

Institutionalization as a Contested, Multilevel Process

THE CASE OF RATE REGULATION IN AMERICAN FIRE INSURANCE

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Institutionalization – the activities and mechanisms by which structures, models, rules, and problem-solving routines become established as a taken-for-granted part of everyday social reality – represents a core sociological process and a central preoccupation for social scientists. Since Selznick's (1957) and Berger and Luckmann's (1967) classic works, understanding institutionalization has itself been understood as a critical agenda for sociologists and social constructionists. Over the last two decades or so, this agenda has been fruitfully pursued by organizational scholars and neoinstitutionalists, who have produced a variety of concepts and images of institutionalization. (For early statements and overviews, see Clemens and Cook 1999; DiMaggio 1988; Jepperson and Meyer 1991; Meyer and Rowan 1977; Schneiberg and Clemens 2003; Scott et al. 2000; Scott 1987, 1994; Zucker 1977; Tolbert and Zucker 1983.)

We work in this chapter to extend and revise these received images. Specifically, we use the case of rate regulation in fire insurance to revise conventional accounts and reconceptualize institutionalization as the product of constitutional struggles – conflicts evoked by social movements over the fundamental character of social, political, and industrial order. In so doing, we join recent efforts to link politics, challengers, and movements with organizational theory and neoinstitutional analysis (Clemens 1997; Davis and Thompson 1994; DiMaggio 1991; Fligstein 1996; Lounsbury, Ventresca, and Hirsch 2003; McAdam and Scott, this volume; Rao 1998; Rao et al. 2000; Schneiberg 1999, 2002; Soule 2003; Zald et al. 2002).

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We begin with a description of a key outcome – the enactment of rate regulation laws for a vital infrastructure sector – and briefly treat that outcome from the standpoint of three accounts of institutionalization that frame the organizational imagination about this topic. We begin, in other words, with what looks like a standard diffusion and institutionalization story about public policy. Yet, the standard imagery fails to capture critical features of the production of rate regulation. Accordingly, we then combine historical analysis, logistic regression, and heterogeneous diffusion models of the passage of rate regulation to retell this story and develop an account of institutionalization as a contested, multilevel process. Based on these analyses, we suggest ways to integrate social movements into neoinstitutional research.

Rate Regulation and the Conventional Imagery of Institutionalization – Three Explanations

From 1909 to 1937, thirty-four American states enacted rate regulation laws in fire insurance, a critical infrastructure industry during the nineteenth and twentieth centuries (Schneiberg 1999; Schneiberg and Bartley 2001).¹ These laws enacted *regulated cooperation among private corporations* as the central system of “market order” in the industry.² First, they authorized a host of private associational arrangements, data pooling, and cooperative rate-making schemes that for-profit insurers had organized in the late nineteenth century to limit price competition and stabilize insurance markets. Second, they subjected rates and rate-making associations to public oversight and a set of norms regarding reasonable and fair prices. Public oversight typically meant that associations had to file rates and supporting documents with state insurance departments and submit to examination, rate approval, and

¹ Fire insurance played a key role in credit and economic development. Steady supplies of fire insurance were vital for commerce and trade in a credit dependent economy, as banks and other lenders required such insurance as collateral and as a condition for mortgages, loans, and short term credit (Brearley 1916; Mowbray 1946). Fire insurance was also a critical support for urbanization: American cities frequently experienced conflagrations in the nineteenth and early twentieth centuries, such as the burning of New York in 1835 and 1845, the great Chicago fire of 1871, and the Baltimore conflagration of 1904. Fire insurance was a central mechanism for financing reconstruction.

² By “market orders,” we refer to combinations of 1) public policy and governance regimes at the *industry* level (e.g., atomized markets and price competition enforced by antitrust laws), and 2) organizational forms at the *enterprise* level (e.g., private, for-profit corporations, public corporations, cooperatives).

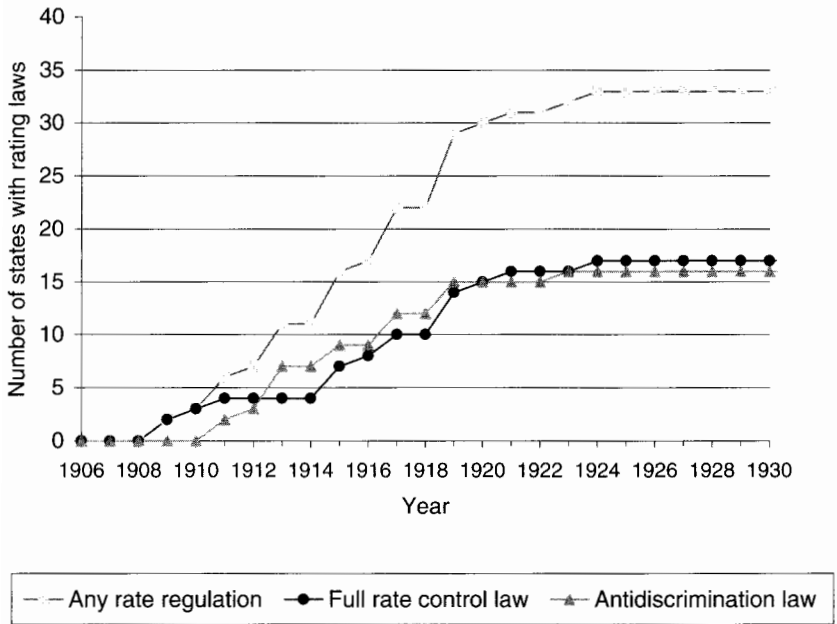


Figure 5.1 Passage of Rate Regulation, 1906–1930

review. It also typically provided for administrative machinery – hearings, grievance procedures, appeals processes – by which consumers or regulators could seek or order changes in rates that were deemed excessive, exorbitant, or unfairly discriminatory. Third, these laws ratified private over public insurance. Architects of regulation endorsed private, for-profit stock corporations as the dominant organizational form for providing fire insurance, while acknowledging a secondary role for consumer owned, not-for-profit mutual insurance companies.

Furthermore, as Figure 5.1 details, enactment of these laws followed the canonical S-shaped diffusion pattern, with a takeoff and rapid diffusion in the early to mid-1910s and a leveling off at the end of the decade, with thirty-three states having enacted these laws by 1924. By the mid-1920s, coupling *private* rate-making associations of for-profit firms with *public* regulation had been established as the taken-for-granted method of governing fire and other property insurance in the United States. In fact, we can plausibly explain how regulated cooperation became the accepted method for

ordering insurance using three explanations that have become the starting points for organizational analysis.³

Institutionalization as Cultural Expression

Following John Meyer and his colleagues, and the Frank Dobbin of *Forging Industrial Policy*, we could explain rate regulation as the expression of a larger symbolic totality and processes of rationalization – as the enactment of taken-for-granted models of modern social order, replete with their notions of science, efficiency, progress, justice, and the rule of law (Boli and Thomas 1997; Dobbin 1994; McNeely 1995; Meyer and Jepperson 2000; Meyer and Rowan 1977; Meyer et al. 1997; Ramirez and Boli 1987; Skrentny 1996; Soysal 1994). In this view, the adoption of structures or policies reflects *system-wide* cognitive and normative structures – rationalized meaning systems, ontological projects, or visions of order that emerged in the West as a concomitant of modernization. These cultural totalities or meaning systems can be global-level phenomena that represent the rise of a world culture and impinge on nation-states. Or they can be inscribed in national polities as a result of that nation's state-building history. But in either case, institutionalization rests less on actors, their characteristics, or interests, than on how action, interest, and agents themselves flow from accepted mythologies of order and organization.

These modern ontologies authorize particular actors (nation-states, corporations, individuals), projects of progress and rationalized order (efficiency, science, rule of law), and principles of justice (equality, merit, due process). They are instantiated and carried by states, professions, and international nongovernmental organizations (INGOs). They drive organizations toward modal structures and policies, independently of those organizations' characteristics, either *cognitively*, by constituting categories of thought, problem solving, and identity, and rendering only certain problems or solutions thinkable, or *normatively*, by delineating structures and practices to which organizations must conform to be validated as legitimate. In short, the adoption of structures and policies is a systemically rooted, "top-down" process that expresses or enacts increasingly prevalent and taken-for-granted practices, forms, and rationalized meaning systems.

³ These approaches are not mutually exclusive. Scholars, including a number cited in the text, can and do combine elements of each approach in their empirical analyses.

Institutionalization as Diffusion, Mimesis, and Emergent Community Order

Alternatively, following Tolbert and Zucker, Strang, and others, we could explain rate regulation as a policy that a few leading states developed independently, but which then crystallized as a community norm and served as a template for other states to adopt as they managed uncertainty or sought legitimacy (Baron et al. 1986; Davis and Greve 1997; Galaskiewicz and Wasserman 1989; Greenwood et al. 2002; Haunschild 1994; Haunschild and Miner 1997; Haveman 1993; Lant and Baum 1995; Palmer et al. 1993; Soule 1997, 2003; Soule and Earl 2001; Soule and Zylan 1997; Strang 1990; Strang and Chang 1993; Strang and Meyer 1994; Tolbert and Zucker 1983, 1996; Zhou 1993). In this view, institutionalization is a two-stage, “bottom-up” phenomenon consisting of: 1) local problem-solving efforts in which organizations develop or import a new form or policy in response to their own characteristics, politics, and problems, followed by 2) processes of mimesis, theorization, and diffusion by which local solutions spread throughout a field. As the number of adopters increases, as states or professions endorse local solutions, and as actors theorize those solutions, the form or policy gains weight, communicability, and legitimacy. In turn, it becomes a model for other organizations and is eventually established as an accepted norm. Through this process, new baselines emerge to which members must conform as a condition for legitimacy, creating pressures for organizations to adopt the form or policy independently of their characteristics or requirements.

