Locally Owned and Operated: Opposition to Chain Stores, 1925–1940.

Cory Lewis Sparks
Louisiana State University and Agricultural & Mechanical College

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LOCALLY OWNED AND OPERATED:
OPPOSITION TO CHAIN STORES, 1925-1940

Volume I

A Dissertation

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in

The Department of History

by

Cory Lewis Sparks
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Abstract

During the 1920s, chain stores exploded in numbers throughout the country. Chains claimed to provide mass distribution for a mass production age. According to their executives, traditional retailing raised the cost of living and interfered with prosperity. Small retailers countered these claims by arguing that corporate retailing endangered prosperity because it concentrated ownership in the hands of a few and stripped wealth from the local community.

In 1929 and 1930, anti-chain radio broadcasts sparked popular interest in the chains. Critics accused the chains of using their financial might to sell products below cost and drive competitors out of business. They also alleged that chains bilked the public by selling shoddy or short weight products, evading taxes, and cutting services like credit and delivery. Encouraged by these attacks, trade associations throughout the nation sponsored boycotts of the chains.

When these campaigns failed to close the chains, retailers shifted their focus to government action. The Capper-Kelly bill would have allowed manufacturers to set retail prices, but it failed to pass through Congress. On a state level, storeowners succeeded in passing special taxes against the chains in more than half of the states, but independent retailers continued to falter.

Many storeowners hoped President Roosevelt's recovery efforts would protect them against chain growth. Although the National Recovery Administration disappointed most storeowners, the experience encouraged them to push for other legislation. After the demise of the NRA, small retailers lobbied for the Robinson-
Patman Act and the Miller-Tydings Act. These laws controlled chain buying and
selling practices. As the 1930s progressed, however, small retailers realized that
these laws would not stop the growth of the chains. Because of concerns about
consumer prices and the efficiency of the economy, the Roosevelt administration
resisted attempts to control the chains further. Independent retailers could no longer
hope for government attacks on the chains.
Introduction

During the 1920s corporate chain stores grew at fantastic rates in America. At the start of the decade, companies like A&P, Walgreen's and Woolworth's had 30,000 stores. At its close, they operated more than 150,000 units—a dramatic and visible change over a period of ten years.¹ Even the Lil Rascals watched as a grocery chain bought out their favorite storekeeper.² Chain officials, flushed with success, heralded this growth as natural evolution: mass distribution for a mass production age. They argued that their stores provided merchandise at the lowest possible price, enabling consumers to buy more products and generating unprecedented prosperity. For small retailers, worried about the survival of their businesses, the rapid growth was frightening. This dissertation examines their persistent campaign to slow chain growth. In their crusade small retailers and their supporters sought to convince America that chains endangered the nation and its standard of living. They claimed that chains threatened prosperity because they defrauded consumers and concentrated wealth in the hands of a few,


² See Helping Grandma, Volume 7 of the Cabin Fever Collection with Leonard Maltin, videocassette.
stripping money from local communities and depositing it in Eastern metropolises.

Local merchants groups, occasional *ad hoc* anti-chain organizations, and national trade associations argued that the chains did not offer true bargains. According to these retailers, chains pursued predatory pricing to drive competition from a market. Their absurdly low prices on some products showed that they sold them at a loss to drive out nearby stores. In part they could do this because they raised prices on other products. But the chains, with large capital reserves, could also afford to operate one store at a loss, waiting for it to eliminate competitors. Once the other stores disappeared, retailers argued, the chains would raise prices. Small retailers said that the chains used other underhanded techniques to give the appearance of lower prices. For example, the chains engaged in short weighing, substituted inferior products for advertised brand names, evaded taxes, and cut out services like credit and delivery.

Although the chains defrauded the public, their truly insidious influence came more quietly and at the expense of the entire community. According to anti-chain activists, chains stripped the final profit from towns, funneling local wealth to New York City and other metropolises. Unless this dangerous trend reversed itself, independent retailers predicted the land
would be bled dry, and the bulk of Americans turned into wage slaves for a financial elite. The growth of the chains, according to anti-chain activists, threatened to destroy all opportunity from the country, depriving America of its greatest blessing and shaking democracy to its core.

