

Senator TYDINGS. Were any of those that I mentioned FHA approved?

Mr. MORGAN. I think that Allied Enterprises in this respect would not qualify when they were selling intercoms or water softeners. These were not eligible items under FHA, but I think that Marion had been and was at the time FHA. I mean, William Marion was an FHA dealer.

Senator TYDINGS. Does Atlas take deeds of trust on sales for water softeners and intercom systems?

Mr. MORGAN. Yes; we did. I'll say this, we did in some cases, and in some we did not. Some of the water softeners were \$599, as I remember, and in some of those cases we did not take deeds of trust.

Senator TYDINGS. Are you aware that United Home Enterprises has been indicted for forging homeowners' names?

Mr. MORGAN. That's—I just said that Mr. Cedarloff is presently under indictment; however, it is my understanding now that that trial has been continued for another 60 days.

Senator TYDINGS. Are you aware that an officer of Peoples Contracts, Inc., has been convicted of falsifying FHA loan applications?

Mr. MORGAN. No; I am not.

Senator TYDINGS. I think you stated that you know who Ralph Weed and H. A. Masetta were.

Mr. MORGAN. Masetta. They are trustees of deeds of most of our instruments. Ralph Weed worked for me and H. A. Masetta worked for my brother.

Senator TYDINGS. Now, what do you mean by "trustees" on most of your instruments?

Mr. MORGAN. They are trustees on most of the deeds of trust that we purchased.

Senator TYDINGS. That you purchased?

Mr. MORGAN. Yes.

Senator TYDINGS. Now, do you indicate to the general contractors who they will have to make their trustees in order for you—

Mr. MORGAN. We do. We do even more than that. We prepare the papers for them, Senator.

Senator TYDINGS. And what function does Mr. Weed and Mr. Masetta perform as trustees?

Mr. MORGAN. What is a trustee's role, you mean, in our—

Senator TYDINGS. Yes; and what are they supposed to do, and what do they actually do?

Mr. MORGAN. Well, they have two duties. They have one duty that when a note is paid that they will promptly release it from the land records on behalf of the party that is paying, and on the other they have a duty to the note holder, in the event of default, to institute foreclosure proceedings. These are their two basic duties.

Senator TYDINGS. These are the attorneys that carry through as trustees under foreclosures?

Mr. MORGAN. Not attorneys; no, sir.

Senator TYDINGS. What is that?

Mr. MORGAN. Not attorneys; no, sir.

Senator TYDINGS. Neither of them are attorneys?

Mr. MORGAN. No. They are not. They do not have to be attorneys. They merely sign an authorization for foreclosure when certain proof

is presented to them. They are not attorneys, nor do they have to be.

Senator TYDINGS. Are they attorneys?

Mr. MORGAN. No; they are not.

Senator TYDINGS. What do you mean, they sign authorizations of foreclosure when proof is submitted to you?

Mr. MORGAN. Well, the foreclosure procedure in the District, when a note goes in default 90 days or more, and this is again, as I understand it, only a rule of thumb, because no trustee will sign a letter authorizing foreclosure unless the note is at least 90 days past due. They then sign a letter to a public auctioneer authorizing them to advertise the property for sale.

In every case that we are involved in, at least, we ask the auctioneer at that point to write a letter to the homeowner giving him 10 days to respond and bring the account current before the advertising starts.

We then place five ads, every other day for 10 days, in the Evening Star. By the way, the law requires in the District for only three insertions, but I think it is common practice that everyone inserts five times.

On the 10th day, on the date specified for sale, the foreclosure is held in front of the premises.

Senator TYDINGS. Do you ever personally contact the customer?

Mr. MORGAN. Do we?

Senator TYDINGS. Yes.

Mr. MORGAN. At what point, sir?

Senator TYDINGS. At any point in the foreclosure proceedings.

Mr. MORGAN. Oh, many times.

Senator TYDINGS. You mean you actually send somebody out to see them?

Mr. MORGAN. Oh, if it were—if we couldn't get them on the telephone; yes, sir. Oh, and they get a letter from the auctioneer, too. Do we contact them?

Senator TYDINGS. Yes.

Mr. MORGAN. Yes. We, of course, if an account is this bad we are, of course, making collection efforts to collect it, rather than to foreclose. I mean, we contact them by phone, by letter, by memos, and if it requires a house call we send somebody out.

Senator TYDINGS. In other words, there has never been a foreclosure with any of your trustees where the customer hasn't—

Mr. MORGAN. Is unaware?

Senator TYDINGS (continuing). Been personally advised of the foreclosure proceedings, against his property—

Mr. MORGAN. Absolutely not.

Senator TYDINGS. All right. In dealing with the Atlas Financial Corp., what services or what functions do you perform on their behalf?

Mr. MORGAN. In the purchase of the paper?

Senator TYDINGS. Yes.

Mr. MORGAN. You mean—when a contractor brings a deal to me to purchase, if I decide it's what we want, I then search the land records to be sure what our position will be on the title and search the title.

Senator TYDINGS. You check the title for them?

Mr. MORGAN. Pardon?

Senator TYDINGS. You check the title for them?

Mr. MORGAN. Yes, we check the title.

Senator TYDINGS. You do that for Atlas, or do you do it for everybody?

Mr. MORGAN. We do it for everybody.

Senator TYDINGS. So, that's just part of your own operation?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. All right.

Mr. MORGAN. We check the credit, of course, either by pulling a credit record or by checking the references ourselves or by doing both. We take a picture of the property and then when the job is finished the contractor brings to us the completed documents, including the contract, the application, the note, the deed of trust and the completion certificate. At that time we call the people on the phone and check the deal, as to whether it was finished, whether they understand the terms, whether they signed the note and deed of trust, and are aware of it, and whether they appeared before a notary public, and then we go over all of their obligations to be sure that we have the proper obligations as opposed to what we had in the credit applications.

Senator TYDINGS. You actually go out and talk with the person?

Mr. MORGAN. This is done on the telephone if they have a telephone and we can reach them, and in many cases now in the last year we are doing it with actual house calls. But, we do it in every case.

Senator TYDINGS. Now, when you make a telephone call, what do you ask the person?

Mr. MORGAN. We have a—I am sorry, I don't have one with me, but we have a sheet going through questions, starting at the beginning. Would you like to know them all?

Senator TYDINGS. Yes.

Mr. MORGAN. When did they buy their property; what did they pay for it; how much did they put down; what are their mortgages; where do they pay them; what are their monthly payments on their mortgages; how many rooms in the house; does it have a basement; is it on a paved road or unpaved road; how many bathrooms; does it have a recreation room; where does the husband work; how long has he worked there, what section is he in; what is his work telephone number, and what is his salary.

For a woman, the same thing, her income; where does she work, how long, and so forth.

We then ask them, is the job—the first thing that we ask them is, do you have a copy of your contract, because we would like to know what your monthly payments are supposed to be, and we ask them to read from their contract what their monthly payment is. If this corresponds to the information that we have, we know that they have a copy of our contract.

We then ask them if they signed the deed of trust, and if they appeared before a notary public.

We then go over all of their debt structure, what loan companies do they owe, do they owe on an automobile, what year is it, how much do they owe on each debt, and what is the payment on each debt; how many children do they have, and what are the ages of their children.

Senator TYDINGS. Now, this is basically credit information?

Mr. MORGAN. This is after the job is done.

Senator TYDINGS. What is that?

Mr. MORGAN. This is after the job is done.

Senator TYDINGS. Right. Now, what do you do to check the legitimacy of the transaction itself, the paper of which you are handling?

Mr. MORGAN. We ask them at this time if the job is done, if they are satisfied, and if they understand what their monthly payments are. We do this, Senator, in every case. And I think that we are the only finance company in this area that does this.

Senator TYDINGS. Did you do it in the case of the paper from the Peoples—

Mr. MORGAN. Yes, sir.

Senator TYDINGS (continuing). Contractors, Inc.?

Mr. MORGAN. Uh huh. Did we do it then?

Senator TYDINGS. Yes.

Mr. MORGAN. Yes, sir. And I have something very interesting with me. Nathaniel Vaughn that appeared before your committee—is this the case you are referring to, Senator?

Senator TYDINGS. Excuse me; I did not hear you.

Mr. MORGAN. I said, Is this the case you were referring to, Nathaniel Vaughn? To give you an example, maybe, of some of the problems that we have on the other side, I quote from the Evening Star of Wednesday, December 13, 1967, a report of a hearing at which Nathaniel Vaughn appeared before your committee. Mr. Vaughn says:

The debts were incurred for home improvements that were thought to cost \$3,000. The work was never done, although Vaughn mistakenly signed a statement that it had been.

I bring your attention to the language, "Vaughn mistakenly signed the statement that it had been."

I saw Mr. Vaughn on television and this is precisely what he said. As it happened in this case, Mr. Binhem, who is the contractor, did not have a form of completion, and I would like to show you what Mr. Vaughn signed on a statement. In his own handwriting he wrote:

To Whom It May Concern:

This is to certify that the work done by Peoples Contractors is very satisfactory.

NATHANIEL VAUGHN.

Now, if he signed this mistakenly, he wrote it out before he signed it. We talked to Mr. Vaughn by phone, and I didn't bring our checkout sheet, but we spoke to him on the phone, or his wife, when this job was done, to verify the fact that it was done.

Now, I will be the first to admit to you that if the job is not done and the contractor somehow convinces him to sign this paper and then to lie to us on the phone, if we don't make a physical inspection, we do have a problem.

Senator TYDINGS. Well, I was not speaking specifically of Mr. Vaughn, but I was just wondering in the checking out the legitimacy of the Peoples Contractors, Inc., whether you can come across their practice of their falsifying FHA loan applications?

Mr. MORGAN. Are you talking about now an application by Peoples?

Senator TYDINGS. Well, now, as I understand it, you had indicated that you checked on the legitimacy of these transactions?

Mr. MORGAN. Yes.

Senator TYDINGS. And my question to you is: Peoples Contractors, Inc., is one of the firms which you dealt with and is now out of busi-

ness. During your check on their legitimacy, did you ever determine or understand that they were falsifying FHA loan applications?

Mr. MORGAN. No, sir; I did not know this until you told me this moment, and I have dealt with Mr. Binhem, I think—

Senator TYDINGS. Are you aware that an officer of their company has been convicted of falsifying FHA applications?

Mr. MORGAN. No, sir; I am not. Who was the officer?

Senator TYDINGS. I am asking the questions.

Mr. MORGAN. I am sorry.

Senator TYDINGS. Are you aware that United Home Enterprises, another of your major sources, has been indicted for forging homeowners' names on deeds of trust and selling intercoms?

Mr. MORGAN. I am aware that Mr. Cedarloff is presently under indictment. Yes, I am.

Senator TYDINGS. You told me basically that he was United Home Enterprises, for all practical purposes?

Mr. MORGAN. Yes. He is under indictment; yes sir.

Senator TYDINGS. Did you run across this practice when you checked the firms for the legitimacy of their actions?

Mr. MORGAN. Are you saying when I checked—

Senator TYDINGS. Now, I understand that one of the services that you perform allegedly for Atlas is to check the legitimacy of the transaction tied to the paper which you are buying?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. And you indicated that you did?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. And you gave me a long line of questions which you ask, and yet you did not uncover the fact that Peoples Contractors, Inc., was falsifying FHA loan applications?

Mr. MORGAN. Well, sir—

Senator TYDINGS. Evidently you didn't come across anything about United Home Enterprises forging homeowners' names on deeds of trust.

Let me ask you about Allied Enterprises.

Mr. MORGAN. May I interject one thing, Senator, if I may? Mr. Cedarloff is under indictment for forgery.

Senator TYDINGS. Right.

Mr. MORGAN. He has not been convicted of forgery, or anything, yet.

Senator TYDINGS. Did you come across any of the areas of charges which turned up in the grand jury investigation?

Mr. MORGAN. I don't—I would have no way—of any of the charges against Mr. Cedarloff?

Senator TYDINGS. Yes. And United Home Enterprises?

Mr. MORGAN. In checking the individual deals?

Senator TYDINGS. Yes, sir.

Mr. MORGAN. No, sir; I did not.

Senator TYDINGS. Did you ever check any of the individual deals to see whether or not the people might have been the victims of fraudulent actions?

Mr. MORGAN. Yes, sir; we did.

Senator TYDINGS. How, other than by the telephone calls that you just mentioned, do you do this?

Mr. MORGAN. Well, all right. Let me tell you one other thing that might help, that when these people, these particular Peoples loans

you are speaking of that were sold to Atlas, when they received their payment book, with the payment book is a letter which again spells out the fact that Atlas had purchased a note and deed of trust in this amount of money, which is a gross figure, and at the bottom of the letter, in bold print, it says, "If you have any questions concerning this transaction, please contact us." So we——

Senator TYDINGS. How many of the people whose paper you buy have completed the 12th grade of high school, Mr. Morgan?

Mr. MORGAN. Oh, I think a great many of them, sir.

Senator TYDINGS. Do you think as many as 50 percent?

Mr. MORGAN. Oh, more than that, I would say.

Senator TYDINGS. I question that. Did you check out Allied Enterprises when you were doing business with them, to see whether or not they were involved in any fraudulent misrepresentations?

Mr. MORGAN. Yes, sir. I checked the deals, sir. I am talking about the individual deals. As far as the contractors themselves, I don't recall that I checked Allied before I did business with them; no.

Senator TYDINGS. Do you ever check a contractor to find out whether he had a legitimate business?

Mr. MORGAN. No, sir. Generally not, because most of the contractors in town I know. I mean, I have been in this business for around——

Senator TYDINGS. Now, those contractors which I read out to you and whom you indicated at one time provided you with at least half of your paper, they are out of business now; right?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. And a number of them are either under indictment or have had their officers convicted for charges involving fraud, misrepresentations of one type or another?

Mr. MORGAN. I don't know that, Senator. You are telling me——

Senator TYDINGS. Well, I just mentioned Peoples Contractors, Inc., United Home Enterprises, Allied Enterprises. I think you are familiar with Monarch Construction Co.?

Mr. MORGAN. Yes, sir; but I didn't know that anyone was under indictment except Mr. Cedarloff—I really did not.

Senator TYDINGS. Under indictment or charged by the Federal Trade Commission.

Mr. MORGAN. This, of course——

Senator TYDINGS. And as a matter of fact, you do not really look into the type of business whose paper you buy? You are concerned with whether or not you have got those papers signed and whether you have the deed of trust recorded, and insofar as the company itself is concerned, you do not care how they get the people to sign that paper, do you?

Mr. MORGAN. No, sir; that's not true. We would be, I think, more than foolish if we bought paper with good money that we knew from the inception would not pay. I mean, this doesn't make——

Senator TYDINGS. You have got your deed of trust.

Mr. MORGAN. Yes, sir; but even that, if there is a fraud, and even considering your bill, if there is a fraud in the inducement of any of these the trust is vitiated. The trust cannot stand if there was a fraud, if these people have induced them to sign fraudulently, or forged their names, our trust is no good. If we knew this, Senator, we certainly wouldn't buy the paper.

Senator TYDINGS. All right. It is hard for me to understand why half of the businesses, or half of your buying business came from firms which are now out of business and a number of whose principal officers have been charged, indicted, or cited for some type of fraudulent conduct.

Mr. MORGAN. Well, this doesn't—

Senator TYDINGS. It is hard for me to understand this, in light of the fact that you said you endeavored to check out the legitimacy of the transactions. How can you check out the legitimacy of a transaction when you are doing business with a bunch of bums?

Mr. MORGAN. I say again, for example, Mr. Cedarloff may very well be guilty, but I am not—I certainly can't tell you he is guilty until he is convicted.

Senator TYDINGS. What about those that have already been cited and found guilty?

Mr. MORGAN. I don't know those, Senator. I really don't. I am not being facetious. I know no others that have been cited or found guilty.

Senator TYDINGS. Now, does the Atlas Financial Corp. have any concern whatsoever about whether you are doing business with legitimate enterprises, or are they concerned primarily with the validity and conformity of the papers?

Mr. MORGAN. Well, I think that we are all interested in the validity or legitimacy of the business of the people we are doing business with. And, of course, we are concerned with the validity of the papers, because without this we have purchased nothing.

Senator TYDINGS. Has Atlas ever come to Washington to check out any of the people from whom you buy paper?

Mr. MORGAN. To the best of my knowledge, no; they have not.

Senator TYDINGS. And did they ever come down here and look into Monarch Construction Co. or United Home Enterprises?

Mr. MORGAN. Again I must say to you, for example in Monarch we bought this paper for a period of about a year at that time and there were two or three major savings and loans buying the same paper, and we have had very little trouble with their paper. We don't have as much, I am sure, as some of these sources, but we have had very little trouble with their paper.

Senator TYDINGS. But they have never come down and checked out—

Mr. MORGAN. As far as I know; no, sir.

Senator TYDINGS. All right. Then they take your word for the legitimacy of the enterprises with which you are doing business?

Mr. MORGAN. Yes, sir. They reach—I'll say this: They recheck a great deal of it. In other words, oftentimes after we check the legitimacy and it is forwarded to them and they pay it, they then will call the people again on the phone.

Senator TYDINGS. Are you still doing business with Allied Enterprises?

Mr. MORGAN. No, sir.

Senator TYDINGS. When did your last business transaction with them take place?

Mr. MORGAN. It has been—

Senator TYDINGS. When did you last buy paper from them?

Mr. MORGAN. I can't tell you without checking my records, but I am sure it must have been 6 months or more.

Senator TYDINGS. In 1967? You have not bought any in 1968?

Mr. MORGAN. Oh, none in 1968. No, sir; none in 1968, and I am not even sure that we bought any in 1967.

Well, I know that they are out of business now, but—well, we stopped sometime ago, 6 or 7 months, at least.

Senator TYDINGS. Did Atlas ever check into Allied Enterprises?

Mr. MORGAN. Did they check into—

Senator TYDINGS. The legitimacy of the business?

Mr. MORGAN. Not to the best of my knowledge; no, sir.

Senator TYDINGS. I mean, did—

Mr. MORGAN. As I say, I believe that the principal in FHA dealer. I would assume if he were approved for FHA transactions that he would be legitimate.

Senator TYDINGS. You bought, I presume, for Atlas Financial Corp., approximately 150 deeds of trust from Allied Enterprises; is that correct?

Mr. MORGAN. I would—I am—I don't know, sir.

Senator TYDINGS. I am only asking for an approximate figure.

Mr. MORGAN. I would say that's very possible.

Senator TYDINGS. That is what you told the reporter for the Washington Post.

Mr. MORGAN. I would say that is right.

Senator TYDINGS. You told him that, and I presume that the majority of these mortgages are still outstanding, are they not?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. And they are held by the Atlas Financial Corp?

Mr. MORGAN. Yes, sir. I think almost all of them are.

Senator TYDINGS. Have you informed Atlas that those mortgages, according to your interpretations of the law, might well be null and void?

Mr. MORGAN. Yes, sir; they are aware of this, certainly.

Senator TYDINGS. And they are aware of what the Federal Trade Commission had to say about the practices of the Allied Enterprises, Inc?

Mr. MORGAN. I am personally not aware of that, Senator. I don't know whether they are or not.

Senator TYDINGS. Do you know that the Federal Trade Commission cited Allied Enterprises for:

Failing to disclose orally at the time of sale and in writing on any conditional sales contracts, promissory note or other instrument executed by the purchaser, with such conspicuousness and clarity as is likely to be read and observed by the purchaser that: (a) such conditional sales contract, promissory note or other instrument may, at the option of the seller and without notice to the purchaser be negotiated or assigned to a finance company or a third party;

(b) If such negotiation or assignment is effected, the purchaser will then owe the amount due under the contract to the finance company or the third party and may have to pay this amount in full whether or not he has claims against the seller under the contract for defects in the merchandise, non-delivery, and the like.

5. Failing to reveal, disclose or otherwise inform customers, in a manner that is clearly understood by them, of all the terms and conditions of a sale and of any installment contract or promissory note or other instrument to be signed by any customer.

You didn't advise the Allied——

Mr. MORGAN. I was——

Senator TYDINGS. You didn't——

Mr. MORGAN. I was unaware of this. As a matter of fact—what is the date of that?

Senator TYDINGS. February 6, 1967.

Mr. MORGAN. I don't think that we bought any paper from them——

Senator TYDINGS. Docket No. 8722.

Mr. MORGAN. I am sure we have not bought any paper from them since the date of that.

Senator TYDINGS. I know, but this has to do with the operation of the Allied Enterprises while you were buying their paper and while you were selling their deeds of trust to Atlas. How can you be looking out for the interest of Atlas with regard to the legitimacy of a business if you haven't even advised them of the contents of this cease-and-desist order of the Federal Trade Commission against the company, 150 of whose deeds of trust they hold?

Mr. MORGAN. Sir, I was unaware of the order, first of all. I knew there had been a cease-and-desist order, but I was unaware and we were not doing business at that time.

Senator TYDINGS. You were unaware. And your responsibility to Atlas Financial Corp. would not require you to——

Mr. MORGAN. Oh, certainly. Absolutely. There would be no question, and they knew that FTC was investigating, and that is when we stopped doing business with Allied, when we discovered this.

Senator TYDINGS. Now, has Allied set up a reserve for 150, these 150 deeds of trust on the grounds that they very well could be fraudulently——

Mr. MORGAN. No, sir.

Senator TYDINGS. They have not?

Mr. MORGAN. They have not, no, sir. They have not set up any reserve.

Senator TYDINGS. Do you think they should?

Mr. MORGAN. I assume if they were out of business—we would love to have them do it, Senator, but I don't know if it would be possible. But, as you read the order there——

Senator TYDINGS. Are you sure that they have not?

Mr. MORGAN. Haven't what?

Senator TYDINGS. Set up a reserve.

Mr. MORGAN. To the best of my knowledge they have not, sir.

Senator TYDINGS. Now, when you say "to the best of your knowledge," are you an officer of the corporation?

Mr. MORGAN. Of what, Atlas?

Senator TYDINGS. Yes.

Mr. MORGAN. Oh, no, sir.

Senator TYDINGS. I mean, are you on the board of directors?

Mr. MORGAN. No, sir. On Atlas Credit?

Senator TYDINGS. Yes.

Mr. MORGAN. No, sir, I am not.

Senator TYDINGS. Well, how do you know what they have set up and what they have not set up?

Mr. MORGAN. Only that it would have to come through me, I would think, unless they had gone and subsequently set it up, I would have no way of knowing, unless they told me.

Senator TYDINGS. Now, why would they have to come through you?

Mr. MORGAN. Well, if it was set up in the original transaction, I would be aware of it, certainly. If a reserve was taken on the sale of the original——

Senator TYDINGS. But, in the case of at least some of them, you would think that this would not have been outstanding. This was handed down after some of these transactions had already been recorded.

Mr. MORGAN. I am sure that this——

Senator TYDINGS. How would you know if Atlas had set a reserve?

Mr. MORGAN. I would think that they would tell me.

Senator TYDINGS. Why?

Mr. MORGAN. Because I help them collect their accounts. I mean——

Senator TYDINGS. Do you represent their interests here in Washington?

Mr. MORGAN. Oh, by helping them collect the accounts I sell them, yes, sir.

Senator TYDINGS. I mean, do you represent them as an agent here in Washington?

Mr. MORGAN. No, sir. No.

Senator TYDINGS. What tie do you have with Atlas that would allow you, as you said, to know about it. Why would you know about it?

Mr. MORGAN. Because they would tell me, Senator, I would assume.

Senator TYDINGS. Well, why?

Mr. MORGAN. Because if I am——

Senator TYDINGS. Are you very close to them?

Mr. MORGAN. I am very close to them.

Senator TYDINGS. Are you so close to them that they would not set up a reserve without your being aware of it?

Mr. MORGAN. Oh, no. Well, now, that's possible. That is very possible. They may very well have set a reserve on their books of which I am not aware.

Senator TYDINGS. Would it be fair to say that you are their man here in Washington?

Mr. MORGAN. Well, when you say "their man"——

Senator TYDINGS. To represent them, to secure business for them?

Mr. MORGAN. Yes, I certainly secure business for them.

Senator TYDINGS. And to look out for their best interests?

Mr. MORGAN. Right.

Senator TYDINGS. And to see that they are not cheated?

Mr. MORGAN. Right.

Senator TYDINGS. And to see that they are not taken advantage of?

Mr. MORGAN. Yes, sir.

Senator TYDINGS. Thank you.

Mr. MORGAN. Can I make one statement, Senator.

Senator TYDINGS. You may say anything you like, Mr. Morgan.

Mr. MORGAN. I would just like to say that I have—that I have read the bill, the series of bills that you have proposed, and contrary to what the committee may think, I am in favor of this type of legislation.

Senator TYDINGS. Do you favor these bills?

Mr. MORGAN. Yes, sir. I am in favor of each and every one of the bills because we have made an honest effort in the cases that we have purchased, to try to determine that the people understood what happened.

Senator TYDINGS. Do you think that those bills would actually hurt any legitimate person in the home improvement business?

Mr. MORGAN. No, sir; but I don't think they are going to be the answer to your problem.

Senator TYDINGS. Do you think that the holder-in-due-course doctrine proposal in those bills would harm any legitimate operator?

Mr. MORGAN. I would be more afraid of that proposal as harming a legitimate operation than affecting us, for example, if you call us legitimate.

Senator TYDINGS. Are you willing to endorse that proposal?

Mr. MORGAN. I prefer, of course—I am glad you asked me this. This is the point of the bill which I prefer the type of legislation which Senator Morse introduced by putting a much greater duty on a purchaser of the paper to protect the consumer. I think that you will do much better with this than merely vitiating the holder-in-due-course theory, because fraud in and of itself vitiates a deed of trust or a note or whatever is signed. The holder has no standing anyway.

But, I think if you place, as Senator Morse attempted to do with the certificate of completion, that, plus something even greater, putting a greater obligation on the purchaser of this commercial paper, then you will give the consumer some protection.

But, by merely knocking out the holder-in-due-course concept, I don't think this is going to provide the protection.

Senator TYDINGS. Now, Mr. Morgan, are you or are you not in favor of the bills which I have introduced?

Mr. MORGAN. Yes, sir; I am.

Senator TYDINGS. And including the one which vitiates the holder-in-due-course doctrine?

Mr. MORGAN. I would prefer the other. I think this will do some good.

Senator TYDINGS. Would you go so far as to advise your—

Mr. MORGAN. Advise what, sir?

Senator TYDINGS. I was going to say, would you advise your clients, the Atlas—

Mr. MORGAN. They are here and I think you will find that they also are in favor of these bills, because if you set the legal rate of interest that will be allowed in this type of transaction, it will do away with all questions about overcharge and interest, and the cancellation provision, I think, is an excellent provision.

We are not interested in buying paper that won't pay, Senator.

Senator TYDINGS. Fine. Thank you very much, Mr. Morgan, for being with us.

Mr. Theodore Blumenfeld.

Mr. BLUMENFELD. Yes, sir.

Senator TYDINGS. We are delighted to welcome you before the subcommittee, Mr. Blumenfeld.

Would you give us your address, where you reside, where you work?

STATEMENT OF THEODORE BLUMENFELD, EXECUTIVE VICE
PRESIDENT, ATLAS FINANCIAL CORP.

Mr. BLUMENFELD. My residence address is in Philadelphia at 1819 West Ashdale Street.

Senator TYDINGS. And you are presently employed by whom?

Mr. BLUMENFELD. By Atlas Financial Corp. I am the executive vice president.

Senator TYDINGS. And you work in Philadelphia?

Mr. BLUMENFELD. That's correct.

Senator TYDINGS. And what is your responsibility?

Mr. BLUMENFELD. As executive vice president, I am the principal administrative officer of that company, which is a finance company and a subsidiary of Sunasco, Inc., which is a company whose stock is listed on the New York Stock Exchange, which also owns a mortgage service company which is about the fourth or fifth largest service company in the country, and a leasing company known as Atlas Leasing, a Mexican subsidiary as Atlas Lutino Americano, a prefabricating or home manufacturing company, Hilco Corp.

There is a title insurance company in West Jersey entitled "Guarantee Co.," and it does business in all of the United States, Canada, Provinces, Mexico, and the Bahamas, Grand Bahama Island.

Senator TYDINGS. Well, what is your educational background, Mr. Blumenfeld?

Mr. BLUMENFELD. I am a graduate of Princeton University and Temple University School of Law.

Senator TYDINGS. And what is your vocational background?

Mr. BLUMENFELD. I worked for the Equitable Life Insurance Society of the United States from 1951 through 1956.

Senator TYDINGS. In Philadelphia?

Mr. BLUMENFELD. In Philadelphia.

Senator TYDINGS. In what capacity?

Mr. BLUMENFELD. In a clerical capacity. I was going to evening law school at that time. Upon my graduation from law school in 1957 I became counsel for the Providential Life Insurance Co. in Philadelphia.

Senator TYDINGS. Is that a local company?

Mr. BLUMENFELD. Providential Mutual?

Senator TYDINGS. Yes.

Mr. BLUMENFELD. It is a company that does business nationally, with assets I would expect in excess of a billion dollars.

Senator TYDINGS. Were you chief counsel?

Mr. BLUMENFELD. No; I was an associate counsel in charge of the newly established group pension and health and welfare benefit division at the time. That was January of 1957 in that particular company, and they had just gone into that business.

Senator TYDINGS. Now, are you a member of the bar of the State of Pennsylvania?

Mr. BLUMENFELD. I am a member of the bar of the State of Pennsylvania.

Senator TYDINGS. Any other States?

Mr. BLUMENFELD. No, sir. After I became associated with the Oxford Finance Cos., Inc., a Philadelphia-based company, and I was

with them for approximately a year and a half as house counsel, and subsequent to that I became employed by Atlas, then Atlas Credit Corp.

Senator TYDINGS. When was that?

Mr. BLUMENFELD. This is 1964.

Mr. TYDINGS. So you have been there three and a half years?

Mr. BLUMENFELD. April. Two months it will be 4 years. I have been executive vice president since 1965.

Senator TYDINGS. Now, as executive vice president of the Atlas Credit Corp., what are your general responsibilities, and who are you responsible to?

Mr. BLUMENFELD. Well, the executive vice president's responsibilities are chiefly administrative. I would say I am the chief administrative officer of that company, and also as a member of the board of directors of that company and its executive committee, I am active in formulating business policy, responsible, of course, to the board of directors of that company and the parent company.

Senator TYDINGS. The parent company being Sunasco?

Mr. BLUMENFELD. Sunasco.

Senator TYDINGS. What is the history of the relationship between Atlas Credit Corp., the Woljen family, and Sunasco.

Mr. BLUMENFELD. Could you make that question a little more specific, Senator? I could give a rather—

Senator TYDINGS. Are you familiar with the facts relating to the merger of the Atlas and the Sunasco groups?

Mr. BLUMENFELD. Yes. You have a misnomer there. The Sunasco group was the name of the surviving corporation of the merger of old Atlas Credit Corp. with Sunset International Petroleum.

Senator TYDINGS. I wonder if you would describe that to us.

Mr. BLUMENFELD. In April of 1966 the then Atlas Credit Corp., not to be confused with Atlas Financial Corp., and Sunset International Petroleum Corp. merged by appropriate vote of the respective shareholders of these companies, and a new corporation, Sunasco, Inc., was formed. It is primarily, or was primarily, a holding company. At that time Sunset International Petroleum Corp. became a subsidiary of Sunasco, Inc. There are approximately, or there were after that merger, approximately 30,000 public shareholders of the stock of that company.

Senator TYDINGS. Now, the new corporation, Sunasco, was a holding company?

Mr. BLUMENFELD. Yes; it was not an operating company.

Senator TYDINGS. Now, who were the controlling stockholders of the Sunset International Petroleum?

Mr. BLUMENFELD. Large blocks of stock of Sunset International Petroleum Co. were held by the Sterling family who were managers of Sunset. That stock was listed and traded on the American Exchange prior to the merger. A Chicago-based company, which is listed and traded on the New York Exchange, by the name of Allied Products Corp. controlled a sizable block of stock. I would estimate that between Allied Products and the Sterling interests effective control, though not the majority of the control of Sunset International was had.

Senator TYDINGS. And what about the Atlas Credit Co., who had the controlling—

Mr. BLUMENFELD. Atlas Credit Corp. was also publicly owned and traded on the New York Stock Exchange, and was effectively controlled by the Woljen family, who owned I would estimate about 35 percent of the authorized issued and outstanding stock. About 65 percent of the stock was in the hands of the public.

Senator TYDINGS. And Atlas Credit Corp. owned, I gather, Atlas Finance?

Mr. BLUMENFELD. That is correct.

Senator TYDINGS. And after the new holding company was formed, control over Sunasco resided in the Woljen family and resides there today with effective control?

Mr. BLUMENFELD. It does effectively reside there, but until quite recently it would be correct to say that control was in a stalemate between Sterling interests and the Woljen interests. There was an even division of the board of directors with one so-called swing man who was presumably impartial or objective. This was part of the negotiations giving rise to the merger. The executive committee was just about an even division, and the officers of Sunasco came 50 percent from Atlas Credit and 50 percent from Sunset.

Senator TYDINGS. Under the new holding company operations were the individual component parts, run pretty much by the same people that ran them prior to the merger?

Mr. BLUMENFELD. Yes; I would say that that is a fair statement.

Senator TYDINGS. You came to Atlas Credit in 1964?

Mr. BLUMENFELD. April of 1964.

Senator TYDINGS. Would you describe Atlas generally? What it does, and the companies of which you are executive vice president?

Mr. BLUMENFELD. Then or now, sir?

Senator TYDINGS. Then and now.

Mr. BLUMENFELD. When I came with the company, it was primarily known as a real estate-oriented finance company. It purchased home improvement receivables secured by liens on real estate in probably 35 or 40 jurisdictions throughout the United States, and it also purchased debt consolidation receivables as distinguished from home improvement receivables and builders' first mortgages on home improvements.

There was a certain small percentage of specially financed business such as the water softeners, intercoms, things like that, and had an annual volume of business perhaps in the area of \$10 or \$12 million. It had totals outstanding in the receivables portfolio of probably \$40 to \$50 million.

The growth of the company was quite steady from the period of 1964 through 1966, because of its ability to leverage on its net equity because of good results that it had produced and this specialty finance business and home improvements finance business.

Until 1965 and 1966, the volume of new business was probably about \$45 million per year. Starting in the early months of 1966, we went through a phenomenon known as the tight-money situation. A finance company leverages on its capital funds normally at the ratio of 7 or 8 times. That is its equitable funds. It sells subordinated debtors either publicly or privately, and then it borrows at the ratio of about three times that borrowing base from banks, names of which would be familiar to all of you, and from institutional investors of insurance companies.

With the advent of tight money and the ability to borrow long-term funds became pretty difficult, the rates became prohibitive, and a leveling off of the activity of the company occurred because it is not possible to purchase real estate-secured receivables with average initial maturities close to 5 years, with short-term bank borrowing. It would destroy the liquidity of the company and its ability to service debts.

So, for the last 2 years, I would have to characterize Atlas' activities as pretty much treading water, holding its own. I would say that the amount of receivables that it has been liquidating from its portfolio exceeds slightly the amount of new business which it has acquired.

