Uniform Small Loan Laws in the United States, 1900-1940: A Case Study in the Influence of Foundations.

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September 2002

Preliminary, please do not cite or quote. We thank the Russell Sage Foundation for financial support.

Abstract:

Shortly after its establishment, the Russell Sage Foundation embarked on a long-term program supporting the passage of Uniform Small Loan Laws as a way to address the problem of credit for poor people in the U.S. In pursuing this strategy, the RSF relied on a quite particular diagnosis of the problem of credit, using private markets to help solve a social problem. In alliance with a number of other groups the foundation lobbied in many states for passage of the law. A panel regression analysis based on the 1900-1930 period reveals that states with large employers and/or a big manufacturing sector were more likely to pass small loan laws sooner. We conclude that small loan laws were passed earlier in states where the structure of employment made the problem of abusive lenders worse.

> The loan shark in his arrogant disregard of human rights continues in most cities to exact unreasonable tribute from the wretched men caught in his net... What is responsible for this system of peonage? What maintains it in a flourishing condition despite the many and varied attempts to remove it? How can men be so reckless as to borrow from these agencies that are everywhere known as sharks, leeches and remorseless extortioners?[1]

For the first 40 years of its existence the Russell Sage Foundation (RSF) was heavily involved in efforts to reform the conditions under which poor people obtained credit in the United States. Through its lobbying, publications, and other efforts, the Foundation identified itself as the clearinghouse for information, the leader of several reform proposals, and the primary interlocutor for lenders and industry groups that sought to improve their industry's image. RSF was also the leader in a national reform group that promoted "remedial loans," credit at relatively low interest rates intended to compete with allegedly abusive lenders. The foundation's staff provided intellectual leadership and a seal of approval to remedial loan groups and to other organizations interested in the problem of credit for the poor.

In this respect, the Foundation's represents an important example of how organizations identified particular market practices as a social problem, and then through sustained efforts tried to influence legislation and industry practice. The RSF's activities exemplified a distinct type of Progressive-Era politics: intervention by an non-profit organization that proffered "expert" and "non-partisan" policy recommendations in response to a perceived social need. The RSF's activities make an especially interesting case-study not only because of how its approach evolved over time, but also because it operated in social policy domains increasingly inhabited by other newly established foundations. Our focus in this paper will be on one particular initiative, the uniform small loan law, although we put this in the context of other RSF activities.

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[1] Arthur Ham, 1912. Although printed by the Russell Sage Foundation this seems to have originally been a speech to the National Federation of Remedial Loan Associations.

The RSF played a central role in writing and updating the canonical small loan law (through multiple versions), and then was active in trying to get individual states to pass this law.

New Policies, New Proponents

In the early 20th-century, U.S. politics reflected the emergence of new kinds of policy promoted by new kinds of advocates. Amenta (1998) argues that American social policies in the late 19th-century were characterized by high levels of spending and a distributive logic. The Civil War pensions program, for example, consumed around one-third of total federal government receipts in the 1890s (Skocpol 1992: 109,114) and benefitted hundreds of thousands of northern veterans. But these patronage programs came under attack from reformers pushing for "clean," "efficient" government, and policy activity shifted to the state level. Many states passed workmen's compensation laws, mothers' pensions, and protective labor legislation for female workers (Skocpol 1992: 9), although little was done about old-age pensions, unemployment insurance, or health insurance until after 1930 (Amenta 1998: 10). In general, these social policies attempted to reduce inequality by ameliorating the situation of particular groups or by compensating against particular kinds of hazards.

The historian William Novak (1996) has shown that the image of 19th-century America as a land of laissez-faire government, secure private property rights, low taxes and unregulated markets is a false image. He argues that interests of public safety often overrode private property interests, and that the U.S. had a long tradition of market regulation. State and local governments licensed occupational groups, policed product quality, enforced health standards, and otherwise organized trade in markets. The instrument they used was primarily regulation through statutory law (not, for example, regulation by an administrative apparatus). These activities contradict the traditional image of the liberal state, but more significant for our argument, they offered an important legacy which organizations like the RSF could build upon.

The specific proposal RSF ended up emphasizing was the Uniform Small Law Loan. The most striking feature of this legislation was that it enabled specialized small-loan lenders to charge as much as 3.5 percent per month interest on their loans, in return for agreeing not to charge any other fees. At a legal level this simply enabled small-loan lenders to escape usury laws intended for banks and other institutional lenders. At an intellectual level, the USLL was intended to provide transparency in this market and to ameliorate credit problems by encouraging the entry of more capital.

For several reasons, RSF interest in small loans, and especially the USLL, stands out against the backdrop of general policy movements. First, social policy interventions most often supported people as participants in labor markets. As workers, persons were protected from specific workplace hazards, or were compensated for workplace accidents. The RSF also tried to help the poor, but in their capacity as debtors not wage-earners. Only rarely do policies addressing economic inequality focus on credit markets. Second, after experimenting with a number of different alternatives (discussed below) the RSF settled on a regulatory strategy of intervention. The RSF did not intend to circumvent or short-circuit credit markets but rather to regulate the kinds of transactions that occurred within them. Instead of fighting markets, the RSF wanted to work through them. As Novak (1996) shows, market regulation was not new to the U.S., but using regulation for social purposes was unusual. The USLL is interesting because it emphasized the removal of market limitations (in the form of usury laws) as opposed to the use of price caps (such as enforced against railroads) or minimum prices (such as minimum wages.) Third, the RSF settled on a uniform law as its primary policy vehicle. The uniform law movement had only been in operation for only a decade or so before the RSF embraced it, and the political strategy this vehicle entailed was both distinctive and simple: first, advocates had to agree on the terms of the uniform law, and then they had to press for passage in as many states as possible. The uniform law movement was based in bar associations and the legal profession, but the RSF took this strategy in a new direction. Finally, the RSF itself represented a new kind of policy entrepreneur. A number of prominent foundations were established in the early 20th-century, and quickly they became very active in a number of policy arenas (Alchon 1985, Lagemann 1989, 1999, Rodgers 1982: 120, Sealander 1997). This emerging system of foundations and research organizations shared trustees, exchanged staff, formed alliances, and negotiated "turf" with each other.[2] Following the lead of John D. Rockefeller Sr., many of these foundations pursued the ideal of "scientific philanthropy" (Alchon 1985: 12; Sealander 1997: 21).

The regulation of the small-loan market was also shaped by some constitutional peculiarities of the United States that have nothing directly to do with foundations or the philosophy of social reform. During the period in question, the regulation of nearly all business and consumer matters was a state matter, meaning that any foundation, to be influential, had to work with the legislatures and governors of the several States. In addition, the U.S.'s dual banking system meant that any legislation or policy relevant to banks affected two distinct types of banks (state chartered and National banks), and so legislation related to banking had to be crafted carefully so as not to alter the terms of either State banking law or the National Banking Act.

The Foundation's Activities

The Russell Sage Foundation was established in April of 1907. The foundation's early interest in credit reflected the concerns of Mrs. Sage, the founder, and her circle. Starting in the 1890s, reformers in the U.S. came to view credit as a serious problem in causing or exacerbating

[2] The other relevant institutions include the Twentieth Century Fund (founded in 1919), the Carnegie Corporation (1911), Social Science Research Council (1923), the Commonwealth Fund (1918), National Bureau of Economic Research (1920), the American Law Institute (1923), and the General Education Board (1903).

poverty. In their eyes, borrowers usually obtained small loans only because of financial necessity: unexpected medical expenses or interrupted income (due to unemployment). Such loans were not used to purchase durable goods on an installment payment system but rather took the form of "salary loans" (i.e., they were made on the "security" of the borrower's future wages).[3] The dire circumstances surrounding emergency borrowing threatened to drive small debtors into the hands of exploitative usurers, loansharks, and other unscrupulous lenders.