Institutionalization as Shock, Succession, and Politically Reconstructed Order

Finally, following Fligstein, Edelman, and others, we could explain regulation as a response to crises generated by state interventions – interventions which disrupt existing practices, create uncertainty, and evoke claims making and political struggles over jurisdiction and control, as different groups or professions seek to establish their preferred practices or conceptions as the new dominant logics (Campbell and Lindberg 1991; Edelman 1990, 1992, 2003; Edelman et al. 1999; Fligstein 1990, 1996; Hoffman 1999; Kelly and Dobbin 1999; Mezas 1990; Sutton and Dobbin 1996; Scott et al. 2000; Sine and David 2003; Sutton et al. 1994). Generally exogenous, these interventions include the passage of laws, court rulings, and the creation

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of new agencies. Such acts, in turn, either ban specific practices or impose broad but ambiguous mandates that create uncertainty for organizations. And in so doing, they produce shocks to the system that spark politico-cultural processes – sense- and claims-making activities, searches for new solutions, and a succession of players, forms, and logics as groups mobilize to gain power in organizations and fields by framing situations in ways that require their expertise.

Here, too, isomorphic mechanisms figure centrally. Faced with uncertainty, organizations engage in mutual monitoring, fueling diffusion among peers, feedback, and endogenous, self-reinforcing processes of reborrowing in which private responses to state interventions become models for subsequent intervention. Likewise central are connections among organizations, flows of personnel, and fieldwide associations of aspiring professionals and managers, who assert analyses, endorse certain options, codify their own models, and work to shape debate in their bids for control. Both dynamics foster convergence and consolidation around a particular logic or conception. Yet as the advocates of this view stress, new interventions and reversals are possible, leaving us with an image of institutionalization as a punctuated process of intervention, disruption/succession, and political reconstruction.

These three explanations all provide plausible accounts of the development and key features of rate regulation in insurance. Consistent with a view of institutionalization as rationalization or expression of modern ontologies, actors in insurance used the language of efficiency and political order to justify private, for-profit corporations, and the language of merit, equality, impartiality, and science to critique and defend rates and rate-making associations. In fact, rate regulation was posed and accepted as a means to promote scientific rate making – as the culmination of a project that aimed to eliminate guesswork, gambling, and politics by basing rates on actuarial laws, inspection, and the statistical analysis of pooled loss data. Moreover, consistent with arguments about diffusion and emergent order, states extensively monitored developments in other states, holding investigative hearings to scan their environment, and explicitly modeling their legislation on other states. Finally, consistent with an image of shock, struggle, and political reconstruction, rate regulation emerged in response to antitrust or anticompetitive laws that disrupted existing governance systems, sparked struggles for control of the industry's rate-making machinery, and induced mobilization and the advocacy of new models by the professions.

Yet, closer inspection of the case leads to a different view, one that looks back to DiMaggio's (1991) classic study and builds on work by Berk (1994), Carruthers and Babb (1996), Clemens (1997), the Dobbin of Dobbin and Dowd (2000), and Rao (1998), which documents the centrality of multiple models of order in the institutionalization process. Our view also draws on work that conceptualizes institutional orders as constituted by plural and competing principles and logics (Friedland and Alford 1991; Heimer 1999; Klienman and Vallas 2000; Orren and Skowronek 1999; Schneiberg 2002; Scott et al. 2000; Stryker 2000), and on recent efforts by Scott, McAdam, Zald, and others to link organizations and institutions with politics and social movements.

The rest of this chapter revises conventional accounts of institutionalization. We will highlight four findings: First, the institutionalization of rate regulation represented a settlement of political struggles over competing models of organization and the character of economic order rather than an expression or enactment of taken-for-granted principles. Second, this settlement and its underlying conflicts were products not of local problem-solving activity, but of work by social movements to contest existing arrangements and promote alternative orders and forms. Third, the processes of sorting through competing models and crafting a settlement were driven, shaped, and made possible by conflicts and institutional dynamics occurring at multiple levels in the American polity, that is, by developments at the intra-, inter-, and supra-state levels. Finally, these settlements constituted not a unitary or isomorphic insurance system, but rather a fractured field characterized by variations on core themes – a dual community of regulated states – and the combination, recombination, and persistence of multiple logics and forms.

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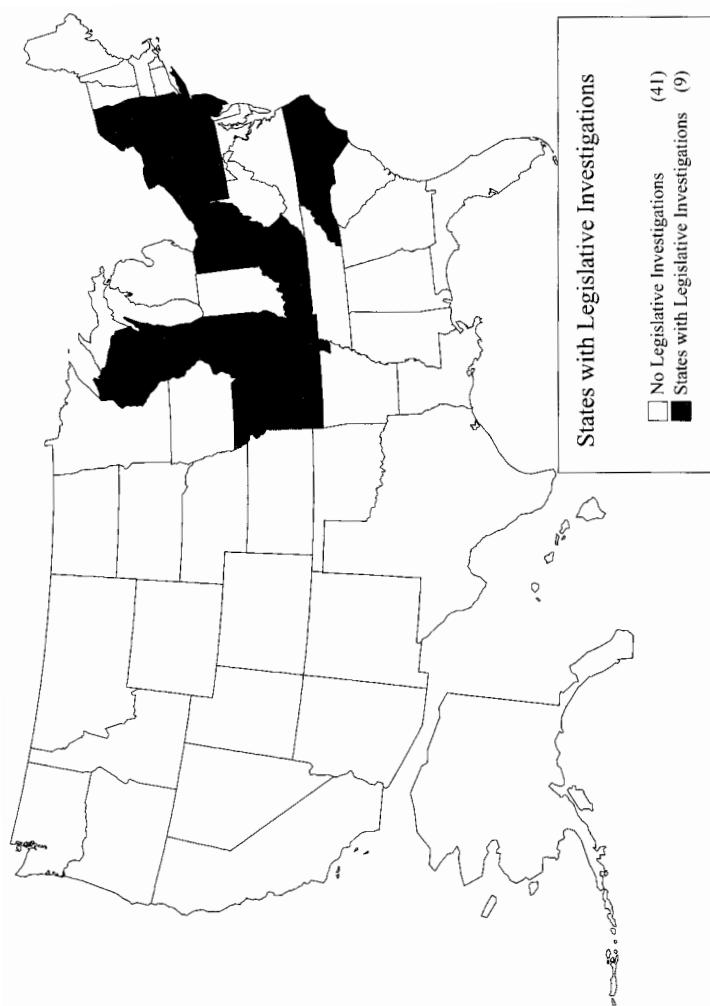
In the United States, *states* were the pivotal arenas for insurance politics and the production of rate regulation. The centrality of states stemmed partly from the federal character of the American polity: as points of authoritative decision making, states constitute a locus of private organizing, coalition building, public debate, and collective representation. Moreover, following the 1869 Supreme Court decision in *Paul v. Virginia*, insurance was regulated by the states, not the federal government, and was exempt from federal antitrust law until 1944 (Lilly 1976; Patterson 1927; also Harrington 1984; Meier 1988).

Rate Regulation as a Settlement of State-Level Political Conflicts

Rate regulation emerged as a product and a settlement of political conflicts and debates that were evoked within the states by insurance company efforts to govern markets privately, via price fixing and data-pooling associations. Fire insurers associated with unusual vengeance during the nineteenth and early twentieth centuries. They did so both to achieve monopoly control and to manage market failures produced by unregulated price competition. In price competitive markets, insurers not only under-produced critical collective goods, such as pooled loss data, they also drove rates below loss costs, depleting reserves, and leaving the industry vulnerable to waves of bankruptcies when conflagrations occurred (Schneiberg 1999). To solve these problems, companies and agents formed over one thousand data-pooling bodies and rate-making associations. By the 1880s and 1890s, they consolidated a workable, nationwide system of collective self-regulation and private price control (Parker 1965; Wandel 1935).

Not surprisingly, associations and price controls evoked protests, public debate, and counterorganization by consumers, agrarians, business groups, and public officials in the states (Brearley 1916; Grant 1979; Handy 1916; Meier 1988; Schneiberg 1999, 2002). Consumers resented paying high rates, especially because insurers could neither explain nor justify their rates. This fueled legitimacy crises, and widespread complaints that rates were extortionate and discriminatory. It also fueled counterorganization both in the market – in the form of roughly 3,500 consumer-owned insurance mutuals – and in the political area. From 1885 to 1910, twenty-three states passed “anti-compact” laws – antitrust measures that specifically targeted the insurance industry and banned association or cooperative price fixing in fire insurance. A few states adopted statist rate-making regimes that displaced private decision making about prices. And from 1909 to 1915, nine states held public investigations of insurers’ pricing practices, subjecting the industry to renewed scrutiny and critique. (See Figure 5.2.)

These dynamics reflected constitutional struggles over insurance markets within the states and crystallized around three competing models of order. Emphasizing insurance market failures, companies and public officials located mainly in urban northeastern states advocated an *associational model of order* (Streeck and Schmitter 1985), a system of insurance based on for-profit stock corporations and private, unregulated cooperation among those firms. Some small firms contemplated regulation as a mechanism for tempering competition and protecting themselves from



larger rivals. But larger stock insurers dominated industry discussions, and fears that state intervention would expose rates to “politics” prompted the industry to close ranks to reject regulation for purely private self-regulation.

In contrast, consumer groups, agrarian interests, and state officials in midwestern, southern and plains states rejected association for an *antitrust or anticomcompact model of decentralized market order* that called for market deconcentration, state-enforced price competition, and the promotion of local mutual alternatives to for-profit corporations. These actors saw the “insurance combine” as the problem rather than the solution to the rate problem, and were hostile toward for-profit corporations organized by eastern and foreign interests. Industry opponents in Kansas, Texas, Kentucky, Oklahoma, and Louisiana also resoundingly rejected association. They combined anticomcompact measures with a *statist model of order* in which public authority displaced private decision making, either by taking over rate making as a state activity, or by denying associations a role and regulating *individual* firms’ rates directly (Hobbs 1925, 1941–2; Merritt Committee 1911; Riegel 1916; Schneiberg and Bartley 2001). Both policies were part of broader programs for reconstructing industrial order along more decentralized, regionally based, and locally self-governed lines.

