orders and income supports during the New Deal. Here too, cooperatives let farmers and their local economies capture gains from agricultural development. They served as weapons against economic centralization, mechanisms for supporting investments in production and quality, and as infrastructures for the development of the diverse, mixed-industry regional economies rich in social capital so often noted in Wisconsin, Minnesota, and elsewhere. Moreover, as the dairy case demonstrates, cooperatives and their federations can also operate as infrastructures for sustaining smaller-scale agriculture.

B. Mutuals in Finance and Insurance

Mutuals in the FIRE industries likewise served as weapons against corporate combinations and as tools for doing what markets and for-profit corporations would not or could not do. In mortgage banking, the basic problems were under-provision, market creation, and capital formation to support the "middling sorts." For-profit commercial banks were unwilling to extend long-term loans to working- and middle-class families. These families could not trust their hard-earned savings to distant associations of stockholders with incentives to take risks with "other people's money."

Mutual savings and loans (and community banks) supported the making of mortgage markets in two ways.[31] As local depositor-owned

31. For an excellent overview, see MASON, *supra* note 20; see also HANSMANN, *supra* note 3; DONALD HESTER, STOCK AND MUTUAL ASSOCIATIONS IN THE SAVINGS AND LOAN INDUSTRY (1962); HISTORY OF BUILDING AND LOAN IN THE UNITED STATES (H. Morton Bodfish ed., 1931); EDWARD J. KANE, THE S&L INSURANCE MESS: HOW DID IT HAPPEN? (1989); LEON T. KENDALL, U.S. SAV. & LOAN LEAGUE, THE SAVINGS AND LOAN BUSINESS (1962); ALAN WARE, BETWEEN PROFIT AND STATE: INTERMEDIATE ORGANIZATIONS IN BRITAIN AND THE UNITED STATES (1989); Haveman & Rao, *supra* note 20; Masulis, *supra* note 10; Rasmussen, *supra* note 3. There are extensive debates over the relative advantages of stock versus mutual forms for savings and loans that have opened productive inquires into the conditions that shape such advantages. *See e.g.*, Hayagreeva Rao & Eric Neilsen, *An Ecology of Agency Arrangements: Mortality of Savings and Loans Associations, 1960–1987*, 37 ADMIN. SCI. Q. 448 (1992); James H. Moore & Matthew S. Kraatz, *Governance Form and Organizational Adaptation: Lessons from the Savings and Loan Industry in the*

banking associations, mutual savings and loans created communities of fate between depositors, managers, and borrowers: they linked participants' welfare in ways that gave each group incentives to take others' interests into account when making economic decisions. On the input side, mutual savings and loans helped solve problems of capital formation by eliminating the independent stockholder. They mitigated incentives for firms to pursue risky, high-yield investments at depositors' expense, while enabling depositors to monitor and oblige coresident managers to make prudent investment decisions. These features were particularly important for inducing savings in the absence of deposit insurance. On the output side, mutual savings and loans helped solve problems of lending. They were formed by and for working- and middle-class citizens to pool their resources to lend among themselves. Moreover, since mutuals were local associations, prospective borrowers were often personally known to managers and other depositors, affording mutuals unique abilities to assess lending risk, oblige borrowers to fulfill their promises, and work out problems.

Their recent history notwithstanding, mutual savings associations were, in general, quite successful institutions. They were the vehicles for making mortgage markets, supporting both capital formation and asset creation among the working and middle classes, and the prosperity of local communities. Furthermore, as federal policymakers mobilized mutuals to make markets during and after the New Deal, they effectively mixed federal initiative and support with local, voluntary organization, demonstrating possibilities for regulating markets without statism or the creation of a national system of local bureaucracies.

Insurance mutuals were also built into regulatory architectures and accomplished things that for-profit stock corporations could not or would not do. But insurance mutuals arose from somewhat different roots than mutual savings and loan associations, and were blended with regulation in a very different way.[32] Business, commercial groups, and farmers or-

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1980s, ORG. SCI. (forthcoming 2011); Schneiberg, Goldstein & Kraatz, *supra* note 18, and the literatures cited therein.