One response to this perceived problem was a group of institutions known collectively as Remedial Loan Societies.[4] These charitable lending institutions provided credit to poor people at rates much lower than those charged by for-profit lenders. Remedial loan societies paid dividends to their members, but usually capped those dividends at some low figure such as six percent. Some societies, like New York's Provident Loan Society, operated as pawnshops. Robert W. de Forest, who was an original trustee of RSF and later its president, was an organizer and for some years the president of the Provident Loan Society. He (and Mrs. Sage) were also active in the Charity Organization Society, which had provided institutional support for the formation of several remedial loan institutions.

The Foundation came later. As part of an effort to define its own mission RSF provided fellowships to two Columbia graduate students, Clarence W. Wassam (in 1907) and Arthur H. Ham (in 1908). They were given a list of acceptable research topics, and both chose the small loan business. RSF published their studies but Wassam had no further professional involvement

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[3] As other scholars have shown, the RSF probably under-estimated the amount of lending for the purchase of consumer durables already underway in the first decades of the twentieth century. See Olney 1989.

[4] Another were lending institutions organized around an ethnic or immigrant group. These took many forms, including building and loan societies with formal banking charters and Hebrew Free Loan Societies that operated as registered charities in many large cities. RSF's publications and archives fail to acknowledge these ethnically-based lending institutions, but this can hardly have been simple ignorance.

with the foundation. The content of these two reports, and the differences between them, laid out the starting points for the foundation's activities.

The Wassam and Ham studies agreed on four points: (1) There was significant demand for small loans, but legal impediments meant that most credit was provided by illegitimate businesses. (2) Both thought these illegal businesses were very profitable, but also recognized that ordinary "banking" rates of interest would be unprofitable in this business. Wassam noted, based on careful estimates of the costs and revenues of several salary lenders in New York City, that "the nature of the salary loan business necessitates a higher rate of interest than that charged by the ordinary banking corporation." He also foreshadowed later debates when he pointed out that a bill then recently introduced into the New York State legislature would "absolutely prohibit this line of business" by making it illegal to charge more than 6 percent interest annually (p.28). (3) Restrictive legislation then in force had not helped; lenders evaded the law and the evasion made conditions worse for borrowers. (4) The situation required three remedies: remedial loan societies, publicity, and new legislation. The final point suggested a three-track strategy that the foundation would pursue, with varying degrees of emphasis, for the next 20 years.[5]

Wassam, Ham, and others interested in small loans classified them according to the security offered the lender. "Chattel" lenders offered loans secured by the borrower's possessions. Pawn shops are an example of a chattel lender, but RSF personnel devoted more attention to lenders who used as security household furniture, pianos, etc., objects that were left with the borrower. Ham's own report dealt with chattel loans, but his efforts at Russell Sage

[5] Ham agreed with Wassam that "a profitable business at 6 percent is impossible," but focused on lenders' abusive practices (p.15). They disagreed over publicity. Wassam thought that publicity itself would undermine the existing small-loan business; people who understood what they were getting into would never borrow this way. Ham thought that publicity would only help if it encouraged the populace to remedial action.

focused more on "salary loans." In this case the lender obtained the borrower's promise to repay, made credible by the borrower's steady employment. Depending on the state, such a lender had the right to require an employer to garnish an employee's wages in satisfaction of such debts. Since many employers would fire an employee for borrowing in this way, lenders could also threaten to inform the employer.

Early discussions identify two distinct practices as abusive. Most states had a usury law or maximum interest rate that applied to banks and other lenders (see Holmes 1892). RSF reports emphasized the many ways lenders used to evade such legal restrictions. Some just defied the law. Others charged fees in addition to interest (for "investigation," or "papers."). One common practice was to bundle the loan with another transaction: the loan was priced at the legal rate, but to get the loan the borrower had to buy a ring or watch at an inflated price. Some lenders claimed they were really loan brokers, and charged the lender a finder's fee in addition to the actual loan costs. Some lenders issued the loan at a discount, which increased the yield. Another common tactic was to operate in a state with a low interest ceiling as a broker for a lender in a high interest-rate state; the actual loan was from the out-of-state lender. The addition of fees and discounts meant that many borrowers, Ham thought, were unaware of the actual terms and cost of their loans. Such transactions became opaque to small borrowers.

<u>Remedial Loan Funds</u>

The foundation at first devoted most of its energy to the support of remedial loan funds. This strategy reflected the idea that the best way to combat abusive lenders was to compete directly with them and force them to offer better terms to borrowers. Remedial loan societies would offer small loans at low rates and on terms that were transparent to borrowers.[6] The

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[6] See, for example, the letter written by de Forest at the direction of the RSF trustees (March 27, 1917), in which he states: "A remedial loan society loans at a rate of interest clearly

National Federation of Remedial Loan Associations was founded in July 1909, and immediately after RSF hired Ham as a "special agent" to study the small loan problem. Ham also acted as the Association's unofficial executive secretary. RSF established its Division of Remedial Loans in October 1910 (the name was changed in 1924 to Department of Remedial Loans).[7] Ham was made director of the Division in 1910 and remained in that post until 1918. The foundation's support of remedial loan groups was far-reaching. Some of this work was a continuation of Ham's earlier activities, but RSF also invested $100,000 in 1911 in a new remedial loan society, the Chattel Loan Society of New York. The investment yielded dividends until the Society was sold, in 1925, to a commercial lender. This investment yielded a modest 5.2% return over the period, a rate consistent with the philosophical basis of the remedial loan groups (capital should be rewarded but not excessively).

The rationale for support of remedial loan societies varied. Some supporters viewed them as competitors who could drive down the cost of credit for poor people by squeezing monopoly profits out of for-profit lenders. Other reformers felt that by lending to poor people, they could learn more about the business and acquire the credibility necessary to argue before state legislatures and to work with well-intentioned for-profit lenders (Michelman 1966:114-115). Some of the results of the remedial lending movement were salutory but unintended. There are hints that the experience of the remedial loan funds helped convince reformers that ordinary bank interest rates would not cover the costs of making small loans, and thus helped inform aspects of the Uniform Small Loan Laws.

RSF and Credit Unions

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defined and easily understood by borrowers." (RAC 25/191).

[7] The name was changed again, in 1938, to the Department of Consumer Credit Studies, for reasons that will be noted below.

The Russell Sage's Foundation emphasis on the Uniform Small Loan Law (discussed below) was not its first or even second foray into the problem of credit for poor people. Particularly striking is the emphasis the Foundation gave to the legislative approach after its instrumental role in the very early days of founding credit unions in the United States. The philosophical, political, and economic underpinnings of the two approaches are quite different. Credit unions run on a not-for-profit basis, distributing all surplus to members through higher rates on deposits, lower loan costs, or dividends on membership shares. The entire point of the Uniform Small Loan Laws was to attract private capital into this type of lending with the promise of profits earned through open and honest dealing. Politically, the credit unions faced some opposition from organized banking interests, and some reservations about their tax-exempt status, but the passage of enabling laws for these institutions did not put the Foundation in the position of looking as if it was advocating extremely high interest rates. The credit union movement, as a matter of fact, experienced little of the legislative opposition that the Uniform Small Loan law encountered. Perhaps the most important difference between credit unions and the small loan law as a solution to credit problems for poor people lay in their implied understanding of why it was hard to lend to poor people. The credit union approach suggests that ordinary commercial lenders faced high costs in dealing with poor people because they did not know enough about them and lacked low-cost ways to compel repayment. By this analysis, the main problems lay with information and enforcement. Credit cooperatives and credit unions overcome these problems by keeping credit relations within groups of similar people likely to know one another. The Uniform Small Loan Law, on the other hand, sees in the high lending costs for poor people the difficulty of advertising and making small loans to people who lack assets that can serve as collateral for loans. If this is correct, then high interest rates simply reflect the cost conditions in this line of business.

