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ABSTRACT

We study 79 sets of bylaw provisions adopted by Norwegian corporations in a free contracting environment before Norway got its first corporate law. The firms in our sample are publicly traded companies in the period 1900-1910. We document substantial protections to minority shareholders against expropriation by insiders and observe considerable heterogeneity in the investor protections stipulated in the contracts with regards to board structure, director responsibilities and remuneration, disclosure of company information, and shareholder voting rights, among others. We find that firms seem to self-select bylaw protections and show that firms with dispersed control structures tend to operate with protections reflecting collective action and free-rider problems, whereas tightly controlled firms have bylaws in place that reflect the relatively sophistication of investors. We also find evidence that dividends and investor protections are substitutes, and that firms in high growth industries and firms that issue equity disclose more information to investors. We conclude that effective governance systems may develop independently of statutory corporate law.

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I. Introduction

In the highly influential papers written by La Porta, Lopez-de-Silanes, Shleifer, and Vishny (1998, 1999, 2000; together denoted "LLSV"), statutory corporate law plays a central role in the development of effective corporate governance systems within a country. Investors are protected by the rights corporate securities assign to their owners, but the strength of these rights depend in turn on legal rules and the extent to which law protects shareholders and creditors from expropriation by company insiders.

LLSV show that differences in investor protections contained in corporate law may be the cause of differences in the financing patterns of firms across the world—in particular, the concentration of equity ownership tends to be high when shareholder protection is weak, i.e. the concentration of control acts as an alternative governance mechanisms in place of law to protect investors. Widely held firms will, therefore, not arise without strong corporate laws.

Recent work by Franks, Mayer, and Rossi (2009), however, takes issue with this point. They show that U.K. companies exhibited traits of dispersed ownership prior to the existence of strong corporate law in the United Kingdom and argue that law seems to have had little to do with ownership structure and the development of the U.K. financial sector more generally. Similarly, Cheffins (2006) argues that the arm's-length system of ownership and control became entrenched in the U.K. during a period when Britain had "mediocre" corporate and securities legislation.

The statutory laws discussed by LLSV, Cheffins, Franks et al., essentially impose the same corporate contract on all firms within a given country. In this paper, we study instead firms incorporate in a single country during a period with no corporate law. When

the equity capital providers to the firm are free to design the corporate contract that applies between them, what governance mechanisms do they choose? In such a "free" contracting regime, do we continue to observe a systematic relationship between the distribution of control rights and law?

In this paper, we study 79 sets of bylaw provisions adopted by turn-of-the century Norwegian publicly traded corporations and document substantial protections to minority shareholders against expropriation by insiders. Indeed, the primary function of these corporate contracts appears to have to been to establish basic protections for outside and minority investors from encroachment by insiders. What makes our analysis unique is that at the time of the contracts we observe (the early 1900s), no statutory corporate law existed in Norway. Thus, the formal contractual protections that we observe in the Norwegian corporate bylaws existed long before *corporate governance* became part of the modern vernacular—the contracts arose endogenously in a free contracting environment limited at the time to Norway, Denmark and three Hanseatic towns in Germany. To our knowledge, we are the first scholarly work to bring together original legal source material in order to sketch the business legal environment at that time.

We observe large heterogeneity in the contracts, including a variety of different board structures, mechanisms for controlling directors' behavior, disclosure policies, and allocations of control and voting rights. The cross-sectional variation in the contracts that we observe is substantially larger than the variation observed in today's corporate bylaws. The fact that all the firms in our sample reside in the same country, makes the study of the protections in the cross-section especially apt.

The firms in our sample rely mostly on equity finance.[1] Equity-holders' control rights—their ability to vote—is their protection from insiders running the firm (Hart (1995)). It is a striking characteristic of these early contracts that the allocation of voting rights across shareholders varies considerably across firms. Also, voting scales tend to be graduated and maximum vote provisions apply.[2] Rather than allocating one vote per share, turn-of-the century Norwegian corporations often endowed smaller shareholders with marginally larger voting rights. We also document considerable variation in share size, with some sizes prohibitively large for small investors. Hence, though their choice of voting rights and share size, firms were essentially *designed* to have a dispersed or concentrated shareholder population. We label these, respectively, *inclusive* and *exclusive* firms.

We are able to document the existence of a systematic relationship between the structure of shareholder control and governance laws, in particular, systematic differences exist between firms with concentrated and dispersed control structures. Thus we document a relationship between equity control and law as do LLSV, but our relationship is more complex: Rather than having weak investor protection, exclusive firms have in place *different* investor protections compared to the firms where control is dispersed. We argue that firms simultaneously choose control and governance laws structures, that is, the two structures are determined endogenously. This suggests that the one-rule-fits-all characteristics of statutory corporate law may impose costs on firms as shareholders are prevented from designing contracts that are optimally adjusted to the particular characteristics and circumstances of the individual firm.

[1] It is a well-documented characteristic that corporations at this point in time tended to use more equity than debt finance, see for example Baskin (1988), and Franks, Mayer, and Wagner (2006).
[2] Musacchio (2008) finds a similar pattern of voting rights in Brazilian corporations before 1910.

More specifically, we find that inclusive firms have in place protections that reflect the presence of free-rider and collective action problems among shareholders: These firms more often have shareholder supervisory boards and they control directors by requiring that directors be shareholders in the firm. It is relatively easy for shareholders to raise extraordinary issues at the general assembly or call extraordinary meetings. In contrast, exclusive firms have in place structures that appear to reflect the presence of a smaller circle of relatively sophisticated shareholders. They tend not to have shareholder boards and they monitor directors by imposing stricter requirements on their reporting to shareholders. Requirements for extraordinary meetings are relatively more stringent, but shareholders are more actively involved in decision-making that may prevent the tunneling of assets by insiders.

We relate the bylaw protections to two important corporate decisions: The payment of dividends and the raising of new equity capital. Baskin (1988) emphasizes how the payment of dividends helped sustain the confidence of poorly informed investors during the early phases of industrialization. We regress the fraction of dividends paid out of annual surplus on indices summarizing the strength of different bylaw protections and find that a higher degree of shareholder control is negatively associated with dividend payments, especially when considering bylaws associated with shareholders' control over directors and their ability to bring extraordinary cases for the general assembly. Our interpretation of this result is that lower control rights require the payment of higher dividends, that is, the dividend payments serve as a substitute to a contractual commitment not to steal cash in the firm. Since the payment of dividends reduces the size of assets under insiders' control and increases the need to access capital markets in the

future, the payment of dividends is costly for insiders enjoying private benefits of control. This makes dividends credible signaling that insiders will not expropriate minority shareholders. In addition, fluctuations in firms' dividend-payments may provide information to asymmetrically informed investors (Cheffin (2006)). Our results are therefore consistent with the ``substitute model" proposed by LLSV (2000) in which insiders use dividends as a signaling device. The analysis in LLSV (2000), in contrast, finds that higher dividends are associated with *stronger* minority protection.

We further find that the substitution ratio of dividends for control is larger for exclusive firms, such that one index unit of extra control to shareholders lowers dividend-payout by a larger amount compared to the average firm, in other words, a unit of shareholder control is more potent in firms with concentrated control structures. A similar effect does not exist for the group of inclusive firms.

Regressions of capital-raising intensity on bylaw protection indices reveal that the expansion of equity capital is positively related to bylaws that further shareholders' access to company financial accounts and materials. This results should be seen in the light of the absence of a corporate law that ensured shareholders' access to such information—indeed, contemporary editorials in Norwegian business magazines reveal that companies generally regarded matters relating to the business and its success as sensitive and were often unwilling engage in public communication of such issues.[3] As pointed out by Cheffins (2006), disclosure regulation may act as a substitute for securities law. In relation to our sample, of course, it is important that such disclosure regulation were imposed at the individual firm-level by the founding shareholders themselves.

[3] Such anecdotal evidence may be found in the *Farmand* business magazine.

Our results also add insights to the work of Franks, Mayer, and Rossi (2009) on early 20th-century U.K. firms. Finding that corporate law seem to have little to do with the ownership structure in these companies, they speculate that the firms' governance mechanisms were developed via informal relationships and trust between investors and insiders located in close geographic proximity to each other. Our results suggest than an alternative formal mechanism for strong corporate governance may have been operating at that time, namely enforceable firm-specific contracts. These contractual bylaws may either have been enforced in courts or through reputation. Our results that dividends may act as a substitute for corporate law is consistent with Cheffins' (2006) proposition that the dividend policy was a vehicle for the separation of ownership and control in U.K. public companies.

Our observation that corporate bylaws can protect shareholders in place of corporate law is far from novel. Building on the work of Coase (1988), Easterbrook and Fischel (1991) argue that the very foundation of corporate governance builds on the collection of contracts made between the parties of a corporation. Corporations, as capital raisers, seek to write contracts that minimize the agency costs related to raising capital from outside investors, with competition among the capital raisers leading to optimal contracts with investors. Corporate law, when it exists, provides a "standard form" contract that reduces transactions costs. This "contractarian" view of corporate governance and law remains a central focal point for debate among law and economics scholars. Similarly, Gompers, Ishii, and Metrick (2002) note that "corporations are republics" and that bylaws influence whether companies are run like democracies or dictatorships.

The rest of the paper proceeds as follows. Section II provides background information about the legal framework in Norway at the time of our sample. Section III describes the data collection process and provides some summary information about the firms in our dataset. Section IV provides summary statistics across the contracts on the sets of protections and Section V presents ours results. Section VI concludes.

II. Legal Framework in Norway Prior to 1911

Prior to the 20th century, corporations, partnerships, and other similar business forms in Norway and Denmark could be created freely without regard to codified regulations or law. The companies were recognized by the judicial system as a separate legal person without government concession or charter. Originally, government concessions were deemed necessary only when a company asked for special (e.g., monopoly) privileges. [4] This legal custom was carried over to limited liability companies as they started to emerge in large numbers in the economic boom years of the 1840s (Villars-Dahl, 1984; Dübeck, 1991).

Although prior to 1911 no statutory law existed to regulate the corporate form of business in Norway, a variety of legal precedents and standards existed to guide lawyers and judges through corporate legal disputes. This body of "unwritten" corporate law started with legal customs or norms (*sedvanerett*) established through centuries of dispute-resolution, primarily in the areas of property rights and contract law.[5] At their roots, these norms were likely influenced both by Old Norse property rights traditions

[4]The Danish Supreme Court ruled in 1827 that private associations could be recognized as separate legal entities without government approval (Danish Committee on Comparative Law, 1963). By 1824, Danish authorities (*Kancelliet*) had also published a statement that made precise that only privileges of "monopolistic and extraordinary" character required government concession (Lübeck, 1991).

[5] Nygaard (2004) provides a critical overview of the foundations and practice of law in Norway.

and the medieval Law Merchant (*Lex Mercatoria*) that prevailed in Hanseatic cities.[6] Further guidance was provided by basic legal principles (*almennelige rettsprinsipper*) that evolved within the legal community, by and among the lawyers and judges that were engaged in private law during this period. Hallager (1844), for instance, produced a large and detailed volume detailing the basic legal principles behind the rights of parties in contractual disputes, in particular, disputes involving creditors and a debtor. Finally, legal precedents set in court (*rettspraksis*) contributed to the body of unwritten corporate law prior to 1910. While past court decisions in Norway did not take on the central role of creating *common law* as in the Anglo-Saxon countries, they were a valid input to current disputes, and – in the absence of relevant written law – could be used together with norms and principals to inform judicial decisions.

Beyond the legal precedents and standards that prevailed at the end of the 19th century, Norwegian corporations were subject to one set of statutory regulations, so-called "registration laws." The precedent for registering businesses dates back to a 1681 Danish law that required registration in a court (tinglysning or tinglæsning) to make contracts legally binding vis-à-vis third parties. The laws required *all* commercial entities, regardless of organizational form, to register their business into a legal court record and to disclose this registration to the "public."

