

INCREASING LOW-INCOME CONSUMER BUYING AND BORROWING POWER BY COOPERATIVE ACTION†

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Cooperative action, in the broadest sense of the term, is an ingredient in most, if not all, community action. A Community Chest campaign, for example, involves the voluntary participation and organized activity of a large number of workers, and the participation of a still larger number of contributors. This is a very important kind of cooperation, recognized and approved by sociologists and ordinary citizens alike.

The cooperative activity by which low-income consumers can raise their purchasing power and their borrowing power is of a different order. In the first place, theirs is a business enterprise, not a philanthropic activity. Although it has important sociological overtones, it is primarily an economic activity. In the second place, the individuals participating all expect to be beneficiaries of the activity in which they participate. They look upon themselves, or should look upon themselves as receivers as well as givers, recipients in proportion to their own contribution and participation. The essence of this participation is mutual self-help.

This paper is, therefore, concerned with cooperation in this narrow sense. In a still narrower sense it is concerned with those types of cooperative enterprise most useful to the poor consumer. These cooperatives of, by and for the poor, are here analyzed for the lawyer who is only casually informed on the subject of cooperatives. The author is not himself a lawyer but is a long-time cooperative organizer and educator. Let us begin, then, to determine exactly what is meant by the term "a cooperative."

I. WHAT IS A COOPERATIVE?

There are many superficial answers. To a New Yorker a cooperative is a high-rise apartment building owned by the tenants. To

† This article is an expansion of an address given by Mr. Miller at a seminar on law and poverty in Columbus, Ohio in 1967, first published in OHIO ST. LEGAL SERVICES ASS'N, THE COURSE ON LAW AND POVERTY: THE CONSUMER (1967). [used by permission. Ed.]

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a grain farmer from Kansas a cooperative is a tall grain elevator with the word CO-OP in bold letters across the top. Neither is entirely incorrect. "Cooperative" is used commonly—and loosely—to describe a business enterprise operated on a cooperative basis. Still more loosely it is used to describe the business buildings and facilities of such an enterprise. But in its essence, a cooperative is a group of people who have joined together to carry on a business enterprise for the benefit of all of them. The cooperative enterprise is one which provides services which the cooperators cannot individually provide for themselves as well as they can by acting together.

There are three ways of defining "cooperative": first, the basic, sociological definition which refers to the group jointly operating a business enterprise; second, the economic—and legal—definition which is concerned with the enterprise itself as a legal entity; and third, the looser figure of speech applied, by metonymy, to the buildings and other physical facilities associated with the business enterprise. It is the second type of definition which we need here: Let us say a cooperative is a self-help, user-owned, group business enterprise. Every word of this functional definition is important: *self-help, user-owned, group business enterprise.*

II. THE INFINITE VARIETY OF COOPERATIVES

Almost any kind of business enterprise can be organized on a cooperative basis. A variety of cooperatives have been organized recently in the South, as an aftermath of the civil rights movement there. These include sewing cooperatives, a small garment factory, a bakery, a woodworking plant and a sweet potato marketing cooperative. In the ghettos of northern cities there are buying clubs, a dress shop, day care centers, credit unions, a super-market and even a discotheque. All are owned by the poor and operated on a cooperative basis for the benefit of the poor.

Around the world the variety of cooperatives is almost limitless. There are cooperatives of shoemakers in Mexico and Honduras. There are cooperatives of the blind and the handicapped which produce handicrafts and electronic components in Poland. There is a cooperative in Burma which captures and tames wild elephants. There are fishermen's cooperatives on every ocean and sea of the world. The infinite variety of economic activity which can be undertaken by people who want to help themselves is a challenge to their legal advisers to use imagination and to discover new subjects for cooperation.

III. THE DIFFICULTIES OF ORGANIZING COOPERATIVES AMONG THE POOR

When considering the bewildering variety of possible cooperative enterprises, it is wise to go back to the definition of a cooperative: a business enterprise organized by a group of people on a self-help and user-owned basis. Look at each separate part of that definition and it becomes clear that those who organize cooperatives among the poor face difficulties that most businesses never face.