The Foundation at first advocated both credit unions and the small loan laws. Arthur H. Ham, both as employee of Russell Sage and later as head of the National Association of Remedial Loan Associations, was active in the credit union movement at the same time he was helping to draft early versions of the Uniform Small Loan Law. The Foundation's support for the credit union movement continued, with the seconding of personnel such as Rolf Nugent to the New York Credit Union League. By the late 1920s, however, recurring conflict between the leadership of the national credit union groups and the Foundation led, in the early 1930s, to an open rupture. The reasons for this are multiple, and the available sources do not contain enough detail to say with any confidence which of several problems were most important.

One problem was obviously personal. Edward A. Filene, justly known as the father of the U.S. credit union movement, had founded the National Committee on People's Banks to further the development of credit unions in the United States. The first U.S. credit union was founded by the Canadian cooperative leader Alphonse Desjardins, and modeled after the *Caisse Desjardins* that had proven so successful in Quebec. The Committee included, in addition to Filene and Desjardins, numerous politicians, banking officials, and labor leaders. Filene also supported (financially) the Credit Union National Extension Bureau (CUNEB, the forerunner of the present-day Credit Union National Association, or CUNA). CUNEB's director during the relevant period was Roy F. Bergengren. Bergengren's correspondence with Filene and others reveals him to be a difficult, jealous man (see Johnson 1948: 217-218). His letters to Filene are replete with complaints about overwork and low salary, as well as considerable self-justification.

Bergengren was especially concerned about the Russell Sage Foundation. His correspondence is filled with complaints about the Foundation; a few incidents give the flavor. One concern was what he viewed as their inaction. An informal division of labor had given the RSF responsibility for assisting the New York League of Credit Unions, and CUNEB the rest of the country. This support was to entail passage and improvement of enabling legislation, as well as drumming up support for new credit unions. The Banking Commissioners in New York State had been more opposed to the formation of credit unions than had been the case in other states, and the Foundation was largely unsuccessful in getting adequate credit-union legislation passed in that State.

Bergengren thought that RSF in general and Nugent in particular were lazy and incompetent. A letter from 1926 is typical:

> We have tried to learn something from the failure or stagnation of many public service efforts and to accomplish something worth doing each and every day and to move. The Russell Sage Foundation spends a million dollars a year mostly opening and shutting doors and making reports and agenda. That is the fate of most efforts of the sort which have no objective sufficiently definite to keep them keyed up to the job. It would be a very simple matter to let the Bureau sink to that level but I am preeminently unqualified for that sort of job.[8]

In April of 1928, Bergengren wrote to Leon Henderson, then director of RSF's Department of Remedial Loans, to say that he had been invited to help with some credit unions in New York. The letter was, of course, a warning that he intended to violate the terms of the earlier agreement:

> I know that you will not misunderstand this activity on my part. The Credit Union National Extension Bureau has for its sole function the promotion of credit union organizations throughout the United States, and just as we are organizing credit unions in twenty-six other states, so we do not feel that we have the right to withhold what small service we are able to render to folks in New York State who would like to have us cooperate with them to organize credit unions. I hope very much that the Foundation will

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[8] CUNA-A, Letter to Filene 12 April 1926.

> become increasingly active in credit union organization, and we shall, of course, be glad to cooperate with the Foundation at any and all times.[9]

This letter so concerned the Foundation that its director, John Glenn, wrote directly to Filene. After explaining why he was writing, Glenn said the situation in New York was very delicate and that it would be best if Bergengren stayed out.[10] He asked Filene to direct Bergengren to stay out of New York, adding:

> I am writing to you personally because we have all found in the course of our experience with Mr. Bergengren that he will not listen to any requests from us and will not pay attention to our judgement, but insists on acting entirely on his own initiative without realizing the importance of cooperation.

Filene forwarded that letter to Bergengren, who in his reply to Filene not surprisingly rejected these complaints. Instead he recounted an anecdote about the employees of the Post Office in Buffalo, NY. Bergengren said that Nugent had discussed credit unions with the employees of this post office, but in doing so had distorted them and made them seem unwise. After visiting the same post office Bergengren claims to have gotten three times the legal minimum number of members to sign article of incorporation for a credit union. Then:

> When the meeting was over a letter carrier in the back of the room got up and made this interesting remark, which summarized, in my judgment, the fifteen years of Russell Sage administration of credit unions in New York State. Expressing his approval of the credit union plan, he said: “That ain’t the thing Nugent told us about.[11]

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[9] CUNA-A, Bergengren to Henderson, dated 12 April 1928.

[10] CUNA-A, John Glenn to Filene, marked “personal and confidential,” dated 3 May 1928

[11] CUNA-A, Bergengren to Filene, 10 May 1928.

By this point Filene was definitely aware of Bergengren's personal traits, but on this occasion he backed him up. In his reply to Glenn, Filene said that no harm could come of Bergengren helping out in New York State:

> When I first received your letter I thought it marked possible the end of our correspondence relative to the credit unions. The more I think of it, however, the more I appreciate the great value of the work you have done in the Foundation, and the more satisfied I am that no friction should exist between the Foundation and the Bureau.[12]

Much of Filene's own correspondence has been destroyed, so we cannot know whether the tone taken in this letter was typical of his own relations with the Russell Sage Foundation.

Other aspects of the problem between Bergengren and RSF reflect Bergengren's own complicated relations with Filene. At first Filene simply provided CUNEB's budget out of his own pocket, directly. Later, after he had set up the Twentieth Century Fund (in 1919), Filene had CUNEB funded through that foundation. The Twentieth Century Fund had a board of trustees that were obviously sympathetic to Filene's wishes, albeit not formally under his direct control. CUNEB was the largest project but not the only project, and Bergengren apparently fretted about his budget and the lack of a direct financial tie to Filene. This concern was intensified when Evans Clark, the director of the Twentieth Century Fund, made contact with the Russell Sage Foundation in 1929, and started asking questions about the advisability of credit unions as opposed to small loan legislation. Bergengren went on the attack. He wrote to Clark, defending himself and credit unions, and criticizing the Russell Sage Foundation. He claims that when Ham was still at Russell Sage, the Foundation supported credit unions (the implicit contrast being to Nugent). Bergengren rejected the focus on the uniform small loan laws (which he calls "42 percent laws"):

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[12] CUNA-A, Filene to Glenn, 6 June 1928.

> So far as I am able to understand the Foundation at that time (fifteen years ago) reached the conclusion that credit union laws could not be secured rapidly enough and credit unions could not be organized in sufficient numbers to afford a real solution of the problem, and that it were [sic] better to compromise with the lenders and to get them to agree to a rate which would afford some relief of the problem. I have always maintained that the 42% bill is a temporary alleviative; that the Russell Sage Foundation, not obliged to view its programs as limited by the scope of a single life, but rather able, because of the definite security of its resources, to view problems from the standpoint of their permanent solution, should not have compromised with the lenders, but that they should have gone forward with the credit union job.... In the United States we have first unrestrained usury, and then finally a great, richly endowed philanthropic organization spending its money to establish by legislation the right of private capital to charge 42% interest to wage workers on small loans.

The letter concludes with a biting summary of what Nugent had accomplished with credit unions in New York state in his first three years; only one new credit union has been organized, and the state enabling law for credit unions has been watered-down.[13] In a separate letter to Filene written at the same time, Bergengren worries that if Clark listens to the Russell Sage Foundation, he will turn the Twentieth Century Fund against the idea of credit unions. Clark is apparently presenting a report on CUNEB to the trustees of the Fund, and Bergengren thinks the Russell Sage Foundation is influencing Clark to get even with Bergengren.[14]

CUNEB and Russell Sage had agreed to stopping working together in 1925. Most of Nugent's work was taken over by the Credit Union National Extension Bureau in 1930. Glenn et

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[13] CUNA-A, Bergengren to Clark, 13 Sept 1929.