32. On the role of mutuals in insurance markets, see Edward Atkinson, *Factory Mutual Fire Insurance*, *in* PROPERTY INSURANCE, MARINE AND FIRE 369 (Lester W. Zartman ed., 1909); BAINBRIDGE, *supra* note 9; HANSMANN, *supra* note 3; CAROL A. HEIMER, REACTIVE RISK AND RATIONAL ACTION: MANAGING MORAL HAZARD IN INSURANCE CONTRACTS (Brian Barry & Samuel L. Popkin eds., 1985); F.C. Oviatt, *History of Fire Insurance in the United States*, *in* PROPERTY INSURANCE 70 (Lester W. Zartman ed., 1914); Henry Hansmann, *The Organization of Insurance Companies, Mutual Versus Stock*, 1 J. L. ECON. & ORG. 125 (1985); Schneiberg, *supra* note 9, at 43–54. On the insurance trust and the responses to combination, see H. ROGER GRANT, INSURANCE REFORM: CONSUMER ACTION IN THE PROGRESSIVE ERA (1979); Marc Schneiberg, *Political and Institutional Conditions for Governance by Association: Private Order and Price Controls in American Fire Insurance*, 27 POL. & SOC. 67 (1999) [hereinafter Schneiberg, *Political and Insti-*

ganized insurance mutuals to deal with two sets of problems posed by corporations in late nineteenth- and early twentieth-century property insurance markets.

First, consumers faced the classic problem of the "insurance trust." Stock insurance companies made money from investments rather than insurance, and competed for premiums in densely populated and high-value urban and commercial markets to fund their investment programs. As a result, stock insurers often underserved farms, small businesses, and individuals in less densely populated regions in the West, Midwest, and South. This proved devastating to the interests of businesses, industries, and farms that could not secure credit without insurance. Moreover, as they scrambled for premiums, stock insurers consistently failed to pool loss data or accumulate reserves, which eroded their capacity to pay claims and left policyholders unprotected after conflagrations. Insurers tempered rivalry via rate-making cartels. But corporations used their associations to subject policyholders to rate discrimination and across-the-board rate hikes, in which corporations taxed town-and-country interests across regions to fund their commitments in Midwestern and Eastern metropolises.

Second, stock insurers and their cartels steadfastly refused to invest or collaborate with consumers or state officials in creating fire-prevention systems. Stock corporations reckoned their insurance operations in terms of loss ratios (the ratios of losses paid to premiums collected), and were utterly indifferent to the level of losses, or the "burning rate," so long as they could adjust premium rates to maintain favorable ratios. Stock corporations even faced disincentives to invest in prevention because such investments have collective good and consumer-specific properties. Nothing prevented consumers who received specialized consultations, materials, and technical support from one insurance company from simply switching insurers and expropriating that firm's investments when it tried to raise rates to cover those costs. And since stock firms were reluctant to meet consumers' loss-reduction efforts with lower rates, consumers were likewise unable to capitalize on investments in prevention, creating further disincentives for such investments.[33]

Property owners dealt with both sets of issues by organizing their own insurance mutuals, coupling economic self-organization with political programs of antitrust and regulation. As mechanisms of risk pooling, or collective self-supply, mutuals helped solve the problem of under-

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tutional Conditions]; Marc Schneiberg & Timothy Bartley, *Regulating American Industries: Market, Politics and the Institutional Determinants of Fire Insurance Regulation*, 107 AM. J. SOC. 101 (2001).

33. *See* HEIMER, *supra* note 32; *see also* Hansmann, *supra* note 3.

provision—particularly when they federated into broader reinsurance and rating pools. Mutuals also let consumers bypass stock corporations and their cartels, sometimes entirely, eliminating excess charges and commission costs, and providing coverage at substantially lower rates. In fact, the appearance of mutuals acted both to induce stock corporations to enter underserved lines and regions, and to draw business from cartel members, simultaneously expanding insurance markets and increasing competition in key lines. In addition, the unification of consumption with ownership within mutuals aligned incentives for investments in loss reduction, prevention, and improvement. This began with "mill mutuals," which developed specialized engineering, inspection, and research facilities; worked closely with factories to redesign plant layouts and processes; and developed a steady stream of new prevention protocols and technologies, including lead plug pressurized sprinkler systems and wired glass. The form quickly spread across lines and regions. As mutuals spread, they introduced a new form of competition into the business, forcing stock corporations to follow suit, and dramatically upgrading insurance markets.