The first element of a cooperative is *self-help*. There is some truth in the oft-repeated generalizations that the poor are poor because by and large they are uneducated, even illiterate, apathetic or unambitious. In some quarters there is also an element of fear—fear of the loss of a job or of being evicted from a home. And finally there is a long dependence upon various forms of welfare and relief. No one of these handicaps applies to all of the poor; and there are some who have none of these handicaps. However, it is generally true that cooperative self-help presents difficult organizational problems among the poor. That means there has to be a well planned program, involving gradually increasing information, education—in the action sense of that word—and self-reliance before any group can successfully organize on a self-help basis. They are the people least capable of effective self-help. Yet a cooperative is essentially a group whose members pull themselves up by their own bootstraps. If the enterprise is run by somebody else for the poor it may be welfare or charity, but certainly it is not a cooperative.

The second element of a cooperative is *user-ownership*—the people that use the business own it. By definition the poor lack capital. Nevertheless user-ownership is impossible without the investment by the prospective members of some risk capital. The prospective cooperator must understand the necessity for the risk. No lawyer or other counselor should permit anyone he advises to join a cooperative under the assumption he will receive something for nothing. He will first give his patronage, and pay for the food, appliances, medical services or whatever he acquires through the cooperative. He also must make an investment—a capital investment. The poor today must do the same thing the poor have always done when organizing cooperatives: they must put in a little money of their own. They must leave money in the business if it is to be a successful cooperative. This is true even though outside agencies may initially provide much more capital than the cooperators themselves do. The prospective cooperator must accept the risk of “going

into business" if he is going to be a true cooperator. Investment and patronage are the two assets that a cooperative must have to succeed.

The other side of the coin must also be recognized. Many kinds of cooperatives of the poor will need, in addition to the members' pennies or dollars, large amounts of capital investment from outside sources if they are to get off the ground at all.

Third, a cooperative is a *group enterprise*. Confidence and mutual trust are the foundations of ordinary business transactions in our society. If a businessman could not trust another's word, check, telephone order or price quotation, our vaunted corporate business structure and our affluent society would be quite different. Confidence and mutual trust are even more significant in the democratic corporate structure of the cooperative. This is especially true among the poor, who have so little to lose, and to whom that little means so much.

The poor weavers of Rochdale, the originators of the worldwide cooperative movement, saved their money, some of them only a penny a week, for a full year. They entrusted those meager savings to one person, their treasurer, a year before they could go into business and expend their savings for their first small stock of goods. The Raiffeisen Credit Societies started among poor farmers of Germany about the same time; they were organized on the basis of unlimited liability. They saved their money in a society which could loan the money to any member who needed it. If he did not pay back the loan, all the members of the society were liable. Such is the foundation of trust upon which cooperatives started in a day when no government aid was available. The poor in our cities have been conditioned to be wary and suspicious. They distrust the stranger and the outsider who has a place of business in their immediate vicinity. These suspicions can only be overcome by dynamic and trustworthy leadership, patient and continuous education, and small steps, one at a time, in cooperative action.

There is a fourth factor in the definition of a cooperative organized among the poor under the provisions of the Economic Opportunity Act. It is not only a self-help, user-owned, group business enterprise. It is an *aided* cooperative. Many kinds of assistance are available under the Economic Opportunity Act. Grants may be obtained for developing an organizational base for cooperative programs and for the conduct and administration of these programs in their initial stages. There can be payment for advice and assistance of specialists, technicians and consultants and grants for training

personnel needed in cooperative programs. There can be loans to cooperatives for furnishing essential services. This last is particularly true in the rural areas through the Farmers Home Administration.¹

The terms *aided* and *self-help* seem to be contradictory. They are not; they do go together. We all know that there is no such thing as a truly self-made man. We all get assistance in development of our own characters, business enterprises, careers and professional skills. So do cooperatives, even the most prosperous middle class cooperatives. The Hyde Park Cooperative Society in Chicago began as a little buying club which met and did business in one room of a private home. It now does six million dollars business annually and is the largest food store in Chicago. Individuals gave time without pay to carry on this business in the Depression years. In the initial stages of most of the now prosperous farmers' cooperatives in the Middle West there were persons and organizations contributing time and energy without pay. Today, it is even more true that most cooperatives among the poor must begin with aided self-help. It is difficult to obtain aid at all. To do so at the correct time and maintain business progress requires skill and diplomacy. There is another pitfall: the assistance must not be too great. It must not be so much as to kill the cooperators' sense of self-achievement.