Senator TYDINGS. As part of your responsibility when you came to Atlas, did you have to find any producers for Atlas in the District of Columbia area, or was the business operation pretty well established when you came in?

Mr. BLUMENFELD. Mr. Morgan was the primary source through which business was acquired in the District of Columbia area at that time.

Senator TYDINGS. Is it your custom, or the Atlas custom, to have a primary source in each major city, or does that vary?

Mr. BLUMENFELD. It varies. Atlas has never really had to do too much proselytizing to attract dealers. A finance company with a national reputation, of which Atlas is only one, would attract people who are interested in selling this type of receivables primarily because banks, savings and loans, and local institutions do not normally have an area of interest much beyond the environments of their particular office. You will find that they do business in an area of 25 to 30 miles, and a home improvement dealer or contractor will normally draw from a wider area, and to the extent that he has to look to several sources for the placement of his business, he would prefer to deal through one source because in the last analysis his interest is in reaping a profit from the number of jobs that he effectively places.

So that over the years that I have been there, probably a thousand different individual sources of generating this paper have come and gone. I think it is a phenomenon of the business. The pattern of the acquisition business also varies as Atlas has from time to time had its own salaried employees in offices in various parts of the country to acquire business, and it has also had relationships such as the ones which existed and does exist with Mr. Morgan, where he is an independent contractor who purchases paper according to a preordained formula as to what Atlas is interested in buying.

The net effect is roughly the same.

Senator TYDINGS. You heard Mr. Morgan testify here?

Mr. BLUMENFELD. I did, sir.

Senator TYDINGS. And was his description of what Atlas wanted, was that fairly accurate?

Mr. BLUMENFELD. Yes; I believe it was an accurate statement.

Senator TYDINGS. What percentage of your paper from the Washington, D.C., area has Mr. Morgan supplied?

Mr. BLUMENFELD. Just about all the paper. There have been dealers here in the Washington area and the Baltimore area who purchase some paper in the Silver Spring or Washington area from time to time, but I would say substantially all of the business that Atlas now

holds in the Washington, D.C., area, was purchased through the efforts of Mr. Morgan.

Senator TYDINGS. Now, do you know how long Mr. Morgan has done business with Atlas here in Washington?

Mr. BLUMENFELD. Yes; and I know from my conservency with the company's activities that he was active for probably 3 or 4 years prior to my appearance on the scene. I would say at least 9 or 10 years, and I might add he is a highly regarded source of business by the company.

Senator TYDINGS. And the company has a good deal of confidence in him?

Mr. BLUMENFELD. Yes; we have a great deal of confidence in him. The business that he has generated probably represents a rather nominal portion of the total company holdings. I don't believe the volume of business generated through Mr. Morgan's efforts at any time exceeded 4 or 5 percent of the total activity.

Senator TYDINGS. Of the Atlas Credit Corp.

Mr. BLUMENFELD. Yes; which is not to say that that's an inconsiderable amount.

Senator TYDINGS. Is he the largest single producer for Atlas?

Mr. BLUMENFELD. I would say not; not by a long shot.

Senator TYDINGS. Who would be ahead of him?

Mr. BLUMENFELD. The largest single source through which Atlas has acquired paper would be a gentleman in Pittsburgh, Mark Scoratow—

Senator TYDINGS. Who?

Mr. BLUMENFELD. Mark Scoratow. S-c-o-r-a-t-o-w—who effectively performs the same functions as Mr. Morgan, in a different geographical area.

Senator TYDINGS. Are there any others that produce as much as Mr. Morgan?

Mr. BLUMENFELD. Any others who produce as much? There are many who produce more over the period of time that I have been associated.

Senator TYDINGS. Have they?

Mr. BLUMENFELD. Yes. Mr. Morgan would be regarded as a relatively average or small-sized dealer.

Senator TYDINGS. Does either the Atlas Credit Corp. or the Atlas Financial Corp. do any business directly here in Washington, or does either have subsidiaries here?

Mr. BLUMENFELD. No. There is no subsidiary, as such, known as Atlas subsidiary of the District of Columbia. Atlas operates—that is, Atlas Financial Corp. operates primarily through subsidiaries in which there are domestic corporations in most of the geographical areas in which it does business. There does not happen to be a subsidiary with a designation of the District of Columbia, nor is there a Maryland corporation. The company through which it normally acquires its business from the District of Columbia is known as Atlas Subsidiary of Delaware; it is a Delaware corporation.

And I might add that the doing of business, for instance, the legal terms, most jurisdictions hold that the pure purchasing of notes receivable and the incidental activities attendant to collecting does not constitute doing business within the meaning of the particular statutes.

Senator TYDINGS. Insofar as protection, as the holder-in-due-course, Atlas Associates of Delaware would be a holder of papers in due course?

Mr. BLUMENFELD. I would hardly think so. I might comment on that because you and Mr. Morgan exchanged some views about the desirability or the effect of the removal of the holder-in-due-course concept in your particular bill. I think the Atlas has systematically gone about destroying itself from its position as a holder-in-due-course by virtue of the many activities that it performs in trying to assure itself that the paper was fair on its face.

I think by causing investigations to be done into the circumstances giving rise to the signing of the note and the deed of trust and the contract, going through rather extensive rechecking after the acquisition of the note before the first payment could become possibly due that we really have destroyed our position as a holder-in-due-course.

I can't picture our being able to carry the day in any court saying we are without knowledge of any defenses or defects, because we certainly do gain that knowledge, and we haven't really placed any great store in the position of being a holder-in-due-course.

So, I would tend not to be so alarmed by the presence of that provision in your bill because I don't think it is taking away from the finance company any great protection that it had before.

I might interject that I would be happy to see some kind of provision which would make it incumbent upon finance companies to actually perform the so-called checkouts or rechecks. I think that would be much more effective in trying to deal with the general problem of protecting the consumer through legal refinements, which I am sure you realize are a matter of mechanics and sometimes become quite weighty. I think the pragmatic approach might be much more effective.

As Mr. Morgan said, and it was not a glib statement, no finance company is interested in purchasing a receivable which is not going to pay, nor do we want the dubious privilege of asking a trustee to post a property for sale. We are not in the real estate business and we don't want to own property in Washington, and the existence of a real estate lien as security is merely as a collection tool. Any finance company operates on the premise that the obligor notes the advice, can pay and will pay and in the absence of that can probably be made to pay by the exercise of leverage.

The same situation pertains to mortgages. If you don't pay, a foreclosure may cause you to pay. Of course, you may lose the property. The history of our foreclosures in this particular jurisdiction is very nominal, and I might say, so is the case throughout the country.

Senator TYDINGS. Paper that you acquire from Mr. Morgan in the District—do you check out the sources of any of his paper?

Mr. BLUMENFELD. You really don't have to do that because at a certain point the cost of going through a really exhaustive analysis into the financial responsibility and integrity of each individual contractor would become prohibitive. We rely heavily on a brokerage situation such as Mr. Morgan's, that he will sift down, find the marginal operators, as you characterized them, people who might be guilty of generating paper that isn't collectable soon will emerge like oil will float to the top, and we are not interested in buying their paper. The paper that we purchase in other areas through our own salaried em-

ployees, we do investigate the financial responsibility and integrity of the individuals.

It is axiomatic in the business that if a contractor or generating source of paper is looking for a way to put it over on the finance company, that he will find it. The finance company is victimized just as often as the consumer in this area if it isn't on its guard, and anything that the finance company can do to ferment regulations which makes it difficult for marginal operators to literally defraud consumers as well as finance companies, have always been wholeheartedly supported by our companies.

We are not interested in having our money being spent for receivables which are not collectable.

Senator TYDINGS. But insofar as the legitimacy of the sources of your paper in Washington, you rely on Mr. Morgan?

Mr. BLUMENFELD. In the District of Columbia we have relied largely on Mr. Morgan.

Senator TYDINGS. Do you investigate any of the types of transactions and their legitimacy connected to the different types of paper?

Mr. BLUMENFELD. Yes. As Mr. Morgan told you, we expect him to do a credit investigation and title search, a prejob conversation with the prospective account debtors, ask them if they understand the nature of their obligation, the significance of a note and deed of trust.

Now, all of this is done. There is a phenomenon that occurs in the business which finance companies become sophisticated and wise to and is known as prepping the account, respective account debtor or consumer and they say that you are going to get a call from somebody and you are going to get a call from the finance company and this is what you say to them. This can happen. There is really no defense against this. You will know that a given dealer has generated what is called in the trade as hot paper. Of course, you won't buy his paper and he can sting a finance company or a broker like Mr. Morgan once or twice, but reputation does run rather quickly in the industry.

As to legitimacy, I think by that you mean whether it is free of the defense of fraud or forgery, et cetera. Yes; we go to great ends to try to ascertain that, but another phenomena occurs known as buyers' remorse, very often in this business, and people will not tell you that they won't pay in so many words. They have to have a reason for not paying. They are sometimes embarrassed, perhaps, that they were the victims of a glib salesman's pitch such as was described by one of the earlier witnesses, so they conjure up reasons.

They say that they never saw that. I have seen this happen. Atlas never becomes the leading case in any jurisdiction as to whether or not such and such was a fraud or a forgery. Normally, when that kind of defense is interposed we seek to have an amicable settlement and give it up because we don't need the notoriety and publicity. We get more than our share of that because of the fact that marginal operators have been successful in placing certain amounts of receivables.

Reference was made to one of the companies that is now no longer in existence. We have probably a hundred or so accounts of that particular contractor. It is not a significant amount of paper. We have had no great amount of difficulty, so I would have to presume that most of that is free of the defense of forgery which you alluded to in your earlier remarks.

There really isn't any way that you can go much beyond that. We do telephone checkouts and they will not reveal those defenses because they may not necessarily be real.

Senator TYDINGS. So that your basic reliance is on the phone information which Mr. Morgan outlined in his testimony earlier?

Mr. BLUMENFELD. Plus, it is corroborated by our own home office personnel. We have, I guess our annual telephone bill is probably around \$150,000 a year. We make calls from our own office, even if the paper is purchased on a salaried employee or staff officer. There is another phenomena in the business in which a salaried employee could be bribed by a local contractor to take papers, so we have to be ever watchful that that situation doesn't occur, so we check even in situations where our own salaried people perform the functions that Mr. Morgan performs for us in Washington as an independent contractor.

Senator TYDINGS. How does that work after Mr. Morgan has sold the paper to the home office?

Mr. BLUMENFELD. Somebody will get on the phone from the office in Philadelphia and call the consumer, the account debtor and say, "We bought your note from whatever source it may have been," and go through the same thing that Mr. Morgan recited to you before in an attempt—

Senator TYDINGS. You do that with every single note?

Mr. BLUMENFELD. Yes; effectively every single note. It's a function, but sometimes the volume of business makes it impossible for us to have every single one checked out. This business doesn't, unfortunately, come in a smooth and level fashion. There are peaks and valleys of activity and we don't staff our acquisition force for the peaks of activity. The greater percentage of those deals which had already been checked at least once or twice by a broker such as Mr. Morgan—

Senator TYDINGS. Do you ever contact anybody for a credit report other than the customer whose note you are buying?

Mr. BLUMENFELD. Oh, certainly. Yes; we have learned that credit reports can be falsified. We wouldn't want to characterize anything particular.

Senator TYDINGS. Do you get an independent credit report on this?

Mr. BLUMENFELD. Yes. We employ young ladies in our home office who do credit checking just to verify that the credit information as given, or as listed, is accurate. It is a common phenomena for there to be a considerable discrepancy.

Senator TYDINGS. But you don't go out and get a private credit report on the individual?

Mr. BLUMENFELD. You mean purchased from another agency?

Senator TYDINGS. Yes.

Mr. BLUMENFELD. Oh, yes. Mr. Morgan would normally send a retailer or somebody's report to Philadelphia with the deal. Now, that is merely used as a jumpingoff point or as a guideline. The credit checkers in the home office will call some of those listed and try to get cross references to see that all of the outstanding obligations of the prospective debtor have been accurately stated.

Senator TYDINGS. Did you ever have a situation where a person says that he doesn't owe that money or it was an illegitimate transaction? Have you ever had such a situation?

Mr. BLUMENFELD. Oh, yes.

Senator TYDINGS. In Washington?

Mr. BLUMENFELD. Oh, certainly.

Senator TYDINGS. What happens then?

Mr. BLUMENFELD. We tell Mr. Morgan that we have a bad one and he is obligated to buy it back. If it is not fair on its face and people do not understand the nature of their obligation, or if they have, as I said before, remorse and have conjured up some reason, real or imaginative, for not wanting to deal, we don't want it and we say look, we did not buy something that wouldn't pay. Either you get it straightened out or we don't want it, and he would repurchase it.

I would guess over a period of these 4 years that I have been familiar with Mr. Morgan's activities, he has bought back upward of 100 such transactions, perhaps more. I am sure he could show you his canceled checks.

Senator TYDINGS. What percentage? Less than 10 percent?

Mr. BLUMENFELD. Oh, certainly less than 10 percent, but the number would be considerable, and most impressive, I think. I don't know what Mr. Morgan does with the deals after Atlas refuses to take them. Presumably he tries to collect them himself.

Senator TYDINGS. He said he had a few groups of lawyers in the District.

Mr. BLUMENFELD. Perhaps.

Senator TYDINGS. What percentage of your note holdings do you foreclose on?

Mr. BLUMENFELD. Well, there is a distinction between institution of foreclosure proceedings and the consummation of them. I would say that threats of foreclosure are quite common as a collection tool. Going so far as to post the property or institute foreclosure proceedings probably occurs in about 5 percent of the company's total portfolio.

The actual attainment of title by the foreclosure proceedings probably occurs in about 2 percent or less. We are not in the business of owning real estate. The equity that exists, or extensively exists, a man's home is his castle, is a very effective collection weapon. It isn't so much what the value of that property may be at the time of foreclosure under an action, it is what the man thinks he has—the equity, imagined equity. A man buys a house in 1955 with an FHA mortgage for \$10,000; and pays it down to \$7,000 in 7 or 8 years; and he thinks that the real estate appreciated to where that property is now worth \$12,500; and he thinks he has got \$15,000 equity. The psychology of it is that he isn't going to let that \$5,000 equity be taken from him for the want of making a \$50 or \$60 payment, so that foreclosure to obtain title to the real estate and to reap a profit by resale is not the finance company's goal. It is really an effective collection tool and we only very reluctantly end up with the property because we have then got the problem of trying to sell it, and in many cases we have the problem of trying to refurbish it to make it salable.

Senator TYDINGS. Do you have any idea what percentage of foreclosures are forced to go through with it?

Mr. BLUMENFELD. Very nominal. I would guess 1 or 2 percent. We don't keep statistics on that. I think the company now, with 43,000 accounts, has an inventory probably somewhere in the neighborhood.

of 300 houses throughout the United States that it has either gained title to by taking a quitclaim deed where the people throw up their hands and say, "I just can't pay. Take the house."

And the balance of them would come by the form of foreclosure proceedings. In many jurisdictions there remains an equity of redemption for as long as a year where you can't even get effective occupancy of the house to dispose of it.

Senator TYDINGS. What discount do you take in buying the paper?

Mr. BLUMENFELD. That's not a simple question. I will try to answer it reasonably because I think the answer needs to be received in the light of what geographical area you are talking about, and what quality of credit risk you are talking about.

We have found there are certain areas in the United States where you can't get any rate adequate to the risk involved. We had some rather bad experiences in the State of Michigan, which is apparently a heavily debtor granted and heavily oriented toward personal bankruptcies. It profits us little to buy paper for any add-on rate there because we know from our experience we are just not going to get paid, people do not mean to pay.

Senator TYDINGS. Well, take the State of Pennsylvania or Indiana.

Mr. BLUMENFELD. Pennsylvania, of course, is a regulated State and we don't do a great deal of business in Pennsylvania because we think that rate is unrealistic. It's an 8 add-on which for a receivable having an initial maturity for 5 years is a true simple interest yield of 14.2 percent. Taking into account the cost of borrowing, which, with compensating balances, comes to in excess of 8-percent simple, and adding on to it operating expenses plus his loss experience, it is unprofitable for a finance company to lend money to 14 percent. I think the rates that are outlined in your bills are a little more realistic, but perhaps even a little bit higher than need be.

The 20-percent simple, I think, would be something like 11½ to 12 add-on and I think that that might just impose a little bit too much of a burden on a typical real-estate-secured consumer.

I think that the real-estate-secured consumer might be entitled to a little preferential rate. I think probably 18 percent would be top rate that I would recommend for home improvement receivables.

Senator TYDINGS. What is your approximate average yield on Mr. Morgan's paper?

Mr. BLUMENFELD. Probably—simple interest yield?

Senator TYDINGS. Yes.

Mr. BLUMENFELD. Probably somewhere in the neighborhood of 15 to 16 percent.

Senator TYDINGS. Insofar as the Washington area and Mr. Morgan, did you have any idea of the average amount of the notes?

Mr. BLUMENFELD. I would—this is conjecture, but I know what the average gross balance of the notes that we buy throughout the country are, and I would have to guess that Washington is a little higher, and I will tell you why.

Our average balance is \$2,850. That includes finance charges. That's the gross notes throughout the country. I would think that in the Washington area it might tend to be a little bit higher for this reason: The equities, the real estate equities in Washington have been very

good. I don't recall any situations where we have ever suffered a total loss on our principal in an account that was real estate secured in Washington, the reason being, of course, real estate values here are quite good and we have a rough rule of thumb that there must be sufficient paper equity in a property to cover the principal, the cash price of the deal, so that if we were to purchase a deal for \$2,000 that was written say at an 8 or 9 or even 10 add-on, having a gross balance of \$2,800, \$2,900, or \$3,000, we would have to have at least \$2,000 worth of equity, and those equities in the District of Columbia and the counties of Maryland and Virginia tend to hold up.

Senator TYDINGS. Do you have any idea of the average income of your borrowers or customers in the area?

Mr. BLUMENFELD. District of Columbia area?

Senator TYDINGS. Yes.

Mr. BLUMENFELD. Yes. We do an analysis of what we call a cash flow analysis at the time of acquiring a note to see that the debt servicing ability of the consumer is sufficient for what our experience has told us he needs in that area. It varies from area to area. In the South, for some reason, a cash flow of about \$8 or \$9 per week per person will enable a man to service his debt. You can't do it in Washington or in some of the higher cost-of-living areas. In Washington you need a cash flow of about \$15 a head.

Now, we count an automobile, a wife and children. An automobile is roughly the equivalent of servicing another month, and as to net spendable income of the average it is about \$110 to \$120 a week, and that is not a considerable figure in this particular area.

Senator TYDINGS. Do you know what percentage of your customers in the Washington area are Negro?

Mr. BLUMENFELD. No, I wouldn't know that. I would have to guess a considerable portion of them, but we do not buy predominantly Negro. Some of the contractors that were mentioned in the earlier discussions obviously, the Monarch business, the Negroes who predominantly live in brick rowhouses were the obvious prospects for this type of sale.

Our experience with this type of receivable has been very, very good. Our bad experience came with things involved in referral picture to which you alluded before, such as the intercoms and water softeners, but that happens to be a fact of life in the business. The specialty items, or some reason, are producing a great deal of trouble, and or that reason we don't buy a great deal of them.

If it had not been for the fact that Mr. Morgan felt that the people selling these items were legitimate purveyors and the receivables were fair on their fact, I am quite sure that we wouldn't have bought them.

They cause more grief than actual dollar return to the finance company. You must realize that a \$600 cash purchase price, even if it were written at a 12 add-on for 3 or 4 years, because it wouldn't justify 5 years financing, generates only \$150 of finance charges and our cost accountants tell us that it costs \$150 almost to set a deal up on the books.

Senator TYDINGS. Do you have any idea of the average discount or the amount that Mr. Morgan makes on each account he sends you?

Mr. BLUMENFELD. I have an idea. I think he would be unhappy if he thought that I knew it. There is supposed to be—this is supposed to be pretty much of an arm's length trading that goes on between us, and I would be very unhappy to know that Mr. Morgan is buying notes at a considerable discount, and from my dealings with Mr. Morgan I would say that he probably buys most of the paper for par, and in some cases gets a 5-percent discount.

Historically, he has turned those discounts in to Atlas to be used as a dealer reserve against that particular kind of paper, because we won't buy par paper that isn't par paper. It could be that Mr. Morgan has achieved greater discounts, but I would be surprised to find out.

Senator TYDINGS. How is he reimbursed?

Mr. BLUMENFELD. Well, he gets—he gets paid in cash the purchase price of the particular receivable, plus a 5-percent premium which really will just about offset the cost of acquisition that he would incur, so he doesn't make any money on that. He does participate in the finance charges that will be earned prospectively to the extent that the paper will pay over its contractual history and he will get one-tenth of the charges, so that if there are \$1,000 worth of charges on a \$2,000 deal Mr. Morgan will earn, over the life of that receivable, \$100 of \$1,000 in commissions.

So, he is building up a future in much the same way as an insurance salesman does in his renewal commissions.

Senator TYDINGS. Mr. Blumenfeld, are you familiar with the legislation which is pending before this subcommittee?

Mr. BLUMENFELD. Yes, I am.

Senator TYDINGS. Do you feel that it would be an undue burden on you or any legitimate company to meet the restrictions of this legislation?

Mr. BLUMENFELD. Only in certain of the provisions having to do with giving statements of account. I think that might be an inordinate imposition even though the provisions, as I recall, call for some reimbursement after one or two inquiries. But, that is not so easy to do, what with the advent of automation. Access to individual account records is sometimes a problem, and we run into account debtor unhappiness or disenchantment from time to time when income tax time comes around, and we want to know the amount of interest they have paid.

It isn't because of a lack of desire to be cooperative with the people. The accessibility to information having to do with the payment records, et cetera, of a large company is not quite so easy as the average individual might think. That aspect of it, I think is burdensome.

But, in general, I don't believe there are any particular provisions of your bill or Senator Morse's bill which any legitimate company would find too onerous.

Senator TYDINGS. Do you think that you could live with the holder-in-due-course?

Mr. BLUMENFELD. Well, as I commented earlier, I don't think that's any great shakes for a finance company that does what it is supposed to do.

Senator TYDINGS. Do you think it is an anachronism at present?

Mr. BLUMENFELD. I think it probably is an anachronism. If I might make a general comment about the reaction that I have to the legisla-

tion of this type, most of the abuses that characterize the home improvement industry, or for that matter any consumer installment type of lending, cause a reaction the other way. Whenever you have what I call a legislative void or vacuum it induces the marginal operators as a concomitant. There are abuses.

The finance companies go to a great deal of expense in trying to police this and are generally not too effective at doing it.

So, in that vicinity, any company which has had the length and breadth of experience that Atlas has had welcomes this kind of legislation so long as the legislation that replaces that void doesn't go to the other extreme. I think in some of the jurisdictions that have focused on this problem there has been a tendency to over-regulate without producing the desired effect. I would be hopeful that some of the burdens that you, or as you said, the burdens of your bill, would produce the desired effects. I think there might be some simpler ways, as I said before, to achieve the same practical ends. I think a provision that would make it incumbent upon the finance company to do the kind of checking that I have said we do, would be much more effective.

Completion certificates, experience has told us that these can be obtained by fraud. The people don't know what they are signing. Or, they can also be disavowed when they were signed in good faith by the people, the cooling off period in which the individual consumer has time to reflect over what has happened to him or what he has done, they are good so long as after those cooling off periods no defenses would be available.

I think at some point in time, after the consumer has been protected to the satisfaction of the legislators whose interest they have at heart, there ought to be a defense, a stop or a bar to any and all defenses, because the finance companies, and I am not characterizing them as the poor victimized finance companies, do have a considerable practical problem.

It is expensive to try to collect when people don't want to pay for reasons that are either real or imagined, and I would be very unhappy to see the finance industry come to the conclusion that it is no longer profitable to purchase this type of receivables.

I think there is a real need for finance companies throughout the country, so long as the rates that are available to them are realistic so that they can collect and take their losses just like the insurance companies do on the basis of a spread of risks, service the debt which they buy—

Senator TYDINGS. Do you have anything specific on any of these bills?

Mr. BLUMENFELD. Yes. As I mentioned before, I don't like the provision of mandatory statements. The cost—

Senator TYDINGS. Anything other than that?

Mr. BLUMENFELD. No; nothing other than that. I think the bills are a fine job so far as I am concerned, and I am pleased that they are now forthcoming.

Senator TYDINGS. Well, thank you very much, Mr. Blumenfeld. We appreciate your being with us.

We will stand in recess until 10 o'clock tomorrow.

(Thereupon, at 12:40 p.m., the hearing was recessed, to be reconvened Thursday, February 1, 1968, at 10 a.m.)

CONSUMER PROTECTION LEGISLATION FOR THE DISTRICT OF COLUMBIA

THURSDAY, FEBRUARY 1, 1968

U.S. SENATE,
SUBCOMMITTEE ON BUSINESS AND COMMERCE,
OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 6226, New Senate Office Building, Senator Joseph D. Tydings (chairman of the subcommittee) presiding.

Present: Senator Tydings.

Also present: Chester H. Smith, staff director; Owen J. Malone, associate counsel; Howard A. Abrahams, assistant counsel; James S. Medill, assistant counsel; Richard E. Judd, professional staff member; and Robert A. Burt, legislative assistant.

Senator TYDINGS. The hearings of the Subcommittee on Business and Commerce of the U.S. Senate Committee on the District of Columbia are called to order. This is a part of the continuing study of legislation pending before the Subcommittee on Consumer Protection Legislation for those who buy in the District of Columbia.

The bills under consideration are S. 316, introduced by Senator Morse, and Senate bills S. 2589, S. 2590, and S. 2592 introduced by myself.

The first witness before us today is Miss E. Pauline Myers, representing the Greenbelt Consumer Services, Inc. We are delighted to welcome you, Miss Myers. If you would like anyone to accompany you, we are delighted to have them.

STATEMENT OF MISS E. PAULINE MYERS, CHAIRMAN, WASHINGTON, D.C., AREA SUBCOMMITTEE ON CONSUMER LEGISLATION OF THE GREENBELT CONSUMERS SERVICE, ACCOMPANIED BY DOROTHY WHEELER, CHAIRMAN, THE METROPOLITAN LEGISLATIVE COMMITTEE, AND FRANK E. MONDAY, ANACOSTIA CONSUMER ACTION PROGRAM

Miss MYERS. Mr. Chairman, I do have a group of organizations which concur in our report, and they are here with resolutions of their own, as well.

Senator TYDINGS. Fine. Will you introduce them, please?

Miss MYERS. The other people with me are Mrs. Dorothy Wheeler, who is the general chairman of the Greenbelt Legislative Committee, and Mr. Monday, who represents the Anacostia Consumer Action Program.

Senator TYDINGS. We are delighted to welcome you both.

Miss MYERS. Mr. Chairman, I am here today to represent the District of Columbia Subcommittee of the Committee on Legislation of Greenbelt Consumers Services.

Mrs. Dorothy Wheeler, general chairman of the legislative committee is here with me today.

Greenbelt Consumer Services is the largest consumer cooperative in the United States, representing 19,000 families in the Metropolitan Washington area.

Since the hearings you are holding here this morning are of such vital interest to all the consumers of the area, I am supported here this morning by representatives of large community organizations and present this testimony on behalf of the following:

The Maryland and Virginia Subcommittees of the Virginia Subcommittees of Greenbelt Consumer Services; the Maryland Consumers Association; the Virginia Citizens Consumer Council; supporting organizations of Washington, D.C., including the citywide Consumer Action Council of UPO, the Phyllis Wheatley Branch YWCA of the National Capital area, the Townwomen's Council of the YWCA, the Washington, D.C., Council of the Housewives League, the Metropolitan Federation of Colored Women's Clubs, the Anacostia-Southeast Community Consumer Council.

Each one of these organizations have supporting resolutions to be included in the record.

We have also brought a witness who is willing to testify if you, Mr. Chairman, have time to hear it.

Senator TYDINGS. Do you have copies of the resolutions?

Miss MYERS. Yes, sir; we have them.

Senator TYDINGS. We will include them, at the completion of your testimony, in the record. (See p. 226.)

Miss MYERS. We are appearing in support of the four Tydings bills, S. 2589, S. 2590, S. 2591, and S. 2592. We acknowledge the fact that the Morse bill, S. 316, offers minimum basic protection for consumers, but we believe that there is need for stronger measures to protect consumers against the grievous practices of merchants, peddlers, and lenders in the Washington D.C., community. Hence, we endorse the Tydings bills.

We are supporting S. 2589 because it provides for the establishment of a department of consumer protection with a broad mandate to protect consumers against fraudulent or deceptive retail practices in such areas as advertising, sales credit contracts, and collection practices. We believe that this department should have broad powers to conduct investigations to hold public hearings and to enforce regulations through court action.

The low-income people, whom some of us represent in our daily course of duty, need the basic legal protection which would require detailed disclosure of the terms of consumer credit contracts, the amount of interest charged, the percentage of interest, and the payment schedules.

The low-income buyer especially needs to be enabled to initiate suit against the original seller for the return of his money when the terms of the original contract are not fulfilled, and he should be able to use

his defense against payment to the finance company. This means the elimination of the so-called holder-in-due-course doctrine.

We are supporting S. 2590 because it provides maximum finance and other charges in connection with retail installment credit sales in the District of Columbia. At present in the District of Columbia, there is no regulation of maximum interest rates for consumer credit sales generally. As a result, some merchants impose sky-high interest rates and other hidden charges which amount to exorbitant and wholly unreasonable expenses to consumers all out of proportion to the risks which sellers are taking, and to the returns which reputable businessmen are obtaining for the same transaction. As recently as last week, we were informed of a popular neighborhood store which is charging 300-percent interest.

S. 2590 would provide for the regulation of credit insurance charges and other charges which are often imposed as disguised forms of interest.

Many salesmen engage in high-pressure, deceptive sales techniques which are especially hard for consumers to avoid when they are pursued in their homes.

S. 2591 provides for a 3-day cooling off period for such sales in which the buyer can calmly consider his contract and talk it over with his family. During this time he is free to cancel his contract.

A number of homeowners in our vicinity have been victimized and have been dispossessed of their homes because they have either unwittingly or unknowingly signed a deed of trust which can be foreclosed at will without benefit of court procedure.

Some people only know of the foreclosure of their home when the auctioneer arrives. Then they don't know what is happening and why, and the homeowner has no opportunity to protect himself.

S. 2592 would require a court order before a security interest could be enforced.

In supporting the need for consumer protection legislation in the District of Columbia, I speak for the people of the outlying metropolitan areas who work and shop in downtown Washington, as well as the residents of the inner city. Victims of consumer exploitation are to be found in all income groups.

Whether they be teachers, social workers, clergymen, doctors, construction workers, government workers, porters, maids, household employees or welfare clients, Washington, D.C., residents are victimized daily by unscrupulous merchants, door-to-door salesmen and even so-called respectable financial institutions.

Senator TYDINGS. Miss Myers, I wonder if you would be kind enough to hold up your testimony and let us take a 5-minute recess. Thank you. (Short recess.)

Senator TYDINGS. We will reconvene the hearing now. You may proceed, if you would, please.

Miss MYERS. The outrages suffered by the poor, who are forced to spend more than they earn are measurable and demonstrative. The poor are given one of two choices, either to do without or be exploited. The system shuttles the poor as consumers of major durables to a class of sellers who can endure high risks because they exact high payment for it. There is no use to tell the poor to pay cash, for this amounts to

telling them to do without, and this is not what they are going to do.

Unfortunately for the poor, substantial numbers have met with exploitation in the marketplace, have become almost hopelessly entangled in installment debt and have been faced with legal penalties stemming from missed payments. They have encountered serious difficulties. Bad credit transactions plunge the poor deeper into poverty.

Their personal belongings and household goods have been repossessed; they lose their jobs because of attachments; they are evicted from their homes because of rent delinquency resulting from consumer debts.

The strain of consumer debt in some cases has sent the marginal family out on welfare and has sometimes broken it up altogether. We have examples of these families.

At the present time, the laws regulating installment-buying unwittingly act in favor of the merchant. This is true because the poor know very little, if anything at all, about their legal rights. Judgments by default are frequent.

Some families capable of maintaining payments, stopped paying when they discovered they had been cheated. But instead of gaining retribution, they have been subjected to legal sanctions brought upon them by the merchant.

Merchants who offer easy credit frequently sell their contracts to a finance company. Many low-income consumers do not understand this procedure. When they get letters instructing them to make payments to a finance company, they mistakenly believe that the merchant has gone out of business or that there may be some mistake. This practice of selling contracts to credit agencies has the consequence of absolving the merchant of his responsibilities to the customer.

Quite frequently the failure of the customer to appear in court is the result of his having never received the summons. The poor usually know nothing about protecting their legal rights. He just does not appear in court to protect himself, hence the merchant secures the judgment by default.

Let us look at some bad practices which have come to our center's attention: (1) Many so-called easy credit stores, small loan companies, auto credit loan companies and financial institutions rent you the use of their money at usurious credit terms. This is why many fly-by-night schemes are being peddled from door to door by unscrupulous and often fraudulent salesmen.

Examples being construction companies who want to modernize the front of your house, put on a new roof, or install an intercom system.

Some of these companies are operated by one man who comes into the city for 1 month. He hires some workmen on a day-to-day basis through the State employment or some private firm. These men may or may not have had experience.

He uses these men to shingle the front of your house and install the windows and doors. He gives you a 1-year warranty and guarantees it to last or he will repair it. He charges you \$3,000 for the job.

As soon as he has been around the city for a month and he makes his various commissions, he then sells the notes to some financial institution and hurries out of town.

Soon the shingles begin to fall off; the purchaser looks up his warranty and tries to get in touch with the company. The telephone is dis-

connected. There is no trace of the company. Since the company has disappeared the purchaser feels he is no longer bound by the contract. At the end of the month he gets a bill from some finance company, with a coupon book and directing him to send his monthly or weekly payments to them. The purchaser can't understand. He is not satisfied with the work. He wants it redone. He lacks full knowledge of the law.

Senator TYDINGS. Miss Myers, let me incorporate the balance of your statement in the record to show that it was read in full and then if you would answer a question or two for me.

Miss MYERS. All right.

Senator TYDINGS. I was interested in one area in particular. You indicated that certain people who had been fortunate enough to move up in status had purchased certain durable goods that might be called status symbols.

Miss MYERS. Yes.

Senator TYDINGS. A good example might be an intercom system, or a Magnavox phonograph, or a recreation room. These so-called middle-class people are victims and even though they had learned that they had been cheated, their pride was such that they did not want to admit it. Consequently they paid rather dearly for their pride. Would you comment on that and its prevalence?

Miss MYERS. Yes; that is very true. We have examples of that. In going through even to analyze people who were suffering from bankruptcy or even people who have had these things happen to them, why they are afraid to have even the next door neighbor know it.

Senator TYDINGS. I think that it might not be as uncommon as one might think. A great many educated, intellectual people, who have been cheated or defrauded but whose pride is so great that perhaps they do not want to admit it either publicly in a court of law or to their neighbors, so they quietly take their punishment and pay through the teeth. The fraudulent operation is able to continue.

Is this the type of situation you refer to?

Miss MYERS. That is it.

Senator TYDINGS. That you are concerned with?