The first business registration law (*Lov om Firmaregistre*) was enacted in Norway in 1874, only to be replaced with a more extensive law in 1890 (*Lov om Handelsregister, Firma, og Prokura*). The 1890 law required a business to make a one-time disclosure that included the firm's the founding date, a brief description of the business, the county in which the company was headquartered, the amount of equity capital in the company,

[6] For a discussion of the Law Merchant, see Trakman (1983) and Milgrom, North, and Weingast (1990).

how the capital was divided among the owners, whether ownership shares were written in the owner's name or as "bearer" shares, and whether issued shares were paid in full. The disclosure was also supposed to indicate whether the firm would make periodic disclosures, and if so, in which newspapers, and include the founding company manager's full name and address, and who has the responsibility for signing the company's name. Finally, the disclosure required that the company's bylaws or articles be submitted as an attachment, along with proof of identification of the founding managers (Beichmann, 1890). Disclosures were to be published in a timely fashion in an official government periodical, *Norsk Kundgjørelsestidende.*

In sum, one can make several observations about the legal environment in Norway as of 1900. First, there was no statutory corporate law in place. That is, no legislation had been enacted to regulate how a limited-liability, commercial entity should be organized; how it should be capitalized and managed, or how shareholders should be granted control rights over its assets. In virtually every peer country at the time, including Sweden, the U.K., the countries across the European continent, and the states of America, laws were in place to regulate and restrict the business form known as a "corporation." Second, Norway did have strong and longstanding "extra-legal" mechanisms for adjudicating contractual disputes, and for requiring companies of all forms to publicly disclose rudimentary information about the business at the time it was founded. These traditions arose to facilitate contracting with third-parties (e.g., creditors), and to make contracts more easily enforceable in court.

III. Data Collection Process

We draw on the first volume of Carl Kierulf's *Handbook of Norwegian Bonds and Stocks* (*Haandbog over Norske Obligationer og Aktier*) from the year 1900 and archives from Norway's company registration service, *Brønnøysundregistrene,* to collect information from the bylaws of publicly traded Norwegian companies. The first volume of the *Handbook* includes the bylaws as well as limited accounting and market information on 145 companies. According to Kierulf, these companies regularly appeared on the price lists circulated by Oslo brokers, and thus were considered to be the most liquid. The shares of industrial corporations were traded off-the-counter as the first industrial company to be listed on the official Oslo Stock Exchange was only listed in 1909. The "broker's list" (*meglerliste)* was considered to be the definitive list of tradeable companies.[7] Our sample excludes banks and insurance companies and railroads. Railroad companies are excluded because they were partly owned by local county governments and appear to have included state interference. This leaves us with 74 firms, of which 64 are industrial companies and 10 are shipping firms. To increase sample size, we supplement Kierulf's initial 1900 list with contracts from 5 more industrial firms that appeared in the volume of the 1902 and 1905 *Handbooks*. We include those corporations for which we are able to find bylaws in the *Brønnøysund* registry. Our final sample therefore consists of 79 non-financial firms and corresponding sets of bylaws.

For these companies we construct a system for mapping all pertinent information from the firms' charters into a codeable set of categorical and indicator variables,

[7] The next addition of Kierulfs Handbook, printed in 1902, increased by 50% the number of listed firms covered, but to save space excluded these companies' charters.

described in Section V.3. For each of the 79 firms, we also collect accounting and financial information where available from additions of the *Handbook* through 1915. The typical Kierulf record contains rudimentary financial information, including year-end dividend payments and stock prices dating back three years, as well information on the book value of the shares, the number of shares outstanding, and year-end earnings figures. Several of the records also contain balance sheet and income statement information. However, these figures must be interpreted with caution, as no generally accepted rules of accounting existed at this time, and accounting practices appear to differ somewhat across firms, especially in regards to whether depreciation of physical assets are treated as an expense. In calculating accounting measures of performance, we work hard to extract the definition most closely aligned with consistent modern definitions. All figures are converted to million 2009-Norwegian kroner using the Norwegian Central Bank's historical CPI index. Finally, we compute the distribution of firms' equity size in the year of their bylaws (typically year 1900) and consider how the characteristics of the bylaw provisions and key accounting ratios vary with firm size. We label that size the firm's *initial size*.

IV. Firm Capital Structure and Financial Ratios

Tables 1-2 contain summary statistics of our sample firms, including a breakdown of the 79 firms by industry (Table 1), size and age (Table 2). The sample provides a fair spread of companies across different industries. The dominating industry is Manufacturing of Industrial and Consumer goods with 40 firms comprising 51 percent of the sample, followed by Basic Resources (14 firms) and Travel & Leisure (11 firms). The

Manufacturing sector encompasses a wide variety of firms, including 11 breweries (mostly beer), 6 ironworks and shipbuilders, 6 firms involved in maritime commercial transportation, 2 textile mills, a rifle-maker, 2 corn mills, 2 fabricated metal product manufacturer of nails and locks respectively, and otherwise manufacturers of products as diverse as shoes, tobacco, furniture, horse shoe nails, matches, sailcloth, and crackers. Basic Resources mostly comprises forestry and saw mills (5 firms), and firms converting wood products to paper including companies using sulfite-based technologies for converting cellulose to paper pulp (9 firms). Travel & Leisure includes 5 steam ship companies, 2 hotels, and 3 rail transportation companies. The Telecommunication industry includes one manufacturer of telephone equipment, and Utilities are producers of hydroelectricity. Finally, the 4 firms in the Real Estate sector are akin to today's Real Estate Investment Trusts, earning revenue through the rents generated from land and building holdings.

Table 2 indicates that the firms in the sample were relatively young, The reported founding date, which we take to be the date the company was set up as a corporation, indicates that a third of the sample firms were incorporated within five years of 1900, and all but 1 firms are younger than 60 years old. The young age suggest that many firms were set up or converted from the private to the corporate organizational form with the intension of raising public equity. By contrast, Ongena and Smith (2001) report that, as of 1996, the average OSE firm was 53 years old. Companies were also of smaller size measured by today's standards. Measured in 2009 Norwegian kroner, the average market capitalization over the sample period of the turn-of-the-century firm is Kr. 44.7 million compared with a market capitalization of Kr 7,830 million for the average Oslo Stock

Exchange (OSE) firms at the end of 2009.[8] Only one firm in 1900 had an average market capitalization higher than 200 million kroner (*Aktieselskabet Saugbrugsforeningen i Fredrikstad*, with a market capitalization of Kr. 358 million).

Table 3 contains summary statistics on the capital structure and financial key ratios of the 79 sample firms broken down by size as measured by paid-in equity. Total asset values are not available for all firms, but since debt is not a major source of finance for the firms in our sample, little is lost by measuring size with equity—the computed correlation between paid-in equity and total assets, for the firms where both figures available, is high at 0.92. The number of firms in the small, middle, and large size group is respectively 29, 23, and 27, and the size groups are defined according to the 33th and 67th percentiles of paid-in-equity. The table states accounting figures for the firms in each size group for which these figures are available, typically accounting figures are available for a little more than half of the firms in each group. The figures are averages across firms and years in each size group.

Comparing values for the median firm, Table 3 reveals that large firms are typically large because they hold more fixed assets and they also hold more long term debt. In addition, one medium-sized firm and three large-sized firms have issued public debt. One medium-sized and one large-sized firm issue preferred debt during the sample period, whereas the issue of ordinary equity is not correlated with size (two firms issue in each group). The debt-equity ratio (not including public debt) is higher in larger firms, whereas small firms appear to operate with a larger reserves-to-assets ratio. Larger and median firms have a slightly higher market-to-book value, whereas there is no systematic pattern between firm size and dividend-payout ratio.

[8] OSE market capitalization figures are from the 2009 *OSE Annual Report*.

V. Bylaw Characteristics

V.1. A conceptual framework

We assume the observed contracts arise as an equilibrium outcome in a situation where company founders attempt to raise outside financing from outside investors. Our working assumption is that founders will continue to have substantial influence in the running of the firm after the firm has gone public, either because they hold a large equity stake and/or because they will serve on as Directors. One can imagine that founders have superior experience and knowledge about the firm compared to new outside investors and therefore are able to get themselves elected to the Board of Directors, perhaps even without being equity blockholders.

Founders enjoy private benefits of control the return to which is lower the more control is allocated to shareholders in the bylaws. The level of private benefits is private information. Founders exert control of firm assets and have the ability to divert profits to themselves, if they so choose. Outside investors understand the incentives of the founders. They choose whether to participate and how to price an issue based on their share of firm profits, net of what they believe founders will divert. Bylaws are legally enforceable *protections* that act as a commitment not to divert firm assets.[9] This set of protections could include commitments to disclose pertinent financial information on a timely basis, guarantees that investor stakes can be sold to a third party, elections of "boards" of delegated monitors, and clear rules for compensating, hiring and firing management. Importantly, the protections can also include allocations of some of the firm's decision rights to the outside shareholders. Founders choose the extensiveness of the protections by weighing the benefits of a lower cost of capital against the cost of giving up the ability to divert funds. Of course, as new shareholders are added to the corporation, the

[9] Diversion of assets could occur on a variety of dimensions, including poor management of firm assets, consumption of private benefits unavailable to outside investors, or outright theft of investor funds. We view the set of protections to control diversion across these different dimensions.

ownership structure changes. Going forward, new shareholders can influence and reshape the contractual protections by voting to alter the charters in a way that maximizes their ongoing stake, although the consideration of such changes in bylaws lies outside the scope of this paper.

V.2. The format and protections in the bylaws

The format for a corporate contract is fairly standard across all firms in our sample. The typical contract of bylaw provisions is composed of a series of numbered paragraphs that outline the protections to shareholders in the company, including rules for transferring ownership of shares, appointing and electing the board of directors, running director meetings, hiring (and firing) management, purchasing and selling assets, announcing and conducting the annual meeting, hiring an auditor, disclosing financial results, determining dividend payments, and voting at annual meetings. The bylaws often also provide explicit guidance on the duties of directors and managers, and on how authority and decision-making should be delegated across the participants in the firm. Such guidance include the extent to which directors are to be involved in the daily management of the firm, and whether an individual with expertise in the industry be hired as a CEO.

Though the contracts are homogeneous in structure, the free-contracting environment in Norway in 1900 allowed for ample heterogeneity in the contents of the contracts. For instance, we observe a variety of different board structures (including one-tiered Anglo-American styled boards and the two-tiered boards more common in continental Europe), board compensation plans (including compensation tied to firm accounting performance), mechanisms for controlling CEO behavior (i.e., how much the CEO is directly monitored), shareholder protections against dilution at new issuance

(whether or not a rights issue must be required), disclosure policies (ranging from no advanced disclosure of materials to releases 60 days in advance of the annual meeting), and the allocation of control rights (how important firm decisions are allocated across the board, supervisory board, and shareholders).

As financial contracts, the bylaws also provide rich insight into the challenges and protections that were pertinent at the dawn of the 20th century. For example, bylaws may include provisions assuring an adequate pool of board of directors-candidates by limiting shareholders' ability to opt-out from acting as a director when nominated, require explicit shareholder votes on important company-level decisions that today are often delegated to management (for example, decisions related to large-scale purchases and to borrowing against fixed assets), and contain clear instructions on how the firm should be liquidated (including the voting majority required for liquidation and how to establish liquidating committees). Shareholders' control over the liquidation decision may be the ultimate way to force the payment of a dividend to shareholders preventing insiders' expropriation of assets. At the same time, the bylaws rarely contain explicit guidance on how to deal with changes in control through takeover— a central focus of present day variation in firm bylaws. We provide detailed descriptions of the specific aspects of the bylaw characteristics in Appendix B.

V.3. Constructing Governance Indices

The homogeneity in the contract format enables us to map the contents of each charter into a set of 140 discrete variables. From these variables, we extract and summarize information in the contracts into five sub-indices akin to the good corporate

governance indices of Gompers, Ishii, and Metrick (2002) and Bebchuk, Cohen and Ferrell (2004). The indices are: (1) Existence of a shareholder supervisory board (a dummy variable), (2) control rights vis-à-vis the Board of Directors (BoD Index), (3) disclosure of information to shareholders (Disclosure Index), (4) allocation of important decision rights to shareholders, which we term the Anti-Tunneling Index, and (5) provisions that capture the ease with which shareholders may bring up extraordinary cases in the general assembly and call extraordinary shareholder meetings (Extraordinary Cases Index). We further subdivide the Board of Directors index into provisions that require that directors also be shareholders, termed the BoD Incentives Index, and provisions that concern how directors report and document their activities to shareholders, termed the BoD Accountability Index. We also construct indices from the bylaws that come as close as possible to the LLSV (1998) anti-director rights index, and the Gompers, Ishii and Metric (2003) index. Details regarding the construction of the indices are provided in Appendix A.