These lessons were not lost on insurance commissioners, who spent much of the Progressive era crafting rate regulatory systems that took advantage of rate-making associations while simultaneously subjecting them to public oversight. At the heart of this regime was a set of administrative mechanisms for authoring associations, reviewing rates and associational practices, hearing grievances, and making rate orders. These administrative controls were designed to ensure two things: (1) that rates were proportional to losses in order to prevent excess prices; and (2) that loss ratios exhibited parity across risks, places, and lines in order to prevent unfair discrimination. Yet the architects of rate regulation in the states also saw the benefit in putting steady downward pressure on losses and loss costs in such a system. Reduced losses were clearly in the public interest and would yield gradually decreasing rates. Accordingly, legislators combined the standard administrative controls over the market with measures that promoted mutual alternatives in the market. This institutionalized the new competition, put additional pressures on stock corporations, and enhanced states' regulatory capacities.[34]

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34. New York and Wisconsin played leading roles in developing this combined regulatory strategy. *See* S. & ASSEM. DOC. NO. 30, 134th Sess. (N.Y. 1911); S. & ASSEM. J. RES. 130, 1911 Leg., Reg. Sess. (Wis. 1913); *see also* Marc Schneiberg & Sarah A. Soule, *Institutionalization as a Contested, Multilevel Process: The Case of Rate Regulation in American Fire Insurance*, *in* SOCIAL MOVEMENTS AND ORGANIZATION THEORY 122 (Gerald F. Davis, Doug McAdam, W. Richard Scott & Mayer N. Zald eds., 2005); Schneiberg, *Political and Institutional Conditions*, *supra* note 32, at 86, 92.

C. Public and Cooperative Power

Consumer groups organized electrical cooperatives to resolve the remarkable failure of IOUs to connect and provide power to millions of rural households. In fact, electrical cooperatives served as an infrastructure for one of the largest development programs in the mid-twentieth-century American economy.

The electrical utility industry and IOUs were the railroads of the mid-twentieth century in a critical sense. Electrical utilities produced a good that was sufficiently essential for industry, commerce, and general economic activity—its absence virtually precluded economic development—that the shape of its provision helped define development's geographical and social contours. Moreover, as the Great Depression made dramatically clear, private provision of electricity though corporations left the vast majority of the American landmass without power, leading to astonishing rural underdevelopment in the middle, south, and west of the country. Electrification rates outside major cities in 1934 were remarkably low, even in relatively prosperous mixed-economy states like Michigan, Wisconsin, and Oregon, where only 21.4%, 19.6%, and 27.5%, respectively, of farmers were connected to the grid.[35] In the Plains states, Mountain West, and South, the situation was far more dire. In the Dakotas and Wyoming, 3% or less of farms were powered; in Texas and Oklahoma, only 2.3% and 2.6%; in Alabama, Georgia, and Kentucky it was 4%, 2.8%, and 3%; and in Arkansas, Louisiana, and Mississippi, only 1.2%, 1.7%, and 0.9% of farms were linked to this critical component of modernity.

Fearful that such radical deprivation would fuel massive internal dislocation and even fascism, New Dealers eventually turned to cooperatives to address the problem of electrification. They worked through both the Rural Electrification Administration (REA) and development clusters centered on federal power projects.[36] The rural electrification plan was, at first, mainly a loan program. The REA originally offered IOUs low