Initially, consumers, agrarian interests, and key institutional actors rejected stock companies’ market control efforts with little qualification. Yet, in the late 1890s and early 1900s, public debates and political struggles over the “insurance trust” generated new theories, a movement for scientific rate making, and a host of structural reforms, including schedule rating, collective bargaining, and fire prevention (Heimer 1985; Schneiberg 1999). These reforms fundamentally altered the structure and practice of stock company associations. They formalized rate making, creating possibilities for impartial and equal, rule-based treatment of risks and property owners. They tied rates to inspection and documented hazards, fostering objective assessments and merit-based pricing that penalized property owners for fire-breeding facilities, carelessness, or other morally *hazardous* behavior while rewarding policyholders for improvement and prevention. They also provided consumers with means for securing rate reductions from stock companies *within* the associational system.⁴ And as these reforms altered

⁴ Companies bargained collectively with consumers and public officials, offering rate reductions in exchange for consumers’ eliminating hazards. Firms also formed prevention associations to provide consumers and lawmakers with information and technical support for reducing losses.

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associational practices, they transformed the political dynamics of insurance governance: consumer groups and public officials began to cooperate with insurance associations in rate-making matters and came to accept associations and price control as the price of good insurance. By the early 1910s, a compromise and a new model of “regulated cooperation” emerged in which consumers, business groups, and public officials were willing to authorize association in insurance markets *provided* that private associations were publicly regulated and monopoly power contained.

Rate regulation was a product and a settlement of the public debates and trust-busting politics evoked by insurance associations at the state level. It appeared in nearly 80 percent of states with anticomcompact laws and in every state that held a public investigation. Further, it was theorized – and enacted – as a quid pro quo in which consumers and officials abandoned statism and trust-busting policies, and granted insurers the legal right to associate, in exchange for the industry’s submitting rates and rate-making associations to public disclosure, supervision, and appeal (Meier 1988; Merritt Committee 1911; NCIC 1915 (adjourned meetings 1914): 19–24; 1915; Riegel 1916, 1917; Rose 1967).

The rate regulation settlement combined multiple regulatory principles and organizational forms, articulating the projects and logics advocated by conflicting groups into a single, complex package. For consumer groups and public officials, the public oversight element was both a mechanism for assuring rational and equitable rates, and the condition for conceding to companies’ insistence on association. “It is perfectly certain,” wrote New York’s Merritt Committee in its effort to theorize a settlement, “that the public has a right to demand and is going to demand that in turn for the right to combine that companies shall furnish equitable rates . . . *if companies are allowed to combine then it must be only on the assurance that rates will be equitable*” (Merritt Committee 1911: 72, 65–6, emphasis in original).

In fact, regulation for outsiders was an alternative to statism or market de-concentration, a synthesis of principles that let consumers, business groups, and states capture the benefits of association. “It would be unfortunate for the public,” the committee elaborated,

if a condition of open competition in rates were forced by the State. The safe policy to follow . . . is to recognize the good which flows from *combination well regulated*. . . . It is therefore recommended that no anti-compact bill be passed, but that in place thereof a statute be enacted that will permit *combination under State regulation*, such regulation to stop short of actually fixing the price at which the companies shall sell

their insurance, but which be of such a positive nature that all forms of discrimination shall cease. (Merritt Committee 1911: 124–5, emphasis added)

Further, the architects of “regulated combination” looked to supplement these safeguards by cultivating a small competitive segment in the industry, and combining organizational forms, that is, by promoting mutual insurers who worked closely with consumers to prevent fire and reduce loss costs (Heimer 1985). As the committee explained,

to keep rates from becoming excessive . . . it is important that this beneficial and regulative form of competition should be retained and increased if possible. This can be done . . . by opening the way to a free competition by the factory mutuals and miscellaneous mutuals. . . . Such companies can unquestionably, if they receive proper supervision, exert a very wholesome influence in the direction of economy and the prevention of fire. (Merritt Committee 1911: 108–9)

Conversely, for stock companies, regulation was the price for association. Stock insurers fought for purely private cooperation. But threats of statism made it clear that the industry could lose control of rate making entirely, prompting insurers to accept the rate regulation compromise. “There is a *middle course*,” a company official noted in 1913,

between the two extremes of State rate making, [and] complete company control of rate-making without the steadying influence for its control of laws and State supervision to hold the rate-making body up to a full sense of responsibility for its action to the representatives of the people. The necessary joint control and balancing of influence can, I think, be secured by leaving the companies selection of the person who shall make rates, but giving to the Superintendent of Insurance the power of examining . . . the power to compel removal of discrimination in rates [and] jurisdiction to review complaints. (Riegel 1916: 69, emphasis added)

As contestants converged on this middle way, states repealed or abandoned statist and anticompetitive measures. Struggles over competing orders gave way to struggles over regulatory reform, and trust-busting politics largely disappeared from the industry.⁵ Again, rate regulation was a product and a settlement of constitutional struggles in the states over the character of insurance market order.

⁵ The last major episode of trust-busting conflict in the states was in Arkansas in 1905, beginning a nearly three-decade-long period in which antitrust was virtually absent from the industry. Statist politics ran their course from 1909 to 1916, when that option disappeared from the agenda.

Politics and Settlements as Products of Social Movements

As we will show shortly, anticorporate politics within states combined with inter- and supra-state dynamics to produce the convergence just described. Yet treating politics as exogenous, and moving from the internal politics of states to diffusion and consolidation, neglect a key feature of this institutionalization process: internal politics, the geography of conflict, and the presence of multiple logics were the direct result of social movement activity. *Regulation as a settlement, and the underlying political conflicts that produced it, were themselves the product of work by movements to contest corporate combination and the "insurance trust," and to promote instead more decentralized, regionally balanced, and self-sufficient forms of economic development.*

Institutional sociologists including Fligstein, Dobbin, and Dowd have showed how antitrust politics shaped the development of firms, markets, and regulation in the United States. But in focusing on effects, they have treated antitrust laws and politics as exogenous, largely untheorized shocks. Such a practice shifts attention away from critical processes by which policies and forms emerge and are institutionalized – via movements and collective action. And in the case of antitrust laws and regulation, both in the economy in general, and insurance in particular, it was the anticorporate, agrarian protest movements of the late nineteenth century – the Patrons of Husbandry or the Grange and the Farmers' Alliance – that launched the institutionalization process and the political conflicts underlying state intervention and regulation.

At stake here was the dramatic concentration of economic power in the United States after the Civil War. As financial and state institutions channeled funds and development opportunities toward northeastern metropolises, firms relentlessly pursued combination and consolidation, first in infrastructure sectors, then in heavy industry (Berk 1994; Chandler 1977; Fligstein 1990; Lamoreaux 1985; Roy 1997; Sklar 1988). Consolidation and uneven development, in turn, squeezed farmers, manufacturers, and merchants in the Midwest and South, depriving those regions of credit and access to markets, and devastating their economies. In so doing, consolidation fueled protest, populist revolts, and anticorporate movements. Peaking, respectively, in the 1870s and 1890s, the Grange and the Alliance represented the two main waves of agrarian revolt in the United States, and served as the key platforms for mobilizing political challenges against the emerging corporate order in the last quarter of the nineteenth century (Buck 1913; James 1999; Ostler 1993; Sanders 1986, 1999; Schwartz 1976).

Both movements were formidable forces in the states and at the national level. At its 1875 peak, the Grange had over 450,000 *families* as members, with the heaviest concentrations in the upper Midwest. The Alliance peaked at more than twice that amount, with 1,053,000 families as members in 1890, and strong support in Midwest and plains states (*Appleton's Annual Cyclopedia* 1891: 301; Tontz 1964:147). Moreover, both movements rejected corporate liberalism or the dominance of giant national corporations in favor of "regional republican" (Berk 1994) programs of decentralized regional development based on thriving market towns and a "cooperative commonwealth" (Goodwyn 1978) of farmers, local manufacturers and independent producers. Drawing analogies across sectors, the Grange and the Alliance cast the problems facing the Midwest and South as the result of corporate combination and the economic strangleholds placed on independent producers by railroads, "middlemen," and "trusts." To solve these problems, Grangers and the Alliance pursued a combination of antimonopoly politics and cooperative or mutual self-organization in the marketplace, introducing new logics, models of market order, and organizational forms into the economy.

Agrarians were ambivalent about politics, and third-party politics in particular, sometimes opting instead for nonpartisanship and local private organization, including cooperatives, state exchanges, and insurance mutuals (Clemens 1997; Ostler 1993; Schneiberg 2002; Sanders 1999; Schwartz 1976). But politics was essential for securing the institutional and regulatory conditions for decentralized regional development. Thus, agrarian statism appeared in the Grange laws and in struggles over federal railroad regulation. In addition, antitrust laws to safeguard local economies from predatory corporations were an enduring centerpiece of the agrarian program (James 1999; Sanders 1999). Embracing market deconcentration, the Grange and the Alliance pursued antitrust models at the state and federal levels, ranging across sectors, including the railroad, oil, and schoolbook trusts, and fire insurance. Whether it was the Grangers in Wisconsin or the Alliance and the Populists in Kansas and Texas, it was these movements' efforts to contest insurance associations in the states and assert alternative conceptions of control that fire insurers feared when they spoke of the dangers of "politics" associated with regulation (Grant 1979; Kimball 1960; Schneiberg 1999).