IV. THE LEGAL STRUCTURE OF COOPERATIVES

It is possible for a small cooperative to operate for a time without being incorporated. But it is desirable for a newly formed group to have a lawyer advise that this involves certain hazards. As long as a buying club is unincorporated, every person placing an order to be delivered at a later date is gambling when he prepays that order. If the treasurer absconds before the next meeting there is not much recourse. Remaining unincorporated has the advantage of impressing upon all the members that they are dependent on each other, not upon Uncle Sam nor their lawyer. They must make it on their own and they must trust each other. The establishment of mutual trust in a cooperate group may mean the difference between the members of that group staying in th disadvantaged class and being on the road upward.

Generally, it is not necessary to incorporate a cooperative when the business is a simple one, perhaps just one service provided to a few members: As the business becomes more complex and serves

¹ These and other aids available are described in COOPERATIVE LEAGUE OF THE USA AND OFFICE OF ECONOMIC OPPORTUNITY, MOVING AHEAD WITH COOPERATIVES (1967).

more members, the cooperative must either be incorporated or abandoned. Otherwise the operation is likely to become unwieldy, its structure disintegrate, and its rules be amended out of existence. The more rigid structure required by law is conducive to stability and good management as well as a valuable limitation on personal liability.

When the day to incorporate arrives, it is important to know the essential differences between a cooperative and an ordinary business corporation. There are four distinctive features which every member of a cooperative should understand.

First, the cooperative is *organized under non-profit laws*. The laws require that the application for a charter specifically state that the cooperative is organized "not for profit."²

The second feature is the implementation in a business enterprise of the "not-for-profit" restriction: the dividend, if any, paid on the members' shares of stock must be *strictly limited*.³ In practice this means the return on investment in a cooperative is limited to an amount equivalent to a modest rate of interest. If a cooperative is successful it does "make money." In the bookkeeping sense it has "profit." But there is a sharp distinction between the accounting profit and the concept used in denominating a corporation "non-profit." As used in defining both eleemosynary corporations and cooperatives, that term means neither the organizers of, the officers in, the contributors to nor the members of the organization shall share in any monies received from its philanthropic or business operations. The "non-profit" definition as applied to a cooperative requires that the money made on transactions shall not be distributed to the members as investors at a rate that is any higher than they could have gotten as interest if they have made a loan to the cooperative. The statutory language may vary from jurisdiction to jurisdiction, but the principle is universal, and it is exceedingly important.⁴

The limitation on distribution as dividends of earnings or savings makes it possible for the cooperative earnings or savings to be returned to the members as *users* in proportion to their use of the business. This return to users is the third and most distinctive feature of the cooperative: the *patronage refund* principle. This principle does not require that the members take their earnings out of the business. If they desire to devote their savings to social or community

² *E.g.*, D.C. CODE ANN. § 29-801(1) (1967).

³ *Id.* § 29-822.

⁴ *Id.* § 29-831(2).

uses such as a playground, they are perfectly free to do so under most cooperative laws.⁵ But if they do vote to "take their earnings out" they must be distributed in proportion to volume of business done with the cooperative.⁶

The fourth distinctive feature is the principle of *democratic control*. This requirement, often stated as "one member, one vote," is in all consumer cooperative laws.⁷ It is the direct antithesis of the ordinary or profit corporate practice which gives each stockholder as many votes as he has shares. In cooperatives, it is men not money that control.