This dissertation begins with an explanation of the problems of distribution and the way in which chain stores offered a solution to them. Chapter One also shows some of the early responses to the chains, setting the stage for the anti-chain mania of 1929-1930. During that period, W. K. "Old Man" Henderson of Shreveport, Louisiana, ignited a flurry of discussion about the chains through his radio broadcasts heard throughout the South and Midwest. His harangues against the chains fostered a host of colorful imitators. Because these rabble-rousers spread criticisms of the chains, the controversy even became the national debate topic for 1930—the same year the Lil Rascals film featured the chains.3

Inspired by the national ferment, local groups throughout the nation sponsored boycotts of the chains, encouraging consumers to shop at local

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stores. The agitation of 1929-1930 chain stores has been most studied by historians. Studies by Carl Ryant, David Horowitz, and F. John Harper approach the movement as another battle in the organizational revolution described by Robert Wiebe. According to Wiebe, the late nineteenth and early twentieth centuries featured a reaction to increasing corporatization.4 Harper describes chain opponents lashing out at a strange new order, which they feared would undermine community life. He and Ryant both treat opposition to the chains as a rural movement of the South and Midwest. This interpretation, however, ignores the large number of chain opponents from major cities like Chicago and New York. It also implies that anti-chain agitators opposed all modernizing trends in society. Harper even entitled his article “A New Battle on Evolution,” suggesting that chain opponents fought against all of modern society. Yet, as this dissertation demonstrates, many small retailers embraced modernization, renovating their stores and promoting retail efficiency, which they, as well as the chains, embraced. As their use of radio suggests, chain store opponents were willing to accommodate to new technology.

Because past histories have focused on the early period of opposition to the chains, they also miss another important qualification to their

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portrayal of activist community campaigns as the heart of the movement. Anti-chain agitators quickly discovered that local organizations could not slow the growth of the chains. As they failed to convince consumers (and, for that matter, retailers) to stop shopping with the chains, their state and national trade associations turned to government for protection.

In lobbying efforts by small retailers, an attack on corporate domination, not defense of the consumer, became the main focus. Independent retailers envisioned an America in which small proprietors could conduct their business without fear of destruction by corporate predators. They believed America could best ensure its wealth by rejecting the corporate model of retailing and called for government action to protect them. In his recent work on small retailers in Canada during this period, David Monod argues that small retailers there believed prosperity could best be preserved through small retailing and that government should intervene to protect the small retail store. American retailers, as an organized, professional group, sought to promote this vision of prosperity to the nation, and they looked to the federal government to insure the survival of small town life. Alan Brinkley, in *Voices of Protest*, notes similar efforts by Huey Long and Father Coughlin. Long and Coughlin, he writes, felt local forces

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could no longer contend with corporatization and they looked for support from the national government. As Brinkley writes, independent retailers formed an important part of the constituency of Long and Coughlin. Many shopkeepers supported their condemnation of corporate growth.  

Retailers tried several different approaches to government intervention. Chapter Three studies an attempt to promote retail price maintenance. Storeowners hoped that legislation would outlaw sales below cost and take from the chains one of their important weapons. Despite strong support from retailers and some manufacturers, the bill failed to pass on a federal level. In the states, as Chapter Four recounts, independent retailers had more success, passing special taxes on chain stores that increased as the number of stores grew. Chain taxes became law in half of the states by the close of the decade.

With the election of Franklin Roosevelt, retailers hoped for a new burst of legislation. When Roosevelt proposed the National Recovery Administration, storeowners worked to get certain controls passed to stabilize the retail market. Chapter Five examines their most important initiatives that focused on controlling the rebates given to chains. After the demise of the NRA, these retailers succeeded in passing legislation against rebates in a bill

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called the Robinson-Patman Act. This act continues to govern buying practices and control the way in which manufacturers can give price breaks to customers.

In government in the 1930s, politicians discussed the retailer's vision of prosperity grounded on small business. By the close of the 1930s, however, they decisively rejected it. In his book *The End of Reform*, Brinkley discusses the process by which New Dealers moved toward a model in which government cooperated with business in order to ensure the greatest level of purchasing power and prosperity in the country. 7 Jonathan Bean, in *Beyond the Broker State*, a study of small business, concludes that the government chose to provide a positive form of assistance to small business, rather than attempt to restrict corporations. This impulse led the government into grant programs to aid small business and away from anti-chain crusades and other attempts to attack corporate structures. 8 When government anti-trust focused on increasing economic efficiency, the anti-chain movement lost much of its force. Although small retailers have continued to fight chains in recent years, including high profile campaigns