[14] CUNA-A, Bergengren to Filene, 16 September 1929

al (1947: 348-9) note that by 1932 most of the foundation's active involvement with the credit union movement had ceased, and Jacobs (1999) points out the growing conflict between RSF and the Twentieth Century Fund. By the early 1930s Bergengren was advocating that Filene and CUNEB refuse to even communicate with the Foundation. The most important part of this breach is probably the personal reasons outlined above, but in among his various complaints Bergengren did make several specific points. First, the Russell Sage Foundation in his view wasted a lot of time and money. Second, it had decided that credit unions could only serve a very small number of people, and was pushing instead for the Uniform Small Loan Law. Third, any perceived ties between the credit union movement and the Foundation would open up the credit unions to the same charges made against the Foundation, that it was some kind of front for high-rate lenders. With the exception of some letters from John Glenn,[15] this conversation as it appears in the archives is entirely one-sided. We do not know why the RSF went the way it did. One reason might have been that they viewed Bergengren as so difficult that they preferred to pursue an avenue where he could not cause trouble. Another is alluded to in Bergengren's own complaints; perhaps they viewed the credit unions as useful but limited in what they could achieve. Or perhaps the RSF "ceded" credit unions to the Twentieth Century Fund as part of a division of labor among rival foundations.

There is an interesting coda to this story. First, Bergengren was later fired from the credit union movement, and for some years fomented division by trying to get credit unions to associated themselves with a new national organization he had formed. More directly to our

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[15] In addition to the one noted above, Glenn was complaining about Bergengren much earlier, suggesting that the unhappiness was long-standing. In a letter of 7 May, 1924 to C.H.Watts, the Chairman of the AILA Legislative Committee, Glenn wrote: "On the other hand, Mr. Bergengren's lack of cooperation with regard to the introduction of bills in various legislatures and his failures to stand by his agreement is very bad." In his response of 10 May, 1924, Watts agrees that Bergengren has failed to live up to his agreements (LC 4, "Agreement re USLL, AILA, RSF, and CUNEB" folder).

point, Filene himself over-ruled Bergengren on a matter related to a small-loan bill in a way that shows his (Filene's) sympathy to the Russell Sage Foundation's analysis of the small-loan problem. In 1932, a group of Massachusetts credit unions had backed an effort to cut the maximum allowed interest rate under that state's Uniform Small Loan Law. Bergengren supported the move, claiming in a letter to Filene that the current rate was too high and simply allowed lenders to become wealthier. Filene disagreed, saying that if business conditions allowed, competition would force the rates down, and if not, a rate cut would just force borrowers back to high-rate, informal lenders.[16] This is the entire logic of the Uniform Small Loan Law, and it is fascinating that the father of the U.S. credit union movement agreement with the Russell Sage Foundation on this point.

Other Lenders

Russell Sage also tried to promote consumer lending by ordinary commercial banks, again with an eye to providing market competition that might reduce costs to borrowers. Commercial banks were late entrants into this field, in part because of legal restrictions on the lending activities of national banks. The first personal loan department in a commercial bank dates to 1924. Russell Sage assisted several New York banks in setting up these new loan departments (including the First National City Bank of New York, whose president, Charles Norton, joined the RSF board of trustees in 1918, see RAC 28/216 "Memoranda of Information Requested by Trustees' Committee on Small Loan Question"), providing samples of forms used by credit unions as guides to deal with small loans. It also considered various legislative measures, although these ran aground on the question of whether state laws legalizing personal loans would apply to federally-chartered banks (LC 101, "Applicability of State Statues to

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[16] CUNA-A, Bergengren to Filene, 11 February 1932.

National Banks" folder). Evidence exists that the banks themselves objected to the legislation proposed by the foundation.[17] In general and despite some effort on the part of the RSF, commercial banks were slow to make small loans to individuals (see RAC 28/216, p.7).

Crusades

The second major track followed by the RSF was to publicize the loan-shark problem. Ham and others listed two benefits to publicity: borrowers would be more careful about entering into exploitative agreements, and politicians, newspapers, and others could be mobilized. Ham was especially fond of the campaigns against loan sharks. He gave numerous speeches, wrote articles and letters for newspapers and magazines, and even wrote the screenplay for a movie ("The Usurer's Grip" was produced by the Edison Company and was something of a hit). In Ham's first sustained efforts, he led a campaign (which he described as a "crusade") against loan sharks in New York City. In his investigation, Ham uncovered many illegal loans, or collection methods that violated the borrower's legal rights. He convinced the *New York Globe* to devote considerable space to exposing these practices, and also got most New York papers to stop carrying advertisements by the lenders. Ham corresponded with a number of individuals who suffered at the hands of loans sharks, offering advice and intervening with employers to prevent further garnishment of the borrower's salary (LC 41, "1911-1913 Loan Shark Victims" folder).

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[17] For example, a letter to Nugent dated Feb. 11, 1932 from a bank president, C.F. Burton, states that: "... I am rather astonished that so little knowledge is displayed of bank practices in handling of small loans. ... I also think that both you and the author [of the draft small loan law for banks] must not be acquainted with banker philosophy and training" (LC 105, "City Bank – Washington DC" folder). Furthermore, it seems that banks wished to be able to use the discounts, fines and fees that helped to inflate and disguise the true cost of a small loan, and which the RSF found so objectionable. See RAC 28/ 216, "Memoranda of Information Requested by Trustees' Committee on Small Loan Question" pp.11-12. Rolf Nugent, in particular, believed that commercial banks were simply afraid to admit publicly how much they would charge for a small loan (see RAC 24/188, "Memorandum April 27, 1943" p.6).

RSF convinced the New York district attorney to set up a special office to prosecute these crimes and also persuaded several employers to back their employee's efforts to resist repayment of illegal loans. Several lenders went to jail and most others disappeared from the city. Ham took credit for eliminating the "loan shark evil" from New York.

Uniform Small Loan Laws

The third strategy, and the one we focus on here, involved the promulgation of uniform laws. This involved two separate tasks: writing (in consultation with other interested parties) a model law suitable for adoption in multiple jurisdictions, and encouraging its promulgation, passage and enforcement. Obtaining passage of these new laws meant dealing with state legislatures and governors (the relevant law being a state, not a federal, responsibility). This particular strategy was relatively new to American politics, but was not the invention of the RSF.

Starting in the 1880s, the American legal profession, acting through the newly-established American Bar Association, devised a long-term plan to codify and standardize state laws. Given the federal structure of the American polity, legal variability and uncertainty across jurisdictions were an ongoing problem. National legislation to deal with various social and economic problems was simply not an option because of how the U.S. constitution allocated powers between state and national government. And at the state level, various groups opposed certain kinds of ameliorative legislation on the grounds that it would make business in a particular state less competitive (Graebner 1977:332). The uniform law strategy seemed to be a way through these constraints. Promulgating law at the state level ensured constitutionality, but at the same time legal uniformity defused the problem of regulatory competition among states.

Uniform legislation allowed the legal profession to apply its expertise and demonstrate its social value. It also bore the hallmarks of "scientific legislation," a connection valued by foundations in the business of providing non-partisan, expert advice. Foundations lacked the political muscle to push legislation through directly, but if legislation could be defined as concerning a "technical" or "non-partisan" issue, the expertise proffered by foundations would have maximum leverage. In the specific case of uniform small loan laws, RSF staff also believed that a decision in one state could establish (political) precedent in other states (LC 4, "Anti-Loan Shark Committee" folder).