Perhaps one of the most unusual features of these early company contracts is the allocation of voting rights across shareholders. In addition to our governance indices, we summarize voting procedures into a variable, Dispersion of Control Rights, defined to be the inverse of the ratio of the maximum allowable votes a single shareholder may hold relative to total shares outstanding. Dispersion of Control Rights provides a measure of the highest possible number of blockholders in a firm that hold the maximum number of votes. Firms that assign one vote per share are given the value 1 (because, in principle, one person may own all shares and have the maximum number of votes). 21 firms operate with linear voting schedules of one vote per share, the remaining 58 firms have

concave voting schedules in the sense that voting scales are graduated and maximum vote provisions apply.[10] Firms with a larger dispersion of control rights have a larger number of potential shareholders with maximum voting rights, in other words, such firms have fundamentally limited the extent to which control may be concentrated in the company. The distribution of this measure is displayed in Figure 1. As can be seen, the distribution is highly screwed to the right. About 15 percent of the firms in our sample have a dispersion measure larger than 50. We label firms in the top third of the distribution *inclusive firms* to indicate that such firms place severe restrictions on large shareholders' ability to exercise control and therefore, by design, cater to smaller investors.

We also consider the nominal size of shares as defined by the bylaws that apply in year 1900, displayed in Figure 2. As can be seen, the distribution is focused on share sizes of 500 (22 firms) and 1000 (16 firms). At the turn of the century, the monthly salary for a well-paid official in government service was about 2000 Norwegian kroner. Thus, share prices of 1000 kr. and above are likely to have been a prohibitively costly investment for small retail investors. It is therefore obvious that companies with large share denominations, by design, cater to well-endowed investors and, mostly likely, investors in such firms consists of wealthy businessmen who may well be professionally or socially connected in other ventures or enterprises. We label the firms in the top third of the distribution *exclusive firms*, meaning that such firms tend to cater to a select

[10] For example, the company *Akers Mekaniske Værksted*, a ship builer and ironwork has in place the following voting rules: 1-2 shares have 1 vote, 3-5 shares have 2 votes, 6-10 shares have 3 votes, 11-15 shares have 4 votes, 16-20 shares have 5 votes, hereafter 10 additional shares give 1 votes but no shareholder may have more than 10 votes. Since Akers Mek. Værksted has 1200 shares outstanding of size 500, a shareholder would need to hold 70 shares to attain the maximum allowable number of votes, namely 10. Thus, the company has "room" for 17.14 shareholders with 10 votes (=1200/70). The number 17.14 is then our measure of dispersion of control rights for this firm.

(wealthy) and exclusive group of investors. As the results section document below, the governance provisions in inclusive and exclusive firms tend to differ systematically.

In Table 4 we display the governance indices and the dispersion of control rights by firm size. It also specifies whether, according to the bylaws, new equity issues must be rights issues and whether the firm must hire a CEO. With very few exceptions, all firms have a board of directors and most firms have a CEO. A larger fraction of large firms (56%) tend to have a supervisory board, compared to small (17%) and medium-sized firms (30%). Our coding of the bylaws reveal that firms with a Supervisory Board of shareholders tend to delegate decision-making that otherwise lies with shareholders at the annual meeting to the Supervisory Board, hence a two-tired board structure appears to be a remedy for collective action and coordination problems amongst shareholders. Such problems are likely to be more prevalent in large firms to the extent that large firms are associated with more shareholders. Table 4 also indicates with the bylaws specify that a particular person must be a director or the CEO, and whether secondary equity issues must be rights issues. Neither of these variables are strongly correlated with size. The able also includes a dummy variable for whether the firm is represented with detailed accounting information in the Kierulf Handbooks. Again, no strong size pattern is present. Perhaps more surprisingly, the variable Dispersion of Control Rights is only slightly increasing in firm size meaning that limitations on blockholders' control rights are imposed to an almost equally strong extent in large and small firms. Hence, it is not firm size that drives the cross-sectional differences in the dispersion of controls rights depicted in Figure 1.

Table 5 reports the pair-wise correlation matrix between the governance indices. The by far largest correlation between two different indices occurs between the Supervisory Board Dummy and the Anti-Tunneling Index of -0.62. Interestingly, the negative correlation implies that in firms with a Supervisory Board, shareholders at the general assembly are less likely to have secured voting rights regarding the purchase and sale of assets, borrowing against assets, and the decision to liquidate the firm. This suggests that an important role of the Supervisory Board is moving the monitoring of the Board of Directors from the General Assembly to the Board. We also observe that firms that have a Supervisory Board in place tend to make it easier for shareholders to call extraordinary meetings and bring up extraordinary cases at the annual meeting, and they also tend to impose stricter disclosure requirements. These three correlations are mutually consistent in the sense that they capture different dimensions along with firms may prevent the expropriation of minority shareholders. We also observe that the Board of Directors Index is very highly correlated with its subindex BoD Accountability. The remaining correlates are relatively small, although we note that the Anti-Tunneling Index and the Extraordinary Cases Index is negatively correlated, perhaps indicating some degree of substitution. As regards the indices' correlation with the LLSV and GIM indices, no clear pattern emerges except a, surprising, negative correlation with our Anti-Tunneling Index. We believe the lack of relationship between ours and the modern-day LLSV and GIM indices may be caused by the fact that the latter are based on to a time period where corporate laws secure various basic rights of investors, whereas the investors in our sample have no such rights to rely on.

We also make an attempt to assess the firms' underlying growth opportunities, which we estimate by industry. From the Norwegian Statistical Bureau Historical Yearbooks, we are able to find data on the number of workers employed in the most important types of factories starting in 1889 which we allocate into industries. Unfortunately, workers numbers are not available for non-industrial factories. To estimate growth opportunities in the telecommunications sector, we use data on the number of telephone apparatus in the city of Oslo (capital of Norway). This information is available from various yearbooks of the publication "Account of Oslo Town's Trade, Industry, and Shipping" (*Beretning om Christiania Bys Handel, Industri og Skibsfart*). The same publication also contains information about the annually issued number of permissions to open a retail trade business (*borgerskabsbreve på handel*), and the annual number of building permits granted. The number of trade permits is used to estimate growth opportunities for firms in the retail consumer services industry, the number of building permits for firms in the real estate sector. For each industry we compute the average annual growth rates over the period 1900 – 1910 (the longest possible period available for all industries). The estimated growth rates are displayed in Table 6. We consider the characteristics of the bylaws of firms in the fastest growing industries in the empirical section of the paper below.

VI. Empirical Results

VI.1. Bylaw Characteristics: Tests of Differences in Means

We start investigating the characteristics of the bylaw provisions for inclusive and exclusive firms respectively. Table 7 shows the distribution of inclusive and exclusive

firms across industries. Compared to the overall distribution of firms, inclusive firms are overrepresented in consumer service industries and underrepresented in basic resources industries. For exclusive firms the pattern is opposite. There is an equal number of each type of firm in the industrial goods and services sector.

We then split the sample in three groups by the Dispersion of Control Rights Measure according to the 34^{th} and 67^{th} percentile. We test the difference in mean value of key bylaw provisions between the firms in the top third of the distribution, the inclusive firms, and the firms in the bottom third of the distribution. The results are displayed in Table 8, columns 2-4. Inclusive firms' share sizes are significantly smaller and their bylaws less often specify that shares must be name shares. These provisions appear naturally related to the dispersed control structure of the firms which invite many and small shareholders. The internal governance structure of inclusive firms is interesting: They have a shareholder supervisory board more frequently and the higher value of the BoD Incentives Index implies that it is more often a requirement that directors be shareholders in the firm *and* that shareholders must stand ready to be elected as directors unless they have served as directors previously. Both characteristics are consistent with overcoming collective action and free-rider problems among a dispersed population of shareholders. Shareholders tend not to vote on major decisions in the firm such as asset purchase/sale, liquidation, and borrowing as given by the Anti-Tunneling Index, this may reflect that the dispersed nature of control rights makes it inefficient to delegate such decisions to the general assembly or the supervisory board when it exists. On the other hand, the ease with which shareholders may bring up extraordinary cases in shareholder

meetings is significantly higher in inclusive firms as given by the Extraordinary Cases Index.

Next, we split the sample into three groups by initial share size and test for differences in means between the top third of the firms with the largest share sizes and the bottom third. The top third group of firms is the exclusive firms and comprises the firms with shares of sizes 1000 kr.and above. The bottom third is defined as firms with share sizes below 500 kr.[11] The test of differences in means are shown in Table 8, columns 5-7. Not surprisingly, exclusive firms have a lower dispersion of control rights. They also tend to be larger in size, which may reflect their concentration in the basic resources industry (Table 7). They are less often set up with a shareholder representative board, despite the fact that the firms are larger, and the bylaws more often specify that the shares be name shares. Both of these observations are consistent with a control structure comprised of wealthier, more sophisticated shareholders, who likely belong to certain families or the business communities in the respective cities of the firms. In such closely-held firms, it is imperative to know exactly who the shareholders are. Somewhat surprisingly, the requirement that new share issues be offered to existing shareholders (rights issues) is not significantly larger. Shareholders in exclusive firms tend to monitor directors by imposing explicit requirements that directors report to the shareholders or the supervisory board when it exists. On the other hand, it is not more typical to require that directors be shareholders themselves, which may suggest that boards tend to be more "professional" in the sense, hired from outside the firm. Shareholders tend to have more control over major business decisions such as asset sales (Anti-Tunneling Index), but the

[11] Notice that, due to the large concentration of shares at sizes 500 and 1000, it is not possible to create three equal-sized groups of firms.

threshold for bringing extraordinary cases to the shareholder meetings are higher (Extraordinary Cases Index). Notice that liquidation is the ultimate way to force a dividend or prevent insiders from expropriating wealth from shareholders. Together, these provisions confirm our hypothesis that these firms cater to more sophisticated shareholders.

Table 9 displays the results performing a similar exercise, but splitting the sample of firms according to firm size and growth opportunities as given by the estimated industry growth rates shown in Table 6. Larger firms tend to have a higher ratio of fixed to total assets, they more often have a supervisory board and their bylaws tend to stipulate the disclosure of company information to shareholders. Considering the top third of firms in the fastest growing industries, these firms distinguish themselves by issuing more shares in seasoned issues and they also provide more information to shareholders. As we also document below, this is really the defining characteristic of firms that need to raise capital—such firms disclose significantly more information than do firms that do not raise additional capital. This finding is strongly in line with our hypothesis that firms write bylaws taking into account the specific needs of the firm; bylaws are not determined exogenously.

VI.2. Governance and Dividend-Payout Policy

We then consider the dividend-payment decision and its association to firms' bylaw provisions. In a situation of considerable asymmetric information, absent of regulations regarding accounting and disclosure, the payment of dividends is a way to build reputation by signaling to investors that insiders are not expropriating the firm. To

explore this hypothesis, we regress firms' propensity to pay dividends out of their annual surplus on our key governance indices. We are able to construct dividend-payout ratios for 571 firm-years, out of a total of 1127 firm-year observations. Included in the regressions are three basic control variables: Initial Firm Age, which is the firm's age at the time it enters the sample, Initial Equity, which is equity in the year of the bylaws (typically 1900), and Market-to-Nominal Share Value which is the (time-varying) market value of the firm's ordinary equity divided by its nominal (par) value.[12] We do not have stock price information for all years which brings the sample down to 532 firm-year observations. All variables are measured ultimo-year.

Table 10 gives the results of GLS regressions of dividend-payout ratio on governance indices and control variables. Model M1 shows results from a base case regressions where no governance indices are included. Market-to-Nominal is significant with a positive sign, i.e. dividend ratios tend to be higher when firms' equity is valued higher. This result is very reassuring given that there is likely to be considerably noise in historical data. Also notice that this coefficient is identified by both cross-sectional and time variation, whereas the other regressors are constant over time. Older firms tend to pay higher dividend, whereas the coefficient on firm size is not significant at conventional levels. At quick glance at the coefficient on Initial Firm Size in the other model specifications reveal that it, in contrast to Firm Age and Market-to-Nominal is somewhat non-robust.

In models M2-M6, we include one governance index at a time. All indices appear with a negative sign, and all are significant, except the Supervisory Board Dummy. The

[12] We are not able to construct "proper" market-to-book values because we do not have frequent information about firm's retained earnings, hence we prefer to work with a pseudo market to book meausure in order retain as many observations as possible in the sample.

negative signs imply that bylaw provisions that grant better controls to shareholders are associated with *lower* dividend ratios, which is suggestive of a substitution between dividends and investor protections. Our interpretation of this result is that lower control rights require the payment of higher dividends, That is, the dividend payments serve as a substitute to a contractual commitment not to steal cash in the firm. When we include all governance indices into the regression at the same time, cf. M7, the Extraordinary Cases Index and the Board of Directors Index continue to be significant.