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against Wal-Mart, Barnes and Noble and Starbucks, the notion that these chains could be eliminated through campaigns or government action has long since passed.
Chapter One: Evolution in Distribution

In the 1920s Americans spoke of a "new era" of business. A mass production economy could now flood the market with goods, improving the American standard of living. Many businessmen and economists worried, however, that the distribution system jeopardized this potential prosperity.¹ Although retailing and wholesaling underwent some change in the late nineteenth and early twentieth centuries, the sector still lagged behind the rest of the economy. Many small, undercapitalized, and inefficient stores dominated the field. Chain stores claimed to revolutionize retailing. They offered, according to chain executives, mass distribution for a mass production

Large retail operations could move huge quantities of products to the consumer at low prices, helping them to make the most of their purchasing power. The chains claimed to be the wave of the future, a new force that would bring efficient retailing to every Main Street in America. As evidence of their power, they pointed to their rapid growth. Non-chain, or independent, retailers, who felt threatened by these boasts, denied the claims. They, along with other anti-corporate crusaders, argued that hometown merchants provided better service to the communities of America. Independent retailers could improve retail efficiency and modernize the economy. Chains were not needed.

Independent retailers and their trade associations, such as the National Association of Retail Grocers and the National Association of Retail Druggists, acknowledged the failings of retail distribution. Following World War One, inflationary conditions had provoked numerous protests against retail prices, particularly of food products. Consumers and farmers, alike, complained about mark-ups. Shoppers demanded to know why they had to pay

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high prices at the grocery. 4 Farmers wondered how retail prices could be so exorbitant with commodity prices so low. 5 Studies of retailing blamed three factors for high retail prices. First, wholesalers stood between producers and retailers and added a layer of cost to consumer goods. Second, many small, undercapitalized stores, because of their slow turnover, had to charge more per sale in order to survive. Third, retailers often had little knowledge of retailing and proved incapable of running their shops in an effective manner.

In the opinion of many economists, the dominance of wholesalers held back the progress of retail distribution. Critics of retailing argued that middlemen cost the consumer money, placing a layer of expense between the producer and consumer. Wholesalers employed office and warehouse staffs and large numbers of salesmen, who scoured the countryside in search of clients. They would battle with competing firms to gain business, dragging huge trunks of goods with samples for merchants. In their desperation to find outlets for their products, salesmen hunted for retailers to become their clients.


In many cases, they offered credit to prospective owners with few, if any resources.\textsuperscript{6} If these stores failed, as they often did, wholesalers had to increase prices to pay for the credit extended to them.\textsuperscript{7} As a result, independent retailers paid higher prices for their goods and consumer prices rose.\textsuperscript{8}

In addition to the costs associated with wholesaling, a second reason for increased consumer prices was the inefficiency of smaller stores. They charged higher prices because of slow turnover. Over a million retail outlets existed in the United States in the 1920s and 1930s. One retail store operated for every 125 Americans! Such stores served a neighborhood clientele and sometimes acted as social centers more than places of business. The owners often lived above the store and entertained a variety of guests while they minded the shop. Neighbors might come to gossip, listen to the radio, use the telephone, or, perhaps, buy something.\textsuperscript{9} According to the Census of Distribution, only eleven percent of retailers did more than $50,000 a year in business. An amazing

\begin{quote}
\textsuperscript{6} Merchant's Journal, August 2, 1924, 23; Lloyd J. King interview, Western Business History Center, Colorado Historical Society, Denver, Colorado; M. A. Johnson, \textit{Fifty Years of Country Storekeeping} (Brainerd, Minnesota: Lakeland Color Press, 1955), 97.

\textsuperscript{7} Paul D. Converse, \textit{Business Mortality of Illinois Retail Stores from 1925-1930}, no. 31 (Urbana, Illinois: Bureau of Business Research, 1932), 29.


\textsuperscript{9} North Wichita Times, December 16, 1931.
\end{quote}
twenty-eight percent of stores did less than $5,000 a year in trade. If the stores managed to earn a two-and-a-half percent profit, the owners netted $2.50 a week for their labor, less than unskilled workers.\textsuperscript{10} With such a gloomy profit picture, storeowners often had a difficult time earning enough money to support their families.\textsuperscript{11} In a desperate attempt to stay in business, some of them engaged in deceptive practices. For example, many small stores preserved the age-old art of haggling. Instead of writing down a price, storekeepers would banter with the customer in an effort to get as much profit as possible.\textsuperscript{12} While advertising lower prices, grocery owners would often engage in short weight to increase their profit on sales—even tampering with their scales in order to cheat the customer out of a few ounces.