One of the prime movers behind uniform laws was the National Conference of Commissioners on Uniform State Laws (NCCUSL). This group emerged from the American Bar Association in the late 1880s and was later joined in its efforts by the American Law Institute (ALI), established in 1923 (Grant 1938: 1086) . Together, they devised canonical Restatements of law and promoted model laws, eventually including the Uniform Commercial Code (Frank 1998, White 1997). Not surprisingly, RSF correspondence suggests that the foundation actively coordinated with the NCCUSL on laws pertaining to credit.[18]

Regional variations existed in the adoption of uniform laws. Southern states, for example, were less willing to adopt uniform labor legislation, fearing that it might undercut their labor cost advantages with respect to northern states (Graebner 1977: 337). The uniform law strategy generally worked better for commercial rather than social legislation. The first uniform law proposed by the NCCUSL was the Uniform Negotiable Instruments Act of 1896, adopted in thirty-eight states and territories by 1910 (Lapp 1910). This was followed by a uniform warehouse receipts act, uniform sales act, uniform bills of lading act, and so on. Indeed, by 1919 eleven of the thirteen uniform laws adopted by states were commercial in nature (Guild 1920). As a commercial law serving a social purpose, the USLL was something of a hybrid.

At first, the RSF's legislative work consisted largely of pushing state authorities to enforce existing laws. For example, in 1910 Ham concluded that some chattel loan companies

[18] One letter of 17 November, 1919, was sent to a J. Hansell Merrill, appointed by the NCCUSL to consider anti-loan shark laws. See LC 4, "Anti-Loan Shark Committee" folder.

operating in New York were either doing so illegally or had not provided the required report to the state Banking Department. Ham met with Governor Hughes and then worked with the Superintendent of Banks and the Attorney General to bring actions against several lenders. This later expanded into the crusade noted above. A more consistent line of effort consisted of following legislative proposals and seeking to influence them in a particular direction. Starting in 1910 Ham was involved with state legislatures in their efforts to regulate the small loan business.[19] By 1913 Ham, working with the National Federation's Committee on Legislation, had worked out eight features that any state law should contain. The several drafts of the Uniform Small Loan Law (USLL) passed over the next decades all reflected these ideas. They included:

(1) Licenses for lenders who charged more than the legal interest rate for banks

(2) Bonds to ensure observance of the law

(3) A maximum interest rate higher than that allowed for banks, coupled with a prohibition on ancillary fees

(4) Enforcement by public officials

(5) Penalties for violation

(6) Notice to employer and to wife in the case of assignment of wages

(7) Records that can be inspected by supervision officer

(8) Borrowers to receive memorandum of transaction along with relevant sections of state law

In all versions of the RSF small loan law, a small loan was defined as a loan of $300 or less. To put this sum in perspective, in 1925 the average annual earnings of a non-farm worker were $1,434. An even more relevant comparison is with the average hourly wages of unskilled male

[19] The early legislative efforts also sought to gain charters for remedial lenders; like credit unions, they did not fit comfortably into existing banking law.

workers, which in 1925 equaled $0.46. Assuming 3000 hours per year work, this made a small loan worth up to about 1/4th of an unskilled male worker's wages. In other words, small loans were not so small.

The first incarnation of RSF's Uniform Small Loan law was New Jersey's Egan Act, passed in 1914.[20] Ham's role in passage of the Egan Act was considerable, and went beyond that of technical advisor. He drafted the legislation and helped organize support at each stage of the bill's legislative career. This pattern continued after Ham left the foundation, with revisions to the Uniform Law and efforts to pass it in all remaining states.

Between 1911 and 1915, six states including New Jersey passed versions of the USLL. The political opposition grew more organized, so in 1917 the law passed on close votes in six more states but failed in California. Internal RSF documents reflect a considerable lobbying effort on the part of the foundation to secure passage. By 1929, RSF staff had made field visits to more than thirty states, meeting with legislators, staffers, and other interested parties to urge adoption of the USLL (RAC 28/216). RSF staffers were clear about who their political opponents were. In a March 1927 letter to John Glenn (RSF director), Leon Henderson (who then headed the RSF Department of Remedial Loans) discusses the lobbying effort in Missouri: "The loan sharks, particularly from St. Louis, have been doing their work quietly and we may not have located all the possible sources of opposition."(RAC 24/187, 27 March 1927 letter). Earlier that month, Henderson wrote to Glenn from Topeka, Kansas: "The salary buyers were very active but did not make any progress until last week when they seemed to have connected up with some Republican enemies of the Governor, who has been helping us all the time. ... There is no doubt in my mind that a big bundle of money was used against our bill." (RAC

[20] By 1950, the RSF had helped to draft seven versions of the USLL. The second was adopted in 1918 and the seventh in 1942. See RAC 27/211.

24/187, 7 March 1927 letter).[21] In state after state, it was the RSF versus the same "loan sharks" and salary lenders that the RSF hoped to drive out of the small loan market.[22]

The RSF sought allies in various quarters, including among labor unions whose members were hurt when they, as delinquent borrowers, had their wages attached. The strongest alliance, however, was with the "legitimate" small-loan lenders. Over the years, RSF staff consulted multiple times with organizations like the AILA, its successor the AAPFC, and with particular firms like Household Finance Corporation (RAC 3/22, p.57). The RSF recognized that to push the loan-sharks out of credit markets, they would have to help push in legitimate lenders: "... once the small loan business is established, the support of a substantial part of the lending fraternity is vital to satisfactory revision of an existing [small loan] law" (RAC 24/188, p.1-2).[23] In particular, the RSF worked with the AILA and AAPFC to revise the model USLL through its multiple iterations (see RAC 27/207). At times, RSF staff worried that the foundation worked a little too closely with so-called "industrial lenders" and ran the risk of being perceived as a mere handmaiden of the industry. This issue became most acute when the RSF supported high (in its mind, realistic) statutory interest rates for small loans.

Controversy broke out in 1929, with the onset of the depression. The decline of interest rates and deflation led some to demand reductions in the maximum interest rates allowable under the law. RSF did not object to reductions across the board, but did oppose measures that would

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[21] The term "salary buyer" was an evasion used by some lenders to evade usury laws. Rather than lending money on the security of a salaried income, they claimed to be engaged in a different practice of "buying" future salary payments. Courts usually saw through the ruse.

[22] Other RSF documents refer to opposition from "loan sharks" in Kentucky and Alabama. See LC 5 "Opposition to Consumer Credit Legislation, Particularly That of Loan Sharks" folder.

[23] Elsewhere, RSF staff noted that: "One of the greatest influences for improvement in the small loan field is the national association of lenders which now numbers four or five hundred members" (RAC 24/187).

have reduced interest rates to unrealistically low levels. By 1932 some 36 states had a small loan law, with most of those laws incorporating the basic elements of the Russell Sage model law. Nugent published a paper in *Harvard Business Review* in 1933 arguing that excessive interest rate reductions reduced the volume of legal lending and increased the activities of illegal lenders. Low statutory interest rates may have been well-intentioned, but their effect was to discourage legal lenders and consequently drive borrowers into the arms of the loan sharks.

The USLL imposed several conditions on lenders, but as with most regulatory efforts the reaction was complex. Some lenders opposed the law and evaded it after its passage. Others welcomed the law, after if not before its passage, because it made lenders more respectable and made it easier for them to enforce their loan terms in court. As Robinson and Nugent pointed out, part of the difference reflected the lender's efficiency. Some could never survive at any capped interest rate. Others would benefit from the USLL and actually do better:

> "...while rates of profit came down under the regulation, operations were more profitable than had been anticipated because losses were reduced, costs were cut, and better borrowers came to the loan offices. Thus, while the conception of a fair interest rate held by the National Federation and the Department of Remedial Loans was tending upward, the rate which chattel lenders were willing to accept was coming down. (P.110)

The passage of small loan laws was made much easier by the formation of the American Association of Small Loan Brokers in 1916, and may also have been helped by the ALI. The former group explained its aims to the National Federation of Remedial Loan Associations as an effort to "standardize, dignify, and police the small loan business." Starting in 1916, RSF staff met often with representatives of this group and the National Federation to discuss revision to the Uniform Small Loan Law as well as strategy for pushing it through state legislatures.