In Tables 11 and 12 we re-run the regressions with a dummy variable that equals one if the firm belongs to the group of exclusive, respectively, inclusive firms. We are interested in seeing whether the negative association between investor protection and dividend payments is moderated by firm type. For the exclusive firms, the estimated interaction term in Table 11 is negative for all governance indices and significant at conventional levels for the Disclosure, Anti-Tunneling, and Extraordinary Cases Indices. The negative sign implies that a one unit increase in investor protections enable firms to lower dividends *even more*. Comparing to the results in Table 12, where we use a dummy for inclusive firms, it is clear that there is no similar effect for this group of firms. Thus, we conclude that investor protections appear to be more potent in exclusive firms in the sense that it "buys" more in terms to dividend-reductions. The reason for this result may be that the value of a given bylaw is worth more to sophisticated shareholders because they are better able to enforce it, or it may be that sophisticated shareholders are better able to recognize that retention of surplus may benefit the firm, and hence shareholder value, in the long run.

VI.3. Governance and Equity Issues

Finally, we run regressions of firms' propensity to issue equity in seasoned offerings on the governance indices. We observe 50 issues of ordinary equity during the sample but in 9 of these cases, i.e. almost 20 percent, the value of the firm's stock price is missing in the issue year. We therefore construct a pseudo-panel with two time periods, where observations are averaged over time within each period. We split observations before and after 1905, such that the first period comprises the years 1886-1904, and the second period the years 1905-1910. We have less frequent information available prior to 1905 therefore the first period is longer. All variables are hereafter replaced by their average values within each time period. Table 13 shows the results of these regressions. In models M1-M7 we report results from a pooled OLS regression. In model M8 we run instead a Weighted Least Squares (GLS) regression where observations are weighted with the inverse of estimated industry-wide standard errors. These are estimated in a separate first step regression. As can be seen, the results do not differ markedly between the two models. In model M1, we consider first the estimated coefficients on the control variables: First Age and size (Initial Equity) have no systematic effect on firms' propensity to issue equity (although First Age has a negative sign, it is not close to being statistically significant). Market-to-Nominal share value is significant and has a positive sign, that is, firms tend to issue equity when their share price is high which is exactly as we would expect.

Considering next the estimated coefficients on the governance indices, the Disclosure and the Extraordinary Cases Indices both have a positive sign and are statistically significant at conventional levels. Hence, shareholders in firms that issue

equity are more likely to write strong disclosure requirements into their bylaws. They are also more likely to grant shareholders easy access to raise extraordinary issues (whether in the ordinary assembly or in an extraordinary meeting). These results make intuitive sense: In order to attract capital from outside investors, firms will need to reduce the degree of asymmetric information between insiders and outsiders. The results are especially interesting in the light of the Corporate Law that was eventually introduced in 1911 since that law emphasized, among others, the publication of firm information to its shareholders.

VII. Conclusion

We study corporate governance in turn-of-the century firm-level bylaws from Norway in a free contracting environment before the first Norwegian corporate law. The firms in our sample are publicly traded companies that are traded over-the-counter amongst dealers on the Oslo Stock Exchange. We observe considerable heterogeneity in the investor protections stipulated in the contracts with regards to board structure, director responsibilities and remuneration, disclosure of company information to shareholders and the general public, shareholder voting rights and control over major company decisions such as dividend policy, liquidation, and asset sales and purchases, amongst others. We conclude that firms endogenously choose their bylaws and that effective governance systems and dispersed ownership structures may develop independently of statutory corporate law. Hence, the one-rule-fits-all investor protections of statutory law may impose considerable costs on firms and their shareholders.

We further investigate the relationship between firms' dividend policy and bylaw protections. Our results suggest that firms with weaker protections tend to pay higher dividends, that is, investor protection and dividends are substitutes. This result suggests that high dividends work as a signal that insiders will not expropriate minority shareholders. As such dividend policy may be a substitute for corporate law and help separate ownership from control by fostering dispersed control structures in firms with high dividends.

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Appendix A

Definition of Governance Indices

Index 1: Disclosure

Adds a one for each of the following conditions contained in the bylaws:

1. The minimum time (days) ahead of annual meeting date that announcement of the meeting to shareholders occur. The variable is scaled relative to the maximum amount of time observed in the data, such that for firms which give notice of maximum length the condition adds one, whereas for firms which give notice of shorter time, the condition adds a value strictly less than one.
2. Requirement that annual meeting be held no later than a fixed period of time following end of fiscal year.
3. The minimum time ahead of annual meeting (days) that annual financial statements and information is made available to shareholders prior to annual meeting. The variable is scaled relative to the maximum amount of time observed in the data, data, such that for firms which make the information available with the maximum time ahead of the meeting the condition adds one, whereas for firms which make the information available a shorter time in advance of the meeting, the condition adds a value strictly less than one.
4. Existence of specific mechanism for making annual financial statements available to shareholders prior to annual meeting (e.g., via direct mail, newspaper announcement, or open to inspection at company headquarters).
5. Requirement that company appoints a treasurer (*kasserer)*.
6. Requirement that auditor be appointed and approved by the General Assembly at the annual meeting, by the Board of Directors, or the Supervisory Board.

Index 2: Board of Directors (BoD)

Adds a one for each of the following conditions contained in the bylaws:

1. Requirement that BoD members be shareholders of the company.
2. Requirement that shareholders elected to the BoD must serve on the Board (cannot avoid service as Director unless the shareholder has previously served as director or without other good reason).
3. Requirement that bylaws contain no mention of a specific person who must always be a member of the BoD.
4. Requirement that the BoD records minutes of their meetings.
5. Requirement that the BoD report their activities at least once at year (possibly at the general assembly) to shareholders if a Supervisory Board does not exist, or to the Supervisory Board if it exists.

6. Requirement that Directors' salary is defined in charter or that salary requires the approval of shareholders at the General Assembly or the Supervisory Board (when it exists).

Subindex 2a: Board of Directors (BoD) incentives
Adds a one for each of the following conditions contained in the bylaws:

1. Requirement that BoD members be shareholders of the company.
2. Requirement that shareholders elected to the BoD must serve on the Board (cannot avoid service as Director unless the shareholder has previously served as director or without other good reason).
3. Requirement that bylaws contain no mention of a specific person who must always be a member of the BoD.

Subindex 2b: Board of Directors (BoD) accountability
Adds a one for each of the following conditions contained in the bylaws:

1. Requirement that the BoD records minutes of their meetings.
2. Requirement that the BoD report their activities at least once at year (possibly at the general assembly) to shareholders if a Supervisory Board does not exist, or to the Supervisory Board if it exists.
3. Requirement that Directors' salary is defined in charter or that salary requires the approval of shareholders at the General Assembly or the Supervisory Board (when it exists).

Index 3: Supervisory Board Dummy
Adds a one for each of the following conditions contained in the bylaws:

1. A Supervisory Board elected among the shareholders of the company exists.

Index 4: Anti-tunneling
Adds a one for each of the following conditions contained in the bylaws:

1. Requirement that large asset purchases must be approved by General Assembly if a Supervisory Board does not exist, or by the Supervisory Board if it does exist.
2. Requirement that new borrowing or debt issuances must be approved by General Assembly if a Supervisory board does not exist, or by the Supervisory Board if it does exist.
3. Requirement that liquidation or sales of substantial company assets must be approved by the General Assembly if a Supervisory Board does not exist, or by the Supervisory Board if it does exist.

Index 5: Extraordinary Cases Index
Adds a one for each of the following conditions contained in the bylaws:

1. Bylaws contain explicit mention that shareholders have the right to bring up extraordinary issues in the annual meeting.
2. It requires no more than one shareholder to bring up extraordinary issues in annual meeting.
3. The minimum time (days) ahead of annual meeting date that issues to be treated at the annual meeting must be filed. The variable is scaled relative to the maximum amount of time observed in the data, such that firms that provide less time are registered with a value strictly less than one.
4. Topics treated at annual meeting are limited to those previously announced.
5. Shareholders can call an extraordinary meeting with 10% or less of outstanding shares or with a coalition of 5 shareholders or fewer.

Appendix B
Details of the Bylaw Characteristics

This appendix provides a detailed overview of investor protections written into the Norwegian bylaws of 1900. Below, we group the protections into five categories relevant to corporate governance: (1) Board and CEO structure, (2) transferability and issuance of shares, (3) disclosure policy, (4) the allocation of decision rights, and (5) shareholder voting rules, in particular, how shareholders may exercise their decision rights.

B.1 Board and CEO structure

Every charter contract includes a description of a group (or groups) of individuals elected by shareholders to oversee and manage the company's business. The description includes information on who is eligible to sit on a board, how board members are elected or appointed, the length of the term, and how alternates are selected. The description may also contain information on the board members' duties and compensation.

Panels A and B of Table B-1 summarize some of the pertinent information on board structure contained in the charters. The first thing to note is that two basic board structures are observed in the contracts: a one-tiered managing board of directors (*direktion)*, much like you see in modern U.S. and U.K. companies, and a two-tiered board with a supervisory board (*repræsentantskab*) sitting atop a managing board, as is common in continental European countries. Panel B indicates that 35% of the sample contracts specify the two-tiered structure; the rest specify only the one-tier managing board.

The turn-of-the century managing board was typically small, with three directors on the median-sized board. In 85% of the contracts, directors are required to be shareholders; in 18% of the contracts, they must also be residents of the area in which the company is located. The directors serve a median three-year term and can be reappointed at the end of their term. Indeed, shareholders are typically required to serve as board members if elected, and can only excuse

themselves from the responsibility for a time-period equal to their tenure as a director. The boards in our sample board terms are typically staggered, with a given fraction – usually 1/4 or 1/3 – of the terms coming due each year (not shown in table). Rather than a mechanism to defend against takeovers, the board terms were likely staggered to aid in transitioning new members onto the board. Contracts often contain information about director compensation. Though the directors are themselves shareholders, 38% of the contracts also specify that directors will receive pay tied to the performance of the firm. Typically, the measure of performance is accounting earnings.

Another interesting feature of the turn-of-the-century managing board was its involvement in the day-to-day business of the company. The median contract requires managing boards to meet at least twice a month (not shown in table), and many contracts require weekly meetings. Moreover, 87% of the contracts specify directly that managing directors must participate in some type of daily activity within the firm. These duties include receiving, and signing for, daily deliveries and overseeing the activities of the CEO. In 61% of the contracts, directors also maintain the formal legal responsibility (*prokura*) of representing the firm in 3rd-party negotiations.

Where they are included, supervisory boards appear primarily to take on the responsibility of hiring auditors for the firm and managing the disclosure of the firm's financial statements. When a Supervisory Board exists, it takes over from the shareholders the responsibility of appointing managing board directors at the annual meeting. However, in contracts that include a supervisory board, shareholders almost always (96% of the time) elect the supervisory board members. Thus, unlike the European supervisory boards of today, there were no laws in 1900 that required stakeholders other than shareholders to take part in the board-selection process. As Panel B of Table B-1 indicates, the supervisory boards are typically much larger than the managing boards (with a median of 12 members) and supervisory board members

serve shorter terms (median = 2 years) than managing board directors. Unlike managing board directors, supervisory board members are not contracted to receive pay for performance.

Though managing board directors appear to play an important role in the day-to-day running of the sample firms, as shown in Panel C of Table 2, most (87%) of the contracts also specify that an individual with expertise in the industry be hired as a CEO (the term for this position varies across contracts and industries: *forretningsfører, chef, disponent, bestyrer, administrativ direktør)*. Thus, the contracts at the time recognized the efficiencies gained from having some separation of ownership from control. Indeed, unlike the managing board directors, the CEO typically did not have to be a shareholder (required in only 6% of cases) and was specifically hired as an expert to run the business. Daily decision making was often (78% of the time) delegated to the CEO, and the CEO could be endowed with the legal responsibility for contracting with 3rd parties (in 29% of the cases). Moreover, the CEO could participate and vote as a managing board director in 41% of the cases. But 69% of the contracts still make explicit that the CEO must take instructions from the managing board. And among firms allowing the CEO a position on the managing board, only 18% allow the CEO to be chairman.