The analysis in Table 5.1 confirms the central role agrarian movements played in provoking politics at the state level and expanding the models and forms on the insurance associations' agenda. The dependent variable

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Table 5.1. *Effects of Agrarian Protest Movements on Anticompact Measures in Insurance, 1885–1910*

	Model 1	Model 2	Model 3	Model 4	Model 5
Constant	−0.6995 (0.5753)	−1.057 (0.7298)	−0.3376 (0.6089)	−0.8651 (.6664)	−1.642 (1.266)
<i>Controls</i>					
Population	−2.69e-4 (6.26e-4)	−9.93e-4 (6.97e-4)	−4.34e-4 (6.08e-4)	−8.25e-4 (7.14e-4)	−1.22e-3 (1.37e-3)
Size of farm economy	0.00105 (.00197)	−0.000425 (0.00164)	0.000926 (0.00181)	0.000659 (0.00167)	0.00451 (.00398)
Populist vote	0.0329* (0.0187)	0.0237 (0.0198)	0.0234 (0.0178)	0.0167 (0.0159)	−0.0017 (0.00217)
<i>Patrons of husbandry</i>					
National Grange members		0.2846** (0.1268)			
State Grange members			0.0167 (0.0192)		
Number of local Granges				3.1055** (1.580)	
<i>Farmers Alliance</i>					
State Alliance members					0.00449** (0.00211)
Number of observations	40	38	38	38	23
Log likelihood	−24.644	−18.681	−23.256	−20.326	−10.603
Pseudo R ²	.1111	.2893	.1153	.2268	.3340

p < .10, ** p < .05.

is whether or not a state passed an anticompact law targeting rate-making associations in fire insurance from 1885 to 1910. We use logistic regression as this is the appropriate method for a dichotomous dependent variable, as we have here. See the Appendix at the end of the chapter for a discussion of variables and their measurement.

Consistent with past research, states were more likely to pursue anticompact measures where the Grange and the Alliance were strongest: controlling for population, the size of the farm economy, and the populist vote in a state, increasing the number of Grange and Alliance members per state increased the odds of a state enacting an anticompact measure, as did increasing the number of local Granges.⁶ Similar results flow from an

⁶ In Model 1, populist vote has a positive effect on anticompact measures, which is consistent with prior research on antitrust policies (James 1999; Sanders 1999). Adding Grange and

analysis of mutual insurers (Schneiberg 2002): mutuals were most numerous in states where the Grange and the Alliance had the greatest number of members or chapters, and where anticorporate forces were strong enough to secure political victories against trusts and corporations like anticomcompact laws in insurance and Granger regulation for the railroads. In short, institutionalization and the politics that fueled rate regulation as a settlement were driven in the first instance, not so much by independent local efforts to solve governance problems, but by conflicts resulting from social movement activity that challenged existing arrangements and placed alternative logics and forms on the states' agendas.

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Furthermore, the production of rate regulation as a settlement of these conflicts was a *multilevel process* driven, shaped, and made possible by developments not just within states, but also at the inter- and supra-state levels. There emerged a call and response among states in which politics and outcomes in one affected politics and the options considered in others. Moreover, intrastate politics escalated into national-level conflicts, producing outcomes there that closed off certain options and made the rate regulation settlement possible.

Interstate Dynamics The interstate story hinged on events in four states: Kansas, Texas, New York, and Kentucky. All four states became centers of attention and served as reference points for other states, albeit in very different ways.

In 1909 and 1910, populists in Kansas and Texas extended anticomcompact measures by enacting populist-statist forms of rate regulation (Grant 1979; Hobbs 1925; Riegel 1916). Kansas bypassed insurance associations to regulate companies directly, and put the power to order *general*, across-the-board rate reductions in the hands of the insurance commissioner, a power he promptly used to mandate statewide rate cuts of 12 to 14 percent. Texas took rate making out of private hands altogether, delegating that function to a state board. Neither law authorized industry associations or enacted the combinations of principles or quid pro quo settlement that regulation

Alliance measures in models 2 through 5 wipes out the effect of populist vote, which is consistent with the association between populist politics and these movements. The results for Grange and Alliance membership are not sensitive to controls.

would become. Instead, both were populist, anticorporate measures that substituted state control for private cooperation.

These events sent shock waves through the system, evoking fierce company opposition, mobilization by industry opponents, and threats of populist regulation in other states. In 1910, Missouri considered a Kansas measure, and Louisiana adopted a measure modeled on the Texas law. Moreover, two states that never passed anticomcompact laws, Illinois and New York – “the home of the insurance combine” – launched the first legislative investigations into fire insurance, holding extended public hearings.

New York’s “Merritt Investigation” and its 1911 rating law reflected and amplified interstate processes, and were critical for the emergence of rate regulation as an institutional settlement. A direct response to populist measures in other states, the investigation was a vehicle through which New Yorkers observed and focused attention on developments elsewhere. The Kansas and Texas laws occupied center stage in the investigation, as did anticomcompact measures in the Midwest (Merritt Committee 1911: 43–5, 51–4, 76–7). The investigation was also an occasion for New York to reflect on principles advocated by reformers, activists, and actuaries, and to *distinguish* itself from other states. Indeed, New York’s investigation and 1911 law served to *preempt* pressures for populist rate laws and *theorize* a different model of insurance order.

That New York would continue to reject an anticomcompact path was a foregone conclusion (Merritt Committee 1911: 43–50). Moreover, the committee and legislature also rejected measures that took insurance provision or rate-making powers out of private hands or authorized the state to alter rate levels. Led by Robert Wagner, one group of lawmakers pushed a Kansas-like provision to create a state bureau with powers to change rates that were “unreasonable, excessive, arbitrary or unwarranted” (Merritt Committee 1911: 130–1). But insurers feared that granting that power to the state would foster “politics” and prevailed on the committee to limit the state’s authority. “This is a very dangerous power,” it wrote, “it might be used for political purposes. . . . [He] who exercised the power would have effective pressure brought to bear upon him from only one direction, that is, to reduce the rates, while at least in certain emergencies the situation would demand an increase” (Merritt Committee 1911: 52, also 77).

The committee also stressed the lack of administrative capacities, noting how “the State does not possess and could not obtain, except with great pains and expense, the expert knowledge upon which to make rates properly” (Merritt Committee 1911: 77, 51–2). Thus, private, for-profit stock

companies were quite appropriately the dominant organizational vehicle for providing insurance and making rates.

Yet, regulation was too firmly entrenched on the public agenda and external pressures too strong for legislators simply to reject regulation for association. Accordingly, New York's lawmakers developed the model of "regulated cooperation," enacting a 1911 law that authorized private associations, while subjecting those associations to regulation. In addition, the architects of regulated cooperation hoped to further discipline associations via a competitive fringe of mutual companies. In effect, New York crafted the combination of principles and quid pro quo settlement that became the cornerstone for rate regulation. Moreover, it did so in a way that stock companies could accept. It endorsed private provision and rate-making association. And unlike Kansas, it denied its superintendent powers to order *general* rate reductions, limiting his authority to changes in *particular* rates that were found, after a hearing, to discriminate unfairly between risks of "like hazard and character" (Spectator Company 1911–12; New York State Insurance Department 1911–15).

Politically, New York's law and investigation were preemptive, *moderate* responses to Kansas and Texas by a procompany state. Institutionally, they provided other states with a circumscribed, "antidiscrimination" regulation option for settling their insurance conflicts, a specific template, and an extensively theorized conception of control to guide those efforts (Schneiberg 1999). Articulated by industry reformers, regulators, and the emerging actuarial profession, and fully aired in the Merritt investigation and report, this conception distinguished insurance from other sectors and theorized the sector as a scientifically administered, quasi-public market. It viewed insurance as a tax system that pooled community funds and covered the losses of the few via small "tariffs" on the many. It defined principles of merit and equality for allocating the tax and setting rates that reflected the loss costs a risk or risk class imposed on the community. It denounced price competition as subversive of the insurance function. And it envisioned a scientific system of rate making, overseen by the state, in which prices were set by associations and expert actuaries, based on the inspection of hazards and the statistical analysis of classified loss data.

While New York's law only partly implemented this vision – insurers blocked efforts to require them to disclose classified data – the Merritt report and law marked a turning point in insurance regulation and became the center of attention nationwide. New York joined Kansas and Texas as a referent for other states. Theories of regulated cooperation and scientific

rate making expressed by the report were incorporated by investigations in other states, and framed discussions within the National Convention of Insurance Commissioners (NCIC) (Wisconsin State Federation of Labor 1913; NCIC 1915: 119–40; Riegel 1916: 68–70, 1917: 190–3; Spectator Company 1915–25). In 1913, three states passed laws like New York's. In 1915, three more followed suit, and by 1923, sixteen had passed antidiscrimination measures. In effect, New York's answer to the rate question proved satisfactory for a range of actors outside the state, and served as the model for the formation of an "antidiscrimination" community of states (see Figure 5.3).

However, the New York law did not satisfy demands for more comprehensive public control in midwestern states. In fact, theories of scientific rate making publicized by the Merritt report helped amplify criticism of companies' failure to base rates on the systematic analysis of loss costs (Merritt Committee 1911; NCIC 1915, App. 119–56). In 1912, Kentucky enacted a statist measure, sparking intense conflict, an insurance boycott that nearly shut down the whiskey trade, and a new regulatory settlement (Kentucky 1912, 1913, 1914, 1916, 1917; Louisville Board of Trade 1912; Spectator Company 1912–16; Riegel 1916: 64–5; 1917: 188–9).

In this settlement, companies returned to the state and accepted regulation in exchange for lawmakers' abandoning statism and recognizing company associations as the primary rate-making authority. Enacted into law in 1916, the Kentucky settlement ratified regulated cooperation. But the law also added new principles to the mix, creating a substantial variation on that regulatory theme. It empowered the state board *both* to order the removal of rates that discriminated unfairly *and* to order *general* rate reductions if the business in Kentucky showed more than a reasonable profit. In addition, the law required the board to base its rate orders on five years' of premium and loss data, insulating regulation and rate orders from political considerations.