There are, of course, many other requirements for incorporation under the cooperative laws. Some states have no laws for consumer cooperatives at all. Ohio has a detailed "Cooperative Marketing Act" for farmers' cooperatives⁸ but only one section on consumers' cooperatives.⁹ It is advisable that cooperatives for low-income persons be incorporated in the District of Columbia.¹⁰

V. INCREASING LOW-INCOME CONSUMER BUYING POWER: CONSUMER COOPERATIVES AND OTHER COOPERATIVE SERVICES

The term "consumer cooperative" tends to restrict our imagination. We think in terms of the food store, the supermarket. Food, to be sure, is the greatest necessity. It is well-documented that the poor pay more for food, and get poorer quality than do average middle-class Americans.¹¹ To meet this need by organizing a consumer cooperative food store as a first venture is a herculean, almost an impossible task. A successful supermarket requires hundreds of thousands of dollars of capital—an immense amount for the very poor. The cooperative supermarket must be in a position to compete with the most efficient of the chain stores with their multi-million dollar

⁵ *E.g.*, *id.* §§ 29-822, 29-831(3).

⁶ *Id.* § 29-831(4). Provision is also often made for distribution of stock dividends in order to retain capital for expansion.

⁷ *E.g.*, *id.* § 29-813. This section also provides that "No voting agreement or other device to evade the . . . rule shall be enforceable at law or in equity."

⁸ OHIO REV. CODE ANN., §§ 1729.01-27 (Page 1953).

⁹ OHIO REV. CODE ANN., § 1729.28 (Page 1953).

¹⁰ D.C. CODE ANN. §§ 29-801—29-847 (1967). These sections are known as the District of Columbia Cooperative Association Act. In addition to the advantages mentioned above, the Act makes certain essentials to successful cooperation mandatory. Allocation for educational purposes and for a reserve fund are examples. Bonding is also required. Distribution of returns on capital are limited to fifty percent of paid up capital. In addition, directors must be members of the cooperative.

¹¹ D. CARLOVITZ, *THE POOR PAY MORE* (1963).

resources. Where people of very moderate means have organized successful cooperative food stores, one or more of the following factors has usually existed: operation in connection with a large cooperative housing project; organization as a branch or affiliate of an already going and sound middle-class cooperative; the infusion of considerable sums of capital from outside sources; or the technical help and guidance of the staff of one of the regional consumer cooperative wholesale federations.¹²

The cooperative food store is not the only type of cooperative that the poor can use to expand their buying power. The simplest approach to the problem of high food costs is the cooperative buying club. The small group who organize a buying club meet regularly to pool their orders which are purchased at wholesale. The buying club is strictly a self-help type of cooperative depending on the voluntary service of the members of the group. As a preliminary step to more extensive business development it is an excellent educational tool. "Save as you learn about business" might well be the motto.¹³

The cooperative foodstore can sometimes be organized most successfully in isolated communities. The CAG (Community Action Group) store in Gilbert Creek, West Virginia, is an example. Stimulated by the director of the local Economic Opportunity organization, retired mine workers, old age pensioners, welfare recipients and other low-income people of this remote community organized their own store at \$10.00 a share. They have brought down prices, and built up their own hope and courage. Now they are talking of other cooperative action, possibly a credit union.¹⁴

This is typical of cooperative development. Where one venture succeeds, other cooperative services are apt to follow. There are many needs besides food that can be satisfied cooperatively. These cooperative services may be organized quite independently of a cooperative foodstore or buying club, or they may grow out of such cooperatives. Cooperative services which are springing up among low-income people include such diverse enterprises as an eye-care center, a discotheque organized and operated by the youth it serves, a day care center operated by mothers who are thereby enabled to

¹² Information about such federations may be found in *MOVING AHEAD WITH COOPERATIVES*, *supra* note 1.

¹³ See *THE COOPERATIVE LEAGUE, MOVING AHEAD WITH GROUP ACTION* (1967).

¹⁴ CUNA International, "The Poor Don't Have to Pay More," *Everybody's Money*, Spring, 1967.

get remunerative jobs, and a discount drug buying service that cuts sharply the cost of medicines.