The last panel of Table B-1 (Panel D) reports on an event that is relatively uncommon across the contracts, but nonetheless interesting. Six of the contracts (8%) specify a named individual, or set of individuals, that must take part in management or supervision of the firm until their death or some other condition is met. Thus, for example, in the charter for *Krag-Jørgensens Geværkompagni* (a well-known riflemaker at the time), paragraph 6 states,

> The board of directors shall be composed of 4 directors elected at the annual meeting, together with Captain O. Krag, or the shareholder that he designates by proxy to participate on the board.

Krag was co-founder of the company. The paragraph goes on to say that in the event of Krag's death, a fifth member of the board can be selected at the annual meetings. Panel D indicates that the majority of these contractual proscriptions were to allow founding family members a seat on the managing or supervisory boards of the companies. However, in one case – *Aktieselskapet*

Franklin, Baker, & Co – the British founder James Franklin stipulates in the contract that he is CEO until death, or until shareholders muster a supermajority vote at the annual meeting to fire him.

B.2 Transferability and issuance of shares

Recognizing that an appealing property of corporate equity ownership is that shares can be sold, all charters provide some information on the transferability of ownership.[13] Kraakman, et al. (2004) argue that one of the essential features that distinguish stock shares in corporations from ownership in other organizational forms is the ability to liquefy your ownership position. As shown in Panel A of Table B-2, nearly every company required shares be registered in the name of the owner and that a shareholder list be maintained at company headquarters. This practice stood in contrast to the common use of *bearer* shares in many continental European countries during this time period (Kuhn, 1912 and Villars-Dahl, 1984). Roughly one-third of companies imposed a restriction that required a director's approval—or at least notification—before shares could be sold.

As can also be seen in Panel A of Table B-2, about half of the contracts provide some information on how new equity issuances will occur. This contractual feature is important because it sets the protections that existing shareholders have against future dilution of their stake. Only 19% of the contracts—or about 40% of the contracts that discuss share issuances—require a rights offering. This low percentage may simply reflect the fact that owners desired the right to seek quick financing through a 3rd-party source without working through a rights offering, or it may indicate that many companies viewed future share issuances to be rare enough that the type of offering need not be specified.

B.3 Disclosure policies

[13] Of course, this finding is endogenous to the fact that our sample is limited to the most actively traded publicly listed companies.

As discussed above, both Norway and Denmark have a rich history of requiring businesses to disclose pertinent company information, primarily for the protection of 3rd-party claimants, such as creditors. Moreover, the business registration laws of 1874 and 1890 required companies to make detailed disclosures at the time of registration, and as part those disclosures, identify a plan for future periodic disclosures. Therefore, it is not surprising that the Norwegian contracts we observe contain details about disclosure.

Nonetheless, as is apparent from Panel B of Table B-2, wide variation existed across the contracts in how disclosures occurred. First, only about 2/3 of the contracts committed to disclose the company's financial statements to shareholders prior to the annual meeting. The remaining 1/3 required that shareholders attend the annual meeting, digest firm performance, and vote based on that performance, at the meeting. Among those companies making advanced disclosures, contracts commonly specified that the financials would be made available two weeks in advance of the meeting at the company's headquarters. Some contracts provided more lead time in advance of the meeting (with a maximum of 60 days); one contract promised to mail the financial statements to each shareholder, while another committed to publish the results in local newspapers. 70% of the contracts committed to notify shareholders of an upcoming annual meeting in local and national newspapers. The median contract committed to advertising the meeting in 2 newspapers, with one often being a national circular or Oslo newspaper. In addition to newspaper announcements, some companies committed to mailing an announcement to each shareholder (not shown in table).

B.4 Allocation of decision rights

An important component of the charter contracts is the specification of what firm decision rights remain in the hands of shareholders and what is delegated to the boards. Panel A of Table B-3 details these allocations across a variety of decisions. In addition to following whether decision rights are allocated across the managing and supervisory boards or shareholders,

the panel includes the category, "Fixed in contract" because some of the decision rights are pre-specified as part of the charter.

Panel A of Table B-3 indicates that the hiring of the CEO and the determination of is most often delegated to the managing board, or to a lesser extent, the supervisory board, although in 5% of contracts a shareholder vote is required. Deciding the salaries of the managing board directors is roughly split evenly across the supervisory board, shareholders, and fixed by contract. Auditors are appointed by supervisory boards when supervisory boards are part of the company, otherwise they are approved by shareholders.

Perhaps most interesting is the observed variation in the allocation of rights associated with large investment and financing decisions. Most of the contracts provide specific guidance as to who approves the purchase and sale of large assets, including liquidating or selling the entire firm, borrowing that involves encumbering assets as collateral, payment of dividends, and as mentioned earlier, the issuance of new shares. A little over half of the firms keep the decision to acquire or sell fixed assets in the hands of the shareholders, while about 1/3 delegates the decision to the managing and supervisory boards. The benefit of allocating such decisions to shareholders is that it protects them against wasteful management spending. The cost of allocating the decisions arise from shareholder coordination problems, if shareholders are unable to agree, or it is costly to postpone a decision until all shareholders can vote, valuable investment opportunities may be wasted.

Only in 36% of the cases do shareholders vote directly on how dividends will be paid out each year. The supervisory board, or a combination of the supervisory and managing board, often makes the decision (34% of the cases). But in 28% of the contracts, the contract provides a direct formula for how dividends are to be paid. A typical formula for payouts starts by allocating a fixed percentage of the book value of the shares as dividends to shareholders, then sets aside a fixed amount of any remaining earnings to a reserve account and directors' pay, and then leaves

any remaining amount to be paid out according to the discretion of the shareholders. Although shareholders have some discretion in these cases, the level of discretion is low.[14]

As many as 87% of the contracts assure that shareholders vote directly on the liquidation decision. The liquidation clause in these contracts likely existed for a number of reasons. First, by requiring a shareholder vote – typically with supermajority voting requirements (see below) – the clause prevented insiders or management from selling the company out from under existing shareholders (for example, at an unreasonably low price). Second, it provided shareholders with the option to sell the company as a going-concern to a potential acquirer. Third, it provided a roadmap resolving sales of the firm in case of financial distress. Finally, the clause provided a way for shareholders to limit the time management had to run the business before "cashing out."

It is also interesting to notice the fraction of the contracts that are silent on the individual decisions. Most contracts contain stipulations regarding dividend policy, the liquidity decision and the appointment of auditors. However, a surprisingly large fraction, respectively 19% and 32%, are silent on such important decisions as sales/purchases of major assets and borrowing against the assets of the firm. This underscores our point that insider expropriation may have been a main mechanism for insiders to extract surplus from the firm.

B.5 Shareholder exercise of decision rights

Shareholders exercise their control over company management through the votes that they cast, on behalf of board candidates and on decisions that contractually required a shareholder vote. In turn-of-the-century contracts, the relative power of *minority* shareholders to influence

[14] The contracted dividend policy at *Aktieselskabet Kværner Brug* (a precursor to one part of today's Aker Kværner concern) is a good example:

> Of the profits, there can be returned, after all operating and other expenses are covered together with all necessary write-downs, first to preferred shareholders a dividend up to 6 percent of the book value of the preferred shares. Thereafter, an amount up to 5 percent of the book value of common shares can be paid to common shareholders; of any remainder must one-quarter be set aside to an operating or reserve fund, with the rest dispensed at the shareholders' discretion (paragraph 6).

the outcome of a vote depended on the quorums and majorities required to approve or reject a certain decision. High meeting quorums, requiring the presence of a relatively large number of shareholders before a vote could be taken, and supermajority voting provisions weakened the ability for large blockholders to influence the outcome of a decision.

The typical company in our sample required no meeting quorum and a simple 51% majority when voting on standard items at an annual meeting, including the election of the board, board compensation, dividend payout, and acceptance of the current year's audited financial statements. For these decisions, and under the assumption that shareholders received one vote per share, a 51% shareholder or group of shareholders could exert significant influence over the governance of the firm.[15] Quorum and supermajority requirements came into play in more important decisions.

As can be seen in Panel B of Table B-3, quorum rules and supermajority requirements were associated with votes to approve acquisitions and sales of fixed assets, new equity issuances, liquidation of the firm, and changes to the charter laws themselves. As discussed above and shown in Panel of A of Table B-3, only slightly more than half of all contracts allow shareholders to participate in decisions related to acquisitions, asset sales, and new equity issuances. Among the firms that do allow a shareholder vote, few require a meeting quorum and the median firm requires only a simple majority for approval. Yet a handful of contracts do require quorum votes and or supermajority provisions before these events can be carried out.

Quorum rules and supermajority provisions are much more common in decisions to liquidate the firm and change the laws in the charter. Among the 63 firms that specify a quorum for liquidations, the median firm required 50% of the outstanding voting capital be represented at the meeting, and among the 71 firms specifying that shareholders must vote before a liquidation can occur, the median voting majority required to approve a liquidation was 2/3. Votes on

[15] However, as discussed below, one-share, one-vote provisions were relatively rare.

changes in charter laws follow a similar patter, though fewer firms (50) require a quorum for the change-in-law vote.

That liquidations and changes to the charter were the most common decisions requiring a supermajority is perhaps not surprising since insiders could most easily steal or freeze out minority investors either by selling the firm – diverting all of its assets – at a value below the market value, or by changes the laws to directly weaken the decision rights of minority shareholders. Indeed, it is interesting to observe that *some* firms provided little or no protection against liquidations and charter changes. Two contracts (for *Christiania Aktie-Ølbryggeri* and *Fredrikshalds Kanalselskab*) make no mention of whether shareholders had a direct say liquidation decisions at all, and 14.4% of the sample (not shown in table) required only simple majorities to further a liquidation.

In addition to voting to approve or reject proposals put forth by management at annual meetings, shareholders in many of our sample firms could also put up their own proposals for a vote. They accomplish this in two ways: by lobbying for a proposal to be considered at the annual meeting, and by calling for extraordinary meetings.

Table B-4 summarizes the frequency of such protections across our contracts. Less than half (36, 46%) of our contracts explicitly allow shareholders to put a proposal on the agenda at the time of the annual meeting. But among the firms that do, the number of shareholders required to get the proposal on the agenda is small, the median requirement is one shareholder, and the mean is less than three. Allowing shareholders to call an extraordinary meeting is more common across the contracts, 59 (75%) provide direct guidance on how to do so. The median requirement among these contracts is that shareholders representing at least 25% of the outstanding capital vote or 20 shareholders to call the extraordinary meeting.