The Kentucky regulatory settlement signaled the end of statism in fire insurance. Moreover, in implementing a rationalized, data-based rate regime, the 1916 Kentucky law extended scientific rate making. The law thus met *consumers'* demands for broader protection, *reformers and regulators'* calls for rational or objective rates, and *companies'* interests in insulating rates from politics. As such, the Kentucky law provided other states with a comprehensive settlement of insurance matters – a "full rate control" alternative to New York's limited measure. By 1924, seventeen states had adopted versions of this alternative, leaving rate regulation states split between

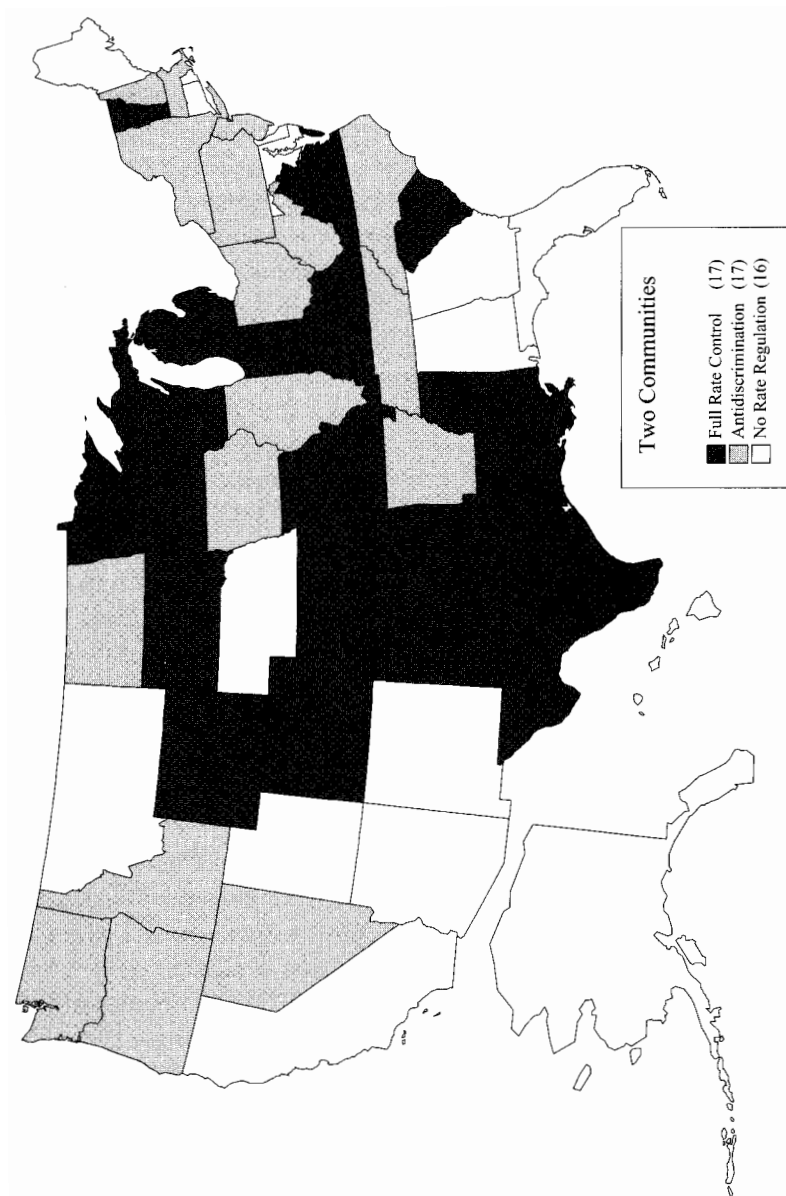


Figure 5.3 Dual Community of Regulatory States

antidiscrimination and full rate control measures (see Figure 5.3). Like Kansas, Texas, and New York, Kentucky became a center of attention and produced a model for other states.

National-Level Dynamics The evolution of regulation from Kansas and Texas through New York to Kentucky was by no means assured. Instead, the development of the full rate control settlement, and the survival and diffusion of rate regulation in any form hinged decisively on two developments at the national level.

First, key national actors endorsed rate regulation. In 1914, the U.S. Supreme Court ruled in *German Alliance Company vs. Lewis* that insurance “was affected with a public interest” and that the states had the right to regulate insurance rates (Riegel 1917: 188; Hobbs 1941–2; Crane 1962: 55–7). In December, the National Convention of Insurance Commissioners seconded the Court’s endorsement with its own and threw its weight behind regulated cooperation, further theorizing the model of regulated cooperation, and promulgated model rating laws (Meier 1988: 60; NCIC 1915, New York Adjourned Meeting: 17–25; Chicago Adjourned Meeting: 11–22; Wandel 1935: 135–6).

The *German Alliance* case stemmed from insurers’ decision to challenge the Kansas rate reduction orders and the states’ jurisdiction over rates in federal court. As intended, this strategy translated state-level conflicts over insurance into the national arena. But the Supreme Court endorsed states’ rights, the principle of regulated cooperation, and the theory of insurance as a quasi-public market. This endorsement strengthened the hand of advocates of regulation in the states, ensuring that rate regulation would remain a viable option in the states. The NCIC follow-up amplified these national-level pressures and focused lawmaking in the states onto crafting local settlements, both by codifying regulated cooperation and by generating model laws that were quickly adopted by Pennsylvania and six midwestern states (NCIC, Chicago Adjourned Meetings 1915: 11–12).

Second, the NCIC and the National Board of Fire Underwriters (NBFU) reached an accord that consolidated scientific rate making, created supra-state structures, and increased states’ capacities to implement a rate regulatory settlement. This accord was part of the Kentucky settlement, and was reached in 1915, when the NBFU agreed to form an Actuarial Bureau that compiled and distributed firms’ premium and loss data for various classes of risks, on an annual basis, for each state (Brearley 1916; NCIC 1915: 78–9; Riegel 1916: 21–2 1917: 219). This structural

innovation transformed the terms of political trade at the state level. Classified data gave consumers and regulators a way to evaluate rates and resolve rate conflicts on an objective basis, increasing their willingness to authorize associations. It also let associations defend rates against populist pressures, addressing companies' fears that regulators would play politics with prices. In effect, this accord created system-wide administrative capacities, making it possible for each state to institute a rationalized, data-based regime of rate review. In fact, states incorporated the accord into their rating laws. Over seventy-five percent of the full rate control laws passed or amended after 1916 required companies to file classified experience with the state, either directly or through the Actuarial Bureau, and/or required the commissioner to base rate orders on classified data (Hobbs 1925, 1941–2; Spectator Company 1916–44).

Outcomes of Institutionalization

Instituting rate regulation was a contested, multilevel process. Rate regulation was a response to – and a settlement of – political conflicts in the states over competing models of insurance. These conflicts were evoked by insurers' decisions to pursue private association, and efforts by agrarian forces to use the statehouses to subject an infrastructure industry to alternative models of economic order. Moreover, sorting through these models and converging on a settlement was a multilevel matter. State-level politics and investigations were the foundation for adopting regulation. Yet states influenced other states. And the diffusion of the settlement rested on bargaining, organizing, and on articulating and endorsing models at the national level.

After 1916, rate regulation and its rationales rather than statism, anti-compact principles, or the agrarian program framed the discourse and politics of fire insurance governance, becoming a taken-for-granted baseline for the industry. But the community that emerged was a *fractured or multiply ordered* one (see Figure 5.3). A few states – notably Texas, California, and Nebraska – remained outside the rate regulation orbit, serving as repositories where alternatives quietly persisted through the mid-1940s. Even more importantly, *the rate regulation settlement itself assembled, incorporated, combined and recombined multiple and even competing governance logics (private association, public regulation) and organizational forms (for-profit corporations, mutual companies)*. Regulatory states themselves fell into two camps, reflecting important variations of dominant themes. And the fires, while banked,

were not put out completely, as occasional flare-ups in New York, Virginia, and Missouri nudged some antidiscrimination states into the full rate control camp and tested some limits on the rate regulatory settlement. Systemic conflicts over order were absent from the industry through World War II. But settlements, we suggest, are provisional affairs that incorporate multiple principles rather than establish, once and for all, a single, comprehensive, and encompassing industrial culture.

Modeling Institutionalization in a Multilevel, Event History Framework

As the preceding discussion makes clear, states' decisions to adopt rate regulation laws were governed by political conflicts within the states over insurance market governance, and by intra-, inter- and supra-state effects. Here, we use the *heterogeneous diffusion model*, discussed elsewhere (Greve, Strang, and Tuma 1995; Strang and Soule 1998; Strang and Tuma 1993), to incorporate all three types of effects in a single event history model. This model predicts the *rate* of state-level adoption of rate regulation laws. In the absence of time dependence, the model is represented as:

$$r_n(t) = \exp \left(\alpha' \mathbf{x}_n + \sum_{s \in \tau(t)} \beta' \mathbf{v}_n + \sum_{s \in \tau(t)} \gamma' \mathbf{w}_s + \sum_{s \in \tau(t)} \delta' \mathbf{z}_{ns} \right)$$

In this model, n refers to those states that have not yet adopted a rate regulation law and s refers to those states that have already adopted a law. We capture institutional effects at the state, inter-, and supra-state levels using the four vectors in the diffusion model above. We also develop measures of political-institutional factors at the intra-, inter- and supra-state levels based on our historical analysis of the fire insurance industry. The sources of our data are described in detail in the Appendix to this chapter. Data availability led us to analyze the adoption of rate regulation from 1906 to 1930.

State-Level Effects

To capture *state-level* effects, we use the propensity vector (x_n) and a set of variables measuring the characteristics of states and the institutional dynamics *within* states that might influence their decisions to adopt rate regulation. We include measures of state-level characteristics in the propensity

vector as we would in a traditional event history model. First, we include a dummy variable for whether or not a state enacted an anticomcompact law or legal injunction that specifically targeted fire insurers and their rate-making practices. Second, we include a dummy variable for whether or not a state conducted a public probe into insurance rate-making practices during the 1909–15 “era of legislative investigations.” Both variables tap the development *within* a state of public criticism, effective anticompany politics, and a crisis of legitimacy regarding the industry and its associations. Since our historical analysis suggests that regulation emerges as a settlement of legitimacy crises and political conflicts over the insurance trust, we expect the presence of anticomcompact politics and legislative investigations to increase the likelihood of rate regulation (Schneiberg 1999).

