

A recent article in *Forbes* discussed a "new look" at personal debt, and by implication suggested that adoption of this view would make discussion of consumer credit more meaningful.

Some economists—notably economists in the Federal Government and in the nation's major corporations—argue that a whole new look should be taken at exactly what is personal debt. If renting an apartment is not considered a debt but a cost, is it fair to assess mortgage payments as "credit" payments? If a man signs a three-year lease at \$150 a month, isn't he as much "in debt" (for \$5,400) as a man who borrows money to buy a house? Similarly, no one regards the cost of going to work by commuter train as "going into debt." Should payments on a car used for the same purpose be regarded as evidence of debt? Isn't much of what is now called consumer debt merely a replacement for services that people used to buy?¹⁰

Unfortunately, this supposed insight is not an improvement but a further confusion. Credit laws should be aimed at protection of owner as borrower, not as user, and thus consumer credit must be defined accordingly—in terms of borrower.

It is important to distinguish carefully between the product or the service obtained by a purchaser and the time and the source of the funds or other thing of value by which the transaction is consummated. If there is any delay between the obtaining of the good or service and the handing over of its equivalent price in goods, or more commonly money, then we have an instance of consumer credit. Someone—the purchaser—has come into possession of useful assets whose employment could otherwise produce a return to the person in control or possession of them. Whether the repayment interval be small or great, the possession of assets or the enjoyment of services prior to the fulfillment of the other side of the exchange is properly called credit. The law can reasonably decide which varieties of credit phenomena present problems of public welfare that deserve control, but the law should never speak or act as if certain transactions do not involve credit when essentially they do, nor as if certain transactions do involve credit when essentially they do not.

III. LEGAL CONTROL OF MARKET FRAMEWORK CONDITIONS

Most economists would agree on the fundamental requirements for the proper functioning of a mixed capitalistic economy such as exists in the United States today. Given the proper institutional framework,

¹⁰ The Mortgaged Society, *supra* note 8, at 51.