In pushing passage of the USLL in different states, the RSF had little political clout to deploy. It could and did build alliances with particular interest groups, but mostly it tried to maintain a “non-partisan” stance and simply deployed its neutral expertise. The latter was maintained by a sustained research program that made the RSF the foremost repository of knowledge about credit and small loans. The foundation’s first effort in the credit field was to support empirical studies, as we have seen, and research remained a major portion of its activities throughout this period. Early studies were tightly focused on specific features of the small-loan problem. Starting in 1922 the trustees authorized financial support for a number of pamphlets on various aspects of the small-loan problem. These included general studies of consumer lending, and a legal analysis of the law regulating small loans and remedial loan societies. Over time the research program grew more general and elaborate, culminating in the volume *Ten Thousand Small Loans*. This study was based on a survey administered at the offices of several cooperating lenders. Unfortunately, as the authors of the study acknowledge, the survey instrument did not elicit much useful information and the sample itself was badly marred by the refusal of many borrowers to cooperate.

Equally serious were the ongoing efforts (led most likely by Nugent) to collect statistics on small-loan lenders. This material occupies several large boxes in the Library of Congress papers and reflects considerable effort beyond simple acquisition of data. Nugent convinced several large chain lenders, most notably Household Finance, to share internal data and later to provide additional data in a format suggested by him. He also collected the reports of most state authorities responsible for consumer lending. Nugent and his assistants used this data for several purposes, but worksheets in the Library of Congress files suggest that his main concern was to estimate the costs of making small loans as a way of dealing with questions of the maximum interest rate allowable under the Uniform Small Loan Law.

Nugent published several books and articles, but much of the material he collected was only really exploited by others. Here the Department of Remedial Loans made perhaps its greatest intellectual contribution. Several books written by others reflect the intellectual guidance of foundation staff, some financial support from the foundation itself, and the use of the Department's files. Nugent himself took an increasingly academic approach to the entire issue of credit. This was presumably why the Consumer's Advisory Board of the National Recovery Administration commissioned Nugent to write a book on the effect of consumer credit on the recovery of the national economy. His *Consumer Credit and Economic Stability* is a very careful, well-researched effort that concerns itself with the role of consumer credit in macroeconomic fluctuations.

This intellectual grasp of credit and consumer lending issues was deployed to an ironic purpose in 1942. During the early days of World War II the federal government had great difficulty convincing industries to switch from civilian to military production. Roosevelt's administration was not sure it could legally force private firms to make the switch. Someone hit on the idea of using federal authority over the banking system to choke off consumer demand. Nugent, by then working for the federal government, was asked to draft what became Regulation W in the federal reserve system. This regulation severely curtailed the ability of member banks to make consumer loans. General Motors could produce cars, but its customers could no longer buy them on credit. Regulation W is credited with forcing conversion on many industries that had been producing consumer durables.

The Logic of the USLL

The very logic of the USLL was unusual for its time, and often put the Foundation at odds with both potential allies and those it ostensibly would assist. Bergengren's dismissive characterization of the RSF as the "42 percent foundation" is only one example of the problems this approach entailed. The central feature of the USLL, the maximum interest rate, sounded bizarre to many at the time, and defending it on some occasions led to the charge that the Foundation was simply a front for high-rate lenders.

In the earlier studies various RSF officials had come to the conclusion that the cost of making small loans was so high that no legitimate lender could cover costs, much less make a profit, if restricted by the usury laws that applied to banks and other lenders. The ceilings imposed by these laws varied across state and over time, but were rarely higher than 6 percent per annum. RSF personnel had also concluded that much of the harm done by small loans was not the costs *per se*, but the lack of transparency. Lenders had devised a large and complicated set of devices whereby they could conceal the total cost of the loan from the borrower, especially if the borrower was uneducated. The underlying logic of the USLL was, then, simple and direct: in return for stating charges clearly and simply, as an interest rate only, the lender would be allowed to charge an interest rate much higher than allowed to a bank. As noted, in most cases the USLL allowed interest rates as high as 3.5 percent per month.

The precise process by which Leon Henderson and later Rolf Nugent arrived at this prescription is not entirely clear. Surely it reflects the former's business experience and the latter's training as an economist. But in Nugent's case especially it is clear that in his view, transparency combined with the chance to earn a realistic profit was both necessary and sufficient to encouraging honest lending in this area. Once adopted, this logic was defended aggressively and tenaciously against all comers. In some cases RSF bitterly opposed lenders who claimed to be helping poor people, but were charging fees and using other devices that might be interpreted as efforts to conceal the true cost of their loans. One example of this type of lender was the so-called Morris Plan banks. These lenders were quite successful for a period, charging six percent on co-signed loans to working people. The Russell Sage Foundation initially viewed the Morris Plan as anathema because at first the Plan used additional charges, and made their loans at a discount, in effect driving the loan's total cost above 15 percent per annum. In working on both successive revisions to the USLL and later proposed changes to banking law that would encourage consumer lending, Nugent stressed simplicity and transparency in pricing. Defending the high rates allowed by the USLL was politically more difficult. Nugent was convinced, based on his cost studies, that in most cases a lower rate would simply drive legitimate lenders out of the business. He also believed that encouraging entry would foster competition and so squeeze out any excess profits that might be there at the maximum rate. But this put the Foundation in the awkward position of defending what seemed to many like unconscionable usury. In several state legislatures RSF was asked to explain its connection to lender's organizations; was it simply an industry group? In others, the claim was made that the Russell Sage Foundation was simply continuing the activities of its namesake, who died long before the Foundation was established.[24]

What is curious and instructive about Nugent's insistence on transparency was that privately he would admit that his approach had its downside. Most lending costs are fixed costs; the revenue necessary to make a \$100 loan is not much less than that required to make a \$300 loan. Insisting that the rates be identical for these two loans meant either that the larger loans subsidized the smaller, or that there was opportunity for other lenders to skim off the borrowers seeking higher loans. RSF for many years opposed any system that would recognize this problem either by allowing the lender to charge a fee on a smaller loan, or by charging a higher interest rate on a smaller loan. Only in 1934 is there any evidence of flexibility on this point. In a letter to the Edgar F. Fowler of the American Association of Personal Finance Companies, Nugent noted that RSF was proposing a substantial change in the USLL, this time allowing higher rates

[24] Russell Sage himself was an aggressive, cheap, and in some instances dishonest financier.

for smaller loans.[25] Until then the Foundation had always viewed transparency as so important that it would sacrifice other goals, and put itself in politically awkward positions, to preserve it.

<u>The Spread of USLL</u>

In 1943, the RSF took stock of its activities on the matter of small loans. According to one internal memorandum submitted to the trustees: "In the small loan field, the Department's recommendations for remedial legislation have since been enacted in the great majority of states. Thirty-one states and the Territory of Hawaii have effective small loan laws based closely on the Department's Uniform Small Loan Law. Six other states have enacted laws which have close resemblance to this draft but which are ineffective for one reason or another." (RAC 28/216, pp.19-20). The memorandum goes on to observe the geographical distribution of enacting states: "It is significant that, with the exception of Delaware, all the states bounded on the south by North Carolina, Tennessee, and Arkansas; on the west by the Dakotas, Nebraska, and Kansas; as well as the three west-coast states have effective small loan laws based on the Department's recommendations. These states comprise the great industrial area where the 'loan shark' once had things his own way." (RAC 28/216, p.20). In this declaration of victory, the RSF believed that the industrial north and midwest bore the brunt of loan sharking, and that with the addition

[25] RAC Box 27/Folder 208, letter Nugent to Fowler, 21 December 1934. "Our studies of the costs of lending are now sufficiently complete for us to draw relatively accurate conclusions as to the desirability of a graduated rate. This evidence is supplemented by the experience of several states which now have graduated rates."

of the west coast to these enacting states, small lending had been cleaned up.[26] Small loan rates, the RSF declared, were now between 1/3rd and 1/20th of those charged by the loan sharks.