We also considered including the social movement determinants of the anticomcompact laws analyzed in previous section. But careful consideration of the specific mechanisms by which agrarian protest movements affected rate regulation led us to omit those variables from the rate regulation models. Committed to anticomcompact measures and statism, the Grange and the Alliance were neither the architects of the rate regulation settlement nor played a direct role in its production. That job fell to industry reformers, actuaries, and regulators who theorized and advocated the rate regulatory settlement in response to threats of anticomcompact measures and the controversies that surrounded insurance governance. As stressed, the Grangers and the Alliance critically affected the production of this settlement. But they did so *indirectly*, fueling politics, legislative investigations, and anticomcompact laws that, in turn, impacted the rate regulatory settlement. Accordingly, we model the adoption of rate regulation as the direct effect of anticomcompact measures and investigations, including these movement outcomes or proximate causes rather than the movement variables themselves in our diffusion models.

We did, however, include two state-level control variables. First, we control for the assets of insurance companies doing business within a state. This measure captures a variety of factors that might affect rate regulation including the market structure (size, number of firms, and heterogeneity), the stakes involved in regulating, and the political strength of insurance forces (see Schneiberg and Bartley 2001 for details). Second, following Amenta et al. (1992), we also include here a measure of the administrative capacity of the state in insurance matters – a dummy variable for whether a state has a specialized, stand-alone insurance department as opposed to

folding insurance regulation into a more general department such as the state treasury. In general, administrative capacities and a stand-alone state department create both a state constituency for expanded regulation and the ability to regulate in a reasonably reliable fashion (Schneiberg and Bartley 2001; Skocpol and Finegold 1982; Skowronek 1982). Having an insurance department should thus increase the likelihood of regulation.

Interstate Effects

To capture *interstate* effects, we use the susceptibility, infectiousness, and proximity vectors. These three vectors tap different dimensions of interstate influence.

Susceptibility The susceptibility vector (v_n) lets us examine how characteristics of states that have not yet adopted a rate regulation law might render those states more open or vulnerable to influence by other states. This vector measures potential adopters' susceptibility to these laws by creating, in effect, an interaction term between the cumulative number of adopting states and state-level characteristics. One implication of our analysis is that states that conduct legislative investigations or have experienced anticomcompact struggles over insurance associations are more likely to be influenced by rate regulatory actions in other states. Investigations are a mechanism by which states scan their environments, and both investigations and anticomcompact struggles indicate the mobilization of constituencies who are searching for alternative solutions to the insurance rate problem. We also expect that states with administrative capacities would be more likely than states without such capacities to adopt rate regulation in response to other states' initiatives. We thus include in the susceptibility vector dummy variables for anticomcompact laws, legislative investigation, and the presence of a stand-alone insurance department. Note that the appropriate model specification requires that measures in the susceptibility vector are also included in the propensity vector.

Infectiousness The infectiousness vector (w_s) lets us determine whether certain states are more likely to be imitated or copied by others. The historical record suggests that some states were more central or influential to other states puzzling or struggling over whether and how to regulated rates. In particular, our historical analysis suggests that rate regulation by four states – Kansas, Texas, New York, and Kentucky – sent shock waves across the entire nation and became referents for other states. Those states'

regulatory actions were closely watched by players in other states, figured especially centrally in public debates, and precipitated regulatory activity by states throughout the system, albeit for different reasons. Thus, we include here a measure for the infectiousness of these four states.

Diffusion The proximity (z_{ms}) vector captures a different aspect of interstate influence by examining how the actions of states in some grouping affect the actions of other states in that group. We use the proximity vector to examine whether rate regulation was more likely to diffuse *within* “populist” and more “procompany” subcommunities of states than between those categories. As our historical analysis suggests, adopters fell into a group of procompany states who enacted moderate “antidiscrimination” forms of rate regulation or a group of populist states who passed more powerful “full rate control” laws (see Figure 5.3). Following Sanders (1986, 1999), we developed a measure of state membership in populist versus procompany political communities. In particular, we used Sanders’ classification to code states into three political-economic groups – the industrial “core” which housed the nation’s major industrial and financial corporations, the agrarian-based “periphery,” and “diverse.” The rationale for these measures derives from our analysis and from Sanders, Grant (1979), and Schneiberg (1999): from the 1890s through the 1910s, regulatory politics in general and in insurance were profoundly shaped by a broad and self-conscious social movement in which “peripheral” agrarian and largely populist southern and midwestern states sought to use politics and regulation to contest the concentration of corporate power in the heavily industrialized “core” states of the Northeast and the Great Lakes region. In effect, struggles over concentration divided the nation into highly salient “regions” – groups of states that shared common economic interests, political stances and parties, reformers and reform policies, and that formed subcommunities of emulation and coordinated problem solving. As Lant and Baum (1995), Soule (2003), and Strang and Meyer (1994) point out, theorization or classifications that identify organizations as similar or in the same category can constitute those organizations as cognitive or institutional communities of peers, creating pathways for emulation, and enhancing diffusion within those groups. Accordingly, we expect the adoption of rate regulation by populist (peripheral-agrarian or anti-compact) states would increase the likelihood that other populist states would adopt rate regulation, but have no effect on the rate of adoption by pro-company (core-industrial or non-anticompact) states, and vice versa.

Supra-state Effects

Finally, to capture *supra-state* or *national-level* institutional effects, we include in the propensity vector a set of period effect dummy variables that indexes the occurrence of system-wide events such as the emergence of national-level bargains, the building of supra-state administrative capacities, and the endorsement or promulgation of model laws by national associations. First, we include a dummy variable for the year 1915 to tap the endorsement of rate regulation by two key actors. At the end of 1914, the Supreme Court decided to ratify the states' right to regulate fire insurance rates, which was immediately seconded by the National Convention of Insurance Commissioners, which promulgated a "Model Rating Law." Second, we include a period effect dummy variable for 1916–30 to capture the agreement between the National Board of Fire Underwriters and the National Convention of Insurance Commissioners to establish a national actuarial bureau. As seen, this agreement settled a key issue in the struggle over regulation – the issue of how to evaluate rates – producing a system-wide increase in the states' capacities to regulate rate making and generally increasing actors' willingness to accept rate regulation. We expect both dummy variables to increase the rate of adoption of rate regulation throughout the system.

Results

Table 5.2 includes six different models designed to examine intra-, inter-, and supra-state pressures on states to adopt rate regulation laws. The effects of the intra-state factors are consistent across the six models. In all of the models except Model 4, the presence of an anticomcompact law increases the rate of adoption. States which banned cooperative rate making in fire insurance between 1885 and 1910 were quicker to adopt rate regulation than those that did not. Similarly, states that conducted public investigations of insurance rate-making practices had higher rates of rate regulation than those that did not. In all but Model 5, the coefficient for the legislative investigation dummy variable is positive and significant. This finding dovetails nicely with findings from the historical analysis that states that subjected the industry to public scrutiny and debate were quicker to regulate rates. In fact, these findings support our earlier findings that rate regulation in insurance was a product – and a settlement – of public debates and political struggles over insurance market order within the states.

Table 5.2. *Intra-, Inter-, and Supra-State Effects on the Adoption of Rate Regulation, 1906–1930*

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Intercept	–3.44*** (.49)	–3.46*** (.50)	–4.85*** (.87)	–4.95*** (.94)	–4.80*** (.86)	–4.47*** (.80)
<i>Intrastate effects</i>						
Anticompact law	.90** (.38)	.93** (.39)	.87** (.39)	1.01 (.65)	.84** (.39)	.89** (.39)
Legislative investigation	1.61** (.48)	1.56** (.49)	1.20** (.50)	1.21** (.51)	.54 (1.10)	1.53*** (.55)
Insurance commissioner	–.46 (.43)	–.47 (.43)	–.53 (.43)	–.53 (.43)	–.51 (.43)	–.61 (.44)
Total assets (log)	–.01 (.01)	–.01 (.01)	–.01 (.01)	–.01 (.01)	–.01 (.01)	–.01 (.01)
<i>Interstate effects</i>						
Intercept		–.02 (.03)	–.04 (.04)	–.04 (.04)	–.05 (.04)	–.12** (.05)
Diffusion within political subcommunity		–.02 (.05)	–.01 (.05)	–.01 (.05)	–.01 (.06)	–.01 (.06)
Influence of KY, TX, NY, KS			.82** (.35)	.83** (.34)	.83** (.34)	.81* (.32)
Susceptibility – Anticompact				–.01 (.79)		
Susceptibility – Investigation					.06 (.08)	
<i>Supra-state effects</i>						
Institutional endorsement, 1915						.81 (.75)
Institution of National Actuarial Bureau, 1916–29						2.04** (.96)
Likelihood ratio vs. constant rate	17.94	18.16	25.64	25.71	26.13	30.04

* $p < .10$, ** $p = .05$, *** $p = .01$.

The findings likewise support the argument that interstate institutional dynamics also shape regulation. While Models 2 through 6 in Table 5.2 show that there is no evidence in the proximity vectors for the diffusion of rate regulation within the political subcommunities of core, periphery, and diverse, there *is* consistent evidence that certain states were more influential than others. Kansas, Texas, New York, and Kentucky were very much

leaders in rate regulation. As the positive and significant coefficients in the infectiousness vector of Models 3 through 5 show, the adoption of laws by these four states was quickly followed by other states. By passing statist measures, Kansas and Texas exerted influence through the system, emboldening populists and reformers elsewhere and creating a credible political threat to insurance interests in other states. New York, the home of fire insurance interests, responded with an antidiscrimination measure, a political settlement that served as moderate model for other states puzzling over whether or not to adopt rate regulation. In contrast, actors in Kentucky found this relatively weak system of controls unsatisfactory, and settled instead on a "full rate control" law, providing other states with a model that more fully reflected the principles of scientific rate making and public control.

Models 4 and 5 include measures designed to capture the third dimension of interstate dynamics: were states with anticomcompact laws or legislative investigations more susceptible to regulation than those that had none? As noted, factors in the susceptibility vector are analogous to an interaction between the cumulative number of adopters of regulation and the state's internal characteristics. Models 4 and 5 show that states with anticomcompact laws or investigations are not more susceptible to rate regulation.