Miss MYERS. And now, a number of these people who are—these merchants who deal in unscrupulous practices have been to the ghetto and have followed the status people into their new homes.

Senator TYDINGS. I follow you.

Miss MYERS. Mr. Chairman, I would like to call your attention to the fact that of the number of people who lose their homes without knowing about it—

Senator TYDINGS. Do you know of any instances?

Miss MYERS. Like these notices which appear in the section of the paper are not read by the usual person. We do not read the financial page because we know that there is nothing on that page to concern the poor, and so they never read it, and it is almost in the finest print that you can find in the paper. You come to this little article at least once or twice a week which tells about a house at such and such premises located at such and such an address, will be auctioned off at such and such a date and that you will—and unless the debtor pays \$6,000 immediately, or something like that, and maybe the person never sees it in the paper.

Senator TYDINGS. Have you known of—

Miss MYERS. And you do not know until the auctioneer gets there that the house is to be auctioned.

Senator TYDINGS. Do you have any personal knowledge of instances where people's homes were—

Miss MYERS. Yes; members of our staff at the UPO office notify, make it a business to search these up, and we have noticed this, that it is almost always the same auctioneer and almost always the same board of trustees that have obtained the deed of trust.

Senator TYDINGS. Do you recall the name of the auctioneer?

Miss MYERS. Owens Co.

Senator TYDINGS. Owens Co.?

Miss MYERS. Uh huh.

Mrs. WHEELER. Thomas J. Owens.

Senator TYDINGS. Thomas J. Owens?

Miss MYERS. Yes.

Senator TYDINGS. How about the trustees?

Miss MYERS. The trustees are the same.

Mrs. WHEELER. Saul Peters, and I can't read the other; James something.

Miss MYERS. It is so fine, it seems to be a finer print than any other part of the newspaper. I would like to submit this.

Senator TYDINGS. Can you provide the names to us, of persons whose homes have been sold or auctioned who did not know of the sale or auction until they were contacted by the UPO?

Miss MYERS. Yes; we can secure some names of people that we have notified. We have only notified since we heard about this happening and we have been on the alert each week, calling up people if they come into our area, if it is in our area, notifying them.

Senator TYDINGS. I follow you. Are there any other points you would like to stress, Miss Myers? You have presented us with a very comprehensive statement.

Miss MYERS. All of the members of our committee feel that we should stress the necessity for a consumer protection bureau. That, we feel, is needed and we feel that that bureau should not only be an enforcement bureau—I mean, should not only become interested in a case after something has happened, but as a part of that bureau we believe there should be a counseling service, personalized, so that individuals needing counseling about consumer debts and so forth, could receive information.

Senator TYDINGS. An integral part of the bureau would be actually providing the consumer with advice and counseling?

Miss MYERS. Yes. This we have—this we have known through the operation of our own consumer services.

Senator TYDINGS. Mr. Monday, do you have anything you would like to add?

Mr. MONDAY. I might say personally that I have been taken, myself, a couple of years ago. I bought some furniture from the Douglas Furniture Co. I thought I would pay them by the year and I found out I was paying a finance company which instead of being \$550, amounted to \$660, and although I paid up in advance in about a year, I still got back only a rebate at the rate, or a refund at the rate of 6 percent instead of the 36 percent which the finance company was charging me, and also

on a case like this I have just recently bought and said that I would pay an agent for the Negro history books which was around \$72, and I have got a bill from the Calvert Finance Co. for \$94, and although I am paying up in advance I feel that I will not get much back. That is a personal experience.

Also, in the agency where I work we have numerous cases where the Anacostia Southeast Federal Credit Union has helped pay up finance companies and the people are paying from 36 to 42 percent interest and we have been able to help them on a number of occasions.

That is all I have, Mr. Chairman.

Senator TYDINGS. Thank you.

Mrs. Wheeler, do you have any comment?

Mrs. WHEELER. Nothing, Senator, except Greenbelt Consumer Services is very happy to have been extended this invitation this morning. We feel that these bills are very essential for the District and certainly for those of us who are going to shop in the District and are going to be protected by them. And, I cannot help but feel, too, that this kind of legislation in the District is going to lead to better protection in other States, for consumers, too.

Thank you.

Senator TYDINGS. Thank you.

We have in mind our own constituents, protecting them as well. We know it is not just the District of Columbia residents.

Mrs. WHEELER. That is right.

Miss MYERS. Mr. Chairman, I would like to just introduce the present status of the groups that are here.

Senator TYDINGS. We would be delighted to have you do that.

Miss MYERS. The presidents of the groups, or the persons who are present representing the groups. I should like first to introduce the vice president of the Citywide Consumer Action Council, which represents the poor in the community, Mrs. West.

Senator TYDINGS. We are delighted to welcome you here, Mrs. West.

Mrs. WEST. Thank you.

Miss MYERS. I would like to introduce next to her is Mrs. Hattie Miller, who represents the Townwomen's Council of the YWCA.

Senator TYDINGS. We are delighted to welcome you here this morning.

Mrs. MILLER. Thank you.

Miss MYERS. Mrs. Murvene Brewer of the Housewives Association.

Senator TYDINGS. Mrs. Brewer, we are delighted to have you with us.

Mrs. BREWER. Thank you.

Miss MYERS. Mrs. Mary Gregory, who is representing the board of the YWCA.

Senator TYDINGS. We are happy that you could stop by, Mrs. Gregory.

Mrs. GREGORY. Thank you.

Miss MYERS. And Mr. Jack Besanski, who represents the Maryland Consumers Association.

Senator TYDINGS. Thank you for being with us.

Mr. BESANSKI. Thank you.

Miss MYERS. And the others are members of the respective committees.

Senator TYDINGS. We are delighted to welcome you all in this hearing. We thank you very much.

Miss MYERS. We appreciate very much having this opportunity to appear.

Senator TYDINGS. Thank you, Miss Myers, Mrs. Wheeler, and Mr. Monday.

We will at this point in the hearing record insert the complete statement of Mrs. Myers, and several letters from groups supporting the proposed legislation.

(Material referred to follows:)

STATEMENT OF MISS E. PAULINE MYERS

My name is Miss E. Pauline Myers, I live at 1311 Delaware Avenue S.W., Washington, D.C.

I am the Chairman of the Washington D.C. Area Sub-Committee on Consumer Legislation, Greenbelt Consumer Services. I am employed as Consumer Action Specialist Neighborhood Development Center #1 of UPO. My office is located at 632½ O street N.W., Washington, D.C.

MR. CHAIRMAN: I am representing here to the D.C. Sub-Committee of the Committee on Legislation of Greenbelt Consumer Services. Mrs. Dorothy Wheeler the Chairman of the Metropolitan Legislative Committee is here with me today. Greenbelt Consumer Services is the largest Consumer Cooperative in the United States representing 19,000 families in the Metropolitan Washington Area.

Since the hearings you are holding here this morning are of such vital interest to all the consumers of the area, I am supported here this morning by representatives of large community organizations and present this testimony on behalf of the following: The Maryland and Virginia Sub-Committees of Greenbelt Consumer Services, The Maryland Consumers Association, the Virginia Citizens Consumer Council, Supporting organizations of Washington, D.C., include the City-wide Consumer Action Council of UPO, the Phyllis Wheatley Branch YWCA of the National Capitol Area, the Townwomen's Council of the YWCA, the Washington D.C. Council of the Housewives League, The Metropolitan Federation of Colored Women's Clubs, The Anacostia Southeast Community Consumer Council. Each one of those organizations have supporting resolutions to be included in the record. We have also brought a witness who is willing to testify if you Mr. Chairman have time to hear it.

We are appearing in support of the four Tydings Bills S-2589, S-2590, S-2591 and S-2592. We acknowledge the fact that the Morse Bill S-316 offers minimum basic protection for consumers but we believe that their is need of stronger measures to protect consumers against the grievous practices of merchants, peddlers and lenders in the Washington, D.C. Community; hence we endorse the Tyding's Bills.

We are supporting S-2589 because it provides for the establishment of a Department of Consumer Protection with a broad mandate to protect consumers against fraudulent or deceptive retail practices in such areas as advertising, sales credit contracts and collection practices. We believe that this Department should have broad powers to conduct investigations to hold public hearings and to enforce regulations through court action.

The low income people whom some of us represent in our daily course of duty need the basic legal protection which would require detailed disclosure of the terms of consumer credit contracts, the amount of interest charged, the percentage of interest & the payment schedules.

The low income buyer especially needs to be enabled to initiate suit against the original seller for the return of his money when the terms of the original contract are not fulfilled and he should be able to use his defense against payment to the finance company. This means the elimination of the so-called "Holder-In-Due-Course" doctrine.

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orbitant and wholly unreasonable expenses to consumers all out of proportion to the risks which sellers are taking; and to the return which reputable business men are obtaining for the same transaction. As recently as last week we were informed of a popular neighborhood store which is charging 300% interest.

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Many salesmen engage in high-pressure, deceptive sales techniques which are especially hard for consumers to avoid when they are pursued in their homes. S-2591 provides for a 3-Day "Cooling Off" period for such sales in which the buyer can calmly consider his contract and talk it over with his family. During this time he is free to cancel his contract.

A number of home owners in our vicinity have been victimized and have been dispossessed of their homes because they have either unwittingly or unknowingly signed a "Deed of Trust", which can be foreclosed at will without benefit of court procedure. Some people only know of the foreclosure of their home when the auctioneer arrives. Then they don't know what is happening and why, and the home owner has no opportunity to protect himself. S-2592 would require a court order before a security interest could be enforced.

In supporting the need for consumer Protection Legislation in the District of Columbia, I speak for the people of the out-lying metropolitan areas who work and shop in downtown Washington as well as the residents of the inner-city. Victims of consumer exploitation are to be found in all income groups.

Whether they be teachers, social workers, clergymen, doctors, construction workers, government workers, porters, maids, household employees or welfare clients, Washington, D.C. residents are victimized daily by unscrupulous merchants, door to door salesmen and even so-called respectable financial institutions.

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Unfortunately for the poor, substantial numbers have met with exploitation in the market place, have become almost hopelessly entangled in installment debt and have been faced with legal penalties stemming from missed payments. They have encountered serious difficulties. Bad credit transactions plunge the poor deeper into poverty. Their personal belongings and household goods have been repossessed; they lose their jobs because of attachments; they are evicted from their homes because of rent delinquency resulting from consumer debts. The strain of consumer debt in some cases has sent the marginal family out on welfare and has sometimes broken it up all together. We have examples of these families.

At the present time, the laws regulating installment buying unwittingly act in favor of the merchant. This is true because the poor know very little, if anything at all about their legal rights. Judgments by default are frequent.

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Merchants who offer "easy credit" frequently sell their contracts to a finance company. Many low income consumers do not understand this procedure. When they get letters instructing them to make payments to a finance company, they mistakenly believe that the merchant has gone out of business or that there may be some mistake. This practice of selling contracts to credit agencies has the consequences of absolving the merchant of his responsibilities to the customer.

Quite frequently the failure of the customer to appear in court is the result of his having never received the summons. The poor usually know nothing about protecting their legal rights. He just does not appear in court to protect himself. Hence the merchant secures the judgment by default.

Let us look at some bad practices which have come to our center's attention: (1) Many so-called "Easy-Credit" stores, small loan companies, auto-credit loan companies and financial institutions rent you the use of their money at usurious credit terms. This is why many fly-by-night schemes are being peddled from door to door by unscrupulous and often fraudulent salesmen. Examples being construction companies who want to modernize the front of your house, put on a new roof or install an intercom system. Some of these companies are operated by one man who comes into the city for one month. He hires some workmen on a day-to-day basis through the State Employment or some private firm. These men may or may not have had experience.

He uses these men to shingle the front of your house and install the windows and doors. He gives you a one year warranty and guarantees it to last or he will repair it. He charges you \$3,000.00 for the job.

As soon as he has been around the city for a month and he makes his various commissions; he, then sells the notes to some financial institutions and hurries out of town.

Soon the shingles begin to fall off, the purchaser looks up his warranty and tries to get in touch with the company. The telephone is disconnected. There is no trace of the Company. Since the company has disappeared the purchaser feels he is no longer bound by the contract. At the end of the month he gets a bill from some finance company, with a coupon book and directing him to send his monthly or weekly payments to them. The purchaser can't understand. He is not satisfied with the work. He wants it redone. He lacks full knowledge of the law.

The finance company holds the contract and he reminds the purchaser that the contract holds a lien on his home. The purchaser is not aware of this. He does not remember giving either a mortgage or a deed of trust. He becomes very confused and doesn't know where to turn. Sometimes he loses his home; sometimes he loses his job; sometimes both. Sometimes he will not ask for advice; he is too proud to let others know how he has been taken. Sometimes a house goes up for auction or sale without the owners knowledge.

Some blue collar workers earning weekly wages often get fired in the event of a garnishee because the boss does not keep or will not keep those kinds of records.

Often people buy without reading the contract or understanding what they are signing. Most stores will not give you a copy of the contract. Stores are not required to do so by the present laws of the District of Columbia. That is why we are in need of a law.

One man borrowed \$230 from an Auto Credit Loan Company and ended up owing \$406. Now this man first borrowed \$150 they charged him \$90 for the loan. This made him owe \$240. He was to pay it back at \$10 per week. He paid \$60 this left him owing \$180. He borrowed \$80 more this made him owe \$260. Interest and carrying charges amounted to \$146 he ended up owing \$406 to the loan company when he only had the use of \$230.

Some people begin buying an automobile, a television, a washing machine without ever knowing what it cost or when they will get through paying for it. Sometimes people can't see or can't read and so they don't read the fine print of the contract. Sometimes salesmen cover-up the contract so that you cannot see what you are signing.

Minority group members in high income categories, who have moved into upper class residential areas and are owning their own homes are also, in many instances, unknowingly victimized by sales representatives of stores with questionable practices. These middle class people are consumers of certain durables that might be called status symbols. Good examples of this might be an Inter-Com System of a Magnavox Phonograph, Recreation Room, etc. In their quest to obtain goods which their incomes can scarcely afford, they become the easy victims to be preyed upon by these unscrupulous merchants. They purchase credit where it can be obtained cheaply and for which they pay dearly.

Some of these merchants who have built-up millions of dollars worth of trade dealing with people in the ghettos, no longer are in need of the ghetto trade. They make a fortune by preying upon the status people. Now when these people get into difficulties they have too much pride to expose it. They endeavor to keep it hidden. They don't want their neighbors to know their predicament. This is why these unscrupulous merchants continue to prosper at the expense of these unfortunates.

The time is ripe for the consumer to receive some protection from government. The seller should spell out, especially to the illiterate and semi-illiterate customer the true cost of the transaction at the time of sale and give the customer the opportunity to re-think the purchase. He may want to do without it.

The passage of appropriate legislation will protect the would-be honest merchant who now feels he has to compete with the dishonest merchant in order to live. As things are now we find so-called reputable stores using "Bait and Switch" advertising. Likewise we find so-called reputable financial institutions serving as "Holder-in-due-course" for unscrupulous merchants and salesmen. Good legislation would provide the legal means by which the ethical merchants can refrain from competition with unscrupulous merchants who deal in fraudulent practices.

In the past we lived under conditions and relationships in our American society where the concept of "Caveat Emptor" (Buyer Beware) prevailed and could be justified. A buyer of a house, cow, horse, or other not overly difficult item to understand and appraise in value could protect himself by his own judgment. Today, however, society is so complex and so many schemes, and traps are devised by shrewd operators that the innocent, not too enlightened public, falls victim to these operators. It is necessary in our society today to provide protection for the public in this regard, particularly that element of our public that can least protect itself.

A separate Department of Consumer Protection should be an integral part of our District government. Everyone should know and have a clear understanding of the duties of that office. People who have had experience in dealing with the poor should be connected with that office to give out information and to give personalized consumer counselling. Consumers ought to be invited to come for information and advice before they get into trouble and legal difficulties.

There is a lack of organized resistance on the part of consumers to the fraud, deceit and other undesirable practices that persist in the market place. There is ineffective protection at the present time on all government levels. According to a survey by the Department of Agriculture, Installment Debtors with incomes under \$2,000 totaled about 2 million. 22 percent of those with incomes under \$2,000 had installment debts for cars, household durables or additions and repairs to their homes.

The people whom I represent believe that S-2589, S-2590, S-2591 and S-2592, will greatly benefit the consumers all over the United States as well as the District of Columbia. While this legislation alone will not end poverty, it will strike a powerful blow.

Respectfully submitted.

E. PAULINE MYERS.

PHYLLIS WHEATLEY BRANCH, Y.W.C.A.,
Washington, D.C., January 30, 1968.

RESOLUTION

The Townwomen's Council of the Phyllis Wheatley Branch Y.W.C.A. went on record at their meeting January 22, 1968 in support of the four bills introduced by Senator Joseph Tydings on Consumer Protection.

We have been for for sometime concerned about such legislation because some of our members have been victims of such unethical practices by certain merchants.

We, therefore go on record as a supporter of such legislation.

Respectfully yours,

HATTIE MILLER,
President, Townwomen's Council.

MARYLAND CONSUMERS ASSOCIATION,
January 30, 1968.

SUBCOMMITTEE ON BUSINESS AND COMMERCE,
Senate Committee on the District of Columbia,
Washington, D.C.

GENTLEMEN: The Maryland Consumers Association strongly supports the enactment of S-2589, S-2590, S-2591 and S-2592, all bills to improve consumer protection in retail sales of consumer goods in the District of Columbia. Consumers in the State of Maryland would be benefitted by these bills because metropolitan Washington is one large interrelated community and the protection afforded by these bills would extend beyond the District line.

We commend Senator Tydings, who as representative of our State in the U.S. Congress, has introduced these bills and is guiding them through the Congress.

The Maryland Consumers Association does not oppose S-316, an earlier bill introduced by Senator Morse for the same purposes but the bills introduced by Senator Tydings are more comprehensive and more specific and would therefore be more effective in their purpose.

Sincerely,

W. W. FALCK,
President.

THE NATIONAL HOUSEWIVES' LEAGUE OF AMERICA, INC.,
February 1, 1968.

Mr. CHAIRMAN: My name is Mrs. Mervine B. Brewer, I am President of the Washington Housewives League, member of National Housewives League of America, Inc. Having a membership of 193 members, it is one of the oldest consumer organizations in the District of Columbia.

At our regular meeting on January 27, 1968, the Washington Housewives League went on record as supporting the following Bills S-2589, S-2590, S-2591 and S-2592.

We concur in the statement presented by the Chairman Miss E. Pauline Myers, of the Washington, D.C. Subcommittee on Consumer Legislation.

Respectfully submitted.

MERVINE B. BREWER,
President of Washington Chapter.

PHYLLIS WHEATLEY BRANCH, Y.W.C.A.,
Washington, D.C., February 1, 1968.

To: The Subcommittee on Business and Commerce Holding Hearings on Consumer Protection Legislation.

Mr. CHAIRMAN: The Phyllis Wheatley Branch of the National Capital Area YWCA takes pleasure in endorsing and supporting the Four (4) Tydings Bills.

We believe that the regulatory powers set forth in these bills are necessary to provide for the protection of the buyers of this community.

There has come to the attention of our Branch located in the heart of the densely populated Shaw Area, many cases of residents who have been victims of certain unscrupulous practices by merchants, money lenders, and peddlers.

We do not believe that all merchants, money lenders and peddlers engage in unscrupulous practices because we know there are honest vendors. However, we believe that protection is needed and therefore we wish to go on record on behalf of this legislation and we will continue to work for its successful passage by the United States Congress.

The Phyllis Wheatley Branch, YMCA concurs in the statement presented by Miss E. Pauline Myers, the Chairman of The Washington D.C. Sub-Committee On Consumer Legislation.

Respectfully submitted.

Mrs. MARY GREGORY,
Legislative Representative.
Mrs. ROSETTA MITCHELL,
President, Board of Directors.

SUPPORTIVE RESOLUTION FROM THE D.C. CITY-WIDE CONSUMER COUNCIL
FOR THE DISTRICT OF COLUMBIA RETAIL INSTALLMENT BILLS

Senator Tydings and members of the Committee, the D.C. City-Wide Consumer Council went on record as of December 21, 1967 in support of the District of Columbia Retail Installment Bills Numbers S-2589, S-2590, S-2591 and S-2592. All of these bills are necessary tools for the elimination of poverty in this urban area.

The D.C. City-Wide Consumer Council is comprised of citizens representing thousands of people from ten poverty areas in the District of Columbia. Its members are genuinely concerned with good consumer legislation to protect the residents from abuse, hypocrisy and deceptive practices of unfair businesses. The four Tydings bills go a long way toward dealing with the more glaring abuses.

The Council will be working continuously to promote the passage of these bills. We are, therefore, pleased to have the opportunity to appear here today and give our support.

M. PAUL SMITH,
President.
JESSE WEST,
Vice President, D.C. City-Wide Consumer Council.

RESOLUTION OF THE STAFF AND THE EXECUTIVE BOARD OF THE ANACOSTIA SOUTHEAST COMMUNITY CONSUMER COUNCIL, REPRESENTING ABOUT 220 FAMILIES IN THE ANACOSTIA AREA

(Submitted by Frank E. Monday, Educational Aide from the Southeast Neighborhood Development Program)

Resolved, That we whole-heartedly support the following Bills before Congress: S. 316 by Senator Morse: Because it provides for a *Consumer Protection Bureau* and although not too strong on some basic safeguards; it does embody an excellent approach to our consumer problems.

S. 2589 by Senator Tydings: Inasmuch as S. 316 would authorize the D.C. City Council to make and enforce such practices as they may deem appropriate to prevent unconscionable practices in connection with retail installment transactions; S. 2589 lays down specific guidelines to accomplish this. We strongly favor S. 2589 because it allows more "local determination over local matters". This conforms to former business community recommendations. Also, this Bill provides for a *Department of Consumer Protection*. We feel this is important to all buyers, but more especially those in the lower educational and economic bracket.

S. 2590 sets forth a methodological means of determining *Finance charges*, but endorses a higher rate of interest that we do not approve. There is a question on whether the new D.C. City Council has sufficient enabling legislation to enforce regulations designating reasonable finance charges.

In regards to *Repossession*, S. 316 limits the demand, which may be made on the defaulting buyer for expenses in repossession, to the amount realized from disposition of the collateral. This section provides nothing to be construed to relieve the debtor of liability for the defining, if any, outstanding after the collateral has been sold. Thus, the seller could repossess and still collect more money. Under S. 2589, however, the seller may elect alternative remedies when the buyer defaults. Hence, the seller may repossess without subsequent deficiency judgment or sue for unpaid balance without the right to levy on the goods involved. He may not do both.

We support the approach of S. 2589, because it forces the seller to his election, to consider the item purchased as his prime collateral for the credit sale. We do not recommend under any circumstance the non-payment of legal obligations. But, if the buyer is unable to continue payments, the seller's basic collateral is the item he has sold him. There is no justification in taking away the customer's goods in addition to placing a deficiency judgment against him, as in present law. Often, the customer has made numerous payments. We recommend that S. 2589 clarify its objectives stated above, so that existing legal practices may not deter the primary intention of the Bill.

In S. 316, the *Holder-in-due-course* adopts a certifying procedure, where 3rd party taking a note cannot enforce it as a holder-in-due-course, unless the retailer's contract is accompanied by the buyer's certification that he received the goods purchased and that they appear to conform to his contract. Thus a note, accompanied by a properly signed certificate is fully negotiable and the transferee may be able to enjoy the status of a holder-in-due-course, if he satisfies the requirements of the Uniform Commercial Code Section 28 3-302. For practical purposes, the holder-in-due-course concept is removed from retail installment sales transactions. We do not endorse the certification procedure, because we feel that it is unfair to assume that the buyer at any level of sophistication, will understand all the ramifications involved, when they sign such certificate. We would not understand. S-2589 meets this criteria. It would seem that legitimate finance companies would not seriously object to the holder-in-due-course concept form such retail installment transactions. A study of local finance companies confined in the District of Columbia, shows that at least $\frac{3}{4}$ of them are self financed. Since Banks generally buy paper on a approved form, as drafted by themselves and handled by businessmen from whom they are prepared to buy, it seems unlikely that such Banks would not become holders-in-due-course, since they know their own customers; thus, would not need holder-in-due-course protection.

Principally, finance companies, who buy paper at a high discount from dealers of dubious financial stability would want to use the holder-in-due-course notes. The Supreme Court in Florida has said "It may be that our holding here will require some changes in business methods and will impose a greater burden on

finance companies. We ----- (the) public should have some protection along the line. We believe the finance company is better able to bear the risk of the dealers insolvency than the buyer and is in a far better position to protect his interest against unscrupulous and insolvent dealers".

We urge this Honorable Committee to work for the passage of a Bill that will benefit all of the people in the District of Columbia.

Senator TYDINGS. Mr. Warren Hanna, Acacia Mutual Life Insurance Co.

STATEMENT OF WARREN L. HANNA, ASSISTANT COUNSEL, ACACIA MUTUAL LIFE INSURANCE CO.

Senator TYDINGS. We are happy to have you with us.

Mr. HANNA. Thank you.

Mr. Chairman, and members of the subcommittee, my name is Warren L. Hanna, and I am assistant counsel of Acacia Mutual Life Insurance Co. in Washington, D.C.

This statement relates to S. 2592 and is made on behalf of, and represents the viewpoint of, the five domestic District of Columbia life insurance companies: Acacia Mutual Life Insurance Co.; Equitable Life Insurance Co.; Government Employees Life Insurance Co.; Peoples Life Insurance Co.; and United Services Life Insurance Co.

Inasmuch as our five companies have a uniform position with respect to the S. 2592, this joint statement is made in the interest of conserving the time of your committee.

Together, these five local area companies have mortgage loan investments in District of Columbia property in approximately the amount of \$70 million. Therefore, the subcommittee can easily see the very vital and real concern and interest that we have in connection with legislation such as S. 2592.

It is our understanding that S. 2592, as introduced by yourself, is a part of a consumer protection package of bills introduced by you. S. 2592 proposes an amendment to District of Columbia Code, section 45-601, by adding subsection (b) to provide that no action to enforce a security interest in any real property in the District of Columbia, including foreclosure under a mortgage or deed of trust, shall be effective except pursuant to an order issued by the U.S. District Court of the District of Columbia.

We have given careful consideration to the bill, Mr. Chairman. We feel that if an amendment to the code is necessary to prevent the abuses referred to by you in the October 26, 1967, issue of the Congressional Record, then a much simpler and more direct approach can be used than is proposed to be provided by the present bill.

Previous statements have been presented to the subcommittee on the burdens resulting from foreclosure through court proceedings.

As testimony before the subcommittee has stated, a court foreclosure is usually a time-consuming and costly process. This can be a disadvantage to both the proper owner and the lender. Not only does it cause the owner additional costs in the way of legal fees and court costs, but the delay involved increases the amount of interest owing by the time the property actually goes to sale, all of which costs reduce the owner's equity in the property. The lender in turn must face the prospect of property deterioration and decrease in value, and the possibility of being required to advance amounts toward protection of its security which may never be recovered.

Moreover, the present bill will affect all mortgages and deeds of trust, and all borrowers and lenders will be subjected to the conditions described above.

In this connection and as a practical matter, in making a mortgage loan the lender considers not only the credit of the borrower but the security offered for the loan. If the security is less available because of a more restricted foreclosure procedure, the lender takes this into account in determining if the loan is to be made and the loan terms to be offered. Thus, a court foreclosure procedure may restrict the flow of mortgage money. This, I am sure, we all want to avoid.

As stated, it is our feeling that any bill to provide for consumer protection in this area of foreclosure of deeds of trust and mortgages should be simple, to the point, easily understood, and easily applied.

On this premise, it is our proposal that if the subcommittee deems it necessary to approve a bill for the amendment of the District of Columbia Code relating to foreclosure of deeds of trust and mortgages that the bill approved be in the nature of a "notice provision" bill.

We have attached to this statement a proposed bill for amendment to the District of Columbia Code. This bill, if enacted, would require that, prior to foreclosure of any deed of trust or mortgage in the District of Columbia, at least 30 days' written notice prior to the date of the foreclosure sale be given to the owner of the property and to the Commissioner of the District of Columbia.

We feel certain that the members of the subcommittee will recognize the value of the notice to the Commissioner requirement. This notice will give the Commissioner or his agent an opportunity to consult with the borrower and counsel him as to the impending foreclosure sale, even including a suggestion that the borrower seek legal aid should it become apparent that the foreclosure results from a transaction in which the borrower has been victimized.

Moreover, we feel that the mortgage lender, being aware of the Commissioner's interest in the foreclosure, will cooperate with the Commissioner or his agent to the full extent necessary to show that the loan being foreclosed is not "tainted" with the abuses referred to by Senator Tydings. Certainly, this is the position of the companies on whose behalf I speak today.

We realize the representatives of other organizations and associations involved in mortgage lending in the District of Columbia may have suggestions or viewpoints with respect to S. 2592 which differ from these expressed in this statement and as indicated in the bill proposed by us, which is attached. I can tell you that representatives of the five domestic life insurance companies will be pleased to work with these representatives and representatives of the staff of your subcommittee, subsequent to this hearing, in the presentation and explanation of the viewpoints of the domestic life insurance companies on the bill we have suggested.

Thank you.

Senator TYDINGS. These companies that you represent, do they deal in the—

Mr. HANNA. I am the assistant counsel of Acacia Mutual Life Insurance Co.

Senator TYDINGS. Well, you stated that you are speaking on behalf of five companies.

Mr. HANNA. That is correct, sir.

Senator TYDINGS. Does your company deal in, or purchase, the second- and third-trust paper on these?

Mr. HANNA. No, sir; it does not. There is only one provision in the District of Columbia Code that would allow us to deal in such paper, which is commonly referred to as the basket clause under the insurance investment law, and I do not know of any company—in fact, they have assured me that they do not deal in purchases of this type of paper.

Senator TYDINGS. Do your portfolios primarily consist of mortgages for first trusts?

Mr. HANNA. First trusts, sir.

Senator TYDINGS. If we were to accept these more rigid provisions relating to second trusts, would that alleviate your fears?

Mr. HANNA. Well, you could make the more rigid provisions relating to second trusts, but then you would get into what perhaps might be considered a title problem, or you get into a position where you are foreclosing certain types of trusts in one manner, and foreclosing other types of trusts in another manner.

Senator TYDINGS. I think that your idea of notice is a good one. However, I am not entirely certain that a notice in the District of Columbia is automatically a notice to the individual. Also, I am not sure who you mean by the Commissioner of the District of Columbia, since the District does not have any Commissioners as such. But, would you mean to say a representative of the new Office of Consumer Protection?

Mr. HANNA. We have put the Commissioner in because we did not know whether the other bill would be passed, S. 2589. It could very well be an official of the Department of Consumer Protection.

Senator TYDINGS. Am I correct in understanding your fear in respect to the court hearing to be first all the time?

Mr. HANNA. Yes, sir.

Senator TYDINGS. Judges are not available for the court hearings. This, I think, is a point well taken. Also, the legal costs might be greater, although your trustee's fees should be sufficient to cover those. With respect to foreclosure costs, the only people who win are the counsel and the trustees.

Mr. HANNA. Right. There is a balancing there, Senator, I might say, that on your lower loans, lower amount loans, say \$3,000, the attorney—and I contacted the District of Columbia Bar Association, and they indicated that they did not have a set fee because they had never had any experience with this type of procedure before. They would probably charge by the hour, so on a \$3,000 loan, as against a \$20,000 loan, the attorney would perform the same work; however, the trustee's fee would decrease as you went into the lower amounts of loans; that is just a function of the percentage of the amount of the bid at the sale.

Senator TYDINGS. What would your reaction be if, rather than requiring a court hearing, the consumer or borrower be afforded the opportunity of a hearing before the Office of Consumer Protection? The Office would be empowered to make a finding, and if in the judg-

ment of the consumer, the various fraudulent or sharp practices in said report should be brought to court, the petitioner would then have a right to petition the district court to intervene?

Mr. HANNA. Well, we would be opposed, I am afraid, with a hearing within this Department of Consumer Protection.

Senator TYDINGS. Why?

Mr. HANNA. Again, you have to have proof, there would have to be a prerequisite or there would have to be valid proof that the hearing had actually held. Again you would have the requirement of having to attend the hearing, of delays occasioned by the hearing. We do not know what the staffing requirements of this Department of Consumer Protection would be, and you might get yourself involved into a greater delay synonymous with a court foreclosure.

Senator TYDINGS. This could be worked into the bill. The notice would go out within 60 days to the Commissioner and the hearing held within 30 days of that notice. And that if the hearing were not held, the foreclosure proceeding could go forward. Would that remove your objection?

Mr. HANNA. Well, we would like to see the bill before—I mean, the actual ramifications worked out. I do think that at this time we would be opposed to any legislative or administrative type of hearing processed. I know of no other jurisdiction in which this type of administrative process goes on prior to a foreclosure sale.

What we are trying to get at here, Senator, is we feel that if you can somehow get notice to the Commissioner, or to his agent, which could be in the Department of Consumer Protection, that you immediately cast a protective umbrella over the consumer. This person, this official in the Department of Consumer Protection can get out and contact this borrower and say, "Look, they are about to foreclose on you," and if he says, "I didn't even know I had a deed of trust against my home," you can suspect immediately that there is going to be some sort of an abuse that has existed in connection with the transaction.

Senator TYDINGS. What you are saying is that the Bureau of Consumer Protection be allowed sufficient time to make a check, and if it found any evidence of sharp dealing, then it should be the one to intervene, and request the district court to have a hearing?

Mr. HANNA. I have not asked that—who would advise this borrower to contact the various legal aid agencies for borrowers who are——

Senator TYDINGS. You don't like the idea?

Mr. HANNA. He can get legal aid through——

Senator TYDINGS. I take it you would not like the idea of the Office of Consumer Protection actually protecting the consumer by advocating a formal hearing?

Mr. HANNA. That is correct, sir.

Senator TYDINGS. What do you think the Office of Consumer Protection ought to do, if it does not protect the consumer?

Mr. HANNA. Well, we definitely feel that the Department of Consumer Protection should protect the consumer.

Senator TYDINGS. Well, if you find this out, if you say, you suggest the Office send a notice that it has found fraud, but you say it should not actually intervene itself but you should just tell the consumer

to find himself a lawyer. What of the poor person who cannot afford a lawyer, which in most of these cases is quite the fact? What would you do?

Mr. HANNA. Well, I think there are available to low-income consumers in Washington, D.C., today, through Neighborhood Legal Services or through the Legal Aid Society——

Senator TYDINGS. The Neighborhood Legal Services and the Legal Aid Society do a good job, but legal services are not available to the poor like banking services are available through lending institutions. I was on the Board of the Legal Aid. If you are going to provide consumer protection, you ought to provide the protection and not a sham.

Are you familiar with the system in the State of Colorado which does not permit the lender to handpick his own trustee. There, the court appoints a public trustee?

Mr. HANNA. Yes, sir; I am.

Senator TYDINGS. What is your reaction?