Although in the 1940s the RSF seemed happy to take credit for the widespread adoption of USLL, the peculiar distribution of this law, both temporally and geographically, raises several questions about the causes of adoption. Why did some states adopt early, while others adopted later or not at all? Was it simply that the problem of loan-sharking was greater in some states than in others, and therefore that the law was adopted first in the states with the biggest problem? Or it could be that some kind of institutionalist process was at work, where states adopted a USLL in order to appear legitimate and progressive in dealing with social and economic problems (Meyer and Rowan 1977, Hironaka 2001). Perhaps some kind of diffusion process was at work in which proximity to or influence by an early-adopting state led other states to emulate the innovator.

To begin to address these questions, we perform a year-by-year panel regression analysis of whether a particular state had a small loan law in a particular year.[27] The econometric model presented in Table 1 does not grapple with several fairly serious problems, but serves well as a preliminary descriptive device. Figure 1 displays the temporal distribution of passage of USLL across the states. The dependent variable is one in the year the USLL was passed and in every year thereafter. As a matter of fact, no state that passed the USLL ever repealed it. The

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[26] A similar regional pattern was evident in the repeal or relaxation of usury laws. According to Horwitz (1977: 244), usury laws were altered first in the south and west, and only later in the midwest and northeast. The parallel between usury laws and small loan laws is worth exploring further, although we cannot do so here.

[27] We assembled the information on passage of the USLL from several RSF sources. Some of the laws counted here as a USLL were not, in fact, entirely true to the Foundation's intentions. An important issue for future research is identifying slight departures from the RSF versions of the law, and asking how our econometric results change as a result. The regressors are all taken from a dataset made available by Price Fishback and Shawn Kantor, and is based on their research into the passage of workmen's compensation law in this period.

regression reported here is a random-effects balanced panel, with 27 observations for each year state, and the 48 states the existed as of 1940. Given that we are trying to explain binary outcomes with a linear model, this is a linear probability model and has heteroscedastic disturbances. Re-estimating the model reported as a random-effects probit model produced results that are substantively identical.

The first year of coverage is 1904, the last, 1930. One of our regressors is first defined in 1904, but since no state passes a USLL until 1906 the choice of initial year is harmless. The right-hand side variables are defined by year, but in many cases are simply linear interpolations between two decennial censuses. In some cases we can improve upon this with more research and data collection, but in others we will be restricted by the nature of the underlying sources. The inclusion of a dummy for the states of the former Confederacy (*south*) would of course not be possible with a fixed-effects model. Dropping the south dummy does not affect the substance of our results.

Note that the "within" r-square is much higher than the "between" r-square. The model does a much better job of predicting when a state will pass the USLL than it does identifying states that will pass as opposed to those that will not. A simpler version of this model suggests why this is the case. If we restrict our attention to a single variable, the percentage of manufacturing firms with more than $1 million in value-added per year, we retain nearly all the explanatory power of the model reported. In other words, most of what drives the current specification is the within-state change in the sizes of manufacturing firms.

Two variables in particular are most important. *Large firms* (the percentage of all manufacturing value-added due to manufacturing firms with more than $1 million in value-added) has a positive effect on passage. This may reflect the fact that the problem of wage attachment or excessive indebtedness on the part of employees was worse for big employers. From the standpoint of a salary lender, the employees of a big employer were an especially attractive clientele because having the same employer made the task of wage attachment or wage garnishment that much more routine. Similarly, *manufact* (real value-added in manufacturing per worker) has a positive effect on passage. States with a more developed manufacturing sector are more likely to pass a law sooner. This and the effect of the previous variable stem from the fact that lenders can more easily enforce their claims over wage workers when the latter are spatially concentrated and work for large employers. Small loans have high fixed costs, which encourages lending in cities or to the employees of large firms. Wage attachment was the primary mode of enforcement for small lenders. Across a number of different model specifications, these two variables do most of the explanatory work in the regressions.

Consistent with this interpretation is the effect of *perurban*, the percent of a state's population living in urban areas. Although the effect is not strong, it again suggests that the problem of loan-sharking was greatest in the large cities. The variable *govdem* has no significant effect in any model. This variable scores 1 if the state governor was Democratic in the year of passage, and it indicates that no simple partisanship effect is operating. The lack of effect here might stem from our treatment of an endogenous variable as exogenous. More generally, we are concerned in future research to better understand the role of state politics in the passage of the USLL.

A final effect of note is that of *perillit*, which has a negative effect on passage. This variable measures the percent of the state population which is illiterate. This group was most vulnerable to the actions of loan-sharks and thus represented the "core market" of traditional small lenders. States where this group was larger were states where the power of traditional small lenders was greater, and consequently they were better able to oppose the new uniform small loan laws. One interesting, negative finding is that the percentage of a state's population who were foreign-born did not affect the chances of the law's passage. Ham and other RSF staff strongly believed that immigrants were especially vulnerable to unscrupulous lenders. That might have been true, but that problem did not lead states with large immigrant populations to pass the law sooner than others.

One way to improve on this model is to use measures of political and economic structure that are closer to the forces that we think were actually driving pressure for the USLL. Another is to enrich the econometric model to contend with forces that we know were at work, but which have been ignored here. The most important of those is the effect of one state's decision about the USLL on other states. Many states have large population centers on their borders, meaning that passage of the USLL in one state can affect the demand for credit in neighboring states. A striking example of this was New Jersey, whose experiments with its small-loan laws led to large charges in the number of lenders in Philadelphia (Pennsylvania) and Wilmington (Delaware). States also influence each other in other ways; often pressure for a new law in one state tries to allude to a bandwagon effect created by passage in earlier states. We would like to know, for example, whether the passage of the USLL in 1918 by both Maryland and Virginia reflects mutual influence or something else. This is a difficult econometric problem with no simple, accepted solution, but worth pursuing as we refine our approach.

Conclusion

Regulating credit markets and financial institutions is not an uncommon measure, but doing so for social purposes is unusual. Today, a small number of federal laws like the Truth-in-Lending Act (1968), the Equal Credit Opportunity Act (1974), the Community Reinvestment Act (1977), and the Home Mortgage Disclosure Act (1975), regulate credit markets and mandate disclosure of information that allows for more public oversight of lenders. At first blush, it is easy to assume that these public measures somehow reflected or continued the consumer-protection and anti-discrimination initiatives of the late 1960s. But in fact, this kind of measure is much older. From the early 20th-century and continuing into the late 1930s, the Russell Sage

Foundation pursued the idea that uniform laws passed at the state level could materially improve the situation of poor people as debtors by regulating the market for small loans. Effective laws would either force misbehaving lenders to leave the market, or force them to behave properly.

The energy and resources devoted to this project by the RSF over multiple decades were considerable. Partly, this effort reflected the kind of resources the RSF could deploy. A foundation could not deliver votes or other forms of political muscle, nor could it spend tens of millions of dollars, but it could deliver expert knowledge. A constellation of major foundations seemed to negotiate among themselves an informal division of expert labor, but one with more fluidity than that which emerged among the professions (Abbott 1988). The Twentieth Century Foundation had jurisdiction over credit unions, while the RSF focused on small loan laws, and conflict between the two foundations occurred at the boundary between their respective jurisdictions as they devised separate and sometimes competing solutions to credit problems.