Figure 1: Dispersion of Control Rights

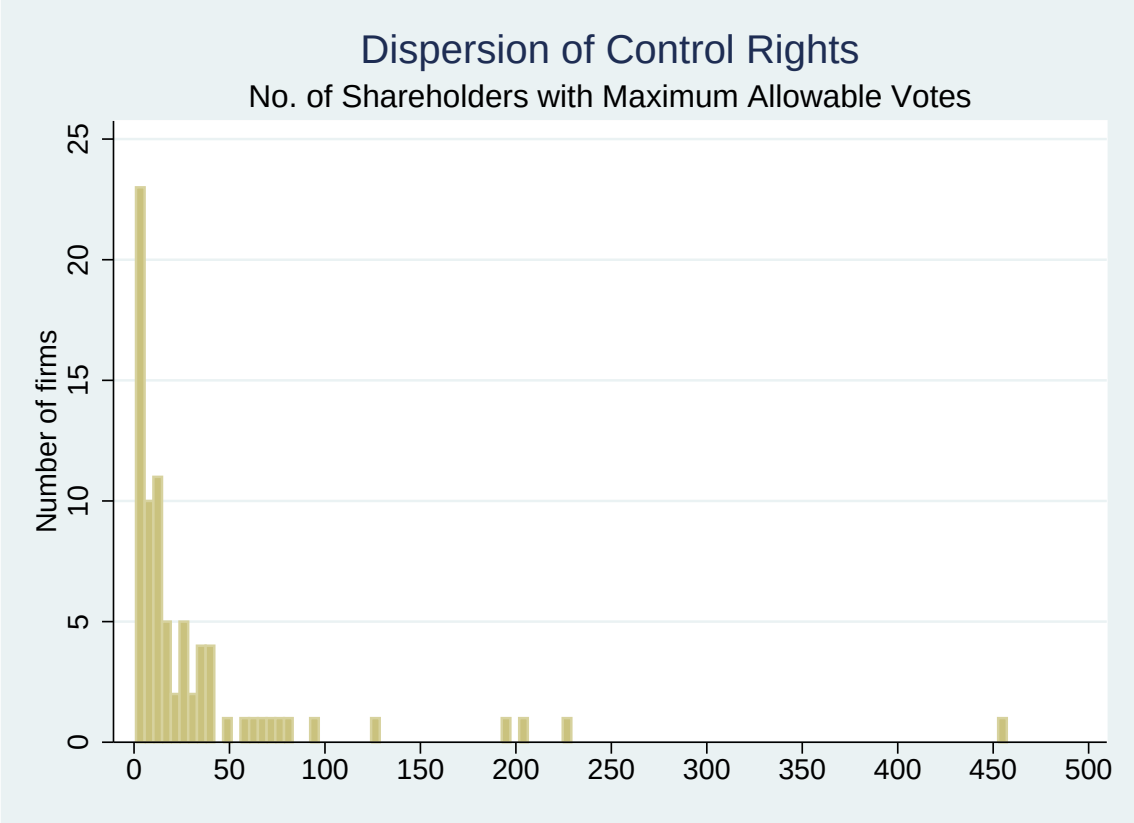

Figure 2: Ordinary Share Size in kroner

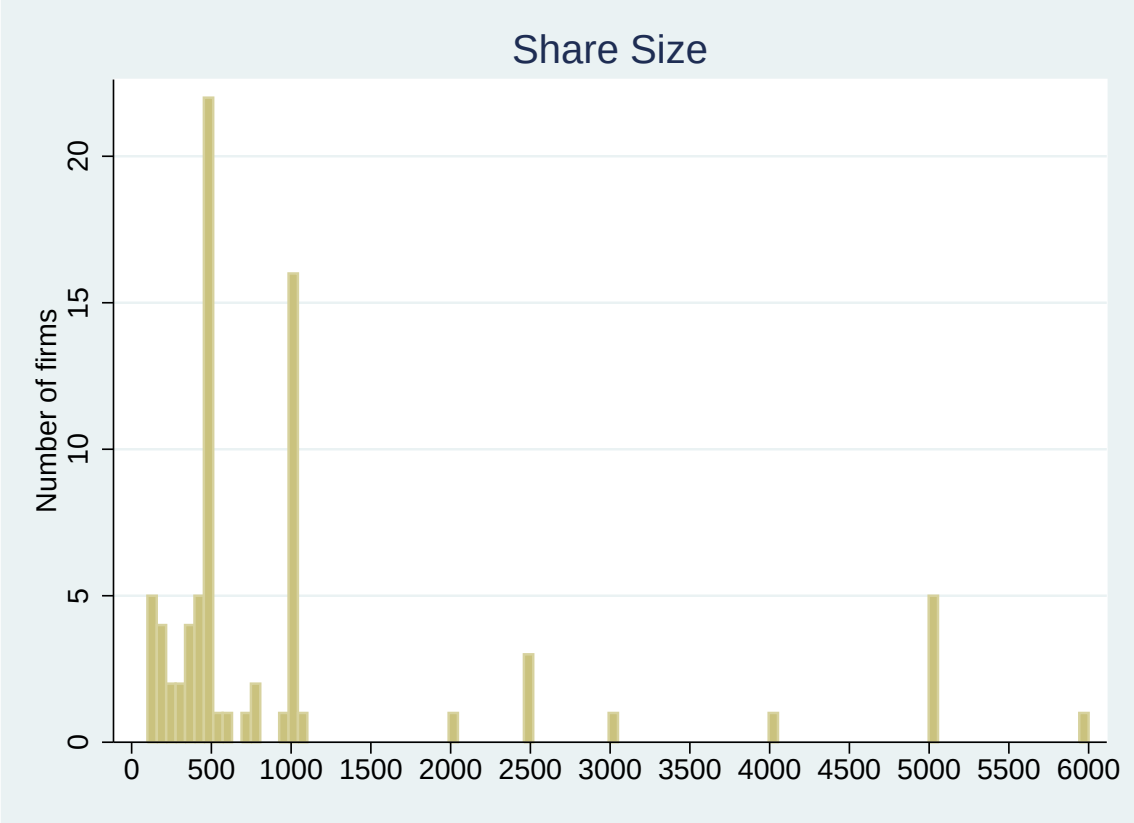

Table 1:
Distribution of Sample Firms by Industry

	Number	Percent
Basic Resources	14	17.7
Industrials		
Construction & Materials	2	2.5
Industrial Goods & Services	15	19.0
Consumer Goods		
Food & Beverage	15	19.0
Personal & Household Goods	8	10.1
Consumer Services		
Retail	3	3.8
Media	2	2.5
Travel & Leisure	11	13.9
Telecommunications	3	3.8
Utilities	2	2.5
Real Estate	4	5.1
Total	79	99.9

Note: The table shows the distribution of firms according to industry sectors. Industry sectors are classified according to the FTSE/DJI Industry Classification Benchmark (ICB).

Table 2:
Distribution of Sample Firms by Market Value of Equity and Age

	Number	Percent
Age in 1900		
1-5	26	32.9
6-10	14	17.7
11-20	13	16.5
21-40	7	8.9
41-60	17	21.5
> 61	1	1.3
Total	79	98.8
Average Market Value		
(0-10]	15	19.0
(10-50]	45	57.0
(50-100]	10	12.7
(101-200]	7	8.9
> 200	2	2.5
Total	79	100.1

Note: Firms' average market value of equity is measured in million 2008-Norwegian kroner and averaged for all years the firm is in the sample prior to 1911. Age is the age of the firm in year 1900.

Table 3:
Capital Structure Characteristics and Financial Ratios: 1895–1910

	Small Firms					Middle Firms					Large Firms				
	Obs.	Mean	Median	Min.	Max.	Obs.	Mean	Median	Min.	Max.	Obs.	Mean	Median	Min.	Max.
Age	29	10.7	4	1	43	23	17.9	10	1	82	27	15.5	5	1	44
Common Equity	29	15.6	12.9	0.92	29.6	23	39.5	39.6	29.7	50.8	27	92.0	68.7	51.4	303.3
Paid-in Equity	29	15.1	12.9	0.92	29.6	23	39.2	39.6	27.2	50.8	27	89.3	68.7	51.4	250.8
Total Assets	16	28.8	28.7	1.92	62.4	15	86.1	70.4	31.4	228.8	17	184.5	158.1	62.2	494.8
Total Debt	16	9.48	4.32	0.07	46.2	15	41.6	25.1	5.51	188.1	17	63.0	56.5	0.96	138.8
Accumulated Reserves	22	3.59	2.81	-2.08	12.8	15	7.98	4.60	24.0	0.41	21	15.4	11.9	-7.78	55.8
Long-Term Debt	14	9.32	4.54	0	45.8	14	29.1	22.3	0	96.0	19	30.4	26.8	0	94.2
Fixed Assets	16	18.3	16.3	1.77	58.5	15	62.0	51.0	18.3	166.4	19	129.6	101.3	34.3	303.7
Market Capitalization	29	13.1	11.3	0.59	38.4	23	35.9	35.8	15.2	59.7	27	85.9	67.7	0.69	358.3
No. Ord. Equity Issues	29	0.10	0	0	2	23	0.43	0	0	2	27	0.30	0	0	2
No. Pref. Equity Issues	29	–	–	–	–	23	0.26	0	0	1	27	0.07	0	0	1
No. Public Debt Issues	29	–	–	–	–	23	0.13	0	0	1	27	0.30	0	0	3
Debt-Equity Ratio	16	0.81	0.29	0.01	5.99	15	1.30	0.82	0.13	5.44	17	0.64	0.60	0.02	1.17
Equity Ratio	16	0.80	0.78	0.30	1.76	13	0.64	0.68	0.18	0.89	17	0.69	0.67	0.47	0.98
Reserve Ratio	16	0.20	0.13	0.02	0.89	13	0.11	0.08	0	0.33	17	0.09	0.09	-0.06	0.31
Fixed Asset Ratio	7	0.62	0.62	0.40	0.96	6	0.84	0.89	0.53	0.98	9	0.75	0.83	0.49	0.94
Market-to-Nom	29	0.90	0.87	0.14	2.11	23	0.96	1.00	0.49	1.41	27	0.97	0.93	0.04	2.01
Ord. Equity Issue Ratio	29	0.00	0	0	0.05	23	0.01	0	0	0.08	27	0.01	0	0	0.04
Pref. Equity Issue Ratio	16	–	–	–	–	23	0.01	0	0	0.09	27	0.00	0	0	0.04
Dividend-Payout Ratio	20	0.48	0.51	-0.03	1.34	15	0.37	0.38	0	0.90	23	0.58	0.62	0	1.11
Dividend-Equity Ratio	29	0.07	0.05	0	0.80	23	0.05	0.05	0	0.11	26	0.05	0.05	0	0.10

Note: The table shows the value of key accounting variable as well as key financial ratios. All values are in million 2009-Norwegian kroner. The sample of firm is split into groups according to the 33 and 67 percentiles of paid-in equity. The correlation between total assets and paid-in equity is 0.94. Sample period: 1985–1910. Age is firm age the first year it enters the sample. Common equity includes both committed and nonissued equity. Paid-in equity is the amount of ordinary and preferred equity that has been paid in by shareholders. Total assets is the sum of the firm's assets. Total debt is the sum of long-term and short-term debt. Accumulated reserves is previous years' earnings that has been retained in the firm. Long-term debt is debt that is collateralized debt. Fixed asset is the stated book value of the firms' fixed assets (typically not depreciated). Market capitalization is the ultimo-year market value of paid-in equity. No. ord. equity issues indicates the percentage of sample years in which the average firm issues ordinary equity. No. pref. equity issues indicates the percentage of sample years in which the average firm issues preferred equity. No. public debt issues indicates the percentage of sample years in which the average firm issues public debt (obligationer). Debt-equity ratio is the ratio of total debt to paid-in equity. Equity ratio is the ratio of paidin-equity to total assets. Reserve ratio is the ratio of accumulated reserves to total assets. Fixed asset ratio is the ratio of fixed assets to total assets. Market-to-Nom is the stock price divided by its nominal value. Ord. equity issue ratio is the amount of ordinary equity issued divided by paid-in equity (size of issue in terms of current equity). Pref. equity issue ratio is the amount of preferred equity issued divided by paid-in equity (size of issue in terms of current equity). Dividend-payout ratio is the amount of ordinary dividends divided by annual surplus. Dividend-equity ratio is the amount of ordinary dividends divided by paidin-equity.

Table 4:
Basic Bylaw Characteristics by Firm Size

	Small Firms		Middle Firms		Large Firms	
	Obs.	Mean	Obs.	Mean	Obs.	Mean
Supervisory Board	29	0.17	23	0.30	27	0.56
Board of Directors	29	1	23	0.96	27	0.93
CEO	29	0.83	23	0.91	27	0.85
Rights Issues	29	0.17	23	0.22	27	0.19
Named Person	29	0	23	0.04	27	0.07
Public Detailed Accounting	29	0.29	23	0.21	27	0.25
Dispersion of Control Rights	29	2.57	23	2.61	27	2.88

Note: The table shows the average values of the key bylaw indices within size groups. The sample of firm is split into groups according to the 33 and 67 percentiles of paid-in equity. Supervisory Board is an indicator variable that equals one if the firm has a supervisory board. Board of Directors is an indicator variable that equals one if the firm has a board of directors. CEO is an indicator variable that equals one if the firm has made contractual specifications regarding a CEO in their bylaws. Rights Issues is an indicator variable that equals one if the firm's bylaws specify that new common equity issues must be offered for sale to existing shareholders. Named Person is an indicator variable that equals one if the firm's bylaws specify that a particular person must be CEO or on the board of directors. Public Detailed Accounting indicates for each firm the fraction of firm-years the firm has provided detailed accounting information to the Kierulf Handbook between the year in which it first appears in the handbook and year 1910. Dispersion of Control Rights indicates the highest possible number of shareholders with maximum voting rights in a firm. Source: 1900 bylaws.