Mr. HANNA. Actually, the Colorado procedure, the public trustee is appointed by the Governor, with the advice of the Colorado Senate. The procedure there involved is that you do have a public trustee in any given county, and in order to foreclose a deed of trust under power of sale that public trustee must be named in that deed of trust. He must give notice to the borrower; however, the provision in the statute requires that the deed of trust, in and of itself, state the name and address to which the notice is to be given.

Now, if the name and address——

Senator TYDINGS. What function does the trustee perform?

Mr. HANNA. He holds the sale, he is the trustee who holds the auction sale of the particular property and he will account for all funds; he maintains an account book, he has to disburse the funds. I am not certain what his origins were. I would surmise that they wanted to constitute a trustee type of arrangement to handle all of the funds that have been disbursed in connection with foreclosure sale. He does have a requirement of notice and a requirement for advertisement, and there is a date——

Senator TYDINGS. What is your reaction to the public trustee system?

Mr. HANNA. I do not see that it is in reality any better than the process that we have right here. We have a trustee appointed, and under court decision——

Senator TYDINGS. The difference is that under our system the trustee appointed is concerned with one object, to protect the investment of the lender. He does not care about the borrower.

Mr. HANNA. Well——

Senator TYDINGS. I mean, is that a fair statement?

Mr. HANNA. Well, Senator, under court decisions he is not supposed to be.

Senator TYDINGS. In reality, when a court trustee is appointed, he is named and owes his appointment to the lending institution. This I know because I have drafted mortgages for financial institutions

which I helped organize when I was practicing law. In many cases I named myself trustee.

Mr. HANNA. Well, that is correct.

Senator TYDINGS. The fact of the matter is, because he owes his appointment to the lending institution, he is going to owe his allegiance to them as well.

Mr. HANNA. That is correct. Now, we have appointed a corporate institution as a trustee in most of our deeds of trust in the District of Columbia. I contacted them prior to this hearing and asked them just exactly what they conceded their role to be. They have stated, and these are our trustees and I cannot speak for other mortgage lenders in particular, but our trustee states that he feels that is intermediary and that before they start the advertisement of sale and actually foreclose the property, they feel it necessary to try to contact the borrower and give him a waiting period to see if he cannot make some arrangements either with the mortgage lender to reinstate the loan or to pay the loan off prior to the time of foreclosure sale.

Senator TYDINGS. I think this should be the position taken by any member of the bar who honors his oath. Many trustees are, however, not members of the bar. They are corporations and individuals, and they have no qualms about it. We are concerned with protecting the consumer.

Mr. HANNA. Well, Senator, I understand that, and we are in reality continually willing to cooperate in any manner that we can.

Senator TYDINGS. The bar association is studying this point. They are supposed to come up with suggestions. We certainly will entertain any and all the suggestions, but it is going to have to provide protection to the consumer, as far as I am concerned. What the committee and the Senate finally does is beyond my power. But I can tell you this, that it is just too easy under the present system for many poor people to have their homes sold right out from under them because of fraudulent loans, and indebtednesses which is incurred with a pencil or the stroke of a pen, which they did not really incur but were "hooked" into. This is not right. I do not think that your proposal as it is presented here would provide sufficient protection.

If you wish, contact the bar association to see what studies they are coming up with.

Mr. HANNA. We will take this back and discuss this, Senator, and your remarks, and hopefully contact Mr. Burke also.

Senator TYDINGS. I think the thrust of my concern is apparent from the pattern of the questions I have directed at you.

Mr. HANNA. Yes, sir.

Senator TYDINGS. I am concerned that, somewhere in there, there is somebody involved who will genuinely, if there is a fraud, first of all determine if there is a fraud, and if there is will intervene and stop the proceeding. The Neighborhood Legal Services and Legal Aid are doing a great job. UPO is also doing a great job, but there are still, I regret to say, a great many people, poor people, who are gypped and have never even heard of Legal Aid and Legal Services offices.

I know that they are understaffed, while they are a step in the right direction, they are not enough.

Mr. HANNA. Well, we are trying to get at—we believe in protection for the consumer. Now, what we have been trying to do is perhaps go half a step, Senator, and by getting some official of the District of Columbia government interested in this type of thing, and at least giving advice and consultation to this—

Senator TYDINGS. Well, I think this is a step in the right direction. The only question is, Is it far enough?

Mr. HANNA. We are trying to balance the equity between the legitimate lending institutions, and there is a vast legitimate lending industry here in the District of Columbia, and the—

Senator TYDINGS. I cannot conceive of your company buying this type of paper.

Thank you very much for your interest, and I would appreciate it if you might talk with the bar association, because they are concerned with the same problems you are.

Mr. HANNA. All right, Senator, I will be happy to do it.

Senator TYDINGS. Thank you.

Mr. HANNA. Thank you.

(The proposed bill for amendment of the District of Columbia Code follows:)

A BILL To amend section 539 of the Act approved March 3, 1901, so as to provide notice of the enforcement of a security interest in real property in the District of Columbia to the owner of such real property and the Commissioner of the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 539 of the Act approved March 3, 1901 (31 Stat. 1274), as amended (D.C. Code, sec. 45-615), is amended by inserting the words "and notice to be given" immediately after the words "Terms of sale" in the title of said section, inserting the subsection designation "(a)" immediately before the first word of such section, and by adding the following:

"(b) No foreclosure sale under a power of sale provision contained in any deed of trust, mortgage or other security instrument, may take place unless the holder of the note secured by such deed of trust, mortgage, or security instrument, or its agent, gives written notice, by certified mail return receipt requested, of said sale to the owner of the real property encumbered by said deed of trust, mortgage or security instrument at his last known address, with a copy of said notice being sent to the Commissioner of the District of Columbia, or his designated agent, at least 30 days in advance of the date of said sale. Receipt by the Commissioner of the District of Columbia shall be conclusive evidence that said notice was given, both to the owner and Commissioner, and the 30 day period shall commence to run on the date of receipt of such notice by the Commissioner. The Commissioner or his agent shall give written acknowledgement to the holder of said note, or its agent, on the day that he receives such notice, that such notice has been received, indicating therein the date of receipt of such notice. The notice required by this subsection (b) in regard to said mortgages and deeds of trust shall be in addition to the notice described by subsection (a) of this section.

Senator TYDINGS. Bettin Stalling, chairman of the Council on Community Affairs, D.C. Chapter of the Federal Bar Association, accompanied by Wesley Williams, vice chairman of the council.

Gentlemen, we are delighted to welcome you before this subcommittee this morning.

STATEMENT OF BETTIN STALLING, CHAIRMAN, COUNCIL ON COMMUNITY AFFAIRS, D.C. CHAPTER, FEDERAL BAR ASSOCIATION; ACCOMPANIED BY WESLEY S. WILLIAMS, VICE CHAIRMAN OF THE COUNCIL

MR. STALLING. Thank you, Mr. Chairman. My name is Bettin Stalling. I am chairman of the Council on Community Affairs of the D.C. Chapter of the Federal Bar Association, and I might say briefly how the council became interested in this matter. The council is concerned primarily with S. 2592, and the reason for that concern is that all the cities today are concerned with riots.

Now, we have found in our concern with community affairs as to what causes riots that you get pretty quickly to housing, and housing, particularly if a person feels that he has been robbed and cheated, and then you do not need many of these in an area that is congested, before the rumor circulates, and if you get 200 or 300 of them a year, some regard that as an insignificant amount because we have 15,000 mortgages made a year. The fact of the matter is, it is a very significant amount. And then you add this year what happened last year and the year before and the first thing you know you have people that are very willing to listen to others who feel that they do not understand what is going on and it causes great community strife and stress and leads to unrest.

The council considers that individual home ownership is a beneficial and a stabilizing influence in the community; and a countervailing factor against blight and decay, with all its attendant evils.

It is a recognized fact once an individual becomes an owner of the property he lives in, he has a stake in his community. He is concerned with what goes on in his neighborhood, and he and the members of his family develop a greater sense of civic responsibility.

The council, concerned as it is with the welfare and safety of our city, strongly feels that the loss of one's home, by foreclosure, which sometimes means the loss of all a family may have, should not be permitted without the approval of a court, or without scrutiny by a duly authorized official.

The anxieties and disruptive effect of losing one's home and being dispossessed, with its stigma and frustration, creates unrest and bitterness, particularly where the owner has been victimized.

This adds to family and community strife, and to racial tensions. S. 2592, in our opinion, would afford the harassed homeowner an opportunity, in the first instance, to assert a legal defense and obtain relief, if appropriate and feasible, without incurring the additional expense of commencing a law suit after, or contemporaneously with the foreclosure proceedings.

The council's area of special concern is in the foreclosure of mortgages, deeds of trust, and other lien instruments on homes. While the foreclosure of investment properties held by corporate or sophisticated

property owners may warrant consideration by this committee, we believe as a rule they are able to engage, or have counsel, and understand the intricacies of financing while many small homeowners do not.

The cruel fact is, that by far the great number of foreclosures which occur in the District of Columbia involve the homes of the relatively poor and illiterate. Significantly, from our observations, relatively few foreclosures on homes are commenced by savings and loan associations, banks, insurance companies and other institutional lenders on the security of first mortgages or deeds of trust.

On the contrary, the great number of foreclosure proceedings are brought by holders of second, third and even fourth mortgages, or deeds of trust. The council is informed that 95 percent or more of the foreclosure cases in the District of Columbia involve these junior liens.

Frequently these junior lien instruments involve excessive and unnecessary charges of one kind or another, together with misrepresentations and concealment amounting to fraud. There are other shameful and unconscionable practices as was, at least in part, attested to in the recent investigations concerning home improvement practices resulting in mortgages unknowingly executed by individuals believing they were signing applications for home repairs.

The Council on Community Affairs supports the principles of S. 2592, and hopes this committee will especially consider the plight of the homeowner in the District of Columbia.

We would suggest that a home be defined in the bill as a residential property with accommodation for no more than four families. There is legal precedent for defining a home in this fashion as far back as the Federal Home Loan Bank Act of 1932, the Home Owners' Loan Act of 1933, and the National Housing Act of 1934.

I wish to thank this committee for having given us this opportunity to appear and be heard. If it would not be presuming on the committee's time, I have Mr. Wesley Williams, vice chairman of the council, with me, who has practiced here in the District for many years.

I think his experience in connection with foreclosure proceedings may be of some help to the committee and if the committee would permit, Mr. Williams would like to be heard for the specific purpose of presenting a few pending cases illustrative of some of the factors referred to in my statement.

Thank you, Mr. Chairman.

Senator TYDINGS. That is a very fine statement, Mr. Stalling, and we would be delighted to hear from you, Mr. Williams.

Mr. WILLIAMS. Well, Mr. Chairman, before I allude to any particular cases, I wish that the record would reflect that the Laymen's League of All Saints Unitarian Church wish to go on the record as supporting S. 2592. As president of that body, I take this opportunity to so apprise the committee.

In addition, I had my executive committee on the Frontiers International, District of Columbia Chapter, which is a service organization, to support my view point and to authorize me, as president of that organization, to go on record as supporting S. 2592 that is under consideration.

Now, Mr. Stalling has related to you that I would cite a few cases. I will take one in particular that would be illustrative of many of the

questions that have arisen this morning, and since it is a matter of public record, I violate no trust or confidence in giving you the number of the case, Civil Action No. 899-67, in the U.S. District Court, Civil Action No. 104-67. I refer particularly to 104-67.

Senator TYDINGS. Could you give us the title of the cases?

Mr. WILLIAMS 104-67 is the case of *Amy Dunlap v. Monarch Construction Corp., Wilson S. Kidwell, Auctioneer, Bernard Garfinkle, Trustee, and A. Rushing, Trustee.*

I will confine myself to that one case because it covers all the points.

Senator TYDINGS. We would be happy to have the other cases, just for the record.

Mr. WILLIAMS. The other case is *Lewis G. Queholland v. Wilson S. Kidwell, Auctioneer, William S. Thompson, Virginald L. Gaunton, and Frederick H. Evans.*

Now, in the *Amy Dunlap* case I bring to your attention particularly because this lady was sued in General Sessions Court on a note for \$3,500 by Monarch Construction Co. and an answer was filed.

Within 2 months foreclosure proceedings were instituted arising out of security on the same note. The lady had a refinancial problem and thought she had paid off Monarch Construction the \$3,500, but she was unaware of the fact that she had a second trust still outstanding on the property, so Monarch Construction then took the—

Senator TYDINGS. Do you mean when she paid she refinanced and paid off the first note that Monarch did not release the second trust?

Mr. WILLIAMS. No, sir; they did not.

Senator TYDINGS. Even though they were paid off?

Mr. WILLIAMS. Yes, sir. The reason for it is she thought she was paying it off, but the papers do not reflect that they were paid off. That is how we got in the case.

Now, because of additional charges arising out of the transaction and the work that purportedly was done by Monarch Construction—and incidentally, the lady signed a completion certificate at the time she signed the contract. They told her this was necessary in order to complete the work.

I know it sounds fantastic, but this is true. It is supported by the record.

So, in any event, when the lady found her house was going to be foreclosed, she immediately called me because I had known her over the years, she had raised children and sent them to school and had difficulty with them, and what-not, and I went ahead and filed a suit in the district court for a temporary restraining order and then for an injunction and then for injunctive relief and a suit asking for damages.

Now, ordinarily this would not have happened unless that lady had \$300. You cannot pay your office staff and you cannot get other lawyers to participate in the case unless you pay them, and you can see the volume of writing that is necessary in order to effect just a little simple transaction.

Now, the case is still pending. You asked a little while ago about the trustees. In this particular case, we still have not been able to find one of the trustees, even though he is listed on the trust. Trustees do not note their addresses on the trust instrument; therefore, you must fiddle

around and try to find them out; but when this case was filed, it was enough that we got the temporary restraining order, and as you know as a lawyer, you do not have to give notice, give notice subsequently for the date when the case is set down for preliminary injunction.

This case was filed on January 13, 1967.

Senator TYDINGS. Can you give us a little more information about the case?

I do not think this case is typical. What did they try to sell the lady?

Mr. WILLIAMS. Well, in this case they were selling her renovations and repairs to her house, and she signed the contract for these renovations and repairs, and as I say—

Senator TYDINGS. What were the repairs supposed to cost?

Mr. WILLIAMS. They were supposed to cost \$3,500, but in order to pay this \$3,500, it would be necessary that she sign a note, not only for that amount, but for an additional amount which they could discount to immediately get their \$3,500.

Senator TYDINGS. How much was the additional note she signed?

Mr. WILLIAMS. I think all together it runs up around \$7,000.

Senator TYDINGS. You mean she signed, she obligated herself for an additional \$3,500 and above of the initial \$3,500. In other words, she wound up signing \$7,000 worth of paper?

Mr. WILLIAMS. That is correct.

Senator TYDINGS. And in that paper she signed was their a lien or a mortgage against her home?

Mr. WILLIAMS. A deed of trust; yes.

Senator TYDINGS. Deed of trust?

Mr. WILLIAMS. Yes.

Senator TYDINGS. So what followed?

Mr. WILLIAMS. Then they sued her on the note, the \$3,500 note, in the District of Columbia Court of General Sessions. While that case was pending, a few months later, they—Monarch Construction Co.—filed for foreclosure proceedings.

Senator TYDINGS. A moment ago you indicated that she had paid off her note to Monarch.

Mr. WILLIAMS. She paid off the note, but she refinanced the property on the first occasion. That is true.

Senator TYDINGS. Who did she refinance with?

Mr. WILLIAMS. I do not know offhand. I mean—

Senator TYDINGS. But, when she paid off the note, was the deed of trust released?

Mr. WILLIAMS. No; she only—she paid off the first \$3,500. She was unaware that there was an additional encumbrance secured by the deed of trust.

Senator TYDINGS. Who did she refinance with and who did they pay off?

Mr. WILLIAMS. I do not know the company she refinanced with, but I can supply that for you.

Senator TYDINGS. If it was not Monarch, was it a different company?

Mr. WILLIAMS. Yes; she refinanced her house, presumably through a legitimate company and asked them to pay off these notes. They paid

off the \$3,500 note, but she was unaware that there was an existing second deed of trust on her property, for the additional amount, that amounted to the sum that would be required to discount the note.

Senator TYDINGS. How much was the new note or the refinancing?

Mr. WILLIAMS. I understand the new note was an equal amount.

Senator TYDINGS. Around \$7,000?

Mr. WILLIAMS. \$3,500.

Senator TYDINGS. \$3,500?

Mr. WILLIAMS. That is correct.

Senator TYDINGS. Then the proceeds of that went to Monarch?

Mr. WILLIAMS. That is right.

Senator TYDINGS. But, did she initially sign two separate notes?

Mr. WILLIAMS. She signed a series of papers, including the deed of trust.

Senator TYDINGS. And she did not really know quite what she was signing?

Mr. WILLIAMS. Well, this was the type of lady that would not know, and the reason I am making a point of that is because I can relate to you some professionals who have signed deeds of trust and did not know it.

Senator TYDINGS. Our history is full of them, including very well-educated people, even Ph. D.'s.

Mr. WILLIAMS. But unfortunately they did not develop into cases because I can call these various people and tell them to do such and such a thing or I will such and such. I cannot use the language here, and it happens. I saw an article in this morning's paper where you related to Atlas Corp. I call them up and told them that if they did not give me a release on a second deed of trust on this teacher's property, somebody is going to jail.

The reason for that is the teacher did not sign any second deed of trust knowingly because there was no acknowledgment made. But, the acknowledgment was handled out in the community after they had signed this.

Senator TYDINGS. Was there a notary present?

Mr. WILLIAMS. No notary present at the time she signed; no.

Senator TYDINGS. Did Atlas ever call her when they purchased the so-called paper?

Mr. WILLIAMS. Oh, no. Atlas called me 2 weeks ago and said, "Oh, Mr. Williams, before we release that note you said that the lady was going to pay off the balance in her monthly installments."

I said, "Well, I don't know. She's fired me, and now she's got another lawyer." I got my release and I am not interested. This is just 2 weeks ago they called me, bear in mind.

Senator TYDINGS. Let us have the next case.

Mr. WILLIAMS. This is not as revolutionary as that one.

Senator TYDINGS. Let me ask you, Mr. Williams, have you run into Atlas frequently?

Mr. WILLIAMS. Yes, I have, but I referred most of them to a Neighborhood Legal Services or to the Legal Aid Society, and I would like to make a point here now.

The Neighborhood Legal Services does not accept cases where there is a pending foreclosure, where you must go and draw up restraining

orders. They try to stay out of this civil aspect. I think because of the criticism and in addition because they do not have the staff, and our Legal Air Society in the District will call various lawyers, and there are very few lawyers who will take these cases, not that they do not have the time, out of due regard for them.

Senator TYDINGS. I think you have illustrated very well, the difficulty of intervening in a court foreclosure proceeding. The secretarial time alone necessary just to file the papers, is prohibitive. I think your point is well made. I am familiar with this, from my own practice.

Mr. WILLIAMS. That is very true. Now, in the other case you inquired about, that is all settled now. There was a man by the name of Lewis Queholland who is represented by a lawyer in divorce proceedings, and subsequently the property was turned over to the lawyer's client because there was a settlement between husband and wife.

Well, the husband happened to be an alcoholic, no question about it, and he thought he was paying the note to the office, but he was paying on the fees, and then sometime later we find that the property is being foreclosed. So, the original wife came into our office and stated that the property was worth a considerable amount of money in her part, \$17,000 or \$18,000, a lot of money. It is a lot to me, you understand, and she wanted to know what she could do to save the property because the property is in one of these areas that they were redeveloping, you know. I call it Georgetownizing.

And we said, well, we will file an injunction against this, because your husband has been paying money, and he thought he was paying on the note, but he was paying fees and it happened that the lawyers who were holders of the note—

Senator TYDINGS. They were foreclosing?

Mr. WILLIAMS. Yes.

Senator TYDINGS. The lawyers were foreclosing?

Mr. WILLIAMS. Oh, yes. Yes.

Senator TYDINGS. Who were the lawyers?

Mr. WILLIAMS. I prefer not to say that now. For the record, I will leave it.

Senator TYDINGS. All right.

Mr. WILLIAMS. So we called them and they told us this man is crazy, he hasn't paid on the deed in 4 years. Nonetheless we filed the injunction and the judge said, "You ought to call them up and they will release it to you." We said that we did not know.

We called them up and finally we refinanced the property and the lady paid off the full amount. There was not a question there involving fraud so much. One could think there was. I do not know and I wouldn't claim that there wasn't, but the question was that this man would never have had an opportunity to save his property had not his ex-wife been alert to find out what was happening because the property had enhanced in value so much that I think it was eventually—it is up for \$35,000 now, I think it is. This is a 1966 case.

Senator TYDINGS. In Washington the real estate property values have generally been going up.

Mr. WILLIAMS. And that is the type of area. But, you have not heard the one case, and I do not want to consume too much time because there are other people waiting.

Senator TYDINGS. Oh, we have a lot of time.

Mr. WILLIAMS. But the last case that came in 2 weeks ago is the case of Robinson. It has not wound up in a case yet, but I told the client not to pay anybody. He bought his house in 1960 for \$14,000. The Maryland Financial Corp. contacted him last year and promised to take care of all his indebtedness, take care of his bills, and just re-finance his house and informed him: "You have got nothing to worry about."

He and his wife came in to me after he left the veterans hospital, and wanted to know what I could do. Well, they did not have much money, but they could get some money. I said, "Now, stop paying everybody else and pay me," to be quite candid. They have two trusts on their house, and maybe three, amounting to \$16,100. He bought the house in 1960 for \$14,000. He has not got a settlement sheet; I have not got an answer from my letter that I sent to the president of Maryland Financial Corp. I do not have the address here with me but they are located across the line in the Silver Spring direction. So, this is where he stands.

American Security & Trust called me the other day and said, "Mr. Williams, he hasn't paid on his FHA," and I said, "He's not paying anybody until we find what happened to that money that he got from Maryland Financial Corp."

So, these are the problems that I think this bill will in part solve and that is why we enthusiastically support it, not only as I say with the Federal Bar Association, but with the Laymen's League and the Frontiers International. And we certainly hope, sir, that you can convince the committee of the wisdom of your bill and that the Senate will ratify it.

Senator TYDINGS. Have you ever had a client or aggrieved party whose papers or deeds of trust were going to be foreclosed by the Atlas Co., come in and ask for your help?

Mr. WILLIAMS. Sir, I would have to search my files because most of them I refer out. It is just a time-consuming thing. You see, I started back in the 1940's with Seventh Street. I used to take the cases for nothing on Seventh Street because they paid off good in the long run, accidents occur in the family later, and so forth, and they know where my office is. I mean, like people buying diamond rings for \$270-some that are worth around 18 bucks, and this is what I started out with back in the early 1940's. So, I am not unacquainted with what you are trying to do, and I think it is meritorious and you are to be commended for taking this bold step. I call it a bold step because you have much opposition outside in the money interests, and again I say it is not the first run lending institutions like the savings and loans and like the gentleman here testified here from the banks, because we do not have anything to do with the case.

They do not finance our property, anyhow. But this is not what we are concerned with. We are concerned with the people who sneak in the second trust, the third trust, and the fourth trust.

Senator TYDINGS. It has been suggested that we might be able to protect this consumer equally well if we required the court procedure only in matters involving second, third, and fourth liens, and perhaps left the first liens alone.

Do you think such a law might leave a loophole by allowing the operators to refinance and thereby create a third lien in order to get money?

Mr. WILLIAMS. Yes; I think they would, because I could see, myself, if I had a substantial second trust on the property and the first trust was down to about \$3,000 I would pay it off and take it as a first.

So I do not think you can exclude it, and then you may run into the question of discrimination, discriminatory practices against various lending institutions.

Mr. Bettin Stalling, here, at one time was the regional counsel for the Home Owners Loan out in Chicago and that is why we got together on this, because there is so much injustice.

Senator TYDINGS. I think Mr. Stalling has perhaps one of the finest statements I have heard.

Mr. WILLIAMS. Thank you.

Senator TYDINGS. It is very direct and went right to the point.

Mr. WILLIAMS. And I think you will find, sir—I do not know, maybe your staff can tell you—that there are very few jurisdictions in this country that operate under the deed-of-trust process. Most of them have mortgage plans.

Senator TYDINGS. That is right. The mortgage plan would provide additional protection.

Mr. WILLIAMS. That is correct, sir.

Senator TYDINGS. We have it in Maryland and it does provide more protection.

Mr. WILLIAMS. That is correct, sir.

Senator TYDINGS. Thank you very much, Mr. Stalling.

Mr. WILLIAMS. I thank you for this opportunity of appearing, and I trust that the bill might go through.

Mr. STALLING. Thank you.

Senator TYDINGS. Mrs. Ben Wattenberg, chairman of the District Affairs Committee, District of Columbia section of the National Council of Jewish Women is the next witness. We are delighted to welcome you here, Mrs. Wattenberg.

STATEMENT OF MRS. BEN WATTENBERG, CHAIRMAN, DISTRICT AFFAIRS COMMITTEE, DISTRICT OF COLUMBIA SECTION, NATIONAL COUNCIL OF JEWISH WOMEN; ACCOMPANIED BY MRS. ROBERT SOLOMON

Mrs. WATTENBERG. Thank you very much. We are delighted to be here. Accompanying me is Mrs. Robert Solomon.

Senator TYDINGS. We welcome you both. Please proceed Mrs. Wattenberg.

Mrs. WATTENBERG. I am Mrs. Ben Wattenberg, chairman of the District Affairs Committee of the District of Columbia section of the National Council of Jewish Women.

The National Council of Jewish Women is a national organization with an integrated program of education, service, and social action.

It was founded in 1893 and has a current membership of over 100,000 women in 329 local communities throughout the United States. Our organization has had a long and continuing interest in the prob-

lems that affect and plague the consumer and has supported much of the consumer legislation that has been heard in and passed through the House and Senate.

The District of Columbia section of the National Council of Jewish Women was founded in 1895 and is presently composed of 650 women.

The section's District Affairs Committee is currently studying consumer interests and it is to this subject that we have devoted time and thought and have participated in local community consumer groups here in the District.

Our committee studied these bills and our findings and judgments were approved by our Public Affairs Committee and our board of directors.

Since 1940, at our national conventions, we have affirmed our support of measures "to protect the public in the production and marketing of consumer goods" and "to protect the public against misleading information and unethical practices in lending and credit transactions."

The bills introduced by Senator Tydings are intended to protect the consumer in the Washington, D.C., area against victimization by some retail merchants. Therefore, the District of Columbia section of the National Council of Jewish Women wishes to strongly endorse the principles enumerated in these bills with specific emphasis on the following points:

That add-on and balloon payments be eliminated;

That there be complete disclosure on the charges added on to the price of a retail installment sales contract;

That the holder-in-due-course doctrine be eliminated;

That a homeowner has the right to be heard in court before foreclosure on his home can take place;

That there be regulation of the amount of finance and other charges on retail installment sales contracts; and

That there be established a Department of Consumer Protection.

Now, there are two of these principles, one we slightly disagree with and one where we elaborate.

Although we favor the principle of regulation of the amount of finance, credit insurance and other charges, we feel that establishment of a specific rate should be more spelled out and specific rates should be the responsibility of the City Council. And the women felt this method would insure flexibility of rates in response to changing business conditions. In other words, local bank interest rates change and the City Council would also be able to change finance rates.

A consumer protection office is the logical first step for the implementation of all consumer legislation. It will provide a center for coordinating and monitoring, a clearinghouse for charges and complaints, and it would affect not only these specific bills but all consumer law.

We, therefore, feel that if it becomes necessary to separate the provision for the establishment of such an office from the rest of S. 2589 in order to insure its immediate passage, we would favor doing so.

We hope that legislation providing for a "cooling off" period following a sales contract, as put forth in S. 2591, will be pursued further. We believe that a legitimate and well-presented contract will hold up through such a waiting period

The consumer is the largest potential lobby and yet has been largely silent through the years. Abuses of the consumer are obvious, many people say, but we have found that they are only obvious when people are aware.

We applaud the introduction of this legislation and see it as an important first step in the education of the public and, therefore, the safeguarding of the consumer.

The District of Columbia section, National Council of Jewish Women, hopes and trusts the committee will report favorably on these proposals.

Thank you very much.

Senator TYDINGS. Thank you very much.

Do you have anything to add, Mrs. Solomon?

Mrs. SOLOMON. No; except that we thank you for the privilege of testifying in favor of your bills. We feel that they are very fine and will be beneficial.

Senator TYDINGS. Thank you for the pleasure of your company. You made one point which we want to give a good deal of consideration; namely, whether the establishment of an exact rate might better be the responsibility of the City Council and its committee.

We have had testimony criticizing us for rates that are too high and rates that are too low. Perhaps the City Council should determine this?

Mrs. WATTENBERG. Well, we realized yesterday in one or two of the things that Atlas said, that, you know, we don't want legitimate lending companies out of commission because the legitimate ones do have a good place. And, I don't know the whole story that he was telling about Pennsylvania, but apparently according to him—

Senator TYDINGS. We do not know the whole story, either.

Mrs. WATTENBERG. Apparently legislated enough to do some of the business there, and I think that is something that should be continued because the people do need a finance company in order to finance.

Thank you.

Senator TYDINGS. Thank you very much, ladies.

We will stand adjourned now, subject to call of the Chair, recess: subject to the call of the Chair.

(Thereupon, at 11:35 a.m. the hearing was recessed, subject to call of the Chair.)

APPENDIX

THE AMERICAN JEWISH COMMITTEE, WASHINGTON CHAPTER,
December 13, 1967.

HON. JOSEPH D. TYDINGS,
*Chairman, Subcommittee on Business and Commerce, Committee on the District
of Columbia, U.S. Senate, Senate Office Building, Washington, D.C.*

DEAR SENATOR TYDINGS: The Board of the Washington Chapter of the American Jewish Committee has authorized me to express its judgment that there is a need in the District of Columbia for consumer protection legislation and for a department of consumer protection in the government of the District.

I am enclosing a statement which I request be filed with testimony for consideration by your sub-committee.

I take this opportunity to personally express my appreciation for the interest you are taking in this subject which as you know is sorely needed in the District of Columbia.

Sincerely yours,

ALFRED H. MOSES,
Chapter Chairman.

STATEMENT OF ALFRED H. MOSES, AS CHAIRMAN OF THE WASHINGTON CHAPTER
OF THE AMERICAN JEWISH COMMITTEE, AND IN ITS BEHALF

The more than 800 members of the *Washington Chapter of the American Jewish Committee* are constituents of the American Jewish Committee—a National organization with chapters and units in over 50 cities and with membership in over 600 additional communities in the United States which was organized in 1906 and incorporated by a special act of the legislature of the state of New York in 1911.

We believe fraudulent and unjust sales practices, including some associated with installment sales, are among the causes of the urban tensions afflicting our city. A poll of experts on the problems of the poor in the District of Columbia supports the conclusion that anger among our poorer citizens caused by feelings of frustration and helplessness born out of unjust practices by some area merchants ranks close to the top among the factors contributing to the potentially explosive tension threatening the peace of our community.

Similar situations exist in other urban areas. In his testimony before the National Advisory Commission on Civil Disorders on November 3, 1967, Professor David Caplovitz, Bureau of Applied Research, Columbia University said, "I have done a great deal of research on the low income marketplace. I have talked to many low-income persons who feel that they have been victimized by unscrupulous merchants, and I can report that they are bitter and resentful as a result of their experiences."

As members of one of the oldest Human Relations agencies in the United States we are particularly sensitive to inequities which affect any segment of our citizenry. Such inequities, and the resentment which they breed make more difficult the resolution of urban problems requiring the cooperation of all citizens. Therefore we are pleased that the subcommittee on consumer credit is considering legislation to eliminate sales practices which are unjust and which contribute to resentment, frustration and even anger, on the part of so many of our citizens.

The Washington Chapter of the American Jewish Committee believe that the District of Columbia needs consumer protection legislation and a department in its government to implement such legislation. In this regard we commend Mayor Walter Washington for his announced intention to create a Department of Consumer Protection. We urge the Congress to provide the fiscal support necessary to make it an effective instrument.

Whether the needed legislation should embrace the specifics covered in the various bills before you, or should be enabling legislation which would allow the new District of Columbia Government to deal with consumer problems by regu-

lation depend on which approach is more likely to elicit support from the Congress and the community as a whole. As is true with most legislation affecting the District of Columbia, the support of Congress is required for an adequate budget and the support of the population is required for adequate implementation. In the case of consumer protection legislation which affects so many persons, the need for the confidence of the community should be taken into consideration when you make your decision. As so much will depend on the Department of Consumer Protection, we trust that whatever is done will result in an agency which has the wherewithal to do the job. If the frustration and resentment to which we made reference above is to be mitigated, the poor in our city must have a place to go with their complaints and persons to whom they complain must be armed with the authority and means to do away with the inequities.

MARYLAND CONSUMERS ASSOCIATION, INC.,
Annapolis, Md., January 30, 1968.

SUBCOMMITTEE ON BUSINESS AND COMMERCE,
Senate Committee of the District of Columbia
Washington, D.C.

GENTLEMEN: The Maryland Consumers Association strongly supports the enactment of S-2589, S-2590, S-2591 and S-2592, all bills to improve consumer protection in retail sales of consumer goods in the District of Columbia. Consumers in the State of Maryland would be benefitted by these bills because metropolitan Washington is one large inter-related community and the protection afforded by these bills would extend beyond the District line.

We commend Senator Tydings, who as representative of our State in the U. S. Congress, has introduced these bills and is guiding them through the Congress.

The Maryland Consumers Association does not oppose S-316, an earlier bill introduced by Senator Morse for the same purposes but the bills introduced by Senator Tydings are more comprehensive and more specific and would therefore be more effective in their purpose.

Sincerely,

W. W. FLACK, *President.*

STATEMENT OF MORTGAGE BANKERS ASSOCIATION OF METROPOLITAN
WASHINGTON, INC.

I am B. Francis Saul, II, President of the Mortgage Bankers Association of Metropolitan Washington. Our Association represents 43 mortgage banking companies in this area.

I wish to testify with regard to Senate Bill 2592. The Mortgage Bankers Association shares the concern of this Subcommittee that the right of all parties to foreclosure of real property in the District be equally protected.

We suggest that the Bill be modified to exclude FHA and VA loans because adequate notice already exists; in addition, that commercial and business mortgages be excluded because they are not applicable. In addition, we feel that the provisions of this Bill should apply only to single-family homes and apartment buildings of four apartments or less.

We would also suggest a 30-day notice be required to be given to the Mayor's office or designee prior to foreclosure, along with notice to the borrower and owner of record and in addition, that notice be posted on the premises.

We make these suggestions believing that they do not alter the intent of Bill 2592, but rather that they further the purpose of this Bill. As it now reads, Bill 2592 is not in the best interest of either borrower or lender, because it is unnecessarily costly and time-consuming.

The time required in the consummation of foreclosures is, in our opinion, important both to the borrower and the lender. For instance, many foreclosures are due to marital problems instead of financial ones. Both parties may leave the premises, even though the mortgage is paid down and a substantial equity exists. A fast disposition of this property is necessary to preserve the equity in such a case for the benefit of the borrowers.

We are also concerned that any change does not unintentionally discourage mortgage money from investing in the District of Columbia; this would work a hardship on all parties involved.

Respectfully submitted.