There are other services which can be provided at a savings. Insurance is one of these—where saving comes largely through group premiums. Burial service is another important service which can be obtained cooperatively. Admittedly it is difficult to get the extremely poor who are thinking about tomorrow's meals and paying for a television set or a washing machine to think ahead to that inevitable day when they or their families will be faced with the heavy expense of a funeral service. Successful cooperative action of the poor in the areas of insurance and burial services requires working closely with insurance companies and burial societies which are participating in the anti-poverty program.

Many of these valuable services to the poor can be combined through a business counseling service. Where low-income people undertake this service for themselves they are more free to bargain than are government or welfare agencies supported by public funds. Such a cooperatively owned and operated counseling service can save its members significant sums on their major purchases, showing them how they can buy certain appliances, for example, at much reduced prices from recommended businesses. This leads naturally to a sort of "bargaining association" and agreements with reputable businesses that are quite willing to deal with the poor if the transactions are cash, avoiding costly credit and the collection problems. A multi-service business advisory center which is organized cooperatively becomes, in effect, a discount house for the poor. They are the people who need such service most and now have least access to it.¹⁵

VI. INCREASING CONSUMER BORROWING POWER: CREDIT UNIONS

Many of the kinds of purchases covered by the consumer and service cooperatives listed above are the kinds of purchases that, in our affluent society, are made most often on credit. Television sets, radios, washers, not to mention automobiles, are commonly purchased by middle-class people on credit. The poor, too, make such purchases on credit. This credit is often at outrageous rates, the purchases far beyond the buyer's means of repayment and the rate of defaults and repossessions very high. It is a sad commentary on our society that those who need credit the least are the ones to

¹⁵ For a thorough description of such special service cooperatives see H. SHADEN, JR., *A MODEL CONSUMER ACTION PROGRAM FOR LOW INCOME NEIGHBORHOODS*.

whom it is most freely available and on the most favorable terms. The converse is equally true, to the point that the credit system which is the very basis of our economy works in conformity with the ancient Christian observation "to him that hath shall be given and from him that hath not shall be taken away even what he seemeth to have."

To this problem of credit for the poor, the answer is *not* extension of credit by the various consumer cooperative enterprises. That runs so counter to the experience of consumer cooperatives that many consumer cooperators have regarded cash trading as an unalterable rule of true cooperation. The cooperative answer is the cooperative savings and loan association, an enterprise in which the owners are the depositors, and only they can borrow. In the United States these societies are known as credit unions, and they operate under very strict state or federal laws.¹⁶ Many cooperators agree the credit union is the most fundamental of all cooperative organizations, the one that provides the most essential services to its members: encouraging thrift and savings, providing credit when needed, and developing financial independence and human dignity. It should not, however, be joined with another cooperative enterprise prior to the maturity of either.

Structurally the credit union is a financial institution which differs from a cooperative commercial or service enterprise in several ways. One of the most important of these differences is the necessity to organize it among a group of people with an existing common bond. The "field of membership," to use the common credit union terminology, may be employment in the same industry or institution, such as a steel mill, the post office or a school system. The common bond may also be membership in the same church, fraternal order, labor union, or cooperative; or residence in a small, well-defined rural community or town. The basic idea is that this financial institution, this "little people's bank" (it really isn't a bank) will be owned and controlled by those who know and trust each other. This is the basic safeguard for their tiny but highly important individual savings. It is also the basis upon which the credit union loans these savings prudently and at the same time generously for the urgent needs of its members.

The second difference between the credit union and the cooperative that deals in goods and services is in the "commodity"

¹⁶ 12 U.S.C. §§ 1751 *et seq.* (1964); *e.g.*, D.C. CODE ANN. § 26-519 *et seq.* (1967), OHIO REV. CODE ANN. §§ 1733.01-.99 (Page Supp. 1967).

the credit union has to sell, which is "money." For this service the credit union, by law, can charge only a limited interest rate.¹⁷ In passing it should be noted that the credit unions have a half-century record of doing what the new "truth in lending" laws require: making a complete disclosure in advance of the full costs of credit and the true annual interest rate. In the credit union the profit is returned pro-rata to members, for the most part not in proportion to their use of the business as borrowers, but in proportion to their investment in shares.¹⁸ The primary "saving" to the member as borrower is the lower interest rate. The long range purpose of the credit union is to encourage thrift even though its immediate service is to provide loans at reasonable rates.