35. RURAL ELECTRIFICATION ADMIN., 1939 REPORT OF RURAL ELECTRIFICATION ADMINISTRATION 352 (1940).

36. On the development of cooperatives during the New Deal and their links to the REA and federal power projects, see RURAL ELECTRIFICATION ADMIN., FIRST ANNUAL REPORT OF THE RURAL ELECTRIFICATION ADMINISTRATION (1937); RURAL ELECTRIFICATION ADMIN., REPORT OF RURAL ELECTRIFICATION ADMINISTRATION 1937 (1938); RURAL ELECTRIFICATION ADMIN., REPORTS OF RURAL ELECTRIFICATION ADMINISTRATION, 1938–1947 (1939–1948); 1967 STATISTICAL REPORT, RURAL ELECTRICAL BORROWERS (1967); Erma Angevine, PEOPLE—THEIR POWER: THE RURAL ELECTRIC FACT BOOK (1980); BRIGHAM, *supra* note 20; FUNIGIELLO, *supra* note 20; NAT'L RURAL ELEC. COOP. ASS'N, RURAL ELECTRIC FACT BOOK (Jerry L. Anderson ed., 1960); NAT'L RURAL ELEC. COOP. ASS'N, RURAL ELECTRIC FACT BOOK (Rebecca R. Wise ed., All New ed. 1965); NYE, *supra* note 20, at 287–335; RICHARD RUDOLPH & SCOTT RIDLEY, POWER STRUGGLE: THE HUNDRED-YEAR WAR OVER ELECTRICITY 57–86 (1986).

interest loans for building transmission and distribution networks that would connect rural America to the grid. Borrowers would receive the utility franchise for selling power to the millions of new customers that would result. They would also receive the right to use the receipts from those power sales as both collateral and the means of paying off what amounted to self-liquidating loans. When IOUs refused its loan offers, the REA turned to cooperative organization. It invited rural communities across the country to form local cooperatives to take advantage of the program. In addition, it provided those cooperatives with organizational plans, educational services, and political cover, as well as the technical support needed for constructing, connecting, and energizing power lines.

Cooperatives also received key support from state-owned power companies, including both municipal electrical utilities and giant federal hydroelectric power projects like the TVA and Bonneville. Three features made the federal projects the basis of what amounted to regional development clusters. First, they were sources of inexpensive hydroelectric power. Second, they opted for flat-rate policies instead of pricing in proportion to distance, supporting *regional* development rather than the concentration of large power users near the dams. Lastly, they served as incubators for cooperatives by advocating the cooperative form to communities in their service areas, by providing organizational and technical support, and by granting them preference in the sales of low-cost power.

The organization of cooperatives and their blending with public initiatives and enterprise proved remarkably successful on a number of levels. First, cooperatives connected millions of consumers in relatively sparsely populated sections of the country, thereby absorbing the risks of undertaking widespread electrification. They even induced power generating IOUs to enter wholesale trade in these regions. Cooperatives thus substantially expanded electricity markets and made a truly national power network possible for the first time. Indeed, cooperatives in electricity played a similar role to telephone mutuals' role in their industry at the beginning of the twentieth century.[37] They interconnected widely dispersed but unserved consumers in relatively sparsely populated regions, laying the foundation for national networks once they were linked with trunklines and power grids in urban centers.

Cooperatives were also successful both in promoting the development of the Tennessee Valley states and the vibrant, mixed-economy region of the Pacific Northwest, and, more generally, in electrifying and modernizing rural America. By 1950, rural areas that fifteen years earlier

37. *See* POWELL, *supra* note 6, at 299–307; Barnett & Carroll, *supra* note 12; Fischer, *supra* note 12.

had 5% or fewer of their farms connected to the grid were nearly completely integrated. This fueled the modernization of farm households, widespread mechanization of farming, and the introduction of technology in farm homes that actually reduced the hours women devoted to domestic labor. In Arkansas, Alabama, and Iowa, 82.8%, 88.5%, and 95.5% of farms were plugged in, respectively.[38] Even the two least-electrified states had made dramatic progress. In Mississippi and Oklahoma, 57.6% and 67.7% of farmers were electrified, respectively, indicating 30–60 fold increases and a quite substantially raised floor.

Finally, cooperatives in electricity provided perhaps the most dramatic demonstration of the potential for combining strategies of organization diversity with other more commonly understood strategies for contesting corporations, reforming capitalism, and fostering market development. The REA and federal power projects experienced withering attacks for what their critics denounced as socialism and rampant statism. In response, they deliberately and consciously combined federal regulation, sponsorship, and enterprise with private, voluntary self-organization via cooperatives as a means to undertake massive federal intervention without creating a correspondingly massive system of direct local administration. Like the analyses of finance and insurance above, this case study also reveals possibilities for using cooperatives and related forms to expand and upgrade regulatory capacities.