B. FRANCIS SAUL II,
President, Mortgage Bankers Association of Metropolitan Washington.

FEDERAL TRADE COMMISSION,
Washington, D.C., March 12, 1968.

HON. JOSEPH D. TYDINGS,
*Chairman, Subcommittee on Business and Commerce, Senate Committee on the
District of Columbia, U.S. Senate, Washington, D.C.*

DEAR SENATOR TYDINGS: I have the honor to transmit herewith the economic study of the Federal Trade Commission entitled "Installment Credit and Retail Sales Practices of District of Columbia Retailers."

I presented some of the highlights of this report in testimony before your subcommittee on January 30, 1968, regarding the proposed District of Columbia retail installment sales acts. You expressed interest in printing the text of the report in the record of the hearings. We would be happy to have you do this. The Federal Trade Commission will also print a limited number of copies to be available for distribution in the near future.

Sincerely yours,

PAUL RAND DIXON, *Chairman.*

FEDERAL TRADE COMMISSION ECONOMIC REPORT ON INSTALLMENT CREDIT AND
RETAIL SALES PRACTICES OF DISTRICT OF COLUMBIA RETAILERS, MARCH 1968

FEDERAL TRADE COMMISSION

Paul Rand Dixon, Chairman
Philip Elman, Commissioner
Everette MacIntyre, Commissioner
Mary Gardiner Jones, Commissioner
James M. Nicholson, Commissioner

ACKNOWLEDGEMENTS

This study was conducted under the general direction of Dr. Willard F. Mueller, Director, Bureau of Economics and Dr. Arthur T. Andersen, Chief, Division of Industry Analysis, Bureau of Economics. Dr. Frank G. Coolson had primary responsibility for preparing the study. Mr. Philip W. Jaynes contributed substantially to the preparation of the final draft of the report.

SUMMARY AND CONCLUSIONS

This report presents the results of a survey of installment credit and sales practices involving household furnishings and appliances in the District of Columbia. The purpose of the survey was to obtain a factual picture of the finance charges, prices, gross margins and profits, legal actions taken in collecting delinquent accounts, and the assignment relationships between retailers and finance companies. The survey covered those D.C. retailers of furniture and appliances having estimated sales of at least \$100,000 for the year 1966. The 96 retailers providing data had combined sales of \$226 million, which represented about 85 percent of the sales of furniture, appliance, and department store retailers in the District of Columbia.

Use of Installment Credit by District of Columbia Retailers

Sixty-five retailers with combined sales of \$151 million indicated regular use of consumer installment sales contracts. The remainder sold only for cash or on a regular or revolving charge account basis. This report focuses primarily on retailers using installment contracts. These retailers were classified into two groups: those appealing primarily to low-income customers and those appealing to a more general market.

D.C. stores varied widely in their use of installment credit. Some general market discount appliance stores made very few sales on credit. At the other extreme, a number of low-income market retailers sold entirely on installment credit.

Installment credit was used much more extensively by retailers selling to low-income consumers than by retailers selling to other consumers. Low-income market retailers used installment credit in 93 percent of their sales. The comparable figure for general market retailers was 27 percent.

Customer Characteristics of Low-income Market Retailers

A sample of installment sales contracts and credit applications was analyzed to identify the customer characteristics of low-income market retailers. The analysis revealed substantial differences between customers of the low-income market retailers and all residents of the District of Columbia. The average family size was larger—4.3 persons compared to an average of 3.5 persons for the District of Columbia. Almost half of the families of customers in the sample had five or more members. The median family income during 1966 of the sample customers was \$348 per month. This is very low considering the larger than average size of the families. The Bureau of Labor Statistics recently estimated that the maintenance of a moderate standard of living for four in Washington, D.C., requires a monthly income of \$730.

Most customers were engaged in low-paying jobs. The largest proportion, 28 percent, were Service Workers, such as waitresses and janitors. Second in importance were Operatives (including such occupations as taxi drivers and laundry workers). Laborers and Domestic Workers also represented a significant share of the sample. Together, these four major occupational groups accounted for 75 percent of the customer sample. In comparison, only 36 percent of the general population in the District was classified in these low-paying occupational groups. There were 31 welfare recipients in the sample, accounting for 6 percent of all customers in the sample. There were also a number of customers in the sample dependent on social security, alimony, support payments, and income received from relatives.

A review of credit references noted in the 486 contracts subjected to detailed analysis revealed that 70 percent indicated no credit references or references with low-income market retailers only. Only 30 percent of the customers of this retailer, therefore, had established credit with general market retailers.

Gross Margins and Prices of Low-Income Market Retailers

The survey disclosed that without exception low-income market retailers had high average markups and prices. On the average, goods purchased for \$100 at wholesale sold for \$255 in the low-income market stores, compared with \$159 in general market stores.

Contrasts between the markup policies of low-income and general market retailers are most apparent when specific products are compared. Retailers surveyed were asked to give the wholesale and retail prices for their two best-selling models in each product line. These price data are typical of the large volume of products sold by each class of retailer.

For every product specified, low-income market retailers had the highest average gross margins reported. When similar makes and models are compared, the differences are striking. For example, the wholesale cost of a portable TV set was about \$109 to both a low-income market and a general market retailer. The general market retailer sold the set for \$129.95, whereas the low-income market retailer charged \$219.95 for the same set. Another example is a dryer, wholesaling at about \$115, which was sold for \$150 by a general market retailer and for \$300 by a low-income market retailer.

Operating Expenses and Net Profits of Retailers Surveyed

Despite their substantially higher prices, net profit on sales for low-income market retailers was only slightly higher and net profit return on net worth was considerably lower when compared to general market retailers. It appears that salaries and commissions, bad debt losses, and other expenses are substantially higher for low-income market retailers. Profit and expense comparisons are, of course, affected by differences in type of operation and accounting procedures. However, a detailed analysis was made for retailers of comparable size and merchandise mix to minimize such differences.

Low-income market retailers reported the highest return after taxes on net sales, 4.7 percent. Among the general market retailers, department stores had the highest return on net sales, 4.6 percent. Furniture and home furnishings stores earned a net profit after taxes of 3.9 percent; and appliance, radio, and television retailers were the least profitable with a net profit of only 2.1 percent on sales.

Low-income market retailers reported an average rate of return on *net worth* after taxes of 10.1 percent. Rates of return on net worth varied considerably among various kinds of general market retailers. Appliance, radio, and television

retailers reported the highest rate of return after taxes, 20.3 percent of net worth. Next in order were furniture and home furnishings retailers with 17.6 percent and department stores with 13.0 percent on net worth.

Assignment of Installment Contracts

Low-income market retailers typically held their installment contracts and did not assign them to finance companies or banks. Only one-fifth of the total contracts were assigned by low-income market retailers. Among general market retailers, appliance stores assigned almost all (98 percent) of their contracts to finance companies and banks. General market furniture stores assigned somewhat more than half of their contracts (57 percent.) Among the retailers surveyed, only the department store category involved no contract assignment.

Finance Charges on Installment Contracts.¹

There is considerable variation in the finance charges of D.C. retailers of furniture and appliances, particularly among the low-income market retailers. Most of the retailers surveyed determined finance charges in terms of an "add-on" rate based on the unpaid cash balance. When calculated on an effective annual rate basis, finance charges of general market retailers varied between 11 percent and 29 percent, averaging 21 percent when contracts were assigned and 19 percent when retailers financed their own contracts. Finance charges by low-income market retailers imposing such charges ranged between 11 percent and 33 percent per annum, averaging 25 percent on contracts assigned to finance companies and 23 percent on contracts the retailers held themselves.

One low-income market retailer made no separate charge for installment credit. All of his finance charges were, in effect, included in the purchase price. Other low-income market retailers kept finance charges below the actual cost of granting credit. This practice of absorbing credit costs can give the illusion of "easy" credit, but the customer may be paying a great deal for such installment credit in the form of much higher prices.

Judgments, Garnishments and Repossessions by Retailers

One of the most notable facts uncovered by the study relates to the frequency with which a small group of retailers utilized the courts to enforce their claims with respect to installment contracts. Eleven of the 18 low-income market retailers reported 2,690 judgments in 1966. Their legal actions resulted in 1,568 garnishments and 306 repossessions. For this group, one court judgment was obtained for every \$2,200 of sales. In effect, low-income market retailers make extensive use of the courts in collecting debts. While general market retailers may take legal action as a last resort against delinquent customers, some low-income market retailers depend on legal action as a normal order of business.

Conclusions

Installment credit is widely used in marketing appliances and home furnishings to low-income families. Often these families purchase durable goods, such as furniture, television sets, and phonographs through the mechanism of "easy" credit. Low-income market retailers specialize in granting credit to consumers who do not seek or are unable to obtain credit from regular department, furniture, or appliance stores. As a group, low-income market retailers made about 93 percent of their sales through installment credit.

The real cost of this "easy" credit is very dear, however. Primarily it takes the form of higher product prices. Credit charges, when separately stated, are not notably higher than those imposed by general market retailers. Though some low-income market retailers imposed effective annual finance charges as high as 33 percent, others charged much less or nothing at all. Markups on comparable products, however, are often two or three times higher than those charged by general market retailers.

The findings of this study suggest that the marketing system for distribution of durable goods to low-income consumers is costly. Although their markups are very much higher than those of general market retailers, low-income market retailers do not make particularly high net profits. They have markedly higher costs, partly because of high bad-debt expenses, but to a greater extent because

¹ These are finance charges as reported by D.C. retailers on their installment contracts. They do not necessarily reflect actual costs of granting installment credit.

of higher salaries and commissions as a percent of sales. These expenses reflect in part greater use of door-to-door selling and expenses associated with the collection and processing of installment contracts.

The high prices charged by low-income market retailers suggest the absence of effective price competition. What competition there is among low-income market retailers apparently takes the form of easier credit availability, rather than of lower prices. Greater credit risks are taken to entice customers. Insofar as the problem for low-income consumers is availability of credit, merchants who sell to them focus on this element.

The success of retailers who price their merchandise on such a high markup in selling to low-income families leads inevitably to the conclusion that such families engage in little comparative shopping. It would appear that many low-income customers lack information or knowledge of their credit charges and credit source alternatives, or of the prices and quality of products available in general market retailing establishments. To the extent that door-to-door sales techniques are utilized, such families frequently make crucial purchases without leaving the home and without seeing the products they commit themselves to buy. The fact that low-income market retailers emphasize the use of door-to-door salesmen both reflects and encourages such behavior. The Commission is well aware that door-to-door selling as well as home-demonstration selling provides an opportunity for deceptive and high pressure sales techniques. Moreover, such selling methods are also very high-cost methods of distribution.

It would appear, therefore, that the low-income consumers who can least afford mistakes in their buying decisions face two serious problems when they are confronted with a door-to-door or home-demonstration sales approach—(1) the high cost of this sales technique will ultimately be borne by the purchaser, and (2) the opportunity for high pressure or deceptive selling is great, thus discouraging comparative shopping and enhancing the probability that the consumer will agree to purchases he would otherwise not want.

While public policy can help solve the problems of low-income consumers, legislation alone may not be sufficient. Legislation aimed at disclosure and regulation of finance charges will help low-income as well as other consumers make more rational buying decisions. Intensified programs on both state and federal levels to eliminate all deceptions and frauds in the advertising and oral representations of the terms of sale and credit charges will also help to insure that their money is spent advantageously. The poor, to a considerable extent, however, are not sophisticated shoppers. Many cannot afford the luxury of "shopping around" because their potential sources of credit are limited. Others, because of inadequate consumer education or lack of mobility, simply do not engage in comparison shopping.

Thus, in attempting to deal with the phenomenon of the poor paying more for consumer goods, every effort should be made to improve consumer counseling. Many customers continue to buy from low-income market retailers even though they have sufficient income to qualify for credit at stores selling for less. Greater community effort in consumer education is needed.

Beyond the matter of education is the question of credit availability. Many low-income families are quite capable of making regular payments. They should have the option of making payments on reasonably priced merchandise. Local community effort in the development of effective credit sources could contribute materially to freeing individuals from dependence on "easy" credit merchants.¹ Moreover, perhaps general market retailers can take steps to make it easier for low-income families to apply for and receive credit. Some retailers have already found that they can do so economically. Various community business organizations might consider ways of more actively encourage low-income families to seek credit from retailers selling for less.

Increased competition for the patronage of low-income consumers would go a long way toward resolving many of the problems confronting them in the low-income market. Public policy should consider the various ways by which new entrants could be encouraged into these markets to increase the competitive viability of these markets.

While the availability of credit is perhaps the major reason why low-income families purchase from the low-income market retailers, it is only logical to con-

¹ Credit unions organized to serve low-income people may be one answer to the problem. More than 400 Federal credit unions now serve substantially low-income groups. The Bureau of Federal Credit Unions, U.S. Department of Health, Education, and Welfare, is attempting to increase this number through its "Project Moneywise." With proper counseling and organizations, credit unions can be successful even with very-low income groups.

clude that the sales techniques of these retailers are also an important factor. Low-income retailers have every incentive to continue these techniques since their risk of loss is substantially reduced by their virtually unopposed access to judgment and garnishment proceedings to enforce payment or secure repossession. The 2,690 actions taken by 11 low-income market retailers in 1966 suggests a marketing technique which includes actions against default as a normal matter of business rather than as a matter of last resort. At present, in the face of default, creditors can seek both repossession and payment of the deficiency, including various penalties. It may be appropriate to require creditors to choose one or the other of these legal remedies, and not to have the option of pursuing both courses simultaneously. Repossession would then fully discharge the merchant's claim. It is equally necessary to ensure that purchasers receive *actual* notice of any such proceedings and have legal counsel available to defend them in court. Perhaps, consideration should also be given to some form of negotiation before a court-appointed neighborhood referee as a compulsory prelude to a default judgment.

It is apparent that the solution to the problem of installment credit for the poor requires a variety of actions. A requirement that finance charges be clearly and conspicuously stated is a necessary but not a sufficient solution to the problem of installment credit for those consumers who are considered poor credit risks and are unsophisticated buyers. Among the complementary steps which might be considered are the following: (1) make reasonable credit more assessible; (2) provide counseling services which will encourage customers to practice comparison shopping; (3) equalize the legal rights of buyers and creditors in installment credit transactions; (4) encourage additional businesses to enter the low-income market; and (5) intensify consumer protection activities on both federal and local levels to eliminate all fraud and deceptions in the advertising and offering of credit.

CHAPTER I

INSTALLMENT CREDIT AND THE LOW-INCOME MARKET RETAILER

INTRODUCTION

As part of its continuing activities in the field of consumer protection, the Federal Trade Commission has undertaken a broad program to eliminate deception in the sale of goods and services through installment credit. Such deception can be a serious problem for consumers from all income groups. Abuses in the use of installment credit may fall most heavily, however, on the poor and disadvantaged. For this reason, the Commission felt it would be useful to obtain more detailed information about the use of installment credit by low-income consumers.¹ Such information will provide valuable assistance in planning future consumer protection activities.

This study is intended to provide objective information about installment credit practices, good and bad, as they affect consumers in the District of Columbia. A specific purpose is to compare the practices of retailers of furniture and appliances who sell primarily to a low-income market with those who sell to a more general market.

It should be made clear that the study is limited in scope. It does not attempt to provide information about all aspects of the operations of low-income market retailers. For instance, the quality and durability of products is not directly examined in this study. Nor is the matter of selling methods dealt with in detail. While these are interesting areas of investigation, it was not feasible to cover them in this report. The study focuses primarily on the following points:

- (1) Percent of sales made through installment contracts
- (2) Gross margins of retailers
- (3) Comparative prices charged by low-income market and general market retailers
- (4) Amount of finance charges
- (5) Relationships between retailers and finance companies
- (6) Legal actions taken by retailers on delinquent installment contracts
- (7) Characteristics of a low-income market retailer's customers.

¹ This report was prepared in response to a resolution adopted by the Federal Trade Commission, July 25, 1966. The text of the resolution is included in the Appendix (p. 113).

Types of Retailers and Merchants Included in This Study

All retailers in the District of Columbia with estimated sales of over \$100,000 per year who sold furniture and appliances were surveyed by the Federal Trade Commission. Several retailers were excluded because they had gone out of business since the survey period or were unable to provide usable information. Table I-1 shows the total 1966 sales of retailers included in the survey. As a basis for comparison, 1963 *Census of Business* total sales for the District of Columbia are also shown. The survey data are for a later period, 1966, but it is unlikely that there has been much change in sales during the intervening years. Furniture and appliance sales of retailers located in the District of Columbia have not been growing rapidly because of an increasing trend toward use of shopping centers outside the District.

TABLE I-1.—COMPARISON OF 1966 SALES OF SURVEY RETAILERS WITH SALES REPORTED IN 1963 CENSUS OF BUSINESS FOR THE DISTRICT OF COLUMBIA

[Dollar amounts in thousands]

Type of retail store	U.S. Census total sales, 1963	Survey retailers, 1966				
		Number of retailers	Total sales, all retailers	Number of retailers	Total sales, retailers offering install- ment credit	Number of retailers not offer- ing install- ment credit ¹
Department stores (SIC 531).....	\$186,439	6	\$144,864	3	\$91,364	3
Furniture and other home furnishings stores (SIC 571).....	50,442	59	51,255	38	33,929	21
Appliance stores (SIC 572, 573).....	29,912	31	29,693	24	25,677	7
Total.....	266,793	96	225,812	65	150,970	31

¹ Includes stores using revolving credit arrangements; 30-, 60-, 90-day credit arrangements; and stores operating on a cash basis.

Source: FTC Survey; 1963 Census of Business, vol. III, pt. 2, p. 110-115.

The survey included 96 retailers with combined sales of \$226 million. This approximates 85 percent of the 1963 Census total sales of appliance, furniture, and department store retailers in the District of Columbia. Sixty-five retailers with combined sales of \$151 million reported that they regularly used installment sales contracts. The remaining stores used revolving credit plans, charge accounts, or sold their merchandise only for cash. Of the \$75 million in sales by this group, three large department stores accounted for \$54 million. These department stores sold furniture and appliances through revolving credit arrangements.

Although revolving credit is a significant element in the retail credit market, to simplify data collection and analysis this study focuses primarily on installment credit contracts. It is difficult to collect data on revolving credit because such accounts are usually continuing arrangements. Balances may be carried for years, with regular payments offset by periodic purchases. Also, a variety of goods in addition to furniture and appliances are financed by department stores under revolving credit arrangements. The exclusion of revolving credit greatly simplifies the analysis in this report and there is little reason to believe that it creates any substantial bias in the results.

Further tabulations included in this report are based on returns of retailers who used installment contracts. Appropriate mention will be made whenever applicable of the practices of other retailers not using such contracts.

The survey revealed considerable variation among stores with respect to the percentage of sales made on installment credit. Some discount appliance stores made very few sales on installment credit or none at all. At the other extreme, a number of retailers sold almost entirely on installment credit. In addition, other factors such as gross margins or "markups" varied widely among stores. To analyze differences in credit practices, retailers surveyed were classified in various groups.

One means of classification was by type of establishment, i.e., department store, appliance store, or furniture store. Type of store did not, however, appear to be the most crucial element in determining credit practices. A second

method of classification was by income of customer, i.e., low-income market retailers vs. general market retailers. Since direct data were not available on income of customers served by various stores, two criteria were used to identify retailers serving low-income customers: (1) location of store and (2) advertising practices. As a first approximation retailers located in or adjacent to low-income residential areas were considered to serve low-income customers primarily. Identification of low-income residential areas was done on the basis of 1960 Census data. In general, it was relatively easy to identify whether or not stores were located in low-income areas.

The District of Columbia is characterized by a wide variation in family income. Additionally, there is a close relationship between geographic sections within the city and income level. The most extensive source of demographic information on the District and the surrounding metropolitan area is the 1960 *Census of Population*. Data are provided for 124 individual Census tracts within the city. While incomes were substantially higher in 1966, the period covered by this survey, the relative positions of different areas probably has not changed greatly since 1960. The principal exception would be the Southwest Washington urban renewal area. The distribution of family incomes within the District of Columbia is indicated below:¹

1959 income	Percent distribution
Under \$2,000-----	9.4
\$2,000 to \$3,999-----	18.5
\$4,000 to \$5,999-----	22.2
\$6,000 to \$7,999-----	16.0
\$8,000 to \$9,999-----	12.2
\$10,000 to \$14,999-----	13.7
\$15,000 to \$24,999-----	5.7
\$25,000 and over-----	2.3
Total -----	100.0

There is also a definite geographic pattern in income distribution within the city. For the city as a whole the median income was \$6,000. However, of the 124 Census tracts, 16 had median incomes of less than \$4,000 in 1959. Ten of these tracts were located in the compact section of Northwest Washington which is often referred to as the Cardozo area. Four were in the southwest section of the city, one in the southeast, and one in the northeast. In contrast, 15 Census tracts had median incomes over \$10,000 per year. All were located in a contiguous group west of Rock Creek in the upper northwest area of the city.

Low-income market retailers were, for the most part, located in what could be described as neighborhood shopping areas in or adjacent to low-income areas. A characteristic of low-income market stores is that they are unlikely to draw any substantial volume of business from the more affluent sections of the city or from the suburbs.

The classification of stores as low-income market retailers was established not only by location but also on the basis of advertising practices. It is possible that a store could be located in a low-income area yet sell to a more general market through city-wide advertising. Leading Washington newspapers and radio stations which appeal to all income levels, rather than specifically to low-income groups, were checked and no retailers engaged in extensive advertising to the general market were included in the low-income market group.

Thus, stores finally classified as low-income market retailers had to meet two qualifications: location in a low-income area and an absence of significant city-wide advertising directed to a general market. Eighteen retailers met these criteria. While classification of stores into the two groups, low-income market retailers and general market retailers, involved some arbitrary decisions, the basic differences between practices of the two groups are quite clearcut.

Of the 18 low-income market retailers, 14 could be described as furniture stores; 2 as appliance stores; and 2 as miscellaneous merchandise stores. These distinctions did not appear particularly important for purposes of analysis, however, and the low-income market retailers were treated as a combined group.

Variations in Installment Credit Sales

A striking characteristic of low-income market retailers is the high proportion of their total sales accounted for by installment contract transactions. Table I-2

¹ Source: 1960 *U.S. Census of Population*, Vol. I, Part 10, p. 54.

indicates that installment credit transactions accounted for 92.7 percent of the total sales of the 18 low-income market retailers. In contrast, installment credit accounted for only 26.5 percent of total sales of general market retailers. Most of the low-income market retailers made more than 90 percent of their sales through credit; none of the general market retailers had such a high proportion of installment credit sales. Many of the general market retailers in fact had the bulk of their sales accounted for by cash transactions or by non-installment credit.

TABLE 1-2.—VALUE OF INSTALLMENT CONTRACTS AS A PERCENT OF SALES, DISTRICT OF COLUMBIA RETAILERS, 1966

[Dollar amounts in thousands]

Type of retailer	Number of companies	Net sales	Installment contracts		
			Value	Percent of total	As percent of net sales
Total.....	65	\$150,970	\$45,251	100.0	30.0
Low-income market retailers.....	18	7,874	7,296	16.1	92.7
General market retailers.....	47	143,096	37,955	83.9	26.5
Appliance, radio, and television.....	22	25,089	8,466	18.7	33.7
Furniture and home furnishings.....	22	26,643	10,608	23.5	39.8
Department stores.....	3	91,364	18,881	41.7	20.6

Source: FTC survey.

While extent of installment credit sales is the primary factor distinguishing low-income market retailers, there are also significant differences in the general business methods employed by this group. Prices and gross margins tend to be substantially higher for low-income market retailers. Bad debt expenses are also considerably higher. Extensive use of credit together with higher prices and gross margins form a distinctive pattern for low-income market retailers. However, before discussing the findings concerning these differences, it is useful to place low-income market retailers in proper perspective with respect to the total market for appliances and home furnishings in the District of Columbia.

A Perspective on the Importance of Low-Income Market Retailers

The 18 low-income market retailers had net sales for 1966 of \$7.9 million (table 1-2). This amounts to only 5.2 percent of sales of all retailers surveyed. Nevertheless, it is a substantial amount when compared to total expenditures by low-income consumers on furniture and appliances. Low-income consumers within the District of Columbia accounted for only a fraction of total expenditures on furniture and appliances. The low-income market for such goods is considerably smaller than the total consumer market. No statistics are available on total expenditures for furniture and appliances by low-income consumers, but it is possible to make reasonable estimates. We estimate that District of Columbia households with an annual income under \$5,000 in 1966 had total income of about \$260 million.¹

¹ *Sales Management* magazine, June 10, 1967, "Survey of Buying Power," page D 47, published estimates of the percent distribution of disposable household income in the District of Columbia for 1966. About one-third (32.2 percent) of District of Columbia households had after-tax incomes of less than \$5,000 in 1966. For purposes of analysis, this bottom third of the income distribution will be considered the low-income group. In Chapter IV of this report, the family incomes of a low-income market retailer's customers are tabulated. Three-fourths (76.1 percent) of the sample of customers had before-tax incomes of \$6,000 per year or less. This would roughly correspond to after-tax incomes of \$5,000 or less. It seems plausible that most of the customers of other low-income market retailers would also have family incomes of less than \$5,000 after taxes. We can estimate the total income of such customers for 1966. The total number of households in the District of Columbia was estimated to be 270,500 in 1966. *Sales Management* data indicate 16.6 percent of these, or 44,900 households, had incomes of less than \$3,000 per year. There were 15.6 percent, or 42,200 households, with incomes from \$3,000-\$5,000 per year. If we assume that the mean income of households in the under-\$3,000 category was \$2,000, and that the mean income of families in the next category was \$4,000, then the total income of families with incomes below \$5,000 would be \$259 million.

After-tax income group	No. of households		Mean income		Total income
Under \$3,000 income group.....	44,900	×	\$2,000	=	\$89.8 million
\$3,000-\$5,000 income group.....	42,200	×	\$4,000	=	\$168.8 million
All households under \$5,000.....					\$258.6 million

Additionally, we estimate that in 1966 these households spent about \$18 million on furniture and appliances.¹

Low-income market retailers surveyed had total sales in 1966 of \$7.9 million, about 44 percent of our estimated total expenditures by low-income households for furniture and appliances.² This suggests that the low-income market retailers surveyed are definitely an important factor in the low-income marketplace, even though they did not account for a major portion of total retail sales of furniture and appliances in the District.

General Market Retailers

Forty-seven of the stores surveyed were classified as general market retailers, appealing either to a broad consumer market or primarily to middle and high-income groups. General market retailers were further classified into the following sub-categories: furniture stores, appliance stores, and department stores. This was necessary for comparative and analytical purposes because, unlike the relatively homogeneous low-income market retailers, there were some differences in pricing and credit policies of the various types of general market retailers.

Appliance, Radio and Television.—There are two types of merchandise that are customarily sold and serviced by appliance, radio, and television retailers—brown goods and white goods. Television sets, radios, and stereo-phonographs are electronic home entertainment merchandise, collectively referred to among retailers as “brown goods.” Washing machines, dryers, refrigerators and freezers are collectively called “white goods.” Sewing machines and vacuum cleaners are other household appliances customarily sold by brown and white goods retailers. The general market classification of appliances, radio, and television retailers included 22 companies operating stores primarily selling these types of merchandise. These retailers sometimes sell furniture and floor coverings, but only as secondary merchandise lines. Discount stores and full-service retailers are included in this retailer classification.

Furniture and Home Furnishings.—Those retailers that specialize in the selling of furniture and home furnishings to a broad consumer market—a total of 22—have been grouped together for analysis. Retailers selling furniture primarily to low-income consumers are included in the low-income market retailer classification. Among furniture and home furnishings retailers are those that carry a wide line of furniture, as well as a secondary line of appliances, and those that specialize in particular home furnishings items, such as rugs and carpeting.

Department Stores.—The category of department stores, of which three included in this study sold goods on installment credit, includes large stores selling apparel in several merchandise departments, but also having departments engaged in selling furniture, home furnishings, appliances, radios, and television sets. Such stores are an important outlet for furniture and appliances. To qualify as a department store, a retail establishment must employ 25 people or more. Some smaller stores, classified in this study as low-income market retailers, also carry apparel and soft lines of home furnishings, as well as appliances and furniture.

¹ The Bureau of Labor Statistics conducted a study (*Consumer Expenditures and Income, Washington, D.C., 1960–61*, Bureau of Labor Statistics, Report No. 237–53, February 1964) in 1960–61 of family expenditure patterns in the District of Columbia. We will assume that low-income families spent the same percentage of their income on furniture and appliances as did other families. (Actually the BLS study suggests that low-income families spent a lower percentage of their income on furniture and appliances, but the sample was too small to provide conclusive evidence on this point.)

Household furnishings and equipment accounted on the average for 4.9 percent of after-tax expenditures. Purchases of television sets, radios, etc., were included in the “recreation” category, which accounted for 4.2 percent of expenditures. We will assume that half the expenditures in this category may have gone for such appliances. This would give a total of 4.9+2.1 or 7.0 percent of income spent on furniture and appliances. Multiplying this percentage by estimated total income will give an estimate of the low-income market for furniture and appliances:

$$7.0 \text{ percent} \times \$258.6 \text{ million} = \$18.1 \text{ million}$$

² While most of the sales of low-income market retailers were accounted for by furniture and appliances, other lines of merchandise were sold. The actual proportion of furniture and appliance sales is not known, but examination of survey returns indicates it is about 80 percent of total sales for low-income market retailers. On this basis, such retailers would account for about 35 percent of sales of furniture and appliances to low-income customers.

Limitations of the Survey

This survey was limited to stores actually located within the District of Columbia. The District itself is part of a larger metropolitan area encompassing suburbs in Maryland and Virginia. In 1960 the population of the entire metropolitan area was 2 million, while the population of the District alone was 764,000. In terms of total retail sales, the 1963 *Census of Business* indicated that the District accounted for about 42 percent of metropolitan area retail sales. The proportion probably is somewhat lower for furniture and appliance sales alone.

At first glance, it might seem that the survey is limited because data on suburban area retailing is not included. This is not likely to be a serious problem, however, when comparing practices of retailers selling primarily to low-income consumers with those selling to a more general market. Census data indicate that most of the low-income consumers live within the District itself rather than in the suburbs. Median 1959 family incomes for components of the Washington Standard Metropolitan Statistical Area are shown below:¹

Area	Median income
Washington, D.C.	\$5, 993
Montgomery County, Md.	9, 317
Prince Georges County, Md.	7, 471
Arlington County, Va.	8, 670
Fairfax County, Va.	8, 607
Alexandria, Va.	7, 207
Falls Church, Va.	8, 721
Entire SMSA.	7, 577

¹ Source: 1960 *Census of Population*, Series PHC(1), Part 11, p. 15.

All of the suburban areas have a significantly higher median income than the District itself. While it would be useful to have data on suburban stores selling primarily to higher income consumers, it is doubtful that such data would alter the basic findings of the survey. One reason is that many of the large volume suburban stores are branches of retailers located in the District and probably follow similar policies. Also, inclusion of suburban discount retailers of furniture and appliances would tend to sharpen the contrasts in prices and margins found in this survey rather than to weaken them.

This survey was restricted to retailers of furniture and appliances. A more extensive survey would probably indicate the existence of a low-income market for other goods and services also. There is ample reason, based on information received from consumers by the Federal Trade Commission, to believe that many of the practices found in this survey are also prevalent in the sale of clothing, variety goods, jewelry, and services such as re-upholstering and auto repairs. It was not possible to cover all forms of retailing in a single survey, however, and the focus was placed on furniture and appliances because this is a large segment of retailing and is reasonably homogeneous in terms of product lines sold.

The survey did not include any retailer with estimated 1966 sales of less than \$100,000. Very small retailers were excluded for two reasons. First, such retailers do not usually keep detailed records and many would have probably found it impossible to complete the survey questionnaire. For example, many small retailers of furniture sell both new and used merchandise. In most cases such retailers could not meaningfully separate sales of the two types of furniture. Second, while there are a large number of small furniture and appliance stores, their total sales volume is not great. The 1963 *Census of Business* indicated a total of 264 establishments in SIC 571 (furniture and home furnishings), SIC 572 (household appliances), and SIC 573 (radio, TV, and music stores). Of these 264 establishments, 124 had three employees or less. This would be roughly equivalent to less than \$100,000 per year in sales. While almost half the establishments fell in this small size category, their combined sales were only 7 percent of the total. In SIC 531 (Department stores) the Census indicates no establishments with sales of less than \$100,000 per year.

Even restricting the survey to stores with over \$100,000 in sales did not eliminate all sample problems. A substantial number of retailers had moved, gone out of business, or were unable to complete the survey questionnaire. Usually these were the smaller stores. The final group included 18 low-income market retailers and 47 general market retailers. We believe the 18 low-income market retailers surveyed provide an adequate sample to make meaningful generalizations about this type of retailer in the District of Columbia. Those retailers that could have been considered low-income market retailers but were *not* included in the group

represented a much smaller combined sales volume than the 18 that *were* included. Moreover, table I-1 clearly indicates that the bulk of total sales in the categories surveyed was included.

CHAPTER II

GROSS MARGINS, PRICES, AND PROFITS

In addition to obtaining information on the use of installment credit, the Commission survey requested financial statement data as well as wholesale and retail prices on popular appliance and furniture items. This information was classified by type of retailer and indicated that operating results for low-income market retailers differed significantly from general market retailers in a number of important respects.

Gross Margins

Gross margins represent the difference between the wholesale cost of goods and total revenue derived from their sale at retail as a percent of selling price. Gross margin is the amount remaining to the retailer to cover operating expenses, including salaries, commissions, rent, equipment, other overhead expenses, and net profit.