It is true that as a credit union and its members prosper it may accumulate more money than its borrowing members need to borrow. It then becomes a part of mainstream America, where continued prosperity seems to depend on expanding credit. Such a credit union may reduce its interest rate to get all its members' money to "work", that is, on loan to borrowing members.

Although the long-range purpose of the credit union may be to encourage thrift and the practice of saving, most people join credit unions initially in order to borrow. This is especially true of credit unions of low-income persons. Indeed, many credit union leaders have felt that the accumulation of savings is so slow a process that the low-income credit union never could make enough significant loans to attract and hold members.

The first successes by American credit union organizers at work among the poor, significantly enough, began among the very poor in underdeveloped countries overseas. Experiences in Jamaica, Trinidad, the Fiji Islands, and a score of other countries taught some American credit union leaders that "where only pennies can be saved, only dollars will be borrowed." When the same low-key, long-term educational efforts were tried in the United States some remarkable successes were achieved. The story of the Guadelupe Organization Credit Union illustrates several aspects of the unique character of credit unions among low-income people.¹⁹ It was organized among the residents of a community that had already dem-

¹⁷ E.g., 12 U.S.C. § 1757(5) (1964); OHIO REV. CODE ANN. § 1733.08 (Page Supp. 1967).

¹⁸ Some credit unions give recognition to the patronage refund principle by annually refunding a portion of the interest paid by member-borrowers during the year.

¹⁹ CUNA International, "The Impact of Self-Help," *Credit Union Magazine*, May, 1966, pp. 8-13.

onstrated the power of people organized and working together. Through their Guadalupe Organization they had already secured health services, street lights, police protection and many other services. They were closely associated with the state Credit Union League. Their credit union is located in the community service building where many related services are available. Most important, it was organized and is staffed by trusted local leaders.

A recent development in the war on poverty is the attempt to find ways to provide additional capital to loan to the members of a new credit union among the poor which has very little money of its own to loan. In Milwaukee, where Wisconsin law allows a broad interpretation of the "bond of membership,"²⁰ the Wisconsin State Central Credit Union has opened a branch for low-income members in a predominantly Spanish community. In Michigan, where the state law allows one credit union to join and become a member of another credit union,²¹ a number of strong credit unions have "joined" three new credit unions in low-income housing projects. Each of the strong credit unions has made an initial capital "deposit" of a thousand dollars, thus enabling the new credit union to start with about 10,000 dollars available for loans. These experiments in providing initial capital for new credit unions of low-income members may provide a pattern for wise borrowing, habits of saving and eventually financial independence for even the poor. To determine what is possible in a given state, one should consult the state credit union league, or the national association known as CUNA International.²²

VII. IMPROVED HOUSING BY COOPERATIVE ACTION

Housing is not usually placed in the same category as food, household supplies and credit as a consumer need which the poor can meet by cooperative action. Food and credit are daily or short-term needs; housing is long-term. Buying a home involves the largest purchase, and the biggest debt most families ever undertake. Moreover, housing is generally recognized as one of the three basic problems of the ghettos, the other two being limited education and under-employment.

There are cooperative means of meeting the problems of hous-

²⁰ WIS. STAT. ANN. § 186.09 (Supp. 1968).

²¹ MICH. COMP. LAWS § 490.4(d) (1967).

²² CUNA International, P.O. Box 431, Madison, Wisconsin 53701 (formerly Credit Union National Association). It serves credit unions in the United States and Canada and in a score of other countries around the globe.

ing. A portion of urban society has found very great savings in cooperative apartment construction and ownership. The movement began in America when Abraham Kazan developed the first cooperative apartment project for members of the International Ladies Garment Workers Union, and other laborers as well. From that beginning has grown a whole galaxy of cooperatively-owned high-rise apartments in New York City, each apartment complex owned and operated by its tenants and each affiliated with the parent promotional and service organization, the United Housing Foundation.²³ These cooperative apartments have been financed through small down payments by the prospective tenant-owners and substantial mortgage investment by sponsoring unions, banks and insurance companies.