Model 6 examines the extent to which national or supra-state factors affects states' decisions to adopt rate regulation. First, we examine whether or not the endorsement of rate regulation in late 1914 by the Supreme Court and the National Convention of Insurance Commissioners, coupled with the latter's promulgating a model rating law, affected states' decisions to regulate. Model 6 indicates that this factor, as measured, is not significant, although the coefficient for these national-level events is in the expected positive direction.

Second, we examine whether or not the 1915 accord between the National Convention of Insurance Commissioners and the National Board of Fire Underwriters affected states' decisions about rate regulation. As discussed, this accord established a national Actuarial Board, creating system-wide administrative capacities for data-based regulation and significantly extending the logic of scientific rate making. Model 6 indicates that, in fact, this national-level development has a positive, significant, and particularly powerful influence on states' decisions to adopt rate regulation. Taken together, these models confirm our historical analysis of rate regulation.

Discussion and Conclusion

Combining historical analysis with heterogeneous diffusion modeling, the foregoing study of insurance rate regulation provides a view of institutionalization that differs substantially from conventional accounts of this process. First, the institutionalization of rate regulation represented a *settlement* (McAdam and Scott, this volume; Sanders 1986; Schneiberg 1999; Zysman 1994) of political conflicts over competing models of organization and the basic character of political, social, and economic order. Second, this settlement and its underlying conflicts were *products of social movement mobilization* to contest existing arrangements and advance alternative logics, models, and organizational forms. Third, sorting through those competing models and producing an institutional settlement was a *multilevel process* resting on conflicts, theorization, and partial settlements at the intra-, inter-, and supra-state levels. Finally, what emerged from these processes was a *multiplex, fractured institutional field* characterized by recombinations of multiple logics and forms, antithetical principles, and variations on core themes.

Figure 5.4 diagrams our conception of institutionalization, highlighting a number of contributions our work makes to existing research. First, by conceptualizing structuration and the production of market orders as result of an interaction between movement mobilization and institutional

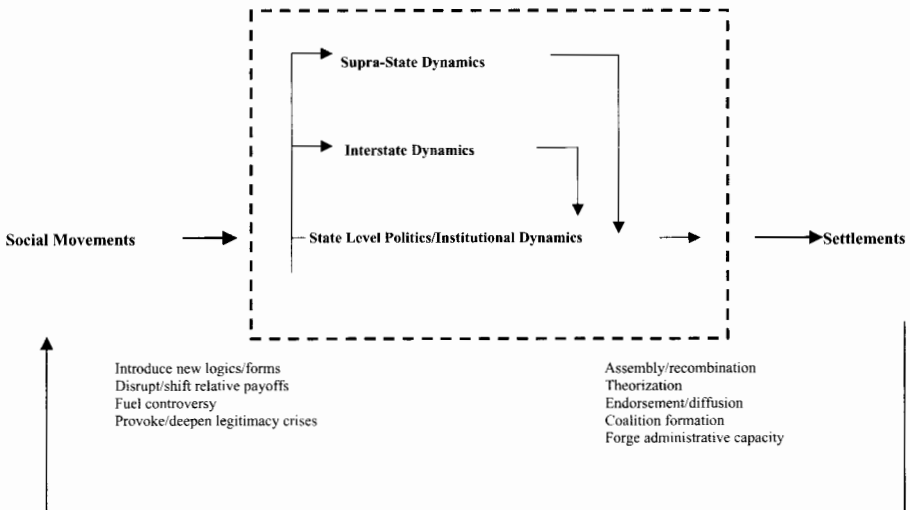


Figure 5.4 Social Movements and Institutionalization

processes in organizational fields, we build on the insights of McAdam and Scott, Campbell, Zald, Lounsbury, and others in this volume and develop one set of possibilities for integrating organizations and movements research. As our analysis shows, challengers and movement mobilization are vital “inputs” or instigators of institutional processes, for example, by promulgating critiques and introducing alternative logics into a setting, movements can fuel controversies, political conflicts, and crises of both cognitive and sociopolitical legitimacy, shattering the taken-for-granted character of existing arrangements, and using state power to contest or ban organizational practices (see also Baum and Powell 1995; Davis and Thompson 1994; Stryker 2000; Suchman 1995). Moreover, as carriers of new analyses and organizational forms, movements can foster theorization, transform the terms of policy discourse, and spark mimicry and diffusion, while providing actors in fields with templates and cultural resources for recombination, industry construction, and the (dis)assembly of political and economic regimes (e.g., Armstrong 2002; Campbell 1997; Clemens 1997; Lounsbury, Ventresca, and Hirsch 2003; Rao et al. 2000; Schneiberg 2002; Soule 2003). Furthermore, as potentially deeply disruptive forces, movements can fundamentally transform the payoffs or “relative prices” of alternatives for actors within fields, fostering new coalitions, and prompting new settlements or equilibria. Indeed, whether by fostering generative political conflicts, introducing new logics, or shaping the broader political-cultural terrain, social movements constitute critical inputs and determinants for core institutional process. And in fueling the dynamics just described, movements propel fields toward new combinations and settlements – combinations and settlements that incorporate or reject challenger agendas and principles, thereby creating conditions for reduced or renewed mobilization in subsequent periods.

To be clear, in developing this conception, we seek neither to consign movements to extra-institutional status, nor to draw any hard and fast line between movements and institutional processes. As our case suggests, movements do number as important “antecedents to (de)institutionalization” (Oliver 1992) and give shape to the black box of “pre-institutional” processes (Tolbert and Zucker 1996). Yet movements also can enter into or develop within fields, deliberately exploit institutional processes, and shape institutionalization or deinstitutionalization at any stages. For example, movements can act as institutional entrepreneurs, theorizing problems and solutions, and serving both as architects of settlements and as vehicles for diffusing or legitimating already theorized forms (Clemens 1997;

Schneiberg 2002; Soule 2003). Furthermore, movements also can use their capacities for mobilization and disruption to help sort through various options, however they get onto the agenda. Further still, movements can be institutionalized as a part of a system's ongoing routines and their organization or associations incorporated within fields as recognized and legally sanctioned insiders (Streeck and Schmitter 1985). Conversely, as others in this volume suggest, elites within fields might deliberately support or organize intra-, inter-, or extra-organizational movements to realize their ends. And there is reason to believe that conventional organizations within fields are increasingly structured like social movements, further blurring the boundaries between institutional and extra-institutional domain. But for our purposes here, these lines were sufficiently clear to show, at a minimum, how challenger movements can underlie, instigate, and even constitute core institutional dynamics.

Second, our analysis of institutionalization as multilevel process has implications for subsequent research on core institutional phenomena, including the development and diffusion of policies and organizational forms. The specific effects and mechanisms cited here may apply mainly to the case of insurance regulation. Yet our framework and modeling strategy for analyzing multilevel dynamics can be applied more broadly. Most simply, our approach suggests that future state-level research on market organization and other forms of public policy can and should consider state, interstate, and supra-state level political and institutional effects (Amenta et al. 1992; Schneiberg and Bartley 2001; Soule and Zylan 1997). Indeed, state-level research that fails to consider all three levels of effects cannot clearly document whether state-level factors have independent effects on outcomes, and risks mistakenly attributing inter- or supra-state forces to state-level political or institutional dynamics.

In addition, our approach can be fruitfully applied to other outcomes and other kinds of multilevel systems. Research on the institutionalization in work organizations of grievance procedures and other rights-based governance mechanisms makes a compelling case for effects at the firm, interfirm, and national levels, making significant progress toward documenting the multilevel character of this process (Davis and Greve 1997; Dobbin et al. 1993; Edelman 1990, 1992; Edelman et al. 1999; Fligstein 1990; Sutton et al. 1994; Sutton and Dobbin 1996). We also would expect at least three levels of institutional effects in transnational settings, particularly to the extent that the global institutions develop and deepen (Strang 1990; Soysal 1994; Meyer et al. 1997; Boli and Thomas 1997; Jang 2000). Recently, scholars

have made important theoretical advances in addressing the shift from relatively autonomous nation-states to nested transnational systems (Boyer and Hollingsworth 1997), and the development of international dynamics of diffusion, emulation, and transformation, centered around the export and partial incorporation of American models of capitalism (Djelic 1998; Djelic and Quack 2003). Again, the specific factors and mechanism involved vary, but there is clearly a warrant for employing a multilevel perspective on institutionalization to analyze the national, subnational, international, and global-level determinants of this process.

Furthermore, our approach can be elaborated both to analyze “bottom-up” and “top-down” dynamics in nested systems. The insurance case illustrates a bottom-up dynamic: movements, external shocks, or local innovation activate political and institutional responses *within* a state, generating state-level outcomes that influence other states, crystallize *inter*-state structures, and fuel organization, debate, and the creation and endorsement of models at the *national* level. Conversely, a more “top-down” process can obtain. It can begin at the national level and work down toward organizations within a country, as was the case with personnel procedures during World War I (Baron et al. 1986) and the adoption of equal employment opportunity/affirmative action policies (e.g., Edelman 1990, 1992). Or it can begin at the inter- or trans-national level and work down toward nation-states, as with the exporting of American mode in the post-World War II era (Djelic 1998; Djelic and Quack 2003). In the first case, national- or field-level events such as a new federal law evoke system-level activism by national associations, experimentation with policies or structural forms within individual organizations, and the emergence of peer pressures and interunit dynamics as organizations monitor one another’s behavior and converge on common solutions. In the second, the emergence of the United States as an exemplar for Western European modernizing elites accompanied the consolidation of an international diffusion network, fostering transnational normative standards and processes of recombination and transformation within nation-states. Similarly, top-down dynamics can occur as movements organize at the highest levels and target super-ordinate systems, as is the case in recent years with transnational movements and advocacy networks (Keck and Sikkink 1998; Smith, Chatfield, and Pagnucco 1997; Tarrow 2001a).