IV. CONCLUSION

With good reason, current discussions of economic reform focus on the corporation, looking to competition policies and countervailing power as means to remedy current ills. Historically, reformers saw the state, unions, regulation, and antitrust as the critical counterweights to corporations. More recently, this task has fallen to NGO watchdogs and certification, privatization, and corporate governance reform. The goal in the current period is to harness the "market forces" of shareholder activism, institutional investors, and informed consumer choice to discipline corporations, upgrade markets, and discourage low-road development.

This Article offers an argument for a third strategy: fostering alternatives to the corporation through the development of parallel, complementary, or competing systems of cooperative, mutual, and local, state-owned enterprise. These alternatives are typically dismissed as sideshows or relics of a bygone era. Yet, as the historical record shows, cooperatives, mutuals, and local state enterprises emerged, prospered, and

38. RURAL ELECTRIFICATION ADMIN., REPORT OF THE ADMINISTRATOR OF THE RURAL ELECTRIFICATION ADMINISTRATION 1950 (1951).

operate today in surprisingly large numbers in a wide range of industries. Organizationally mixed systems have served, and continue to serve, as mechanisms for a variety of thoroughly modern projects: making and upgrading markets; supporting investments in quality and improvement; fostering new forms of competition, capital formation, and asset creation; and promoting more balanced local and regional development. They continue to serve as vehicles for bypassing, disciplining, and reforming corporations, and they help harness corporations to more public ends. Furthermore, mixed systems have been creatively built into regulatory architectures, broadening the possibilities for intervention, as well as enhancing states' capacities to shape markets and corporate behavior without relying exclusively on direct bureaucratic control or creating extensive local administrative systems. Such combinatorial possibilities could be particularly important in the current period.

The historical focus of this Article begs the question of how such strategies could be pursued in the current crisis. Yet posing the question too strongly in those terms may reproduce the periodization this Article seeks to overturn, potentially missing the point that cooperative and related forms not only persist today, but also are already serving as partial solutions to ills associated with corporate capitalism. We may look with nostalgia and embarrassment at those food co-ops of the 1960s and 1970s. Yet existing food systems based on giant, for-profit corporate processors are not immune to criticisms that they poison us with processed foods or are unnecessarily cruel to animals. Food cooperatives were the platforms for introducing organic and whole foods into the market.[39] Moreover, they are currently part of increasingly dense and correlated ecologies of farmers' markets, community supported agriculture programs, co-ops, and elite local food restaurants, providing at least some leverage for pushing corporate chains like Fred Meyer and Walmart to prominently feature organic and local foods in their aisles.

We may likewise view municipal utilities with concerns about corruption and waste, looking wistfully to the private sector in the rush to deregulate and privatize. Yet municipal utilities in Los Angeles and

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39. *See* Steven Deller, Ann Hoyt, Brent Hueth & Reka Sundaram-Stukel, *Research on the Economic Impact of Cooperatives*, UNIV. OF WIS. CTR. FOR COOPERATIVES 19–22, http://reic.uwcc.wisc.edu/sites/all/REIC_FINAL.pdf (last modified June 19, 2009); Eric DeLuca, *Collaboration and Resilience*: *Food Co-ops and Regional Food System Development*, COOPERATIVE GROCER, Jul–Aug. 2010, at 27, *available at* http://www.cooperativegrocer.coop/sites/default/files/article_files/collaboration_resilience.pdf; David Gutknecht, *Food Co-ops and the Road to Organic Valley: Part 1*, COOPERATIVE GROCER, Sept. 2010, *available at* http://www.cooperativegrocer.coop/articles/2010-09-07/food-co-ops-and-road-organic-valley; David Gutknecht, *Food Co-ops and the Road to Organic Valley: Part 2,* COOPERATIVE GROCER, Nov. 2010, *available at* http://www.cooperativegrocer.coop/articles/2010-11-20/food-co-ops-and-road-organic-valley-part-2.

elsewhere in California not only retained their own power-generating facilities, but also pursued extensive modernization plans. Moreover, these municipals were able both to serve their customers without raising prices during the California energy crisis and sell power on the grid at a profit, suggesting potentially substantial gains from diversifying organizationally and promoting buffering, decentralization, and redundancy through parallel systems of enterprise.[40]