Cooperative ownership and finance has reduced the cost of construction, management services, maintenance and monthly carrying charges to approximately eighty percent of the amounts paid as rental in similar privately owned apartments. In addition, these cooperatively owned communities have provided the climate for the development of cooperative supermarkets, drug stores, day care centers and insurance service.

Section 213 of the National Housing Act²⁴ is the federal Magna Charta of cooperative housing. Under this legislation, the Federal Housing Administration has written 1.6 billion dollars of mortgage insurance, with less loss than on any other type of multi-family housing. Most of the projects insured have been urban or suburban cooperative apartments for middle-income residents.

These "213 cooperatives" have been aided by a strong promotional and service organization, the Foundation for Cooperative Housing, and its operating subsidiary, the FCH Company.²⁵ The latter has been used by the Administration for International Development (AID) to guide and supervise projects abroad which receive aid from the United States for the construction of low-income cooperative housing. Within the United States the FCH Company is used by the Federal Housing Administration to supervise federally-aided low-income housing cooperatives.

Most of the cooperative housing developments to date in the United States have been too costly for the very poor. But, in addition to the new, federally-assisted low-income housing cooperatives

²³ United Housing Foundation, 465 Grand Street, New York, New York 10002.

²⁴ 12 U.S.C. 1715(e) (1964).

²⁵ Foundation for Cooperative Housing, 1001 Fifteenth Street, N.W., Washington, D.C. 20005. FCH Company, same address.

there are three new applications of the cooperative method which promise to help solve some of the housing problems of the poor. In rural areas, the Farmer's Home Administration has had for years the authority to loan money on favorable terms to individuals with low incomes to buy modest homes or repair their present dwellings. The FHA recently began lending money for construction of groups of homes on a cooperative basis. These are variations of the plan to meet the needs of the group, but in general the prospective owners form a cooperative, purchase the necessary land, and furnish all the common or semi-skilled labor involved in constructing the homes. The Farmers Home Administration approves the plans in advance, furnishes a building supervisor and loans the money to pay for materials and skilled labor. Each man puts in a specified number of hours working with his fellow cooperators on each of their homes pursuant to a labor contract. He moves into a house with perhaps half the cost paid by his own labor, and with a low-interest, low monthly payment loan for the balance.²⁶

In the cities where low-income people own their own homes, the cost of home repair and maintenance may be prohibitive. In the Pilsen area of Chicago, home owners have formed a cooperative which operates as a bargaining agency to obtain low-cost home repairs. This enables a community of home owners to maintain their community and prevent it from deteriorating into a slum.²⁷

Another interesting cooperative housing development was the recent sale by the Chicago Housing Authority of a public housing project to a cooperative of tenants. The project, Racine Courts, built in 1950, was having some difficulty since many of its tenants had prospered over the years. Their incomes had risen above the maximum allowed for residence in the development but they could not afford the higher rents outside the project. The uniqueness of the new cooperative lies in the provision for a sliding scale of interest payments, so that families of lower income and larger families will pay a lower rate of interest than those with higher incomes or smaller families.²⁸

It seems highly probable that cooperative housing for low-income residents of the inner city ghettos will be a major factor in the rebuilding which is so badly needed. This is a complicated

²⁶ For more information contact Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20051.

²⁷ For more information on the Pilsen project, contact The Cooperative League of the USA, 59 E. Van Buren St., Chicago, Illinois 60605.