Because of slow turnover and low capital investment, independent stores were often dirty, poorly lit and run down with second hand equipment and fixtures. If something broke, the retailers could not afford to repair it. They jammed their inventory into the store in a random fashion and their goods had


\textsuperscript{11} Edmund D. McGrary, \textit{Mortality in Retail Trade} (Buffalo, New York: University of Buffalo Bureau of Business and Social Research, 1930), 5.

\textsuperscript{12} Strasser, \textit{Satisfaction Guaranteed}, 206.
fliespecks or were worn.\textsuperscript{13} Nora, the heroine of Sinclair Lewis' \textit{Main Street} complained of the dirtiness of stores in Gopher Prairie.\textsuperscript{14} She described one grocery store as having "...black, overripe bananas and lettuce on which a cat was sleeping," and turned up her nose at a filthy and bloody meat market.

Many consumers considered small storekeepers to be lazy, shiftless and inept.\textsuperscript{15} Quite a few retailers merited this low opinion. Their incompetence was a third reason for high retail prices. The wholesaler system encouraged individuals to enter retailing with little or no experience, and many storekeepers opened a shop as a hobby or with dreams of easy money. Failed retailers had held a bewildering range of occupations before their flirtation with shopkeeping. One survey of fifty such businessmen found sixteen former grocers, four clerks, nine farmers, two laborers and two salesmen. The rest of the individuals surveyed held a variety of jobs, ranging from musicians to wagon salesmen.\textsuperscript{16} Inexperienced retailers made numerous errors. They did not know the art of buying, or the danger of costly overhead, and often made ill-

\textsuperscript{13} Strasser, \textit{Satisfaction Guaranteed}, 266.

\textsuperscript{14} Sinclair Lewis, \textit{Main Street} (New York: Signet Classic, 1920, 1980), 38.


\textsuperscript{16} University of Nebraska Committee on Business Research, \textit{Some Aspects of Grocery Store Failures Bulletin No. 14} (January, 1926), 10. See also Lewis, \textit{Main Street}, 239.
advised purchases. One retailer from the Great Plains, M. A. Johnson, confessed in his memoirs that wholesale salesmen took advantage of his naiveté and left him with tremendous stores of products.\textsuperscript{17} Johnson remembers being so entranced by offers of premiums and quantity discounts that he bought an amount of baking powder that would have taken years to sell. The purchase paralyzed his warehouse space and kept him from using it for quicker turning, higher profit merchandise. He made a similar mistake with watermelons. Luckily, a merchant from a nearby town helped him by buying some of his stockpile.

Small storeowners often lacked a rudimentary knowledge of bookkeeping. For that reason, they failed to understand the costs of doing business.\textsuperscript{18} If retailers kept better informed, they might have re-examined their decision to offer costly services. Although retailers provided credit and delivery to increase business, that placed their businesses in jeopardy because both entailed large costs. Credit posed the bigger danger. Although small shop owners allowed customers to charge items so that they could live paycheck-to-paycheck or crop-to-crop, many customers would not or could not pay their

\textsuperscript{17} Johnson, \textit{Fifty Years of Country Storekeeping}, 97-98.

\textsuperscript{18} “Accounts Book,” Bongers Collection, Western Business History Center, Colorado Historical Society, Denver, Colorado; \textit{Voices of a Black Nation: Political Journalism in the Harlem Renaissance}, ed. Theodore G. Vincent (Trenton, New Jersey: Africa World

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bills. Unpaid bills added to the pressures on small retailers by forcing them to increase their prices to cover the additional cost. Delivery of products could also involve substantial economic waste. Customers pressed for delivery of even the smallest and least expensive objects, and storeowners did little to resist them. Yet, this service forced them to pay for delivery boys and, in some cases, delivery vehicles. Many commentators accused consumers of abusing the system. In his film, The Pharmacist, W.C. Fields parodied the practice. His character, the pathetic proprietor of a small pharmacy, was desperate for customers who did more than play checkers at the store. Fields took any business he could find. It was sad when he agreed to deliver a box of cough drops to a customer. It was pathetic when the customer lived on a farm twenty miles out of town.