Table 5:
Governance Indices: Correlation Matrix

	Sup. Board	BoD Index	BoD Incen. Index	BoD Acc. Index	Disc. Index	Anti-Tun Index	Extra Index	LLSV Index	GIM Index
Supervisory Board Dummy	1.0000								
Board of Directors Index	-0.0024	1.0000							
BoD Incentives Index	0.1835	0.6274	1.0000						
BoD Accountability Index	-0.1432	0.8040	0.0413	1.0000					
Disclosure Index	0.2895	0.0182	0.1735	-0.1559	1.0000				
Anti-Tunneling Index	-0.6204	0.0030	-0.2313	0.1728	-0.1409	1.0000			
Extraordinary Cases Index	0.3607	0.1688	0.2202	0.0484	0.1165	-0.1827	1.0000		
LLSV Anti-Director Index	0.2038	0.0949	0.1011	-0.1990	0.1572	-0.2074	0.1056	1.0000	
GIM (2003) General Gov. Index	0.1408	0.2263	0.2571	0.0940	0.1558	-0.3203	0.1406	-0.2214	1.0000

Note: The table shows correlations between governance indices used in the regressions. Supervisory Board Dummy equals 1 if the firm has a shareholder supervisory board and zero otherwise. Board of Directors Index has minimum value 0 and maximum value 6. Board of Directors Incentives Index has minimum value 0 and maximum value 3. Board of Directors Accountability Index has minimum value 0 and maximum value 3. The BoD Incentives and Accountability Indices add up to the Board of Directors Index. Disclosure Index has minimum value 0 and maximum value 7. Anti-Tunneling Index has minimum value 0 and maximum value 3. Extraordinary Cases Index has minimum value 0 and maximum value 5.

Table 6:
Estimated Annual Growth Rates by Industry

	Average Annual Growth Rate
Basic Resources	0.02
Industrials	
Construction & Materials	0.03
Goods & Services	0.06
Consumer Goods	
Food & Beverage	0.07
Personal & Household Goods	0.04
Consumer Services	
Retail	-0.01
Media	0.02
Travel & Leisure	0.01
Telecommunications	0.07
Utilities	0.06
Real Estate	0.00

Note: The table shows estimates of the underlying average annual growth rate of each industry sector over the period 1900–1910. Growth rates in the Basic Resources, Industrial and Consumer Goods Industries, and Utilities are growth rates of the number workers employed in establishments in each sector (source: Norwegian Statistical Bureau Historical Yearbooks). The growth rate in the telecommunications sector is the growth rate in the number of telephone apparatus in Oslo (source: Account of Oslo Town's Trade, Industry, and Shipping Yearbooks). The growth rate in the retail sector is the growth rate in the number of business permits granted in Oslo (source: Account of Oslo Town's Trade, Industry, and Shipping Yearbooks). The growth rate in the real estate sector is the growth rate in the number of building permits granted in Oslo (source: Account of Oslo Town's Trade, Industry, and Shipping Yearbooks).

Table 7:
Inclusive and Exclusive Firms by Industry

		Firms in Top Third of Sample	
	All Firms	Dispersion of Control Rights (Inclusive firms)	Stock Size (Exclusive firms)
Basic Resources	14	2	10
Industrials			
Construction & Materials	2		2
Goods & Services	15	7	5
Consumer Goods			
Food & Beverage	15	3	4
Personal & Household Goods	8	2	2
Consumer Services			
Retail	3	2	
Media	2		1
Travel & Leisure	11	7	1
Telecommunications	3	2	1
Utilities	2		2
Real Estate	4	2	1
Total	79	27	29

Note: The table shows the distribution of inclusive and exclusive firms onto industries. Inclusive firms are defined as firms where the dispersion of control rights lie in the top 33 percent of the distribution. Exclusive firms are defined as firms whose share size lies in the 33 percent of the distribution.

Table 8:
Bylaw Characteristics in Inclusive and Exclusive Firms: Test of Differences in Means

	Control Rights Dispersion			Share Size		
	Top Third	Bottom Third	t-test of diff.	Top Third	Bottom Third	t-test of diff.
Dispersion of Control Rights	82.9 (18.0)	3.13 (0.44)	4.34	16.0 (7.0)	66.6 (22.7)	–2.34
Ord. Share Size	438 (52.5)	1282 (260)	–3.24	2226 (318)	267 (25)	5.34
Initial Firm Size	50.6 (7.80)	45.7 (10.3)	0.38	55.0 (9.78)	28.9 (5.78)	2.13
Industry Growth	0.035 (0.006)	0.037 (0.005)	–0.29	0.04 (0.004)	0.03 (0.006)	0.91
Fixed Assets Ratio	0.74 (0.04)	0.72 (0.07)	0.35	0.69 (0.05)	0.75 (0.04)	–0.69
Rights Issues-Dummy	0.19 (0.08)	0.08 (0.05)	1.16	0.24 (0.08)	0.14 (0.07)	0.93
Name Shares-Dummy	0.70 (0.09)	0.92 (0.05)	–2.09	0.90 (0.06)	0.68 (0.10)	1.95
Ord. Share Issues Ratio	0.006 (0.003)	0.005 (0.003)	–0.23	0.007 (0.003)	0.006 (0.003)	0.16
Supervisory Board-Dummy	0.63 (0.09)	0.19 (0.08)	3.54	0.03 (0.03)	0.50 (0.11)	–4.53
BoD Index	4.50 (0.16)	3.96 (0.22)	2.00	4.34 (0.19)	4.05 (0.19)	1.08
BoD Incentives Index	2.11 (0.08)	1.80 (0.14)	1.93	1.90 (0.11)	2.05 (0.12)	–0.88
BoD Accountability Index	2.38 (0.14)	2.16 (0.16)	1.07	2.45 (0.13)	2.00 (0.16)	2.21
Information Index	3.66 (0.21)	3.46 (0.20)	0.68	3.29 (0.18)	3.44 (0.25)	–0.49
Anti-Tunneling Index	0.89 (0.22)	1.65 (0.24)	–2.37	1.97 (0.21)	1.14 (0.24)	2.58
Extraordinary Cases Index	2.27 (0.11)	1.66 (0.13)	3.54	1.65 (0.11)	2.09 (0.11)	–2.55
Dividend Payout Ratio	0.48 (0.06)	0.58 (0.09)	–0.97	0.55 (0.12)	0.50 (0.07)	0.39
Obs.	27	27		29	22	

Firms are split into bottom third and top third according to the 33 and 67 percentiles respectively.

Table 9:
Bylaw Characteristics by Firm Size and Industry Growth: Test of Differences in Means

	Initial Firm Size			Industry Growth		
	Top Third	Bottom Third	t-test of diff.	Top Third	Bottom Third	t-test of diff.
Dispersion of Control Rights	37.4	24.6	1.12	29.9	44.8	–0.90
	(8.71)	(7.52)		(6.73)	(15.3)	
Ord. Share Size	922	1232	–0.79	935	1114	–0.56
	(209)	(315)		(178)	(268)	
Initial Firm Size	85.8	15.7	8.45	51.6	42.6	0.88
	(8.70)	(1.60)		(7.27)	(7.04)	
Industry Growth	0.04	0.04	0.56	0.07	0.01	28.8
	(0.005)	(0.005)		(0.001)	(0.002)	
Fixed Assets Ratio	0.77	0.64	2.02	0.69	0.77	–1.41
	(0.03)	(0.06)		(0.04)	(0.04)	
Rightsissues-Dummy	0.15	0.16	–0.13	0.17	0.24	–0.65
	(0.07)	(0.07)		(0.06)	(0.07)	
Bearer Shares-Dummy	0.85	0.81	0.45	0.83	0.85	–0.27
	(0.07)	(0.07)		(0.06)	(0.06)	
Ord. Share Issues Ratio	0.006	0.003	1.16	0.012	0.003	2.21
	(0.002)	(0.002)		(0.003)	(0.002)	
Supervisory Board-Dummy	0.59	0.16	3.75	0.43	0.35	0.63
	(0.10)	(0.07)		(0.08)	(0.08)	
BoD Index	4.15	4.16	–0.03	4.37	4.03	1.46
	(0.21)	(0.15)		(0.16)	(0.17)	
BoD Incentives Index	1.85	1.87	–0.16	2.03	1.81	–1.51
	(0.12)	(0.10)		(0.08)	(0.12)	
BoD Accountability Index	2.31	2.29	0.09	2.34	2.21	0.72
	(0.14)	(0.14)		(0.13)	(0.13)	
Information Index	3.85	3.13	2.33	3.79	3.20	2.39
	(0.20)	(0.23)		(0.18)	(0.16)	
Tunneling Index	1.11	1.87	–2.51	1.23	1.71	–1.60
	(0.23)	(0.20)		(0.20)	(0.22)	
Extraordinary Cases Index	2.00	1.96	0.24	1.96	1.99	–0.18
	(0.14)	(0.11)		(0.12)	(0.11)	
Dividend Payout Ratio	0.48	0.51	–0.29	0.59	0.46	1.47
	(0.08)	(0.07)		(0.06)	(0.07)	
Obs.	27	31		35	34	

Firms are split into bottom third and top third according to the 33 and 67 percentiles respectively.

Table 10:
Effect of Governance Laws on Dividend-Payout

	M1	M2	M3	M4	M5	M6	M7
Constant	3.28	4.58	4.09	3.34	5.07	3.12	4.46
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Board of Directors Index		-0.34					-0.28
		(0.04)					(0.09)
Disclosure Index			-0.17				0.07
			(0.10)				(0.34)
Anti-Tunneling Index				-0.19			0.01
				(0.02)			(0.89)
Extraordinary Cases Index					-0.87		-0.25
					(0.00)		(0.12)
Supervisory Board-Dummy						-0.07	-0.18
						(0.64)	(0.47)
Market-to-Nominal Share Value	1.37	1.63	1.24	1.45	1.60	1.45	1.40
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Firm Age	1.16	2.91	0.42	0.47	1.80	1.32	3.77
	(0.00)	(0.00)	(0.29)	(0.17)	(0.00)	(0.00)	(0.00)
Initial Equity	1.08	-8.98	1.68	6.99	-4.65	1.24	-12.00
	(0.29)	(0.00)	(0.39)	(0.00)	(0.00)	(0.46)	(0.00)
Obs.	528	520	528	528	528	528	520
Pseudo R-squared	0.28	0.53	0.13	0.27	0.34	0.24	0.75

Note: The table shows regression results of a two-step GLS estimator (weighted least squares) where the first step estimates a standard error for each firm, and, in the second step, observations for each firm are weighted with the inverse of its estimated standard error. The dependent variable is the log of 1 plus the dividend payout ratio measured in percent. Firm Age is firm age the first year it enters the sample. The coefficient is multiplied by 10. Initial Equity is the equity size in the year of the firm's bylaws, measured in billion 2009 kroner. Market-to-Nominal Value is the firm's stock price divided by its nominal value. The governance indices are described in Table 1. p-values in parentheses. Sample period: 1985–1910.

Table 11:
Effect of Governance Laws on Dividend-Payout: Exclusive Firms

	M1	M2	M3	M4	M5	M6
Constant	4.46	4.49	5.15	4.96	4.63	4.44
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Top Third Share Size Group-Dummy		3.55	3.54	2.22	4.34	0.69
		(0.19)	(0.13)	(0.06)	(0.00)	(0.28)
Dummy × Board Index		-0.88				
		(0.17)				
Dummy × Disclosure Index			-0.99			
			(0.11)			
Dummy × Anti-Tunneling Index				-0.87		
				(0.03)		
Dummy × Extraord. Cases Index					-2.40	
					(0.00)	
Dummy × Supervisory Board						0.22
						(0.66)
Board of Directors Index	-0.28	-0.08	-0.30	-0.09	-0.22	-0.14
	(0.09)	(0.55)	(0.00)	(0.35)	(0.00)	(0.14)
Disclosure Index	0.07	-0.18	0.22	0.12	0.17	0.21
	(0.34)	(0.03)	(0.03)	(0.11)	(0.02)	(0.03)
Anti-Tunneling Index	0.01	-0.10	-0.35	-0.19	-0.34	-0.42
	(0.89)	(0.37)	(0.00)	(0.10)	(0.00)	(0.00)
Extraordinary Cases Index	-0.25	-0.25	-0.23	-0.54	-0.17	-0.31
	(0.12)	(0.06)	(0.06)	(0.00)	(0.32)	(0.07)
Supervisory Board-Dummy	-0.18	0.56	-0.45	0.07	-0.20	-0.47
	(0.47)	(0.07)	(0.09)	(0.82)	(0.36)	(0.14)
Market-to-Nominal Share Value	1.40	1.39	1.55	1.32	1.21	1.16
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Firm Age	3.77	1.81	0.66	1.17	1.25	1.04
	(0.00)	(0.00)	(0.18)	(0.01)	(0.00)	(0.06)
Initial Equity	-12.00	-4.77	-5.83	-11.81	-7.76	-3.62
	(0.00)	(0.19)	(0.03)	(0.00)	(0.01)	(0.30)
Obs.	520	520	520	520	520	520
Pseudo R-squared	0.75	0.23	0.28	0.21	0.31	0.35

Note: The table shows regression results of a two-step GLS estimator (weighted least squares) where the first step estimates a standard error for each firm, and, in the second step, observations for each firm are weighted with the inverse of its estimated standard error. The dependent variable is the log of 1 plus the dividend payout ratio measured in percent. Firm Age is firm age the first year it enters the sample. The coefficient is multiplied by 10. Initial Equity is the equity size in the year of the firm's bylaws, measured in billion 2009 kroner. Market-to-Nominal Value is the firm's stock price divided by its nominal value. Dispersion of Control Rights measures the highest possible number of shareholders with maximum voting power in the firm. The governance indices are described in Table 1. Dividend-payout information is not available for all firms in the sample. Hence, the number of firms in the regression is 57, of which 12 firms belong to the top third of firms with largest stock sizes out of the entire sample of 79 firms. p-values in parentheses. Sample period: 1985–1910.