Though gross margins for different types of retailers in the survey sample varied, the most significant variation was found when margins of low-income market retailers were compared with those of general market retailers (table II-1). The 18 low-income market retailers had an average gross margin of 60.8 percent. The average for general market retailers was 37 percent, ranging from a low of 30 percent for appliance, radio, and TV stores to a high of 41 percent for furniture and home-furnishing stores.¹

TABLE II-1.—NET SALES AND GROSS MARGINS OF DISTRICT OF COLUMBIA RETAILERS, 1966

[Dollar amounts in thousands]

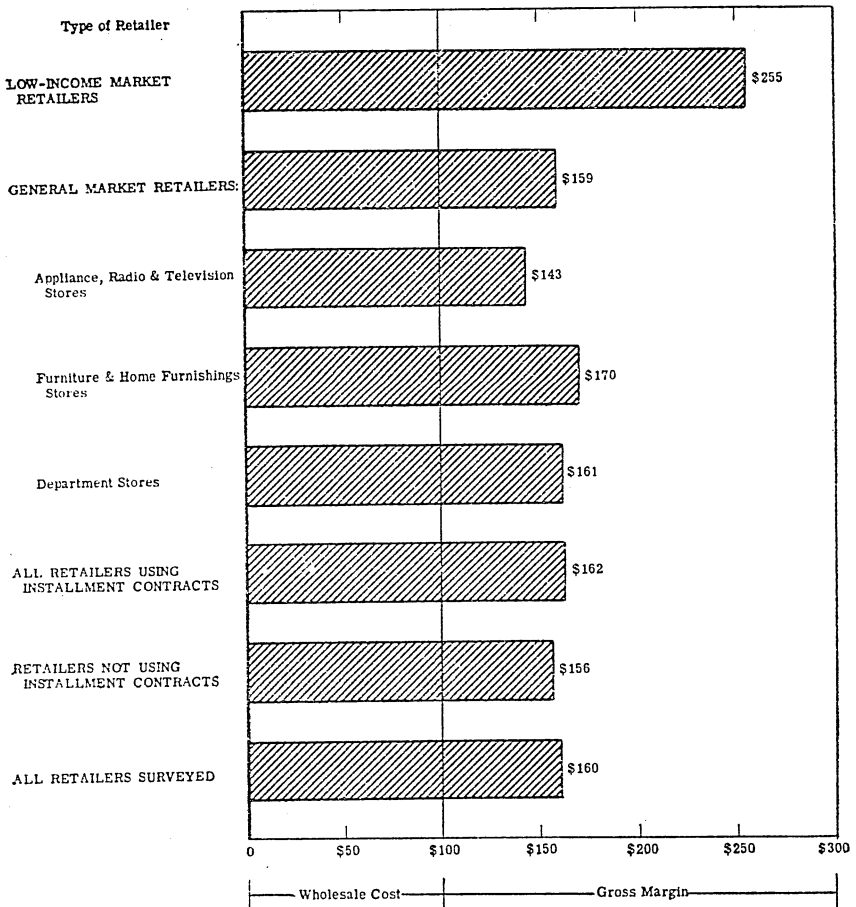
Type of retailer	Number of companies	Net sales		Gross margin ¹	
		Value	Percent of total	Value	As percent of sales
Low-income market retailers.....	18	\$7,874	5.2	\$4,790	60.8
General market retailers.....	47	143,096	94.8	52,988	37.0
Appliance, radio, and television.....	22	25,089	16.6	7,586	30.2
Furniture and home furnishings.....	22	26,643	17.7	10,979	41.2
Department stores.....	3	91,364	60.5	34,423	37.7
Total, retailers using installment contracts.....	65	150,970	100.0	57,778	38.3
Retailers not using installment contracts.....	31	74,842	-----	26,902	35.9
Total, all retailers surveyed.....	96	225,812	-----	84,680	37.5

¹ Gross margins reported by different types of retailers may not be strictly comparable. One low-income market retailer included finance charges and 1 general market appliance retailer included service charges in their net sales. Adjustments were made in these instances, but other retailers in the sample may have included such charges in their net sales and not reported their inclusion. To the extent that finance, service, and other charges might have been included in net sales and no corresponding adjustment made in cost of goods sold, gross margins for these retailers would be slightly overstated. However, every effort was made to calculate gross margins in this study net of finance and other charges.

Obviously, the higher the gross margin on a particular product, the higher will be its retail price. On the average, goods purchased for \$100 at wholesale sold for \$255 in low-income market stores, whereas the retail price was \$159 in general market stores (see figure II-1).² Thus, low-income market retailers marked up their cost two and a half times to determine their selling price. This was the average for the 18 low-income market retailers in the sample. The retailer with the largest volume of sales in this group had a gross margin of 67.9 percent of selling price, which means that he marked up his merchandise on the average to more than three times its cost.

¹ Subjecting these differences to statistical analysis indicated that there was only one chance in 100 that they reflected simple random variation. In other words, there is every reason to believe that differences in gross margins of low-income market retailers and general market retailers are systematic.

² These are cash prices and do not include separately imposed finance charges.



Source: FTC Survey.

FIGURE II-1.—Average selling price, assuming \$100 wholesale cost, by type of retailer.

General market retailers that used no installment contracts were also contacted in the survey and their gross margins, as indicated in table II-1, did not differ significantly from the average for general market retailers as a whole. One appliance, radio, and TV dealer, who sold on a strictly cash basis, reported a gross margin of 7.2 percent. This meant that any appliance selling at wholesale for \$100 was resold at retail for only \$107. This case is very exceptional, of course.

A number of substantial general market furniture stores reported that they relied on revolving credit accounts and used no installment contracts. The gross margins of these retailers were somewhat higher than those that used installment contracts, averaging 46.6 percent of sales. Likewise, there were three department store companies that reported no installment contract sales, employing

instead revolving charge account plans. Their average gross margin of 34.9 percent of sales was somewhat lower than the average gross margin of 37.7 percent shown in table II-1 for those department stores using installment contracts.¹

TABLE II-2.—AVERAGE GROSS MARGINS OF DISTRICT OF COLUMBIA RETAILERS ON BESTSELLING ITEMS OF APPLIANCES AND FURNITURE, 1966

Merchandise items	Average percent gross margin of—			
	Low-income market retailers	General market retailers		
		Appliance stores ¹	Furniture stores ¹	Department store
Television sets.....	46.4	23.7	28.4	25.2
Carpets.....	50.0	-----	37.5	33.2
Refrigerators.....	50.6	24.5	24.9	34.6
Washing machines.....	51.0	25.0	32.3	35.3
Stereophonographs.....	52.7	33.0	36.5	34.7
Freezers.....	53.7	24.8	-----	33.7
Dryers.....	53.9	25.7	28.4	37.7
Furniture.....	56.2	-----	47.5	50.4
Vacuum cleaners.....	57.9	26.3	30.2	36.4
Radios.....	60.0	23.4	38.0	27.9
Sewing machines.....	66.3	49.0	-----	42.7

¹ Appliance and furniture stores have been classified on the basis of their principal merchandise lines. Furniture stores carry appliances as a substantial secondary merchandise line, and for this reason average gross margins of appliances sold by furniture stores are included in this table.

Source: FTC survey.

Gross Margins on Specific Merchandise

Retailers surveyed were asked to select two "best-selling" items in each appliance and furniture line of merchandise and report their wholesale costs and selling prices. The difference between these figures (selling price minus cost of goods) represented the gross margin, which was expressed as a percent of selling price. Table II-2 gives the average gross margins on each merchandise item for each type of retailer surveyed. In some instances the gross margins given were for items especially reduced in price for volume sales. Consequently, the averages of these gross margins are somewhat lower than the average gross margins shown for each type of retailer in table II-1.

For every merchandise item specified, low-income market retailers had the highest average gross margins reported—ranging from 66.3 percent on sewing machines, to 51.0 percent on washing machines, and down to 46.4 percent on television sets. General market appliance retailers had the lowest gross margins for 9 of the 11 merchandise items.

Certain merchandise items showed some consistency as to the market level of gross margins. Television sets were sold by all three types of general market retailers at gross margins below 29.0 percent, and this item sold at the lowest (46.4 percent) average gross margin reported by low-income market retailers. Furniture had relatively high gross margins for all types of retailers. There were some items, however, on which there was no consistency between types of retailers. For instance, radios were the second highest gross margin item (60 percent) for low-income market retailers and the lowest gross margin item (23.4 percent) for general market appliance retailers. Thus, a consumer who would have paid \$250 for a radio from a low-income market retailer could have purchased a radio of comparable wholesale value at a general market appliance store for \$130.

Table II-3 converts these gross margins to a comparative price basis. Since the cost of the merchandise has been arbitrarily held constant, the "retail prices" shown in table II-3 directly reflect absolute differences in average gross margins by type of store and make it possible to compare relative prices on each best-selling item when purchased from low-income market retailers or general market appliance, furniture or department store retailers. As shown in table II-3 and figure II-2, a television set that cost retailers \$100 could have been bought for

¹ These margins for department stores in our survey conform very closely to the national averages compiled by the National Retail Merchants Association, which reported that in 1964 average gross profit margin for department stores with sales over \$1 million per year was 35.3 percent of sales. *Operating Results of Department and Specialty Stores in 1964*, Controllers' Congress, National Retail Merchants Association, 1965, p. 11.

\$131 in a general market appliance store, but would have been priced at retail to the low-income consumer at \$187 by the average low-income market retailer. A washing machine with the same wholesale cost sold on the average in general market appliance stores for \$133, in furniture stores for \$148, in department stores for \$155, and in low-income market stores for \$204. The other merchandise items in table II-3 and figure III-2 provide similar comparisons. In each instance the "retail price" projected for the low-income market retailers is the highest because reported average gross margins were highest, but the amount of the differential varies by merchandise items.

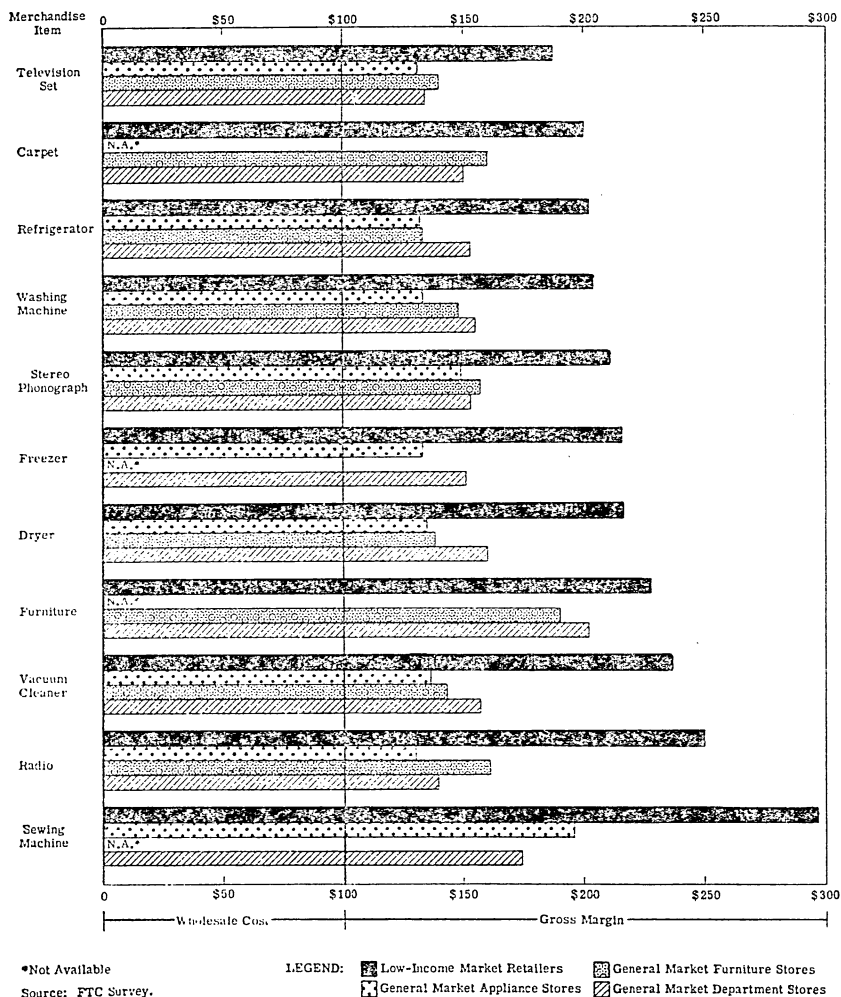


FIGURE II-2.—Average retail prices, assuming \$100 wholesale cost, of comparable merchandise items purchased from low-income market and general market retailers

Direct Price Comparisons ¹

Hypothetical price comparisons are useful for purposes of generalization, but we need not depend on just such comparisons.

¹ See also discussion Chapter IV, pages 106-109.

TABLE II-3.—AVERAGE RETAIL PRICES OF DISTRICT OF COLUMBIA RETAILERS ON BEST-SELLING ITEMS OF APPLIANCES AND FURNITURE IN 1966, ASSUMING WHOLESALE COST OF \$100 FOR EACH ITEM¹

Merchandise item	Average retail price assuming \$100 wholesale cost of—			
	Low-income market retailers	General market retailers		
		Appliance stores ²	Furniture stores ²	Department stores
Television set.....	\$187	\$131	\$140	\$134
Carpet.....	200	-----	160	150
Refrigerator.....	202	132	133	153
Washing machine.....	204	133	148	155
Stereophonograph.....	211	149	157	153
Freezer.....	216	133	-----	151
Dryer.....	217	135	138	160
Furniture.....	228	-----	190	202
Vacuum cleaner.....	237	136	143	157
Radio.....	250	130	161	139
Sewing machine.....	297	196	-----	174

¹ These are cash prices and do not reflect separately imposed finance charges.

² Appliance and furniture stores have been classified on the basis of their principal merchandise lines. Furniture stores carry appliances as a substantial secondary merchandise line, and for this reason average "retail prices" of appliances sold by furniture stores are included in this table.

Source: Calculated from average gross margins in table II-2, FTC survey.

The striking differences between the low-income market and the general market perhaps may best be illustrated by a comparison of prices for similar (in some cases identical) products. Table II-4 matches similar makes and models of appliances sold by low-income market retailers as well as general market retailers. Not all of the products shown are identical models, but the similarity in wholesale costs suggests that the comparisons are valid. It should be pointed out that in a great many cases low-income market retailers simply did not carry the same lines of products as general market retailers. As a result, in most instances price comparisons could not be made. While table II-4 illustrates extreme differences, it should be remembered that the retailers themselves reported prices for their two *best-selling* models in each product category. These comparisons were not made by researchers poking around in dusty corners of stores looking for grossly overpriced or mismarked items rarely sold. They are based on the retailers' own reported prices.

TABLE II-4.—COMPARISON OF REPORTED WHOLESALE AND RETAIL PRICES FOR BEST-SELLING PRODUCTS, LOW-INCOME MARKET AND GENERAL MARKET RETAILERS

Products	Wholesale cost		Retail price ¹	
	Low-income market retailer	General market retailer	Low-income market retailer	General market retailer
Television sets:				
Motorola portable.....	\$109.00	\$109.50	\$219.95	\$129.95
Philco portable.....	108.75	106.32	199.95	129.95
Olympic portable.....	² 90.00	85.00	249.95	129.95
Admiral portable.....	94.00	91.77	249.95	129.99
Radio: Emerson.....	16.50	16.74	39.95	25.00
Stereo: Zenith.....	32.99	32.99	99.95	36.99
Automatic washers:				
Norge.....	144.95	140.00	299.95	155.00
General Electric.....	183.50	160.40	339.95	219.95
Dryers:				
Norge.....	80.00	87.00	249.95	102.45
General Electric.....	205.90	205.00	369.95	237.76
Admiral.....	112.00	115.97	299.95	149.95
Vacuum cleaners:				
Hoover upright.....	39.95	39.95	79.95	59.95
Hoover canister.....	26.25	24.55	49.95	28.79

¹ Retail prices are cash and do not include separately imposed finance charges.

² Reported as approximate wholesale cost.

Source: FTC survey.

The general conclusion that emerges from data contained in table II-4 is that the low-income market is a very expensive place to buy durable goods. On television sets (most of which are the popular 19" black and white portables) the general market retailer price is about \$130. In the low-income market a customer can pay up to \$250 for similar sets. Other comparisons include a dryer selling for \$149.95 from a general market retailer and for \$299.95 from a low-income market retailer; and a vacuum cleaner selling for \$59.95 in the general market and \$79.95 in the low-income market.

These comparisons indicate that the poor often do pay more when they buy durable goods from retailers catering to the low-income market. Why would anyone pay such high prices? The most probable reason is that the poor often cannot pay cash for such items and are attracted by the more liberal credit policies. General market retailers offering low prices have tighter credit policies. Low-income market retailers, on the other hand, feature "easy credit," but the customer pays a great deal for this privilege in the form of grossly higher prices. Table II-4 does not take into consideration the finance charges.¹ As shown in Chapter III, finance charges of low-income market retailers are generally somewhat higher than those of general market retailers.

Low-income market retailers often can recover the wholesale costs of merchandise when less than half the payments have been made. For example, suppose a customer buys the Motorola television listed in table II-4 from a low-income market retailer. He pays \$219.95 plus finance charges. Assume the customer pays one-tenth or \$22.00 down. This leaves a balance of \$197.95. At a 13.5 percent add-on rate,² his finance charges would be \$26.72 for one year. The total amount owed would be \$197.95 + \$25.72 or \$224.67. If the customer makes 12 monthly payments, the amount of each payment would be \$18.72.

In this circumstance, were the customer to default after making only 6 of his scheduled 12 payments, the low-income market retailer would already have recovered more than his wholesale cost. The six payments plus the original amount down equals \$134.32—compared to the wholesale cost of \$109.00 for the TV. Even if the low-income market retailer were to make no additional charges for financing, six months of payments would be more than sufficient to cover the original wholesale cost.³

A general market retailer would be in a much different position if a customer defaulted after making only half his payments. Assume that he sold the same TV set for \$129.95, also with one-tenth, or \$13.00 down. Using the 12 percent add-on rate,⁴ the balance including finance charges would be \$130.98. Monthly payments would be \$10.92 for 12 months. If the customer defaulted after six payments, the general market retailer would have received only \$78.52—compared to the wholesale cost of \$109.50. Thus, he (or the finance company that held the contract) would suffer a substantial loss.

Operating Expenses and Net Profits

Not all of the low-income market retailers covered in this survey maintained and submitted financial statements adequate for detailed analysis of expenses and net profit. Likewise, most of the small-volume general market retailers did not submit detailed financial statements. Of the 18 low-income market retailers, however, 10 submitted statements permitting some analysis of specific expense items. These 10 low-income market retailers were matched with 10 general market retailers of comparable size and mix of merchandise who submitted statements permitting a comparative analysis of expenses and profits.

A comparison of expenses and profits as a percent of sales for the matched samples of 10 low-income market retailers and 10 general market retailers of furniture and appliances is shown in table II-5. The 10 low-income market retailers paid only 37.8 percent of their sales revenue for the merchandise they sold, while the cost of goods sold by the general market retailers was 64.5 percent of their sales revenue. As previously noted, low-income market retailers sell comparable merchandise at much higher retail prices, which accounts for this wide difference in cost of merchandise as a percentage of sales. The remaining gross margin for the 10 low-income market retailers was 62.2 percent and

¹ Finance charges refer to any extra charges imposed by the retailer when merchandise is sold under installment contract. (These charges do not necessarily reflect the true cost to the retailer of granting credit.)

² This add-on rate of 13.5 percent per year is equivalent to an effective annual rate of finance charges of 25 percent, calculated by the actuarial method (United States Rule).

³ If no additional charges were made for financing, payments would be \$16.50 per month. The six payments plus the original amount down equals \$111.00—compared to the wholesale cost of \$109.00.

⁴ This add-on rate is equivalent to an effective annual finance charge of 22 percent.

for the 10 general market retailers, 35.5 percent of sales. The gross margin to cover expenses and net profit was 26.7 percentage points higher for the low-income market retailers.

TABLE II-5.—COMPARISON OF EXPENSES AND PROFITS AS PERCENT OF SALES FOR 10 LOW-INCOME MARKET RETAILERS AND 10 GENERAL MARKET RETAILERS OF FURNITURE AND APPLIANCES IN THE DISTRICT OF COLUMBIA, 1966

Revenue component	10 low-income market retailers	10 general market retailers	Difference in margins and ratios	
			Percentage points	Percent of total
1966 net sales.....	\$5,146,395	\$5,405,221		
Operating ratios as percent of sales.....	100.0	100.0		
Cost of goods sold.....	37.8	64.5		
Gross profit margin.....	62.2	35.5	+26.7	100.0
Salary and commission expense ¹	28.2	17.8	+10.4	38.9
Advertising expense.....	2.1	3.9	-1.8	-6.7
Bad debt losses ²	6.7	0.3	+6.4	24.0
Other expenses ³	21.3	11.2	+10.1	37.8
Total expenses.....	58.3	33.2	+25.1	94.0
Net profit return on sales.....	3.9	2.3	+1.6	6.0

¹ Includes officers' salaries.

² Includes amounts held back by finance companies to cover bad debt losses.

³ Other expenses, including taxes, after deduction of other income.

Source: FTC survey.

Practically all of the substantially higher gross margin of the 10 low-income market retailers was offset by higher expenses and did not result in markedly higher net profit as a percentage of sales. As shown in the right-hand columns of table II-5, of the total difference in gross margin of 26.7 percentage points, 94 percent of the difference (25.1 percentage points) was accounted for by higher expenses and 6 percent of the difference (1.6 percentage points) was accounted for by higher net profits on sales of low-income market retailers.

More than one-third (38.9 percent) of the higher gross margin of the 10 low-income market retailers was spent on salary and commission expense. This expense item included all employees' compensation and officers' salaries and was 28.2 percent of sales for low-income market retailers, compared to 17.8 percent of sales for general market retailers. A major reason for low-income market retailers' higher personnel expense is believed to be their use of outside salesmen who canvass house-to-house or followup requests for home demonstrations and often make collections of installment payments at the home of the customer. Several of the 10 low-income market retailers pay their outside salesmen-collectors commissions on both sales and collections. Other reasons for higher personnel costs of low-income market retailers could be that they have more sales personnel and pay higher rates of compensation compared to small-volume general market retailers; and since they finance all or a larger proportion of their own installment contracts, thus requiring more employees to keep records of small payments on installment credit accounts.

The proportion of sales revenue spent on advertising was higher for the 10 general market retailers than for the 10 low-income market retailers. This is consistent with the lack of extensive citywide advertising among the low-income market retailers in the total sample. The difference in advertising ratios was 1.8 percentage points. The 10 general market retailers spent 3.9 percent of their sales revenue on advertising, while the advertising by the 10 low-income market retailers amounted to 2.1 percent of their sales revenue.

Higher bad debt losses of low-income market retailers accounted for about one-fourth (24 percent) of the total difference in gross margins. It was evident from analysis of financial statements, finance charges, and retail prices of low-income market retailers that they often charge higher prices anticipating that part of the increased revenue will cover higher collection expenses of their method of doing business. For the group of 10 low-income market retailers, bad-debt loss was 6.7 percent of sales, while comparable size general market retailers had bad-debt losses of less than one percent of sales.

Other expenses accounted for more than one-third (37.8 percent) of the higher gross margin of low-income market retailers. The remaining items of expense amounted to 21.3 percent of sales for the 10 low-income market retailers and to 11.2 percent of sales for the 10 general market retailers. Items of occupancy, delivery, and administrative expense were included among the other expenses, but a comparative analysis of these items could not be made because of inconsistency in expense account classifications and accounting methods. Nevertheless, there were certain items of expense that appeared more often and in larger proportionate amounts on the low-income market retailers' statements, which account for part of their higher ratio of other expenses to sales. Since most of the low-income market retailers financed their own installment sales, the expense of processing this credit and interest on borrowed funds appeared as substantial items on their statements. Legal and professional fees were larger items of expense among low-income market retailers, reflecting cost of suits filed for the collection of delinquent accounts. Insurance costs were generally higher as a percentage of sales for these retailers.

Net profit as a percentage of sales for the 10 low-income market retailers was 3.9 percent, as compared to 2.3 percent for the 10 general market retailers. This difference of 1.6 percentage points in higher net profit for the low-income market retailers amounted to less than one-tenth (6 percent) of the total difference in gross margins. The business methods employed by low-income market retailers involved substantially higher costs which offset the higher prices charged, leaving no markedly higher net profit as a percentage of sales.¹

Net profit after taxes as a percent of owner equity was also determined for these two groups of retailers. This average net profit was 12.7 percent for the 10 low-income market retailers and 8.1 percent for nine out of the 10 general market retailers.² The variation in rates of return on owner's equity within each group of retailers was so great as not to warrant a conclusion that rates for one group were different from those of the other.

Overall Net Profit Comparisons

The previous section compared profits for a selected sample of 10 low-income market and 10 general market retailers. Less extensive data on income and profits were obtained from other retailers. Almost half the retailers surveyed submitted profit and loss statements and balance sheets. The companies included corporations, partnerships, and proprietorships. There was a considerable amount of variation in the accounting methods used and in individual firm returns. Nevertheless, it is possible to make some overall comparisons of net profits for each group of retailers. Low-income market retailers reported the highest net profit after taxes on net sales, 4.7 percent (table II-6). Among the general market retailers, department stores were highest with 4.6 percent. Furniture and home-furnishings stores earned a net profit after taxes of 3.9 percent; and appliance, radio, and television retailers were last in order of profitability with 2.1 percent profit after taxes on sales.

TABLE II-6.—NET PROFIT AFTER TAXES AS A PERCENT OF SALES AND RATES OF RETURN AFTER TAXES FOR DISTRICT OF COLUMBIA RETAILERS SURVEYED, 1966

Type of retailers	Net profit after taxes as a percent of sales	Percent rate of return after taxes on stockholders' equity
Low-income market retailers.....	4.7	10.1
General market retailers:		
Appliance, radio, and television stores.....	2.1	20.3
Furniture and home furnishings stores.....	3.9	17.6
Department stores.....	4.6	13.0

Source: FTC survey.

¹ Statistical tests were applied to analyze differences in profit and cost elements for the 10 low-income and 10 general market retailers compared in this section. These tests have limited validity because of the small number of observations and the non-random method by which the retailers were selected. They suggest, however, that the differences in profit rates indicated do not justify rejecting the hypothesis that profits are actually similar for both groups of retailers. Similar tests applied to gross margins and other elements of expense, notably salaries, bad debts, and other expenses, appear to justify accepting the hypothesis that expense experience for the two groups of retailers is different.

² One of the 10 small-volume general market retailers had to be omitted from the net return on owners' equity analysis because of incomplete financial statement information.

Low-income market retailers reported an average rate of return after taxes on net worth of 10.1 percent. Rates of return on net worth varied considerably among general market retailers. Appliance, radio, and television retailers reported the highest rate of return after taxes, 20.3 percent of net worth. Next in order were furniture and home-furnishings retailers with 17.6 percent, and department stores with 13.0 percent of return on net worth.

Data on profits reported above are limited and to some extent inconclusive. It does not appear, however, that low-income market retailers made profits which were substantially higher on the average than general market retailers. The high prices charged by low-income market retailers must have been accompanied in many instances by substantially higher costs arising from their method of doing business. Some of these costs probably arose from greater losses on credit sales. To some extent, costs may have been higher because of smaller volume and generally more costly and less efficient store operation.

CHAPTER III

CHARACTERISTICS OF INSTALLMENT CONTRACT ARRANGEMENTS

Sixty-five furniture, appliance, and department store retailers surveyed indicated significant use of installment contracts in financing customer purchases. In 1966, a total value of \$45.3 million in contracts were entered into by this group, equivalent to 30 percent of their total sales. The average value per contract was \$146. The average value for general market department stores was only \$100, while for general market appliance and furniture stores it was \$210 and \$359, respectively. The average value of contracts for low-income market retailers was \$140 (table III-1).

To understand better the current business practice with respect to the use of installment credit instruments, information was sought regarding contract assignment practices, rates of finance charges, and problems of default. Our findings on these subjects are summarized in this chapter.

TABLE III-1.—AVERAGE VALUE OF INSTALLMENT CONTRACTS OF 65 DISTRICT OF COLUMBIA RETAILERS, 1966

Type of retailer	All contracts	Assigned contracts	Unassigned contracts
All retailers.....	\$146	\$264	\$117
Low-income market retailers.....	140	298	124
General market retailers.....	147	261	116
Appliance, radio, and TV.....	210	212	141
Furniture and home furnishings.....	359	383	332
Department store.....	100	-----	100

Source: FTC survey.

Installment Contract Assignment

As a matter of practice, much installment credit is supplied indirectly by finance companies or banks rather than by the retailers directly involved in making purchase-loan transactions. Retailers have arrangements with one or more finance companies or banks to which, after credit approval, the conditional sales contracts or notes are assigned or discounted. The assignment may be coordinated with the purchase and delivery of the merchandise, or it may be made after the sale but before the first payment is due. In rare cases assignment may be made later.

When a contract is assigned by the retailer, the customer's financial obligation is shifted to the "holder in due course" and, under the law, the customer's legal obligation for payment is not to the retailer but to a financial intermediary.¹ This is true regardless of any subsequent dispute that may arise between customer and retailer involving the quality of the product.

Of the \$45.2 million in installment contracts reported for 1966 in the Commission's survey, \$15.8 million or 35 percent was assigned to finance companies and banks (table III-2). Among all retailers reporting installment credit sales, department stores alone assigned no contracts. General market appliance and furniture stores were most dependent on assignment and together accounted for 91 percent of all reported assignments. For appliance

¹ This is true when contracts are assigned *without* recourse. If contracts are assigned *with* recourse, they are returned to the retailer in case of default and he, rather than the assignee, bears the risk.

stores almost all (98 percent) installment credit contracts were assigned; for furniture stores, 57 percent. Finance companies held virtually all of the appliance retailer assigned paper, but only one-third (36 percent) of the furniture retailer paper. Banks held the balance (64 percent) of assigned contracts involving purchases from furniture stores.

TABLE III-2.—NUMBER AND VALUE OF INSTALLMENT CONTRACTS ASSIGNED AND UNASSIGNED BY DISTRICT OF COLUMBIA RETAILERS, 1966
[Dollar amounts in thousands]

Type of retailers	Number of companies	Net sales	Total installment contracts		Contracts assigned		Contracts unassigned (held by retailers)	
			Value	Value as percent of net sales	Value	Percent of total value of contracts	Value	Percent of total value of contracts
Total.....	65	\$150,970	\$45,251	30.0	\$15,818	35.0	\$29,433	65.0
Low-income market retailers.....	18	7,874	7,296	92.7	1,441	19.8	5,855	80.2
General market retailers.....	47	143,096	37,955	26.5	14,377	37.9	23,578	62.1
Appliance, radio, and television.....	22	25,089	8,466	33.7	8,323	98.3	143	1.7
Furniture and home furnishings.....	22	26,643	10,608	39.8	6,054	57.1	4,554	42.9
Department stores.....	3	91,364	18,881	20.6	None	None	18,881	100.0

Source: FTC survey.

Despite the fact that more than 90 percent of sales by low-income market retailers was on an installment basis, this group assigned only 20 percent of their contracts. These typically were the largest contracts. Whereas the average value of unassigned contracts was \$124 in 1966, the average for contracts assigned was \$298 (table III-1).

In all, of the 65 retailers reporting sales on an installment contract basis, 49 assigned all or part of these contracts to finance companies or banks (table III-7). Twenty-one of 22 appliance retailers and 18 of 22 furniture retailers assigned contracts. Four low-income market retailers assigned all and 6 others assigned some of their installment contracts to finance companies. Only department stores assigned no contracts arising from installment sales.

TABLE III-3.—DISTRIBUTION OF TOTAL INSTALLMENT CONTRACTS ASSIGNED TO FINANCE COMPANIES AND BANKS

[Dollar amounts in thousands]

Contract assignment	Value		Number	
	Amount	Percent of total	Amount	Percent of total
Total of all assigned installment contracts.....	\$15,818	100.0	59,934	100.0
Contracts assigned to finance companies.....	11,917	75.3	50,845	84.8
Contracts assigned to banks.....	3,901	24.7	9,089	15.2
Total contracts assigned to finance companies ¹	11,917	100.0	50,845	100.0
Leading 4 finance companies ¹	9,215	77.3	40,786	80.2
Total contracts assigned to banks ²	3,901	100.0	9,089	100.0
Leading 4 banks ²	3,782	96.9	8,860	97.5

¹ The total number of finance companies to which contracts were assigned by retailers surveyed was 21.

² The total number of banks to which contracts were assigned by retailers surveyed was 10.

Source: FTC survey.

Finance companies are most actively engaged in the purchase of installment contracts arising from retail sales transactions (table III-3). Seventy-five percent of the total value of contracts assigned was assigned to finance companies, principally by general market appliance stores and low-income market retailers. Banks supplied 25 percent of all installment contract assignment financing, principally for general market furniture retailers. Nearly all of this business was done by four banks. For other retailers, most contracts were assigned to finance

companies, four of which supplied 77 percent of the funding. General market appliance stores assigned virtually all of their contracts. Four finance companies took 90 percent of this paper. The pattern of assignments by low-income market retailers (who assigned only one-fifth of their paper) was less concentrated, with the top four finance companies accounting for only 65 percent of reported assignments.

Installment Contracts Unassigned

Of the \$45.3 million in installment contracts reported for 1966 in the Commission's survey, \$29.4 million or 65 percent was unassigned—held by the retailers themselves. The extent to which contracts were unassigned varied considerably by type of retailer. Department stores surveyed held all of their contracts; low-income market retailers held four-fifths (80 percent); and general market furniture stores held over two-fifths (43 percent) of the total value of their installment contracts. General market appliance retailers, however, held practically none (2 percent) of their installment paper (table III-2). In total, of 65 retailers reporting installment sales, 16 held all of their own contracts. They included 3 department stores, 8 of the 18 low-income market retailers, and only 5 of the 44 appliance and furniture stores.

Finance Charges on Installment Contracts

With one exception, the stated finance charges were calculated on an "add-on" basis by both low-income and general-income market retailers. This exception was a low-income market retailer who made no separate finance charges in calculating payments due on installment contracts. All of its sales were on a time basis and the price for these goods on the average was three times the cost of goods sold. This markup was somewhat higher than the average for low-income market retailers as a group, who, as a matter of course, added to their selling price additional charges for installment credit.

Other retailers used "add-on" rate charts to determine customers' monthly payments. No account is taken of diminishing balances over the period and, consequently, the "add-on" is not a true or effective annual rate. Table III-4 indicates that the average add-on rate for contracts assigned to finance companies and banks was 11.7 percent of the initial balance, and the average add-on rate for unassigned contracts was 10.7 percent of the initial unpaid balance.¹

The true or effective annual rate that consumers were paying on these installment contracts was approximately twice the add-on rate.

TABLE III-4.—FINANCE CHARGES ON INSTALLMENT CONTRACTS ASSIGNED AND UNASSIGNED BY DISTRICT OF COLUMBIA RETAILERS, 1966

[Dollar amounts in thousands]

Type of retailer	Assigned contracts				Unassigned contracts			
	Value	Percent of total	Percent add-on	Effective annual rate	Value	Percent of total	Percent add-on	Effective annual rate
Totals ¹	\$15,818	100.0	11.7	21	\$27,174	100.0	10.7	20
Low-income market retailers ¹	1,441	9.1	13.4	25	13,596	13.2	12.5	23
General market retailers.....	14,377	90.9	11.5	21	23,578	86.8	10.4	19
Appliance, radio, and television retailers.....	8,323	52.6	12.9	24	143	0.5	10.1	18
Furniture and homefurnishings retailers.....	6,054	38.3	9.8	18	4,554	16.8	9.2	16
Department stores.....	None	None	.....	.....	18,881	69.5	10.7	20

¹ One low-income market retailer has been omitted, because it made no separate charges for installment financing.

² Weighted averages.

Source: FTC Survey.

¹ The new Maryland "Retail Credit Accounts Law," which went into effect June 1, 1967, establishes a maximum of \$12 per \$100 per annum that may be added to the principal balance on installment contracts that do not exceed \$1,000. This is equivalent to a 22-percent effective annual rate of finance charges.

This is because with each payment the amount borrowed was reduced, making the average balance borrowed about half the original unpaid balance. If it is assumed that equal payments are made at equal times (usually monthly) throughout the total period of the contract, the true or effective annual rate can be calculated by a relatively simple formula called the constant ratio method.¹ This formula was applied and checked with actuarial rate tables to obtain the equivalent effective annual rates shown in Table III-4 and subsequent figure and tables.² For installment contracts entered into by the retailers surveyed, in 1966 the average effective annual rate of finance charges was 21 percent on those assigned to finance companies and banks and 20 percent on those held by the retailers themselves.