Equally important, our approach can be elaborated to analyze how the dynamics and trajectories of institutionalization differ across structural contexts. For example, institutionalization is more likely to unfold

as a multilevel and multicentric process in *federated* systems, such as the American polity, where authority is multicentric, than in unitary polities, where top-down effects might dominate, or in decentralized or fragmented systems, where a lack of connectivity or intermediate authority might induce diverse but largely uncorrelated and relatively weak pockets of institutionalization. Indeed, a potential strength associated with a federated system is that institutionalization processes can be launched or sustained at one or more levels, with or without the support of a central state (Dobbin and Sutton 1998; Jepperson and Meyer 1991). At the same time, however, the presence of multiple platforms and ports of entry create possibilities for broadly organized but competing projects, the development of institutional contradiction within or across levels, and the institutionalization of multiple, even contradictory, industrial orders (see also Berk 1994; Herrigel 1994; Schneiberg 2002).

Third, our approach has two important implications for research on diffusion and the mechanisms of interorganizational influence. First, diffusion can be a profoundly political process. Actions or events in one organization or state can highlight new possibilities for challengers in other organizations or states, fostering organizing and theorization by champions of alternatives within those units, as well as public discourse, institutional entrepreneurship, and internal political struggles. Such influence can occur without direct ties between units, or it can emerge from an institutionalization project in which activists and institutional entrepreneurs use adoption in their home organizations or states to promote models, support challengers, expose injustice, and exert normative pressures in or on other organizations and states. Moreover, actions that dramatize new possibilities or problems might evoke countermoves by elites in other organizations or states, even in the absence of an independent internal challenge. Should established powers in one unit see developments in others as threatening, misguided, or irrational, adoption by “peers” will promote rejection, processes of distinct, or preemptive alternatives – “negative diffusion” or “heteromorphism” – rather than mimesis (Soule and Earl 2001). Further still, debates and legitimacy crises in one location can produce reforms, structural innovations, or new principles that actors in other organizations or states can use to reach their own compromises and settle their own internal political and institutional conflicts. In each of these cases, organizations monitor other organizations, but diffusion is driven by the political dynamics of opposition, argumentation, contestation, and compromise.

Second, actions by organizations or states can activate and crystallize structures of interorganizational or interstate influence. Existing work on state policy finds that some states are recognized leaders and others followers, suggesting heterogeneous diffusion and an interstate role structure in which some states are more influential or susceptible to influence than others (Eyestone 1977; also Davis and Greve 1997; Strang and Soule 1998). Structure also can result from processes of distinction or differentiation, which push organizations or states away from an interorganizational system based around a dominant model or simple leader-follower structure toward other configurations, including core-periphery and multiple subcommunities, in which organizations or states form distinct reference groups, follow different paths, and implement competing or complementary models (D'Aunno et al. 1991). Cleavages could emerge on a variety of bases. But once cleavages develop, organizations or states will not form a single, homogenous community of influence or diffusion. Instead, organizations will observe, influence or be influenced by those in the same category, subcommunity, or region (Lant and Baum 1995; Soule and Zylan 1997; also Greve 1995), and deem actors in other categories as irrelevant or inapplicable, dampening normative pressure and the diffusion of models across types. Here, too, diffusion – and institutionalization more generally – occurs often, if not inevitably, as deeply political and even highly fractured, rather than purely cognitive, connective, or isomorphic processes.

Finally, thinking of these processes and their outcomes as partial or successive settlements of constitutional politics reintroduces “hot” models of action and agency into institutional analysis, while highlighting the provisional and fractured character of taken-for-granted social reality. Viewing extant arrangements and their emergence as settlements foregrounds how institutionalization can rest on articulation, layering, bricolage, and recombination rather than homogenization or convergence (Campbell 1997; Clemens 1997; Djelic and Quack 2003; Klienman and Vallas 2001; Morrill 2003; Orren and Skowronek 1999; Sabel and Zeitlin 1997). Institutionalization as process or outcome may represent less a development of consensus than a linking, combination, or recombination of different models, principles, groups and projects, an articulation or convergence that preserves ambiguity and multiplicity and contains a range of possibilities for subsequent assembly, reassembly, and recombination. Indeed, thinking in these terms takes us full circle, extending the theoretical bases for integrating politics and movements with organizations and institutional analysis. Viewing extant institutions as complex, potentially contradictory articulations not

only lends itself directly to understanding the multiple, competing, and conflicting interests and logics that underlie their production. It also leads directly to an understanding of how institutions reshape movements, either by incorporating key demands and principles, and channeling contestation into narrower channels, or by providing movements with multiple logics and levers for creating legitimacy crises, mobilizing more extensively, and mounting broader institutional challenges.

Appendix

Data Sources: Logistic Regressions for Anticompact Laws

Data on whether or not states passed anticompact laws that specifically targeted fire insurance associations and rate-making practices from 1885 to 1910 came from Handy (1916), Wandel (1935), and Spectator Company's *Fire Insurance: Laws, Taxes and Fees* for 1900 to 1915, an annual report summarizing insurance laws by state. (See Figure 5.2, states with anticompact measures). We measured size of state using population per state in 1880, size of farmer economy using the value of farm property per state, and populist vote using the number of votes per state for People's Party presidential candidate James P. Weaver in 1892. These variables let us examine the effects of social movements variables on the log odds of a state enacting anticompact measures after controlling for the size of a state, economic factors and politics, notably the electoral strength of populist forces in a state.

Data for the population per state in 1880 and the value of farm property came from the U.S. Bureau of the Census *Tenth Census of the United States* (1880) and the *Statistical Abstract of the United States* (1912). Data on populist vote came from the *Statistical Abstract of the United States* (1909: 36). Data on peak Grange membership, number of family members, and number of Granges in 1875 came from Buck (1913) and Tonz (1964). Data for Farmers' Alliance membership came from *Appleton's Annual Cyclopedia and Register of Important Events of the Year 1890* (1891: 301). All independent variables were measured in the 1000s.

Data Sources: Heterogeneous Diffusion Models of Rate Regulation

Data on whether and when states passed rate regulation laws and the type of laws passed came from Spectator Company's *Fire Insurance: Laws, Taxes*

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Table 5.A1. *Summary of Rate Regulation Laws*

State	Year	Type	State	Year	Type
Kansas	1909	Full	New Hampshire	1917	Antidiscrim.
Texas	1909	Full	Ohio	1917	Antidiscrim.
Louisiana	1910	Full	Oregon	1917	Antidiscrim.
Missouri	1911	Full	South Carolina	1917	Full
New York	1911	Antidiscrim.	Wisconsin	1917	Full
Washington	1911	Antidiscrim.	Colorado	1919	Full
Massachusetts	1912	Antidiscrim.	Indiana	1919	Full
Arkansas	1913	Antidiscrim.	Nevada	1919	Antidiscrim.
New Jersey	1913	Antidiscrim.	North Dakota	1919	Antidiscrim.
North Carolina	1913	Antidiscrim.	South Dakota	1919	Full
West Virginia	1913	Antidiscrim.	Tennessee	1919	Antidiscrim.
Iowa	1915	Antidiscrim.	Vermont	1919	Full
Michigan	1915	Full	Virginia	1920	Full
Minnesota	1915	Full	Wyoming	1921	Full
Oklahoma	1915	Full	Idaho	1923	Antidiscrim.
Pennsylvania	1915	Antidiscrim.	Mississippi	1924	Full
Kentucky	1916	Full	Illinois*	1937	Antidiscrim.

* Not included in the event history analysis.

and Fees for 1900 to 1950. We corroborated our coding using surveys of insurance rate legislation conducted by industry analysts and investigating committees in 1911, 1916, 1925, and 1941 (Hobbs 1925, 1941–2; Merritt Committee 1911; Riegel 1917, 1927). (See Table 5.A1).

Data on the assets of companies doing business within a state came from Spectator Company's *Insurance Year Book, Fire and Marine* (1900–40), annual reports on nearly every fire insurance company operating in the United States, including their states of operation. Based on these reports, we assigned companies to states, creating for each state a list of companies licensed to do business there and the assets of each company. Multistate firms were coded as present in each of the states in which they were licensed to do business. We collected and compiled this data from 1906 1910, and then every five years until 1929, using linear interpolation to obtain values for years in between these dates. The *Year Books* listed data as of December 31 of a year, so we lagged all the market variables by one year. We used *Best's Insurance Reports: Fire and Marine* for the same years to fill in missing data on states of operation. When data was missing from both sources, we used evidence from earlier and later years, information on company size, and county-specific company names to infer its state(s) of operation.

Data on whether or not states conducted a legislative investigation came from historical materials provided by Brearley (1916: 115–32) and information contained in the *Proceedings of the National Convention of Insurance Commissioners* (NCIC 1915: 119–44). Data on anticomcompact laws used the sources and methods described above. Data on whether or not a state had a stand-alone insurance department came from tables in Spectator Company's *Insurance Year Books* listing state officials with authority in insurance matters. We coded the state as having a stand-alone insurance department if a position specific to insurance (not concerned with other state functions) was listed.

Data for coding states into political-economic groups (core vs. periphery, anticomcompact vs. non-anticomcompact) for the diffusion analysis came, respectively, from Sanders (1999) and the Spectator Company's *Fire Insurance: Laws, Taxes, Fees* for 1900–15. Information on the dummy variables for the endorsement of rate regulation by the Supreme Court and the NCIC and the institution of the Actuarial Bureau came from the historical materials presented in Riegel (1917), the NCIC *Proceedings* (1915 (adjourned meeting 1914): 17–25; April 1915: 22), and Crane (1962: 56–7).

We fit models for the passage of rate regulation for 48 states from 1906 to 1930. We begin with 1906 as it precedes the enactment of the first rate regulation law and is the first year for which good data on all variables exists. Serious proposals for regulating rates began circulating around 1900 or so. We end with 1930 because format changes in significant sources deprived us of good measures on key variables and because thirty-three of the thirty-four states that passed rate regulation had already done so by 1924. For further details about variables and their construction, see Schneiberg and Bartley (2001).

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