Table 12:
Effect of Governance Laws on Dividend-Payout: Inclusive Firms

	M1	M2	M3	M4	M5	M6
Constant	4.46	5.53	7.02	5.79	8.09	6.73
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Top Third Dispersion Group-Dummy		-0.44	-0.27	0.21	-4.56	-0.32
		(0.71)	(0.71)	(0.56)	(0.00)	(0.56)
Dummy × Board Index		0.22				
		(0.43)				
Dummy × Disclosure Index			0.12			
			(0.52)			
Dummy × Anti-Tunneling Index				-0.12		
				(0.43)		
Dummy × Extraord. Cases Index					2.23	
					(0.00)	
Dummy × Supervisory Board						0.18
						(0.75)
Board of Directors Index	-0.28	-0.33	-0.28	-0.13	-0.62	-0.05
	(0.09)	(0.03)	(0.00)	(0.16)	(0.00)	(0.57)
Disclosure Index	0.07	0.10	-0.15	-0.00	0.03	-0.05
	(0.34)	(0.18)	(0.19)	(0.99)	(0.70)	(0.63)
Anti-Tunneling Index	0.01	-0.30	-0.45	-0.29	0.04	-0.72
	(0.89)	(0.00)	(0.00)	(0.01)	(0.57)	(0.00)
Extraordinary Cases Index	-0.25	-0.50	-0.49	-0.70	-1.34	-0.51
	(0.12)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Supervisory Board-Dummy	-0.18	-0.33	-0.67	-0.23	0.47	-1.35
	(0.47)	(0.14)	(0.00)	(0.41)	(0.01)	(0.00)
Market-to-Nominal Share Value	1.40	1.80	1.52	1.62	1.27	1.75
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Firm Age	3.77	0.45	0.11	0.13	2.14	-0.65
	(0.00)	(0.30)	(0.76)	(0.75)	(0.00)	(0.27)
Initial Equity	-12.00	0.15	0.61	-0.89	-7.72	-4.23
	(0.00)	(0.90)	(0.68)	(0.56)	(0.00)	(0.12)
Obs.	520	520	520	520	520	520
Pseudo R-squared	0.75	0.42	0.37	0.40	0.53	0.40

Note: The table shows regression results of a two-step GLS estimator (weighted least squares) where the first step estimates a standard error for each firm, and, in the second step, observations for each firm are weighted with the inverse of its estimated standard error. The dependent variable is the log of 1 plus the dividend payout ratio measured in percent. Firm Age is firm age the first year it enters the sample. The coefficient is multiplied by 10. Initial Equity is the equity size in the year of the firm's bylaws, measured in billion 2009 kroner. Market-to-Nominal Value is the firm's stock price divided by its nominal value. Dispersion of Control Rights measures the highest possible number of shareholders with maximum voting power in the firm. The governance indices are described in Table 1. Dividend-payout information is not available for all firms in the sample. Hence, the number of firms in the regression is 57, of which 24 firms belong to the top third of firms with largest dispersion of shareholder control out of the entire sample of 79 firms. p-values in parentheses. Sample period: 1985–1910.

Table 13:
Determinants of Seasoned Common Equity Issues: Governance Indices

	M1	M2	M3	M4	M5	M6	M7	M8
Firm Age	-0.09	-0.10	-0.11	-0.14	-0.01	-0.09	-0.07	0.01
	(0.74)	(0.74)	(0.71)	(0.64)	(0.98)	(0.74)	(0.81)	(0.97)
Initial Equity	0.03	0.00	-0.25	-0.16	0.62	-0.00	0.61	0.25
	(0.98)	(1.00)	(0.84)	(0.90)	(0.62)	(1.00)	(0.65)	(0.84)
Market-to-Nominal Share Value	0.15	0.15	0.17	0.16	0.15	0.15	0.18	0.15
	(0.07)	(0.07)	(0.04)	(0.05)	(0.08)	(0.07)	(0.04)	(0.07)
Board of Directors Index		-0.01					-0.03	-0.02
		(0.82)					(0.59)	(0.68)
Disclosure Index			0.08				0.08	0.07
			(0.08)				(0.09)	(0.14)
Anti-Tunneling Index				-0.04			-0.07	-0.06
				(0.31)			(0.18)	(0.20)
Extraordinary Cases Index					0.16		0.19	0.17
					(0.04)		(0.04)	(0.04)
Supervisory Board-Dummy						0.02	-0.25	-0.17
						(0.89)	(0.09)	(0.25)
Constant	0.26	0.32	-0.00	0.34	-0.10	0.25	-0.12	-0.12
	(0.00)	(0.21)	(0.99)	(0.00)	(0.61)	(0.00)	(0.73)	(0.70)
Obs.	143	140	143	143	143	143	140	140
Pseudo R-squared	0.02	0.02	0.04	0.03	0.05	0.02	0.09	0.08

Note: The table shows regression results from a two-period panel least squares regressions where variables in each period are measured as averages over the years 1886-1904 respectively 1905-1910. The results in model M8 is a from a two-step industry-weighted GLS estimator (weighted least squares) where the first step estimates a standard error for each industry, and, in the second step, observations for each firm are weighted with the inverse of the estimated standard error for the industry it belongs to. The dependent variable is the value of seasoned ordinary equity issues, measured in percent of previous year's ultimo-period value of paid-in equity. Firm Age is firm age the first year it enters the sample. The coefficient is multiplied by 10. Initial Equity is the equity size in the year of the firm's bylaws, measured in billion 2009 kroner. Market-to-Nominal Value is the firm's stock price divided by its nominal value. Supervisory Board Index, Board of Directors Index, CEO Index, Disclosure Index, Anti-Tunneling Index, and General Governance Index are described in Table 1. p-values in parentheses. Sample period: 1985–1910.

1 Appendix B Tables

Table B-1:
Contractual features Related to Board and CEO Structure

A. Managing Board Structure (Excluding CEO)

Proportion of contracts that require appointment of a managing board	97.5
Median number of directors	3
Median term of directors (years)	3
Among firms requiring Board of Directors:	
Directors elected by general assembly	74.0
Directors elected by Supervisory Board	26.0
Directors must be local residents	18.2
Directors must be shareholders	85.1
Directors takes part in daily management	87.0
Directors represent firm in 3rd party contracts	61.0
Directors receive extra pay for performance	37.7

B. Supervisory Board Structure

Proportion of contracts that require appointment of a supervisory board	35.4
Median number of supervisory members	12
Median term of supervisory members (years)	2
Among contracts requiring supervisory board:	
Members elected by shareholders	96.4
Members must be a shareholder	89.3
Members must be local resident	17.9
Members receive extra pay-for-performance	0.0

C. Chief Executive Officer (CEO)

Proportion of contracts that specify the hiring of a CEO	87.3
Among contracts mentioning CEO:	
CEO must be shareholder	5.8
CEO on managing board	41.8
When CEO on managing board, he is chairman	17.9
Daily decision making delegated to CEO	78.3
CEO takes instructions from managing board	69.1
CEO represents firm in 3rdparty contracts	29.1
	29.1

D. Insiders by Contract

Proportion of full sample of bylaws that require that a specific named individual serve:	
As a director on managing board	5.1
As a member of supervisory board	1.3
As CEO	1.3
Total insiders by contract	—
	7.7

Note: The table reports key protections in percent of firm sample unless otherwise indicated. For YES/NO variables we register "NO" if a firm's bylaws does not explicitly mention the issue in question. In Panel C, "managing" board comprises both the Board of Directors and the Supervisory Board in firms that have a two-tired board structure in place.

Table B-2:

Contractual features Related to Transferability of Shares, New Share Issuances, and Disclosure Policies

A. Transferability of Shares and Share Issuances	
Proportion of contracts requiring shares be registered in name of the owner	98.5
Proportion of contracts requiring director approval before shares can be transferred to new owner	21.9
Proportion of contracts specifying procedure for new share issuances	49.4
Proportion of contracts requiring a rights offering prior to issuance	19.0
B. Disclosure Policies	
Proportion of contracts requiring financial statements be disclosed to shareholders prior to annual meeting	68.4
Median time ahead of annual meeting that financials are disclosed to shareholders (in days)	14
Maximum time	3
Minimum time	60
Mechanism for disclosing financial statements	
Sent to shareholders through mail	6.7
Made available at company office	93.3
Published in newspaper	3.3
Not specified	62.0
Proportion of contracts stating that annual meeting will be publicly announced in newspapers ahead of meeting	70.9
Median number of newspapers in which annual meeting is announced	2

Note: The table reports key protections in percent of firm sample unless otherwise indicated. For YES/NO variables we register "NO" if a firm's bylaws does not explicitly mention the issue in question.

Table B-3:
Contractual Allocation of Decision Rights and Shareholder Voting Rules I

A. Allocation of Decision Rights

Allocated to:	Director salary	Hiring of CEO	CEO Salary	Appointment of auditor	Approval of acquisitions and sales of fixed assets	Approval of liquidation	Approval of borrowing against fixed assets	Payment of dividends
Management board	2.5	54.4	39.2	7.6	8.9	0.0	7.6	8.9
Supervisor board	21.5	7.6	15.2	27.8	7.6	0.0	7.6	15.2
Combination of managing and supervisory board	0.0	16.5	11.4	1.3	10.1	3.8	8.9	10.1
Vote by shareholders	27.8	5.1	8.9	59.5	53.2	87.3	44.3	36.7
Fixed in contract	27.8	0.0	3.8	0.0	1.3	0.0	0.0	27.8
Not specified	20.3	15.2	20.3	3.8	19.0	8.9	31.6	1.3

B. Shareholder Voting Majorities Required for Certain Decisions

	Approve acquisitions and sales of fixed assets	Approve of new equity issuance	Decide to liquidate	Change charter laws
Percent of votes at meeting:				
Mean	53.2	58.0	65.1	63.9
Median	51.0	51.0	67.0	67.0
Min	51.0	51.0	51.0	51.0
Max	67.0	75.0	75.0	75.0
Number of contracts reporting:	43	45	77	79
Required meeting quorum:				
Mean	47.3	54.1	57.2	75.1
Median	50.0	67.0	50.0	50.0
Min	25.0	5.0	5.0	5.0
Max	67.0	67.0	88.0	75.0
Number of contracts reporting:	6	13	63	50

Note: The table reports key protections in percent of firm sample unless otherwise indicated. For YES/NO variables we register "NO" if a firm's bylaws does not explicitly mention the issue in question.

Table B-4:
Contractual Allocation of Decision Rights and Shareholder Voting Rules II

Shareholder Ability to Put Up Special Proposals and Call Extraordinary Meetings

	Put up special proposals at annual meeting, number of shareholders	Call extraordinary shareholder meeting, proportion of equity capital	Call extraordinary shareholder meeting, number of shareholders
Percent of votes at meeting:			
Mean	2.67	23.0	21.4
Median	1	25.0	20.0
Min	1	4.2	1.0
Max	24	51.0	50.0
Number of contracts reporting:	36	51	8

Note: The table reports key protections in percent of firm sample unless otherwise indicated. For YES/NO variables we register "NO" if a firm's bylaws does not explicitly mention the issue in question. The requirement for calling extraordinary shareholder meetings may be expressed in percent of equity capital or as number of shareholders. We therefore report both.

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