²⁸ *FCH News Briefs*, February, 1968.

problem and any interested group will have to seek the aid of the insurance, cooperative, labor or religious organizations which have sponsored cooperative housing projects. Such sponsors have the personnel with the technical skills to guide a prospective cooperative group through the maze of regulations, red tape and financial transactions involved in large real estate and construction projects. Guidance in securing the service and support of such an organization or sponsor is available through the National Association of Housing Cooperatives.²⁹

VIII. THE LAWYER'S FUNCTION IN COOPERATIVE ORGANIZATION AMONG THE POOR

Even a cursory examination of the variety and complexity of cooperative organizations makes it clear that most cooperative enterprises require experienced technical assistance. Initially they need inspiring but wise educational guidance to stimulate the study and understanding by the group of its needs before intelligent action to meet those needs may be undertaken. If the action indicated is a cooperative endeavor, advisees will need to understand what cooperation will require of them. These are the responsibilities of the educator-organizer and his sponsoring organization.

The lawyer also has an important role in this process. The problem of organizing a consumer cooperative of the poor is not solved by simply educating the poor until they are prepared for cooperative action and then incorporating. The most successful organizing procedure comes in short steps. First a little education, then a little action; another step in education, and the corresponding action. Action and education will reinforce each other until the group has acquired sufficient experience and capital to begin a larger business enterprise. Then it is time to incorporate. The lawyer has two functions during the educational process: first, to see that the group does not incorporate until its members thoroughly understand what they are doing; second, to see that they do not put off incorporation too long, and so unnecessarily jeopardize the capital and enthusiasm they are accumulating.

During this organization period, the attorney for the organizing group can perform a most valuable service. He can give some sound business advice under the guise of legal counsel:

1. He can point out the legal responsibility of the officers of

²⁹ National Association of Housing Cooperatives, 1012 14th Street, N.W., Washington, D.C. 20005.

the buying club to require payment in advance or upon delivery. This is necessary for their own protection and to prevent that most frequent cause of cooperative failure, uncontrolled credit.

2. He can stress the legal (and business) necessity of recording every member transaction from the start. The allocation of patronage savings is impossible without such records. Unexpected liability for income tax may be incurred without records of all transactions between the cooperative and the individual member.³⁰ It is not only the members of the cooperative who need this advice. The community action financiers of initial organizational expenses of a cooperative venture should make it clear that any cooperative receiving the taxpayers' assistance must keep good records. Nothing creates more suspicion, doubt and hostility than failure to keep records that show where every penny of every member and every dollar of the government's investment has gone. In practice this means preparation of a monthly operating statement and balance sheet.
3. The attorney should be certain the by-laws require bonding of all employees responsible for handling funds, and insist upon prompt compliance with the requirement.
4. Finally, the attorney who is the established friend and protector of the cooperative can give this sound advice: "Get a good manager and pay him what he's worth." It may be necessary to advise the OEO officials as well as the poor. If this means going outside of the immediate community or hiring somebody who isn't within the "poverty guidelines," insist on it as good business and sound legal advice. Some OEO officials may not be happy about such counsel,

³⁰ Generally distributions of a cooperative's net earnings to its patrons are not deductible unless they qualify for such treatment by meeting specific requirements. To be a qualified patronage dividend the amount paid to a patron by the cooperative association must be paid on the basis of the quantity or value of business done with or for the patron and be determined by reference to the net earnings of the association from business done with or for its patrons receiving similar distributions. INT. REV. CODE OF 1954 § 1388(A). The patron may exclude patronage dividends from his gross income to the extent they are issued and based on his purchase of personal, living or family items. INT. REV. CODE OF 1954 § 1385(B)(2). However, if he cannot identify the transaction or item on which a patronage dividend is distributed to him, he must generally treat it as ordinary income. Treas. Reg. § 1.1385-1(c)(iv)(1963). The importance of records of the transactions made is therefore readily apparent. . . .

but the fact remains that the co-op manager and the co-op or OEO officials who share in hiring him are fiduciaries who handle money. A co-op must have a manager with experience whose reliability is beyond question.

The foregoing advice may go beyond the strict requirements of the law. But it is quite in keeping with the purposes of legal aid to the poor. For in a very real sense, the cooperative's attorney, like the cooperative's organizer, is a trustee—a trustee of the spirit of a people attempting to lift themselves out of poverty. That spirit can only be sustained by maintaining the highest business integrity and efficiency.