Moreover, community banks, mutuals, and credit unions may be dismissed as thinking too small in discussions of how to solve the global financial crisis. Yet they are vehicles for instituting more local and decentralized forms of economic order, and are likewise available as alternatives or complements to more conventional regulatory strategies. Community banks and credit unions are less subject to pressures to maximize shareholder value than commercial banks. They too pursued investments in mortgage-backed securities, collateralized debt obligations, and other derivatives, but far less aggressively than bank corporations. They are far more rooted in their communities, affinity groups, and local constituencies. They are much more oriented to serving members and clients than making a business of subjecting them to an endless stream of fees and charges. And they appear better situated to do workouts for homeowners who are underwater.[41] Like electrical municipals and cooperatives in other sectors, community banks and credit unions stand as an alternative or redundant organizational system, one that can partially buf-

40. *See* JAMES L. SWEENEY, THE CALIFORNIA ELECTRICITY CRISIS (2002); CHRISTOPHER WEARE, THE CALIFORNIA ELECTRICITY CRISIS: CAUSES AND POLICY OPTIONS 59–63 (2003); *Municipal Utilities Coming to California's Rescue as State Prepares for Worst Blackouts Yet*, BUSINESS WIRE (Feb. 07, 2001), http://www.allbusiness.com/energy-utilities/utilities-industry-electric-power/6039409-1.html; Noaki Schwartz, *Officials Say L.A. Safe From Electricity Crisis Rate Hikes*, L.A. TIMES, Jan. 6, 2001, http://articles.latimes.com/2001/jan/06/local/me-9150.

41. On how credit unions were generally less vulnerable than for-profit banks in the run up to and aftermath of the financial crisis, see, e.g., Laura Bruce, *Credit Unions Faring Well in Crisis*, BANKRATE.COM (Oct. 19, 2009), http://www.bankrate.com/finance/savings/credit-unions-faring-well-in-crisis.aspx; Linda Eagle, *The Impact of the Financial Crisis on Credit Unions,* BANKER'S ACADEMY BRIEFINGS (Sept. 20, 2010), http://www.bankersacademy.com/pdf/Impact_of_Financial_Crisis_on_CUs.pdf; Beth Healy, *After Financial Crisis, Banks Commissioner Adjusts*, BOSTON GLOBE, Sept. 26, 2010, http://www.boston.com/business/articles/2010/09/26/after_financial_crisis_banks_commissioner_adjusts/; *Stability Through the Crisis*, NATIONAL CREDIT UNION ADMINISTRATION ANNUAL REPORT 2008–09, at 37, http://www.ncua.gov/Resources/Reports/NCUA2008-2009AnnualReportFINAL.pdf; Margaret M. Williams, *Credit Unions and the Mortgage Mess: How These Non-Profits Stayed out of the Sub-Prime Mortgage Debacle*, SUITE101.COM (Oct. 12, 2008), http://www.suite101.com/content/credit-unions-and-the-mortgage-mess-a72921. Credit unions were not entirely immune from the crisis as corporate credit unions that managed system assets pursued complex investments. *See* Mary Kane, *Credit Union Collapse Signals Depth of Financial Crisis*, WASH. INDEPENDENT, Mar. 26, 2009, http://washingtonindependent.com/35928/credit-union-collapse-signals-depth-of-financial-crisis; Suzanne Kapner, *Rescue of U.S. Credit Unions Launched*, FINANCIAL TIMES, Sept. 25, 2010, http://www.ft.com/cms/s/0/d05ad404-c834-11df-a5ee-00144feab49a.html#axzz1EKwiWTKZ; *Stability Through the Crisis*, *supra*, at 6–8, 20–22.

fer some of the economy from the collapse of for-profit finance, while providing governments with alternative pathways for recapitalizing banking, restoring flows of credit, and aiding distressed households. We can only imagine how these systems would respond to the kinds of funds the federal government poured into the commercial banking sector. But there is good reason to believe that these organizations would behave differently, making them a reasonable place to hedge regulatory bets in financial reform.