

Following are the basic points surrounding the constitutional question:

First, the proposals are of doubtful constitutionality, in my opinion, because they will attempt to regulate purely local, intrastate commerce. The individual dealings between a customer and retailer in Wichita, Kans., are hardly within the province of the Federal Congress. It is as individual as the price of the garment, the fit of the garment, and the manner in which it is delivered to the customer.

A second point of doubtful legality is that the Federal Government is encroaching upon the basic right of freedom of contract between two individuals neither of whom are engaged in interstate commerce. It was my privilege to hear Mr. Margolius yesterday, and on page 8 of his statement:

But the question before this country today is whether we should permit laws which enable unscrupulous sellers to take advantage of innocence and trust.

In other words, he favors that the Congress veto the legislation of the 50 States—the legislation which has been adopted in those States to regulate the business in intrastate commerce in those States.

If the proposed legislation is amended to apply only to those mass merchandisers, those giant chains of department stores, to the great mail-order houses, all of whom are unquestionably in interstate commerce and whose spokesmen have told this subcommittee that they basically favor Federal Government control of their credit transactions—then, of course, independent, local retailers could have no objection to the proposed congressional action.

But, to subject hundreds of thousands of small retailers who are not in interstate commerce to Federal Government regulation and control; to require them to have the same technical know-how in complying with the law, adds an unholy burden to their day-to-day operations.

This subcommittee must be aware that the small business in this country is fighting a losing battle for survival, despite the efforts of the Congress and the administration which are intended to help. This proposed legislation adds still another barrier to survival for the small retailer. The small retailer has been forced to go into credit selling in order to compete with the large, mass distributors. He is not in the credit business by choice.

Finally, there has been substantial testimony before this subcommittee concerning the accepted fact that the unfortunate poor in this country are particularly victimized by unscrupulous businesses, including retailing, and, particularly, in the credit field. We know that in many cases these charges are true. We are familiar with the "dollar down and dollar when I catch you" merchants operating in poorer sections of metropolitan cities.

This deplorable situation—and we heard the horror stories from Mr. Margolius yesterday. I, personally, in my distant youth, ran a better business bureau for 12 years and know considerably of these so-called horror stories—often recited before the Congress by those favoring the proposed legislation, adds weight to our argument that this legislation has the primary purpose of promoting economic stability and regulating the currency and moneys of this Nation, but is a direct legislative attempt to regulate business integrity and practices.