As a type of public policy, uniform small loan laws played to the strengths of the RSF. The RSF appeared not to be pursuing its own self-interests, but rather supporting a law whose ostensible beneficiaries (poor borrowers) almost never acted on their own behalf. Thus, the RSF strategy epitomized foundation-based philanthropy. The design and passage of such a law required expert knowledge, and its conformity with the larger uniform law project of the legal profession simply underscored its timeliness and suitability. Such measures are politically attractive to legislators and governors because passage publicly signals to voters that politicians are “doing something,” and addressing a problem with a law is much cheaper than doing so with an administrative apparatus (particularly if the latter has to be established *de novo*). And if the supporters (the constituencies of the AILA, AAPFC, and perhaps organized labor) of a small loan law can muster more political pressure than the opponents (the traditional lenders), then so much the better.

The historical evidence clearly demonstrates how hard and how long the RSF pushed the USLL initiative. We do not know, however, whether RSF efforts were causally related to the passage of these laws. Did an RSF push in a particular state increase the chances of passage, or did the RSF exert itself most in states where the conditions for passage were already ripe? Our quantitative results await further refinement, but at this stage it seems that uniform small loan laws passed in states when (and to a lesser extent, where) the problem was greatest. And the problem seems to have been driven in large part by the structure of employment: salary-lenders operated more vigorously when large manufacturing firms assembled numerous employees in one place. If this result holds up, then it helps to explain the conflict between the RSF and the Twentieth Century Fund, on the one hand, and their corresponding programs, USLL and credit unions, on the other. Large employers may offer the best opportunities for salary-lender and loan sharks (whose activities will be curtailed by a small loan law), but they are also good organizational sites for the establishment of credit unions.[28]

Finally, the possibility of cross-over effects needs to be investigated more thoroughly. We noted above that the geographical distribution of USLLs roughly parallels that of the repeal of usury laws. If, as RSF staff argued, usury laws which unrealistically restricted interest rates forced lenders to evade usury laws and forced borrowers to turn to loan sharks, then the problem would have been greater when the difference between market interest rates and the statutory cap was greatest. Thus, the pattern of usury laws across states may have influenced the passage of USLL's. In addition, if small loans were typically obtained by low wage workers, unemployed borrowers or disabled workers who needed emergency funds, then the passage of workman's

[28] In the United States, most states required that (as now) a credit union restrict its operation to a "field of membership," individuals sharing a common bond of employment, a social club, or other tie. Most credit unions, in fact, were limited to the employees of a firm or group of firms.

compensation laws, unemployment insurance laws, or minimum wage laws may also have had an effect on USLL.

Table 1:

```
Random-effects GLS regression                   Number of obs      =      1296
Group variable (i) : state                      Number of groups   =        48

R-sq:  within  = 0.2978                         Obs per group: min =        27
       between = 0.0734                                        avg =      27.0
       overall = 0.0199                                        max =        27

Random effects u_i ~ Gaussian                   Wald chi2(6)       =    486.31
corr(u_i, X)       = 0 (assumed)                Prob > chi2        =    0.0000

------------------------------------------------------------------------------
have_law_now |      Coef.   Std. Err.      z    P>|z|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
    perurban |   .0035958    .002209     1.63   0.104    -.0007338    .0079253
      govdem |  -.0022603   .0232096    -0.10   0.922    -.0477503    .0432296
    perillit |  -.0235261   .0043628    -5.39   0.000     -.032077   -.0149751
       south |   .5271051   .1298099     4.06   0.000     .2726825    .7815278
    manufact |   .0000594   .0000115     5.17   0.000     .0000369    .0000818
 large firms |   .0071255   .0009338     7.63   0.000     .0052953    .0089557
       _cons |  -.1378898   .1196682    -1.15   0.249    -.3724351    .0966556
-------------+----------------------------------------------------------------
     sigma_u |  .33173947
     sigma_e |  .29573797
         rho |  .55718672   (fraction of variance due to u_i)
------------------------------------------------------------------------------
```

Abbreviations:

AAPFC: American Association of Personal Finance Companies (previously the AILA)
AILA: American Industrial Lenders Association
ALI: American Law Institute
CUNEB: Credit Union National Extension Bureau
HFC: Household Finance Corporation
LRB: Legal Reform Bureau
NCCUSL: National Conference of the Commissioners on Uniform State Laws
RSF: Russell Sage Foundation
USLL: Uniform Small Loan Law

References:

Manuscript Collections:

Library of Congress:

> The records of Russell Sage's Department of Remedial Loans are all held in the Library of Congress manuscripts division. They are organized by boxes only. LC x means "Library of Congress collection Box x."

Rockefeller Archives Center:

> Some office correspondence was kept after the material was given to the Library of Congress on the grounds that it contained sensitive materials. This material is organized by folders within boxes, so RAC x/y means Rockefeller Archives Center collection Box x/Folder y.

Credit Union National Association Archives, Madison, WI.

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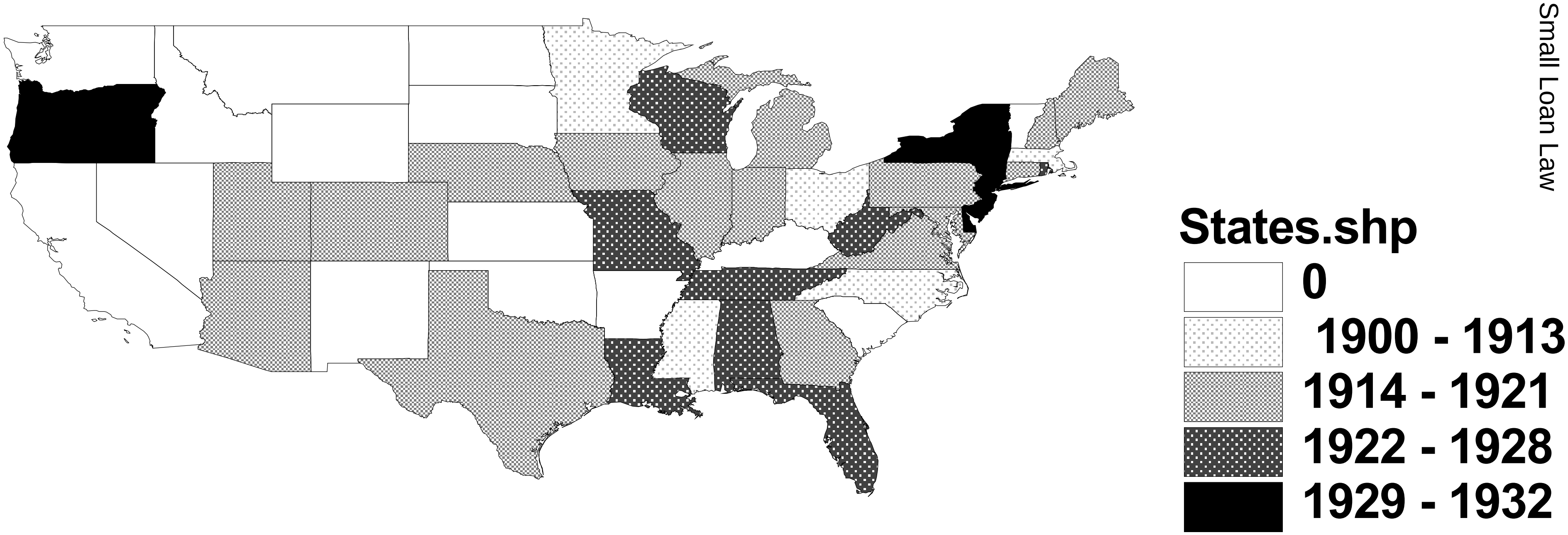

Figure 1: Passage of the Uniform Small Loan Law