Table III-5 shows the distribution of all installment contracts by effective annual rates of finance charges for those retailers reporting charges on installment credit sales. The bulk of installment credit sales by low-income market retailers were at effective annual financing rates of 22 percent or more. Nearly half (47.9 percent) was at rates ranging from 26 to 33 percent.

Contracts arising from sales by general market retailers rarely entailed such high charges. Three-fourths were at finance rates of 20 percent or less. This figure is heavily weighted by department store installment credit sales. Less than one percent of general market retailer contracts had finance charges exceeding 24 percent.

Among general market retailers, only appliance stores had rates consistently exceeding 20 percent. These retailers assigned most of their contracts at effective annual rates of 23 to 24 percent. Thus, virtually all of the contracts involving rates exceeding 24 percent were written by low-income market retailers.

Figure III-1 summarizes the distribution of effective annual rates of finance charges on installment contracts of low-income market and general market retailers for all installment contracts, as well as for assigned and unassigned contracts.

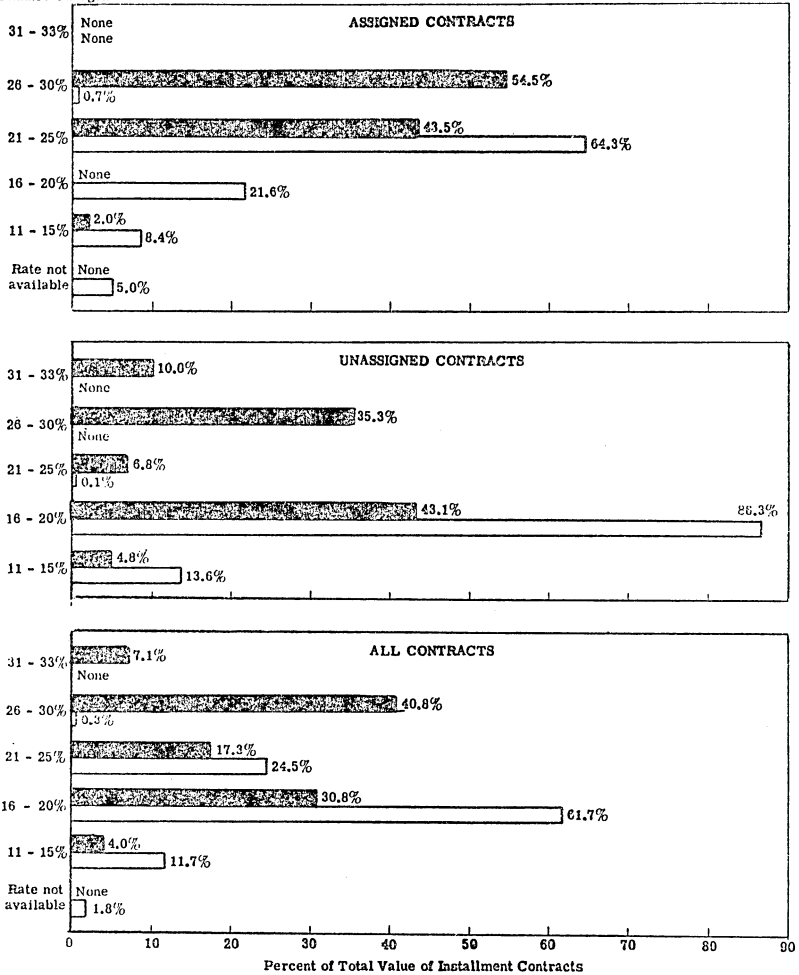
¹ The constant ratio method assumes that the allocation of the charge is proportional to the number of periodic payments. The formula is as follows:

$$\frac{2mD}{i = P(n-1)}$$

In this formula "i" is the effective rate of finance charge per annum; "m" is the number of payments per year; "P" is the amount borrowed on principal; "D" is the financing charge in dollars; and "n" is the number of payments to discharge the debt. Neifeld, M. R., *Neifeld's Guide to Installment Computations*, Mack Publishing Company, Easton, Penn., 1951, Chapter XI, pp. 193-195; and Board of Governors of the Federal Reserve System, *Consumer Installment Credit*, Volume I, Part I (1957), p. 54.

² The United States Rule prescribes the actuarial method of computation for finance charges. The use of the actuarial method is proposed in the pending "Truth in Lending" bill and the pending installment sales bill for the District of Columbia. The principle of the United States Rule is that "interest is to be computed on the amount due to the time of the first payment, then the payment applied, if it exceeds the interest up to that time, and a computation made of the interest on the balance to the time of the second payment, and so on." Neifeld, *op. cit.*, p. 317. The effective annual rates shown in Table III-4 and subsequent figure and tables were calculated from "add-on" rates by the constant ratio method and then checked against actuarial tables. Installment contracts for appliances and furniture seldom exceed 24 months. For this time period (under 36 months), the constant ratio method formula provides substantially the same results in effective annual rates as the actuarial method (United States Rule). Effective annual rates in Table III-4 and subsequent figure and tables have been rounded to the nearest whole number.

Effective Annual Rates
of Finance Charges



Source: FTC Survey.

Low-Income Market Retailers
General Market Retailers

FIGURE III-1.—Distribution of effective annual rates of finance charges on installment contracts of low-income and general market retailers, 1966.

TABLE III-5.—INSTALLMENT CONTRACTS DISTRIBUTED BY EFFECTIVE ANNUAL RATE OF FINANCE CHARGE (ASSIGNED AND UNASSIGNED)¹

[Dollar amounts in thousands]

Effective annual rate of finance charge (percent)	Value of contracts at each effective annual rate for—					
	Low-income market retailers		General market retailers		All retailers combined	
	Value of contracts	Percent of total	Value of contracts	Percent of total	Value of contracts	Percent of total
33-----	\$360	7.1	-----	-----	\$360	0.8
29-----	283	5.6	\$99	0.3	382	.9
27-----	1,087	21.6	-----	-----	1,087	2.5
26-----	685	13.6	-----	-----	685	1.6
24-----	-----	-----	3,541	9.3	3,541	8.2
23-----	-----	-----	4,576	12.1	4,576	10.6
22-----	871	17.3	1,173	3.1	2,044	4.8
20-----	-----	-----	16,872	44.4	16,872	39.2
18-----	1,550	30.8	173	.5	1,723	4.0
17-----	-----	-----	6,311	16.6	6,311	14.7
16-----	-----	-----	77	.2	77	.2
15-----	187	3.7	3,210	8.5	3,397	7.9
14-----	-----	-----	460	1.2	460	1.1
13-----	-----	-----	115	.3	115	.3
11-----	14	.3	635	1.7	649	1.5
Rate not available-----	-----	-----	713	1.8	713	1.7
Total-----	5,037	100.0	37,955	100.0	42,992	100.0

¹ Includes all installment contracts for which separate finance charges were specified.

Source: FTC survey.

Contractual Arrangements for Assignment of Installment Credit

To better understand the factors determining finance charges, contracts were analyzed on the basis of whether they were assigned to finance companies and banks or held by retailers themselves. Assignment of contracts is a method of transferring the costs and, in many cases, the risk of handling installment contracts from the retailer to the finance company. There is a variety of contractual arrangements between retailers and finance companies or banks for the assignment of contracts. The nature of these arrangements is an important factor in determining finance charges. Contracts that are unassigned often have different risk characteristics than those that are assigned. Thus, finance charges may vary depending on whether or not retailers assign their contracts.

Finance Charges on Assigned Installment Credit Contracts.—Sixty-eight percent of the value of all assigned contracts carried finance charges yielding an effective annual rate of 22 percent or more. For low-income market retailers this proportion was 98 percent. Sixty-two of all assigned contracts had rates ranging between 22 and 24 percent (table III-6 and figure III-1). Contracts assigned at these rates were, for the most part, entered into by general market appliance retailers. Practically all of the assignments at 17 percent or less were by general market furniture stores and, as noted below, usually involved recourse arrangements with banks.

TABLE III-6.—ASSIGNED INSTALLMENT CONTRACTS DISTRIBUTED BY EFFECTIVE ANNUAL RATE OF FINANCE CHARGE

[Dollar amounts in thousands]

Effective annual rate of finance charge (percent)	Value of contracts at each effective annual rate for—					
	Low-income market retailers		General market retailers		All retailers combined	
	Value of contracts	Percent of total	Value of contracts	Percent of total	Value of contracts	Percent of total
29.....	\$283	19.6	\$59	0.7	\$382	2.4
27.....	23	1.6	-----	-----	23	.2
26.....	480	33.3	-----	-----	480	3.0
24.....	-----	-----	3,535	24.6	3,535	22.3
23.....	-----	-----	4,576	31.8	4,576	28.9
22.....	627	43.5	1,137	7.9	1,764	11.2
17.....	-----	-----	3,105	21.6	3,105	19.6
15.....	14	1.0	2	(1)	16	.1
14.....	-----	-----	460	3.2	460	2.9
13.....	-----	-----	115	.8	115	.8
11.....	14	1.0	635	4.4	649	4.1
Rate not available.....	-----	-----	713	5.0	713	4.5
Total.....	1,441	100.0	14,377	100.0	15,818	100.0

¹ Less than 0.1 percent.

Source: FTC survey.

Recourse Arrangements on Assigned Contracts.—Most commonly, finance companies, in accepting assignment of installment credit contracts from retailers, reimburse the retailer for an amount equivalent to the unpaid cash balance indicated on the contract. In the simplest type of transaction, the finance company's income from providing credit is equivalent to the stated financing charge and is designed to cover all costs of credit, collection, and risks of default.

In fact, however, there are many possible variations on this type of transaction. A number of these variations were uncovered in the course of our survey. The first and simplest relates to the question of recourse. Typically, contracts assigned to finance companies are on a non-recourse basis. In such circumstances the finance company assumes all risks associated with default and is solely responsible for any proceedings to enforce satisfaction of the debt.

Assignment, however, may be on a recourse basis, in which case the retailer assigning the contract in effect guarantees it in the event of customer default. In terms of total value, almost all contracts on a recourse basis involved banks serving general market furniture retailers.¹

More than 50 percent of total assignments [and 73 percent of assignments to finance companies] were at rates yielding effective annual finance charges of 23 to 24 percent (table III-6 and appendix table A). The highest yielding non-recourse assignments to finance companies were by low-income market retailers. Fifty-five percent of such assignments yielded 26 to 29 percent. Assignments with the lowest finance charges (17 percent or less) involved, for the most part, banks who took paper on a recourse basis (appendix table A). The latter's activity, however, was limited almost entirely to contracts involving sales by general market furniture retailers.

¹ There were instances, however, when finance companies took assigned installment contracts only on a recourse basis. These were usually on contracts assigned by low-income market retailers.

Participation and Holdback Arrangements.—In addition to recourse considerations, agreements between finance companies and retailers may specify participation or holdback fees. A participation arrangement, frequently referred to as a kickback, is a bonus given by a finance company to a retailer assigning a contract. This bonus involves some percentage return over and above the initial unpaid balance of the contract. It is the equivalent of the retailer and finance company splitting finance charges. Twenty-nine of the forty-nine retailers in our sample reporting installment contract assignments had a participation arrangement with one or more finance companies (table III-7). These returns to the retailer ranged between .5 percent and 5.0 percent of the amount of the unpaid cash balance.

TABLE III-7.—SPECIAL PROVISIONS INCLUDED IN CONTRACTUAL ARRANGEMENTS BETWEEN RETAILERS AND FINANCE COMPANIES OR BANKS

Type of retailer	Number of retailers assigning contracts	Number of retailers reporting				
		Participation arrangements			Holdback requirements	
		Participation (kickback)	Range of participation (percent)	No participation	Holdback by financier	Range of holdbacks (percent)
Low-income market retailers.....	10	4	1.2-2	6	5	5-30
General market retailers:						
Appliance, radio, and television retailers...	21	17	1.0-4	4	1	3-5
Furniture and home furnishing retailers...	18	8	.5-5	10	3	3-5
Department stores.....	(1)					
Total.....	49	29	.5-5	20	9	3-30

1 None.

Source: FTC survey.

Holdback arrangements may be viewed as the reverse of kickbacks. There were nine retailers who reported a holdback requirement by finance companies. This is a restrictive provision assessed upon retailers who are in a poor bargaining position and have generally poor-risk paper that they want to assign. Finance companies and banks in these cases are reluctant to take the contracts unless the retailer is willing to take less than the full amount of the initial unpaid cash balance. In other words, the retailer must literally "pay" the finance company or bank to take the assignment. This is a payment over and above the finance charges paid by the customer originally signing the contract. Holdbacks, which ranged from 3 to 30 percent were reported primarily by low-income market retailers. These payments are held in reserve by the financier until all contracts are liquidated. Losses are charged against this reserve and holdback payments are returned to the retailer only if the losses do not exceed the amount held back. Low-income market retailers were unable to assign a significant volume of installment contracts at less than 26 percent (effective annual rate) without some form of holdback arrangement. Other retailers assigning large quantities of paper, usually at 23 percent to 24 percent, for the most part, had no holdbacks charged against them.

Finance Charges on Unassigned Contracts

Sixty-five percent of reported installment credit was unassigned (table III-2). The volume of unassigned contracts on which finance charges were made (\$27.2 million) was heavily weighted by department stores who accounted for \$18.9 million or over two-thirds of the total (table III-4). Department stores were alone among retailers assigning no contracts. Installment sales amounted to 20 percent of their total sales.

Other unassigned installment credit was supplied by general market furniture stores and low-income market retailers. General market furniture retailers held \$4.6 million in contracts, equal to 43 percent of their credit sales and about 17 percent of total sales. Low-income market retailers held unassigned contracts of \$5.9 million, equivalent to 80 percent of all their credit sales and nearly the same percent of their total sales. For those low-income market retailers imposing separate finance charges on installment credit, the value of unassigned contracts was \$3.6 million, equal to 64 percent of this group's total sales, virtually all of which were on an installment credit basis.

Ninety-three percent of the total value of *unassigned* installment contracts carried finance charges yielding an effective annual rate of 20 percent or less (table III-8 and figure III-1). This was heavily affected by the relatively low rates on unassigned contracts financed by general market department stores and furniture stores.

Finance charges on unassigned contracts of department stores ranged from 17 to 20 percent. Our survey indicated that most contracts (89 percent) were at the 20 percent rate (appendix table B). Finance charges by general market furniture stores for the most part (98 percent) ranged between 15 and 17 percent.

Finance charges by low-income market retailers were more variable. Among this group of retailers one large company, which sold entirely on installment credit, made no finance charges on its unassigned installment contracts, preferring instead to price its merchandise to cover installment costs. Other low-income market retailers charged an average effective annual rate of 23 percent on unassigned installment contracts. The highest effective annual rates of finance charges made were 33 percent and 27 percent. Total contracts at these rates accounted for about 40 percent of the total value of contracts held by those low-income market retailers making finance charges. The other predominant effective annual rate was 18 percent and accounted for 43 percent of the total value of contracts (table III-8 and figure III-1).

TABLE III-8-8.—UNASSIGNED INSTALLMENT CONTRACTS DISTRIBUTED BY EFFECTIVE ANNUAL RATE OF FINANCE CHARGE¹

[Dollar amounts in thousands]

Effective annual rate of finance charge (percent)	Value of contracts at each effective annual rate for—					
	Low-income market retailers		General market retailers		All retailers combined	
	Value of contracts	Percent of total	Value of contracts	Percent of total	Value of contracts	Percent of total
33.....	\$360	10.0	.....	.....	\$360	1.3
27.....	1,064	29.6	.....	.....	1,064	3.9
26.....	205	5.7	.....	.....	205	.8
24.....	.....	.....	36	(?)	6	(?)
22.....	244	6.8	36	0.1	280	1.0
20.....	.....	.....	16,872	71.6	16,872	62.1
18.....	1,550	43.1	173	.7	1,723	6.3
17.....	.....	.....	3,206	13.6	3,206	11.8
16.....	.....	.....	77	.4	77	.3
15.....	173	4.8	3,208	13.6	3,281	12.5
Total.....	3,596	100.0	23,578	100.0	27,174	100.0

¹ Includes all installment contracts for which separate finance charges were specified.

² Less than 0.1 percent.

Source: FTC survey.

Judgments, Garnishments, and Repossessions by Retailers

When an account under an installment sales contract becomes delinquent, the holder of that contract can proceed to collect by several legal means. A judgment can be obtained that will permit repossession of the merchandise or garnishment of the wages of the purchaser.¹ If the retailer has assigned the contract *without* recourse, the finance company or bank takes the risk of loss and proceeds to exercise its legal rights. Consequently, retailers are not involved in the collection process if they assign without recourse. If a delinquent account comes back to the retailer who has assigned *with* recourse or if an account originally financed by the retailer himself becomes delinquent, the retailer does not become involved in legal processes if he turns the account over to a collection agency. For these reasons, many retailers in this survey had no records on the volume of judgments, garnishments, or repossessions.

¹ Repossession can be accomplished without court action by the holder of the installment conditional sales contract. In such instances, if the proceeds of a public sale of the repossessed item does not cover the unpaid balance plus fees, the holder can still sue on the contract and get a judgment for the deficiency.

TABLE III-9.—JUDGMENTS, GARNISHMENTS, AND REPOSSESSIONS ON DELINQUENT INSTALLMENT CONTRACTS REPORTED BY DISTRICT OF COLUMBIA RETAILERS, 1966

Type of retailer	Number of retailers reporting	Total judgments	Judgments resulting in—	
			Garnishments	Repossessions
Low-income market retailers.....	11	2,690	1,568	306
General market retailers:				
Appliance, radio, and television retailers.....	3	-----	-----	3
Furniture and home furnishings retailers.....	8	70	26	13
Department stores.....	1	29	9	-----
Total.....	23	2,789	1,603	322

Source: FTC survey.

Eleven low-income market retailers obtained 2,690 judgments in 1966. Their legal actions resulted in 1,568 garnishments and 306 repossessions (table III-9). In contrast, general market retailers reported very few judgments. The eight furniture and home furnishings stores providing such data reported only 70 judgments for the year 1966. Low-income market retailers obtained almost that number of judgments in an average *week*. One large department store, whose 1966 sales far exceeded the total for the entire low-income market group, reported only 29 judgments.

To gain additional perspective on the extent to which the courts are being used as a collection agency, the number of suits filed in 1966 by the surveyed retailers in their own names was determined from the records of the District of Columbia Court of General Sessions. These suits included actions for collection of 30-day, revolving credit, and installment contract accounts. They did *not* include suits filed by collection agencies as assignees of retailers' accounts. During 1966, the 18 low-income market retailers in this study filed 3,030 suits, the equivalent of one suit for every \$2,599 of their net sales. Among the general market retailers in the sample, 22 appliance stores filed 53 suits; 22 furniture stores, 207; and 3 department stores, 356 (table III-10). All together, there were only 616 suits filed by the 47 general market retailers, which averaged one suit for every \$232,299 of their net sales.

An additional unknown number of suits involving default on merchandise credit sales was filed by collection agencies. Various retailers may prefer to assign delinquent paper to a collection agency. This shifts the responsibility for obtaining legal assistance and minimizes whatever risk of bad publicity credit suits might incur.

TABLE III-10.—DEBT SUITS FILED IN THE DISTRICT OF COLUMBIA BY LOW-INCOME MARKET AND GENERAL MARKET RETAILERS, 1966

Type of retailer	Number of suits filed	Number of retailers	Net sales 1966 (thousands)	Net sales per debt suit
Total sample of low-income market and general market retailers.....	3,646	65	\$150,970	\$41,407
Low-income market retailers.....	3,030	18	7,874	2,599
General market retailers.....	616	47	143,096	232,299
Appliance, radio, and television.....	53	22	25,089	473,377
Furniture and home furnishings.....	207	22	26,643	128,710
Department stores.....	356	3	91,364	255,640

Source: District of Columbia Court of General Sessions, Debt Suit Files; FTC survey.

Nevertheless, it is clear that general market retailers resort to the courts, either directly or indirectly, much less frequently than do low-income market retailers. If the 47 general market retailers had obtained judgments at the same rate as did the low-income market retailers, a very large number of court cases would have occurred. Instead of the 616 judgments which they actually

obtained, general market retailers would have had a total of 55,000 judgments if they had filed one suit for every \$2,599 in sales, as did the low-income market retailers (table III-10). In fact, the total number of suits in 1966 involving claims of \$10,000 or less was 49,000, only a part of which were claims for payment for merchandise purchases. The latter figure involved claims for a multitude of causes: auto accidents, small loan defaults, failure to pay utility bills and the like. Clearly, a number of low-income market retailers have come to view the courts as an integral part of their credit-collection system and in so doing have put a heavy burden on our legal system.

CHAPTER IV

CUSTOMER PROFILE OF LOW-INCOME MARKET RETAILERS: A CASE STUDY

This chapter provides a profile of the familial, age, income, occupational and certain other characteristics of the customers of a low-income market retailer of furniture and appliances. It also explores the credit alternatives available to these customers, the products they most frequently purchase, and the length of their installment contracts. The analysis is based on a sample of 486 installment contracts and credit applications on sales made by one low-income market retailer and provides an insight into the unique nature of the low-income consumer market.

Customer Characteristics

Marital Status and Sex.—Almost two-thirds (63.0 percent) of the customers in the sample were married couples (table IV-1). Whenever possible the salesman endeavored to have both the wife and husband sign the contracts. In many cases, however, only the signature of the wife was obtained.

TABLE IV-1.—MARITAL STATUS AND SEX OF CUSTOMERS

Status and sex	Number of customers	Percent of total
Married.....	306	63.0
Single.....	68	14.0
Men.....	27	
Women.....	41	
Divorced.....	8	1.6
Men.....	1	
Women.....	7	
Separated.....	74	15.2
Men.....	11	
Women.....	63	
Widowed.....	30	6.2
Men.....	1	
Women.....	29	
Total.....	486	100.0
Married couples.....	306	63.0
Individual men.....	40	8.2
Individual women.....	140	28.8
Total.....	486	100.0

Source: Bureau of Economics, Federal Trade Commission.

Most of the remaining customers were women (29 percent). Half of these women were divorced or separated.

Age Distribution of Customers.—Since in most instances data were given for both husband and wife, the age distribution was made for the combined sample of men and women. Most of the sample of customers were between 20 and 40 years old (table IV-2), the largest group being between 20 and 29. Few sales were made to customers under 20 or over 50 years of age.

TABLE IV-2.—COMPARISON OF AGE (OVER 20) DISTRIBUTION OF CUSTOMERS WITH 1960 U.S. CENSUS AGE (OVER 20) DISTRIBUTION FOR ALL DISTRICT OF COLUMBIA RESIDENTS

Age distribution	Percent of number reporting in— ¹	
	Sample of customers ²	U.S. Census ³
20 to 29 years.....	40.1	22.1
30 to 39 years.....	31.6	21.0
40 to 49 years.....	17.4	19.7
50 to 59 years.....	7.7	17.3
60 years and over.....	3.2	19.9
Total.....	100.0	100.0

¹ Does not include 13 customers (1.7 percent) under 20 years of age.² The sample included a total number of 748 individuals over 20 years of age.³ Percentages derived from U.S. Census of Population, 1960, vol. 1, "Characteristics of the Population," pt. 10, District of Columbia, p. 19.

Source: Bureau of Economics, Federal Trade Commission.

The sample included almost twice the proportion of individuals in the 20 to 29 years age group as was reported in the 1960 Census. The proportion in the 30 to 39 years age group was also considerably larger than that group shown in the Census age distribution. This is not surprising since installment purchases of furniture and household items are most likely to be made by individuals during their active years of family formation.

Size and Type of Families.—The number and type of families or households with 2 or more persons represented by the customers in the sample are shown in table IV-3. Leaving out unrelated individuals, there was a total of 420 families. Two characteristics of family organization can be noted. First, there was a comparatively large number of families with female heads-of-household (24 percent). Almost one-fourth of the customers were single, separated, or widowed women who were primarily responsible for family support.

TABLE IV-3.—SIZE AND TYPE OF CUSTOMERS' FAMILIES
DISTRIBUTION OF CUSTOMERS BY TYPE OF FAMILY

Type of family	Number	Percent of total families
Husband-wife.....	306	72.9
Other male head.....	15	3.5
Female head.....	99	23.6
Total families.....	420	100.0
Unrelated individuals.....	66	-----
Total customers.....	486	-----

SIZE DISTRIBUTION OF CUSTOMERS' FAMILIES COMPARED WITH 1960 U.S. CENSUS SIZE DISTRIBUTION OF DISTRICT OF COLUMBIA FAMILIES

Size of family	Number of customer families	Percent of total families	
		Customers	U.S. census ¹
2 persons.....	78	18.6	40.6
3 persons.....	74	17.6	21.3
4 persons.....	85	20.2	15.2
5 persons.....	78	18.6	9.5
6 persons.....	40	9.5	5.7
7 or more.....	65	15.5	7.7
Total.....	420	100.0	100.0
Average per family.....	² 4.3	-----	-----

¹ Percentages derived from U.S. Census of Population, 1960, vol. 1, "Characteristics of the Population," pt. 10, District of Columbia, p. 92.² Census average per family is 3.5 persons.

Source: Bureau of Economics, Federal Trade Commission.

Second, customers' families were larger than average when compared to all District of Columbia families. The average size of these families was 4.3 persons, as compared with a Census average of 3.5 persons per family. Only 19 percent of the sample was in the 2-person family category, as compared with 41 percent of the Census family population in this size group. The larger families were much more prevalent in the sample of customers. Almost half (43.6 percent) of customers' families were of five persons or more, while less than one-fourth (22.9 percent) of the Census family population was in this size group.

Types of Residence.—The types of residence of customers are shown in table IV-4. Most of the sample of customers (93 percent of the total) rented an apartment, house, or room. Only 6.4 percent of the customers in this sample either owned or were buying their own residence. For 1960 the Bureau of the Census indicates that 61 percent of all housing units were owner-occupied. Among non-whites in the population the figure was 38 percent.¹

TABLE IV-4.—TYPES OF RESIDENCE OF CUSTOMERS

Type residence	Number	Percent of total
Rental:		
Rent apartment ¹	318	65.4
Rent house.....	131	27.0
Rent room.....	3	.6
Total, rentals.....	452	93.0
Ownership:		
Buying house.....	27	5.6
Owms house.....	3	.6
Buying apartment.....	1	.2
Total, ownerships.....	31	6.4
Live with relatives.....	3	.6
Total, sample.....	486	100.0

¹ Includes 1 customer who was a custodian and received the use of an apartment as part of his income.

Source: Bureau of Economics, Federal Trade Commission.

Income of Customers.—The distribution of customers by monthly income and annual income categories is shown in table IV-5. The data used to prepare these tabulations included total family income earnings of husband and wife when both were employed and income from sources other than employment.

TABLE IV-5.—INCOME OF CUSTOMERS

MONTHLY FAMILY INCOME OF CUSTOMERS, 1966		
Monthly income	Number	Percent of total
Less than \$100.....	5	1.0
\$100 to \$199.....	52	10.7
\$200 to \$299.....	130	26.7
\$300 to \$399.....	117	24.1
\$400 to \$499.....	66	13.6
\$500 to \$599.....	65	13.4
\$600 to \$699.....	22	4.5
\$700 to \$799.....	17	3.5
\$800 and over.....	12	2.5
Total.....	486	100.0

Note: Median monthly income, \$348.

¹ *Statistical Abstract of the United States*, 1965, p. 763, Table No. 1107.

ANNUAL FAMILY INCOME OF CUSTOMERS COMPARED WITH ESTIMATES OF 1966 INCOME OF DISTRICT OF COLUMBIA HOUSEHOLDS

Annual income	Annual family income of customers ¹		Estimated percent distribution of 1966 income of all households in the District of Columbia ²
	Number reporting	Percent of total	
Less than \$3,000.....	129	26.5	16.6
\$3,000 to \$4,999.....	193	39.7	15.6
\$5,000 to \$7,999.....	129	26.5	27.8
\$8,000 to \$9,999.....	26	5.4	12.2
\$10,000 and over.....	9	1.9	27.8
Total.....	486	100.0	100.0

¹ Income for customers, reported in the spring of 1966, was projected to annual by multiplying monthly family income by 12. Income was reported before taxes or deductions.

² Estimates published by Sales Management magazine, June 10, 1967, "Survey of Buying Power," p. D-47. These estimates are of spendable or disposable income. They are not strictly comparable with before-tax income reported by customers.

Note: Median annual income: Customers, \$4,176; estimate for District of Columbia, \$5,920.

Source: Bureau of Economics, Federal Trade Commission.

The median monthly family income of the sample of customers—with about one-half below and about one-half above this level—was \$348 in 1966. This is very low when it is recognized that the average size of family for this sample was 4.3 persons. More than one-third (38.4 percent) of the total customers received income of less than \$300 per month; about one-quarter (24 percent) received from \$300 to \$399 per month; and one-quarter (27 percent) received from \$400 to \$599 per month. Only about one-tenth of the customers received a monthly income of \$600 and over during the year 1966. The Bureau of Labor Statistics recently estimated that the maintenance of a moderate standard of living for four in Washington, D.C. requires a monthly income of \$730.¹

A comparison of annual family income categories of the sample of customers with estimates of the distribution of 1966 annual income of all households in the District of Columbia is given at the bottom of table IV-5. The estimates for 1966 are actually based on disposable income, which should be less than the gross income reported by the sample of customers. The median annual income of sample customers was \$4,176, as compared with the median estimate of \$6,920 for all families in the District of Columbia. Almost two-thirds of the customer sample (66 percent) had an annual income of less than \$5,000, while for the District of Columbia as a whole only about one-third (32 percent) of the households had incomes below \$5,000. The moderate income bracket of \$5,000 to \$7,999 accounted for about one-fourth of the income of customers in the sample and estimated income of all families in the District of Columbia. There is a very sharp contrast for the income bracket over \$8,000; the sample of customers included only 7 percent in this relatively affluent group, while it was estimated that 40.0 percent of all families in the District of Columbia had incomes of over \$8,000 in 1966. These comparisons clearly indicate that the customers in the sample were individuals with below average income.

Sources of Income.—The principal source of income of customers was wages from occupations. The data in table IV-6 show a breakdown of wages and other sources of income for married couples, individual men, and individual women in the sample of customers.

Out of a total of 306 married couples, in 119 cases (or 38.9 percent) both husband and wife were employed. Practically all of the individual men customers were employed. For the individual women in the sample, however, out of a total of 140, there were 37 (or 26 percent) who were not employed.

¹ This estimate is for a family of four living in a rented residence during 1966 in the Washington, D.C. metropolitan area. Phillips Groom, "A New City Worker's Family Budget," *Monthly Labor Review*, Bureau of Labor Statistics, November 1967, p. 3.

TABLE IV-6.—SOURCES OF INCOME OF CUSTOMERS

Source of income	Number
Married couples:	
Both husband and wife employed.....	119
Husband only working.....	169
Wife only working.....	8
Neither employed.....	10
Total married couples.....	306
Social Security and pensions.....	14
Welfare recipients.....	9
Individual men:	
Employed.....	37
Not employed.....	3
Total individual men.....	40
Social Security and pensions.....	2
Welfare recipients.....	1
Individual women:	
Employed.....	103
Not employed.....	37
Total individual women.....	140
Social Security and pensions.....	30
Welfare recipients.....	21
Alimony recipients.....	10
Income from relatives.....	5
Income received from occupations:	
Both husband and wife (119 times 2).....	238
Others employed.....	317
Total gainfully employed.....	555
Income from other sources:	
Social Security and pensions.....	46
Welfare recipients.....	31
Alimony recipients.....	10
Income from relatives.....	5
Total other sources.....	92

Source: Bureau of Economics, Federal Trade Commission.

Social Security and pensions were a source of income for very few married couples and individual men customers. However, there was a considerable number (30) of individual women, primarily widows, who received income from these sources.

There were 31 welfare recipients in the sample, accounting for 6.3 percent of the total sample of 486 separate customers. Most of these (68 percent) were individual women, usually separated, who were receiving welfare payments for themselves and for support of children.

Other sources of income were alimony payments and income received from relatives. There were a number of women (15) who were wholly or partially dependent on these income sources.

Frequently low-income married couples, as well as individual men and women, received income from more than one source. Part-time employment often supplemented Social Security and pension income, support payments, and alimony.

Occupations of Customers.—A detailed tabulation of occupations of customers (including working wives) is shown in table IV-7. As is suggested by the preceding data on incomes, the predominant number of customers were in low paid occupations. The largest occupational group was Service Workers (including food service, janitors, and hospital workers), accounting for more than one-quarter (28 percent) of total employment. The next largest category was Operatives (including truck and other drivers and laundry and dry cleaning workers), accounting for 18 percent of total employment. Laborers represented 15 percent and Household or Domestic Workers 15 percent of the employment of customers. These four occupational groups together accounted for three-quarters (75 percent) of all employment reported.

Clerical Workers (both men and women) accounted for 12 percent of the sample; and Craftsmen (mostly construction) accounted for an additional 10 percent. The other occupational groups—Sales Workers, Professional Workers, Managers, and Members of the Armed Forces—taken together accounted for only 4 percent of the total employment of customers.

TABLE IV-7.—OCCUPATIONS OF CUSTOMERS

[Based on total of 555 individual men and women (including wives) reporting employment]

Type of occupation	Number	Percent of total
Service workers, except household.....	153	27.6
Food service workers.....	61	11.0
Janitors, porters, and charwomen.....	40	7.2
Hospital service workers.....	30	5.4
Other service workers.....	22	4.0
Operatives and kindred workers.....	99	17.8
Truck, taxi, and other drivers.....	54	9.7
Laundry and dry cleaning workers.....	19	3.4
Other operatives.....	26	4.7
Laborers, except farm and mine.....	84	15.1
Household or domestic workers.....	82	14.8
Clerical and kindred workers.....	64	11.5
Mail carriers and clerks.....	12	2.2
Other men clerical workers.....	23	4.1
Other women clerical workers.....	29	5.2
Craftsmen, foremen, and kindred workers.....	53	9.6
Construction craftsmen.....	37	6.7
Foremen.....	5	.9
Other skilled workers.....	11	2.0
Sales workers.....	6	1.1
Professional and technical workers.....	5	.9
Managers and proprietors.....	3	.5
Members of the Armed Forces.....	6	1.1
Total.....	555	100.0

Source: Bureau of Economics, Federal Trade Commission.

A comparison of civilian occupations of customers with the 1960 U.S. Census percent distribution of occupations among District of Columbia residents is given in table IV-8. Manual occupations of customers in five categories (Service Workers, Operatives, Laborers, Domestic Workers, and Craftsmen) accounted for 86 percent of total employment in the sample, while these same categories accounted for only 44.0 percent of the civilian employment in 1960 of all residents of the District of Columbia. Clerical Workers made up only 12 percent of the civilian employment of customers, while more than twice that proportion (29 percent) were employed in clerical work among the total population. Only 2 percent of customers in the sample were employed as Professional and Technical Workers or Managers and Proprietors, while 23 percent of total civilian employment in the District of Columbia were in these two occupational categories.

Credit Availability

The family, occupation and income characteristics outlined in the preceding pages are central considerations in the granting of credit to any prospective customer. As a group, the customers included in the sample would be judged marginal risks by most prospective credit grantors. In fact, a review of credit references noted in the 486 contracts subjected to detailed analysis revealed that 70 percent indicated either no credit references or credit references from low-income market retailers only (table IV-9). For those with monthly incomes of less than \$300, the figure was 78 percent.

Except for limited purchases, customers in this group for the most part would be considered unqualified to receive credit from general market retailers.

Access to alternative credit sources increases with higher income, even for the group included in the study sample. Only 22 percent of individuals with income below \$300 per month had established credit at retail and financial establishments other than low-income market retailers; on the other hand, 43 percent of those with income exceeding \$500 per month had such credit. For those with incomes in the \$300 to \$500 bracket, the figure was 31 percent (table IV-9).

Somewhat surprising, however, is the high proportion of customers with income above average for the sample who had established credit only with low-income market retailers. Though some may still have failed to qualify for credit else-

TABLE IV-8.—CIVILIAN OCCUPATIONS OF CUSTOMERS COMPARED WITH 1960 U.S. CENSUS PERCENT
DISTRIBUTION OF CIVILIAN OCCUPATIONS IN THE DISTRICT OF COLUMBIA

Occupation groups	Civilian occupations of customers ¹		1960 U.S. census of the District of Columbia ² (percent dis- tribution of civilian occupations)
	Number	Percent of total	
Service workers, except household.....	153	27.9	15.1
Operatives and kindred workers.....	99	18.0	9.7
Laborers, except farm and mine.....	84	15.3	5.5
Household or domestic workers.....	82	14.9	5.8
Clerical and kindred workers.....	64	11.7	28.5
Craftsmen, foremen, and kindred workers.....	53	9.7	7.9
Sales workers.....	6	1.1	4.7
Professional and technical workers.....	5	.9	16.1
Managers and proprietors.....	3	.5	6.6
Farmers and farm laborers.....			.1
Total.....	549	100.0	100.0

¹ Members of Armed Forces omitted. Consequently, total and percentages are different from preceding table.

² Percentages derived from U.S. Census of Population, 1960, vol. 1, "Characteristics of the Population," pt. 10, District of Columbia, p. 38. The civilian occupational distribution is for combined male and female employed persons.

Source: Bureau of Economics, Federal Trade Commission.

TABLE IV-9.—CREDIT REFERENCES OF CUSTOMERS¹ (CLASSIFIED BY INCOME GROUPS OF CUSTOMERS)

Type of credit reference	Monthly income groups of customers						Total number of cus- tomers	Percent of total
	Less than \$300	Percent of group total	\$300 to \$499	Percent of group total	\$500 and over	Percent of group total		
No credit references submitted.....	99	53.0	91	49.7	44	37.9	234	48.1
Credit obtained only from other low-income market retailers.....	46	24.6	36	19.7	22	19.0	104	21.4
Subtotal.....	145	77.6	127	69.4	66	56.9	338	69.5
Credit obtained from other types of retailers and financial institutions.....	42	22.4	56	30.6	50	43.1	148	30.5
Total.....	187	100.0	183	100.0	116	100.0	486	100.0

¹ Credit reference data obtained from credit applications submitted by customers to 1 low-income market retailer.

Source: Bureau of Economics, Federal Trade Commission.

where due to heavy indebtedness, numerous dependents, or uncertain job status, others surely could have qualified as acceptable credit risks of general market retailers. Apparently certain customers continued to buy at high-price, high-margin stores because of inadequate knowledge concerning alternative buying opportunities. Still others bought from such stores because of personal relationships maintained by the retailer. Personal selling is an important part of the marketing effort of these high-price retailers. Continuing contact with customers is maintained through the use of outside salesmen or as a result of frequent visits by customers to make installment payments. Upon each visit the customer may be subjected to additional sales persuasion.¹

Characteristics of Purchases and Installment Contracts

From the sample of 486 contracts, it was possible to determine the size of purchases, kind of merchandise purchased, and length of contracts. Additional tabulations were made to indicate the purchases and payment schedules of welfare recipients and customers with the lowest monthly incomes.

Size of Purchase.—The total amount of purchases represented by the sample of 486 contracts was \$100,613, or an average purchase of \$207. The contracts were for varied amounts, from less than \$50 to \$800 and over (table IV-10).

More than half of the purchases (53.7 percent) amounted to less than \$100.

¹ These and other factors are discussed in: David Caplovitz, *The Poor Pay More*, Free Press of Glencoe, 1963, a case study of low-income market retailers in New York City

Purchases of \$100 to \$299 accounted for 15.0 percent of the total contracts. One-fifth (20.8 percent) of the contracts were for \$300 to \$499. Only 10.5 percent of the total number of purchases made were for \$500 or more.

TABLE IV-10.—SIZE OF PURCHASES

Value of purchase	Number of purchases	Percent of total
Less than \$50.....	43	8.8
\$50 to \$99.....	218	44.9
\$100 to \$199.....	34	7.0
\$200 to \$299.....	39	8.0
\$300 to \$399.....	60	12.4
\$400 to \$499.....	41	8.4
\$500 to \$599.....	20	4.1
\$600 to \$699.....	14	2.9
\$700 to \$799.....	9	1.9
\$800 and over.....	8	1.6
Total.....	486	100.0

Note: Average size of purchase, \$207.02. Computation of average size of purchase based on total of 486 purchases and \$100,613 total sales.

Source: Bureau of Economics, Federal Trade Commission.

Length of Installment Contracts.—Credit payment schedules were designed to fit the customers' income schedules. Typically, contracts for less than \$100 were arranged with weekly payments over a period of a year. Other contracts required bi-weekly payments. The data in table IV-11 are expressed in months although frequently payment periods were weekly or bi-weekly.

Installment contracts for 6 months or less made up only 18 percent of the total contracts (table IV-11). Payments for 7 through 11 months accounted for 21.0 percent of the total. The largest number of contracts (28 percent) were for 12 months. Large purchases of furniture or household appliances were generally made under contracts extending beyond a year. About one-fifth of the contracts (21 percent) were for 13 through 17 months; and the remainder (12 percent) were contracts extending from 18 through 22 months. There were no contracts in the sample for a single merchandise purchase that exceeded 22 months.

With regard to the maximum length of contract, it should be pointed out that this case study sample may not be representative of low-income market retailers generally. Commission records indicate that other low-income market retailers frequently extend their installment contracts on purchases of appliances and furniture to 24, 30, and 36 months.

Merchandise Purchased.—Principal items and lines of merchandise purchased by the sample of 486 customers are shown in table IV-12.

TABLE IV-11.—LENGTH OF INSTALLMENT CONTRACTS

Length of contract	Number of contracts	Percent of total
6 months or less.....	87	17.9
7 to 11 months.....	102	21.0
12 months.....	138	28.4
13 to 17 months.....	103	21.2
18 to 22 months.....	56	11.5
Total.....	486	100.0

Source: Bureau of Economics, Federal Trade Commission.

Purchases of furniture items accounted for 27.8 percent of the total number of 486 merchandise purchases by customers in the sample. This was exceeded slightly by the combination of household utensil merchandise lines (cookware, chinaware, and silverware), which together accounted for 29 percent of total purchases. Home entertainment lines of merchandise (including television sets, stereo-phonographs, and radios) made up 21 percent of total items purchased. These three categories of merchandise together accounted for more than three-quarters (78 percent) of the total number of purchases by customers in the sample.

TABLE IV-12.—PRINCIPAL ITEMS AND LINES OF MERCHANDISE PURCHASED

Merchandise	Number of purchases	Percent of total
Merchandise items:		
Furniture.....	135	27.8
Cookware.....	116	23.9
Television sets.....	60	12.3
Stereophonographs.....	27	5.6
Linens.....	23	4.7
Chinaware.....	21	4.3
Fans.....	21	4.3
Radios.....	17	3.5
Watches and clocks.....	14	2.9
Washing machines.....	11	2.3
Refrigerators.....	7	1.4
Other merchandise items.....	34	7.0
Total.....	486	100.0
Merchandise lines:		
Household utensils.....	139	28.6
Furniture.....	135	27.8
Home entertainment.....	104	21.4
Home furnishings.....	29	6.0
Small appliances.....	29	6.0
Major appliances.....	23	4.7
Jewelry.....	19	3.9
Other merchandise.....	8	1.6
Total.....	486	100.0

Source: Bureau of Economics, Federal Trade Commission.

Other merchandise purchased included a variety of items in the home furnishings, appliance, and jewelry merchandise lines. Linens, curtains, and slipcovers accounted for 6 percent of total purchases; and fans, irons, and other small appliances, for another 6 percent. Major appliances, including washing machines and refrigerators, represented only 5 percent of total number of purchases. Jewelry merchandise, including watches and rings, made up 4 percent of the total; and other types of merchandise accounted for the remainder of 2 percent.

On the basis of value of merchandise, rather than number of purchases, furniture was by far the most important merchandise line. Second in importance was the home entertainment merchandise line, including television and stereo-phonograph sets. Although the most typical purchase was of merchandise valued at less than \$100, the mean average of all purchases was raised to \$207 by large-value purchases of furniture and home entertainment merchandise lines.

Examples of Individual Purchases

There were 38 examples of relatively large purchases, of over \$300 in value, by customers reporting monthly income of less than \$300. These substantial purchases of the lowest income group are summarized in table IV-13. Almost half of these customers (18 out of 38) had a prior balance which was unpaid at the time the substantial additional purchase was made. Payments and length of contract in these instances were based upon the new combined balance.

Customers, in making such purchases, assumed very burdensome financial obligations. For instance, the second example in table IV-13 shows that a family of four purchased a stereo-phonograph for \$463, agreeing to pay \$32 for 15 months, when their monthly income was only \$184. Another example, eleventh in table IV-13, shows that a woman with three persons to support bought furniture for \$1,339, agreeing to pay \$66 for 21 months, when her monthly income was only \$288.

Home entertainment items most frequently appeared among large purchases by low-income members of the sample. Of the 38 examples listed in table IV-13, 21 involved the purchase of television or stereo sets. The prices paid for these items were, without exception, extraordinarily high. The price range of televisions was between \$309 and \$566. Among the television sets purchased, only one was a color model and it sold for \$566. The black and white model price range was between \$309 and \$412. For stereos the price range was \$340 to \$505.

A review of television prices reported by general market retailers revealed that in no instance was any high-volume black and white television sold for more than \$180. Most popular models were priced between \$100 and \$150. Although

TABLE IV-13.—SUBSTANTIAL PURCHASES BY LOW-INCOME CUSTOMERS ¹

Customer	Number of persons in household	Item purchased	Cost	Prior balance	New balance	Monthly income	Payment per month ²	Length of contract (months) ³
Female.....	1	Stereo.....	\$505	-----	\$505	\$240	\$26	20
Man and wife.....	4	do.....	463	-----	463	184	32	15
Do.....	2	Furniture.....	506	-----	506	262	30	17
Female.....	1	do.....	689	-----	689	220	38	19
Do.....	3	Television.....	371	\$47	418	248	24	18
Do.....	8	Furniture.....	309	-----	309	180	18	18
Man and wife.....	5	do.....	410	-----	410	218	24	18
Female.....	2	Television.....	309	-----	309	220	18	18
Do.....	4	Stereo.....	381	165	546	136	30	19
Do.....	9	Television.....	309	428	737	194	40	19
Do.....	3	Furniture.....	1,339	-----	1,339	288	66	21
Man and wife.....	4	Television.....	309	-----	309	218	16	20
Female.....	4	Stereo.....	391	-----	391	206	24	17
Male.....	4	do.....	412	-----	412	260	23	18
Do.....	1	Television.....	566	-----	566	280	32	18
Female.....	2	Furniture.....	319	714	1,033	200	60	18
Man and wife.....	2	do.....	792	-----	792	270	40	20
Do.....	2	do.....	372	-----	372	240	22	17
Male.....	3	Television.....	309	-----	309	210	21	15
Female.....	1	Furniture.....	412	-----	412	280	24	18
Do.....	4	Television.....	309	15	324	216	18	18
Man and wife.....	4	Furniture.....	370	-----	370	296	22	17
Do.....	6	Television.....	360	218	578	240	32	19
Female.....	1	Furniture.....	463	-----	463	268	25	19
Man and wife.....	4	Television.....	309	208	517	286	32	17
Do.....	2	Furniture.....	463	100	563	200	32	18
Female.....	5	do.....	515	-----	515	238	28	19
Do.....	3	Stereo.....	340	28	368	252	20	19
Do.....	3	Refrigerator.....	360	15	375	240	18	21
Man and wife.....	6	Television.....	402	20	422	188	24	18
Do.....	3	do.....	360	180	540	200	30	18
Do.....	5	Stereo.....	412	188	600	200	35	18
Female.....	5	Washer.....	412	318	730	245	40	19
Man and wife.....	2	Television.....	412	40	452	225	24	19
Female.....	2	Furniture.....	721	25	746	200	40	19
Man and wife.....	4	Television.....	309	80	389	290	20	20
Female.....	1	do.....	309	-----	309	280	24	13
Man and wife.....	8	Furniture.....	412	249	661	237	36	19

¹ All purchases of over \$300 by customers having monthly income of less than \$300 in the total sample of 486 customers.

² Payments and length of contract were all converted to a monthly basis. Many of the actual contracts specified weekly or biweekly payments. Consequently, when converted the number of payments times the monthly amount of payment, in most instances, did not exactly equal the amount of the original unpaid balance. After conversion and for some that were already on a monthly basis, the last monthly payment to fully satisfy the balance was usually less than preceding monthly payments.

Source: Bureau of Economics, Federal Trade Commission.

color models were available at \$600 and more, several of the most popular models sold for between \$250 and \$300.

The price range on stereo sets was highly variable. Portables typically were priced under \$100. Cabinet models ranged up to \$600. Among the most popular models sold by general market retailers, three-quarters were priced to sell at less than \$200. In only two instances (out of 50) was the most popular model priced at more than \$400. For the seven purchases of stereos by customers with incomes below \$300, the median price was \$412 (table IV-13). *Consumer Reports* in a recent study recommended as a best buy for home stereo entertainment a model priced at less than \$200.¹

In table IV-13, one refrigerator and one washer purchase is indicated. The refrigerator sold for \$360.² No popular model refrigerator sold by general market retailers was priced so high. Most sold for between \$200 and \$250. A number were available at less than \$200.

The one washing machine purchase indicated in table IV-13 involved a \$412 transaction. In no instance did general market retailers report sales of popular model washers at prices exceeding \$250; 21 of 36 examples of popular models sold for less than \$200 and five for less than \$150.

There was a total of 31 welfare recipients in the sample of customers; details concerning their purchases are given in table IV-14. Most of the purchases made by customers on welfare were in modest amounts of less than \$100. The payments on these small purchases were arranged on a weekly or monthly basis, so that

¹ *Consumer Reports*, Buying Guide Issue, December 1967, p. 293.

² This was a standard single-door model electric refrigerator.

with some effort on the part of these customers it would seem possible for them to have made payments out of their low monthly welfare income. There are a number of examples of relatively large purchases, however, by the welfare recipients listed in table IV-14.

Six purchases by individuals on welfare involved television or stereo sets. The five televisions sold ranged between \$206 and \$402 (table IV-14). The \$402 set was purchased by a family of six with a reported monthly income of \$188. This family agreed to installment payments of \$24 a month. After such a payment the monthly income per person for this family was \$27.

TABLE IV-14.—WELFARE RECIPIENTS—ITEMS PURCHASED, MONTHLY INCOME, AND PAYMENTS

Customer ¹	Number of persons in household	Item purchased	Price	Monthly income	Payments
Female.....	5	Cookware.....	\$51.45	\$228	\$4 a month.
Do.....	4	do.....	51.45	300	\$1 a week.
Do.....	4	Linen.....	51.45	228	Do.
Do.....	6	Fan.....	51.45	141	\$4 a month.
Do.....	9	TV.....	308.95	194	\$40 a month.
Man and wife.....	2	Cookware.....	51.45	208	\$4 a month.
Do.....	4	Radio.....	51.45	150	\$1 a week.
Do.....	6	Fan and iron.....	97.90	187	\$10 a month.
Female.....	3	Cookware.....	51.45	103	\$4 a month.
Do.....	4	China.....	51.45	160	Do.
Do.....	7	Cookware.....	51.45	276	\$1 a week.
Do.....	4	Furniture.....	94.56	299	\$10 a month.
Do.....	5	Cookware.....	51.45	260	\$4 a month.
Do.....	7	do.....	51.45	279	Do.
Man and wife.....	6	TV.....	360.45	240	\$32 a month.
Female.....	3	Stereo.....	339.85	252	\$20 a month.
Do.....	3	Cookware.....	51.45	164	\$4 a month.
Do.....	3	Furniture.....	154.45	185	\$12 a month.
Man and wife.....	10	TV.....	205.95	183	\$11 a month.
Female.....	6	Appliance.....	25.70	275	\$4 a month.
Do.....	6	Furniture.....	41.15	312	Do.
Male.....	1	do.....	41.15	100	Do.
Female.....	3	Slipcovers.....	53.46	252	\$5 a week.
Do.....	1	Furniture.....	79.95	120	\$2 a week.
Do.....	6	China.....	51.45	175	\$4 a week.
Man and wife.....	8	Furniture.....	411.90	237	\$36 a month.
Female.....	1	Cookware.....	51.45	130	\$5 a week.
Do.....	3	do.....	51.45	168	\$1 a week.
Man and wife.....	6	TV.....	257.45	255	\$15 a month.
Do.....	6	TV.....	401.65	188	\$24 a month.
Do.....	5	Cookware.....	51.45	300	\$1 a week.

¹ Of the 21 female heads of household that were customers and welfare recipients, 14 indicated they were separated, 4 reported they were single, 2 were widowed, and 1 was divorced.

Source: Bureau of Economics, Federal Trade Commission.

The preceding analysis of the customers and of their purchases from one low-income market retailer has revealed some unique characteristics of consumers in the low-income market. The average customer of this retailer had a family of 5 which he was endeavoring to support on an income of \$348 per month. This average income is far below the estimate of \$730 per month which the Bureau of Labor Statistics recently estimated as the minimum needed to maintain a moderate standard of living for a family of only 4 in Washington, D.C. Yet, these customers made furniture and appliance purchases averaging over \$200 on installment credit contracts. They paid substantially higher prices than they would have paid general market retailers for comparable merchandise, placing an additional strain on their meager incomes. The examples of relatively large purchases (over \$300) made by customers in the lowest income group (under \$300 a month) indicate that consumers in the low-income market are influenced by very strong motivations to buy furniture and appliances and they are willing and able, in most instances, to make small payments over a period of time to satisfy their needs and desires.

**RESOLUTION DIRECTING THE INVESTIGATION OF RETAIL SALES AND CREDIT
PRACTICES IN THE DISTRICT OF COLUMBIA AREA**

WHEREAS the Federal Trade Commission, by virtue of subsections (a) and (b) of Section 6 of the Federal Trade Commission Act, has the authority to investigate the business and practices of any corporation engaged in interstate commerce and its relation to other corporations, individuals and partnerships, and to require corporations engaged in such commerce to file written special reports with the Commission in such form as the Commission may prescribe, as to its business practices and relation to other corporations, partnerships and individuals; and

WHEREAS the sale of merchandise through installment credit constitutes an important means of distributing goods in the national economy and the District of Columbia, the purchase of such goods is of major importance to lower income groups, as well as other consumers; and abuses of retail credit and deceptive practices in the advertising and sale of such goods under credit arrangements may be of serious consequence; and

WHEREAS it appears to the Federal Trade Commission that it is in the public interest for it to conduct an investigation of retail credit practices connected with the sale of goods in the District of Columbia for the purpose of aiding it in the enforcement and administration of the statutes committed to it for enforcement:

NOW, THEREFORE, IT IS HEREBY Resolved, that the Federal Trade Commission, in the exercise of the powers vested in it by law, and pursuant to its published procedures and rules of practice (16 C.F.R. Sec. 1.1 et seq.), and with the aid of any and all compulsory processes available to it, including the use of subsection (b) of Section 6 orders to file special reports, forthwith proceed, through its Bureau of Economics, to investigate and collect information for the reasons and purposes stated herein from such businesses as may be designated by the Commission regarding their organization, business, conduct, practices, management, and their relation to other corporations, partnerships and individuals.

By direction of the Commission,

JOSEPH W. SHEA,
Secretary.

Dated : July 25, 1966.

APPENDIX TABLE A.—VALUE OF INSTALLMENT CONTRACTS ASSIGNED TO FINANCE COMPANIES AND BANKS
BY DISTRICT OF COLUMBIA RETAILERS, DISTRIBUTED BY EFFECTIVE ANNUAL RATE OF FINANCE CHARGE

[Dollar amounts in thousands]

Effective annual rate of finance charge (percent)	Value of contracts at each effective annual rate assigned to—			
	Finance companies		Banks ¹	
	Value of contracts	Percent of total	Value of contracts	Percent of total
29-----	\$381	3.2		
27-----	23	.2		
26-----	480	4.1		
24-----	4,162	34.9		
23-----	4,575	38.4		
22-----	1,111	9.3	\$27	0.7
17-----	206	1.7	2,900	74.3
15-----			17	.4
14-----	266	2.2	194	5.0
13-----			115	2.9
11-----			650	16.7
Rates not available-----	711	6.0		
Total-----	11,915	100.0	3,903	100.0

¹ Practically all (99.2 percent) of the total value of contract assignments to banks was by general market furniture retailers.

Source: FTC survey.

APPENDIX TABLE B.—VALUE OF UNASSIGNED INSTALLMENT CONTRACTS OF DISTRICT OF COLUMBIA GENERAL MARKET RETAILERS, DISTRIBUTED BY EFFECTIVE ANNUAL RATE OF FINANCE CHARGE

(Dollar amounts in thousands)

Effective annual rate of finance charge (percent)	Value of unassigned contracts at each effective annual rate for—							
	Appliance retailers		Furniture retailers		Department stores		Combination of all general market retailers	
	Value of contracts	Percent of total	Value of contracts	Percent of total	Value of contracts	Percent of total	Value of contracts	Percent of total
24.....	\$6	4.2					\$6	(¹)
22.....			\$36	0.8			36	0.1
20.....					\$16,872	89.4	16,872	71.6
18.....	137	95.8	36	.8			173	.7
17.....			3,206	70.4			3,206	13.6
16.....			77	1.7			77	.4
15.....			1,199	26.3	2,009	10.6	3,208	13.6
Total.....	143	100.0	4,554	100.0	18,881	100.0	23,578	100.0

¹ Less than 0.1 percent.

Source: FTC survey.

MARCH 28, 1968.

Hon. ALAN BIBLE,
Chairman, Committee on the District of Columbia,
U.S. Senate, Washington, D.C.

DEAR SENATOR BIBLE: By separate letters dated December 4, 1967, the District of Columbia government reported on S. 2589, 90th Congress, a bill to provide for the regulation in the District of Columbia of retail installment sales of consumer goods (other than motor vehicles) and services, and for other purposes, and on S. 2590, 90th Congress, a bill to provide maximum finance and other charges in connection with retail installment credit sales in the District of Columbia.

The report relating to S. 2589 noted that one provision of the bill, that dealing with the doctrine of holder in due course, would be the subject of a supplemental statement. Similarly, the report on S. 2590 also noted that supplemental views would be submitted with respect to provisions relating to maximum finance charges in retail installment contracts.

The Subcommittee on Business and Commerce, under the chairmanship of Senator Joseph D. Tydings, has in the meantime held extensive and thorough hearings on these and related bills. The testimony of witnesses representing a broad cross section of commercial and consumer interests in the community has illuminated the many problems and practices prevalent in the area. These hearings have vividly and emphatically underscored the need for consumer protection legislation in the District of Columbia.

In the light of testimony at the hearings the District government has given further consideration to the provision of S. 2589 relating to the doctrine of holder in due course. It is apparent from such testimony that many consumer abuses flow from the unethical practices of some retail installment sellers who are able to exploit unwary purchasers—primarily the poor who are least able to afford such exploitation—by relying on the negotiation of retail installment instruments to third parties who are protected from the defenses that the buyer could otherwise make. The government of the District of Columbia therefore favors legislation that would eliminate the effect of the holder-in-due-course doctrine in retail installment transactions and thereby prevent the unscrupulous practices that have developed. Accordingly, we would favor the enactment of the holder-in-due-course provision contained in S. 2589.

With respect to provisions in S. 2590 relating to maximum finance charges in retail installment transactions, the testimony of witnesses before the subcommittee indicated the need for a more flexible approach to the regulation of such finance charges, principally from the point of view of changing conditions and need for thorough study of costs in this particular market. In view of the desirability of a more flexible bill, the government of the District of Columbia prefers enactment of a measure that would enable the District of Columbia Council to, by regulation, establish maximum finance charges.

Sincerely yours,

WALTER E. WASHINGTON,
Commissioner.

SUPPLEMENTAL STATEMENT OF THE METROPOLITAN WASHINGTON BOARD OF
TRADE ON S. 316, S. 2589, AND S. 2590, MARCH 29, 1968

Mr. Chairman and members of the subcommittee, the undersigned, C. Robert McBrier, as Chairman of the Legislative Committee, Retail Bureau, Metropolitan Washington Board of Trade, is submitting the following statement as a supplement to the statement previously presented to your Committee on December 13, 1967 during the course of hearings on S. 316, S. 2589 and S. 2590. The Board of Trade is most appreciative of the opportunity to further present its views and comments on certain specific areas and on certain detailed provisions of the proposed legislation. We would like to stress that the recommendations which are covered by this supplemental statement are made in the interest of assisting your Committee in carrying out its objectives of protecting consumers and at the same time safeguarding the legitimate interests of reputable businessmen.

The following specific modifications and additions to S. 2589 are recommended:

Page 7, line 9: Refers to residential property "as herein defined" but the bill does not contain a definition of residential property. The suggestion is made that the definition employed might well be drawn from the home improvement regulations of the District of Columbia which, with minor change, would provide as follows:

"Residential Property" means real property or interest therein consisting of a single-family dwelling or two-family dwelling, including an individual apartment or residential unit in a cooperative apartment or condominium building, together with any structure or grounds appurtenant to such apartment or single-family or two-family dwelling.

Page 7, lines 13-18: Defining "home solicitation sale"—A question is raised as to whether this definition is required in this Act since this Act does not undertake to deal with that subject. This subject is, however, dealt with in S. 2591. If the definition is to be left in the Act, the terminology or intent of "personal solicitation" as contained on line 18 should be clarified. In that connection, it should be made clear that the definition does not apply to those situations where the seller has come to the home of the buyer or is otherwise dealing with the buyer at the request and invitation of the buyer.

Page 8, line 12: Defines a "retail installment contract" as a contract which "has substantial contact with the District" requires clarification if it is to be left in the definition in order that the applicability or inapplicability of the law to those transactions involving residents of D.C., Maryland and Virginia who deal across the District line. The terms "or has substantial contact with" should otherwise be deleted from line 12.

Page 11, line 15: Substitute the word "would" for the words "tends to."

Page 13, line 14: Change "3" to "8" which was the figure established in the comparable section in S. 5, page 15, line 11.

Page 14, lines 23-25: Substitute the following for existing Sec. 2.102:

"Sec. 2.102. No regulation shall be adopted by the Council under the authority of this Act until after a public hearing has been held thereon, for the purpose of receiving evidence relevant and material to the proposed regulation. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Council shall act upon such proposed regulation and make any final regulations public. Such regulations shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the regulations, detailed findings of fact on which the regulations are based. The Council shall specify in the regulation the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Council finds that emergency conditions exist necessitating an earlier effective date, in which event the Council shall specify in the regulation its findings as to such conditions.

In a case of actual controversy as to the validity of any regulation under this section, any person who will be adversely affected by such regulation if placed in effect may at any time prior to the ninetieth day after such regulation is issued file a petition with the District of Columbia Court of Appeals, for a judicial review of such regulation. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Council or other officer designated by it for that purpose. The Council thereupon shall file in the court the record of the proceedings on which the Council based its regulation.

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such

evidence in the proceeding before the Council, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Council and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Council may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original regulation, with the return of such additional evidence.

Upon the filing of the petition referred to in the second paragraph of this section, the court shall have jurisdiction to affirm the regulation, or to set it aside in whole or in part, temporarily or permanently. If the Council refuses to issue, amend, or repeal a regulation and such regulation is not in accordance with law, the court shall by its judgment order the Council to take action, with respect to such regulation, in accordance with law. The findings of the Council as to the facts, if supported by substantial evidence, shall be conclusive.

The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Council shall be final, subject to review by the United States Court of Appeals for the District of Columbia Circuit.

Any action instituted under this section shall survive notwithstanding any change in the persons occupying the offices of the Council, or any vacancy in such offices.

The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law."

Page 15, line 24: After the words "single document," add the words "or set of documents combined as one unit."

Page 16, line 7, line 10, line 17 and line 22: These lines contain requirements as to specific size of type "twelve-point extrabold type" etc. It is recommended that any specification as to size of type to be used in contract notices, etc. be left to regulation by the Council.

Page 17, lines 15-19: which provision requires that a seller, in his contract with buyer, should include a provision which advises the buyer to contact the D.C. Consumer Information Service or an attorney if he has any questions regarding the legal effect of the agreement. The appropriateness of this provision is seriously questioned and its deletion recommended.

Page 21, line 25: After the words "copy of the contract" add the words "and of compliance with the requirements of Sec. 3.105." The same language should also be added on page 22, line 5 after the word "contract" and on line 6 after the word "delivery" add the words "and such compliance with Sec. 3.105."

Page 22: Insert new section between lines 9 and 10 and immediately preceding existing Sec. 3.107 as follows:

"SEC. _____. MAIL OR TELEPHONE SALES.—Any sale otherwise subject to the provisions of this chapter which has been negotiated or entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, shall not be subject to the requirements that a copy of the contract be signed by the buyer or be delivered to the buyer; provided, that the seller delivers to the buyer, before the date for the payment of the first installment, a memorandum of the purchase containing all of the essential elements of the agreement. The prohibition against blank spaces contained in Sec. _____ shall not apply to the buyer where a sale is negotiated or entered into by mail."

Page 23, lines 8-17: Substitute the following for existing Sec. 4.102:

"SEC. 4.102. NEGOTIABLE INSTRUMENTS PROHIBITED.—Notwithstanding sections 28:3-301 through 307 of the District of Columbia Code, in a retail installment transaction the seller may not take a negotiable promissory note or other negotiable instrument as evidence of the obligation of the buyer. If, as part of a retail installment transaction, a note is taken by the seller, such note shall refer to the installment agreement out of which it arises and, in the hands of any subsequent holder, such note shall be subject to all defenses which the buyer might have asserted against the seller."

Page 23, lines 24-25: Delete the word "substantial" from line 24 and on line 25 add the words "a substantial default in" in front of the word "performance."

Page 25, line 3: After the word "claim" delete "or" and substitute a "," for the word "or" and after the word "defense" add the words "or an express or implied warranty" so that line 3 should read "assignee, a claim, defense or an express or implied warranty arising out of the sale of." As a result of

this addition to line 3, the entire lines 19 through 23 on page 25, consisting of subsection (H) should be deleted.

Page 27, lines 17-23: These lines should be modified to read as follows: "other statements or notices required by this Act, shall send to the buyer upon his written request a statement of account which shall list the following items designated as such:

"(a) the amounts of each of the payments made by him or on his behalf, or the sum of the payments made by him or on his behalf during each billing period, depending on the manner in which the seller or assignee maintains his records and setting forth any refund and any payment of charges for delinquencies, expenses of repossession and extension, to the date of the statement of account but not to exceed a period of three years prior to such request;"

Page 28, lines 11-14: Delete these four lines which are contained in Subsection (3).

Page 29, lines 20-21: Add the following paragraph which will be an addition to subsection (D) which begins on line 20:

"In the event of prepayment the seller, in any case, shall be entitled to retain a service charge of not less than Six Dollars (\$6.00)." (This is in conformity with Article 83, Section 153D(e) of the Maryland Code).

Page 31, line 19: Substitute "60" for the word "20."

Page 35, lines 9-20: Delete existing Sec. 6.105 and substitute the following:

"SEC. 6.105. LIMITATION ON REPOSSESSION EXPENSES.—Notwithstanding Sec. 28:9-504 of the District of Columbia Code, in cases of repossession of consumer goods which are serving as collateral, no debtor shall be liable for such amount of expenses, attorney's fees, and legal expenses arising out of the retaking, holding, or resale of such goods as may exceed the amount realized from the sale of the collateral, nor shall any debtor be liable for any deficiency remaining after the disposition of the collateral in excess of the balance which, at the time of repossession of such collateral remained unpaid under a retail installment contract or open-end credit agreement, but nothing herein contained shall be construed to relieve the debtor of liability for reasonable costs accruing in connection with the collection of such unpaid balance."

Page 37, lines 13-16: Delete existing Sec. 7.102 and substitute the following:

"SEC. 7.102. PENALTIES—ERRORS.—Sec. 7.101 (A) or (B) shall not apply to any violation which a seller or assignee establishes by a preponderance of the evidence to be the result of a bona fide error. Any bookkeeping or clerical error and any unintentional failure (made in good faith) by the seller to comply with any provision of this Act may be corrected within ten (10) days after the seller or assignee notices such failure or is notified thereof in writing by the buyer and, if so corrected, neither the seller nor the assignee shall be subject to any penalty under this Act."

Page 37, lines 17-23: Delete existing Sec. 7.103 and substitute the following:

"SEC. 7.103. In addition to remedies specifically provided by this Act, if the court finds that a retail installment contract or refinancing or extension agreement violates this Act, it may give such further relief as it deems equitable and just."

Page 40, lines 6-12: which relate to the powers of the Commissioner to issue subpoenas and to compel the production of books, records, etc. Some qualifications or restrictions should be placed upon the broad authority to go on fishing expeditions, which restrictions might be in the nature of a requirement that such action be based upon a prior complaint or upon some initial information that a violation had in fact taken place. Accordingly, it is recommended that the words "provided that a prior complaint has been made or upon some initial information that a violation of the Act has taken place." be added after the word "Act" on line 12 and that the same language be added after the word "Act" on page 42, line 9.

Page 46, lines 5-8: which provide that reasonable attorneys' fees which result from actions brought by the "Director of the District of Columbia Department of Consumer Protection" be deposited in the Treasury of the United States to the credit of the District of Columbia. The appropriateness of the collection of such attorneys' fees when such attorneys would presumably be furnished by the District Government and already paid by taxpayers' funds is questioned. It is recommended that the words "and reasonable attorney's fees" be deleted from lines 5 and 6 of page 46 and the sentence "Such attorney's fees shall be deposited in the Treasury of the United States to the credit of the District of Columbia," be deleted from lines 6, 7 and 8 of page 46.

We again express appreciation for the opportunity to submit the position of the Metropolitan Washington Board of Trade on this important legislation and would welcome the opportunity to participate in any further discussion on it.
Respectfully submitted.

C. ROBERT MCBRIER,
*Chairman of the Legislative Committee, Retail Bureau, Metropolitan
Washington, Board of Trade.*