Because of the cost of expensive services, low turnover, and the control of wholesalers, retailers had promoted change for decades. Department stores offered the first challenge to traditional distribution, introducing tremendous


19 Monod, Store Wars, 162-3; Phoenix Magazine, May 1980, 81; Strasser, Satisfaction Guaranteed, 239-241.


21 The Pharmacist, 1933, RKO.
changes in the middle of the nineteenth century. Alexander Stewart developed
the first American department store in New York City. His firm set the
standard for hundreds of companies, including Macy's and Wanamaker's.\textsuperscript{22}
Although these stores began in large metropolitan centers, by the final decade
of the century such "palaces of consumption" had expanded throughout the
nation. They occupied large spaces and offered an amazing array of goods at
low prices. The department store magnates prided themselves on offering the
lowest prices available. John Wanamaker, the founder of the Philadelphia
department store, best expressed the viewpoint of these businessmen in an
address on department stores before the American Association of Political
Science.\textsuperscript{23} In the course of his speech, Wanamaker boasted that department
stores would revolutionize retailing by targeting the weaknesses of the retail
system. They cut costs by applying "scientific" principles of retailing, increased
turnover, and eliminated the middleman. Instead of paying for another profit
margin, Wanamaker's, for example, took over some wholesaling functions,
lowering prices through vertical integration. It also promoted sales volume by
reaching out to a city-wide audience through advertisements in the local paper.

\textsuperscript{22} Strasser, \textit{Satisfaction Guaranteed}, 206-209

\textsuperscript{23} Wanamaker, "On the Department Store," in \textit{An American Primer: 1890-1900 A
Because of the large customer base, the store sold tremendous numbers of goods and could afford to make less profit per transaction than smaller retailers. Wanamaker's instituted additional advances in retail record keeping. The store monitored each department to ensure they contributed to profitability. Unprofitable goods and products were dropped. It hired experts to control credit and delivery and guarantee more efficient operation. Because of these radical steps, Wanamaker's and other department stores offered a significant, early challenge to the traditional system of retailing.24

Another response to the problems of distribution was mail order retailing. Montgomery Ward began the first mail order sales in the 1870s, and Sears and Roebuck developed in the next decade. They bypassed the wholesaler to sell large volumes of goods to a national customer base without the expense of operating retail stores. This form of shopping became enormously popular in rural America, where consumers felt frustrated by the poor selection and expense of crossroads general stores.25 National firms sold for cash only but offered a money-back guarantee to reassure customers


worried about purchasing items they had never examined. By the 1890s these companies expanded, purchasing in increasing quantity and offering the largest selection of goods in the nation. In 1906 Sears filled 100,000 orders daily. According to the economist Richard Ely, Sears and Montgomery Ward held a major share of the market throughout rural America.²⁷

Chain stores offered a third response to the crisis of retailing. They offered another way to build volume, lower prices and maximize purchasing power by combining the national approach of the mail order corporations with storefront retailing operations.²⁸ Chains like Woolworth and A & P had existed since the mid-nineteenth century, but only A & P operated a large number of stores, around five hundred by the turn of the century.²⁹ Only the most careful of observers understood the importance of chain stores before the 1920s.

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²⁸ Strasser, *Satisfaction Guaranteed*, 204-206; Charles W. Hurd and M. Zimmerman, "Why Advertisers Must Give Chain Store Growth Their Serious Attention," *Printer's Ink*, September 10, 1914, II.

because they were small and confined to regional trade. However, the number of chain outlets exploded in that decade, increasing from 30,000 to 150,000.\textsuperscript{30} The chain store idea built after A&P showed the financial benefits of stripping down services and offering low cost goods. Kroger in the Midwest and Safeway in the West led a host of competitors aspiring to the nationwide success of A&P.\textsuperscript{31} The world war slowed their growth, but post-war inflation promoted discontent with traditional retailing and contributed to the rapid growth of the chains.\textsuperscript{32} Students of retailing particularly pointed to the strength of chain groceries in urban centers. In 1914, according to one retail observer, chains had 10 percent of the grocery sales in Philadelphia and New York. By 1925, they controlled 65 percent of the sales.\textsuperscript{33}

Such phenomenal growth in grocery store chains attracted interest from other retailers. Drug stores, dime stores and variety stores saw an opportunity for development. These firms pushed aggressive expansion policies fueled by investment from a booming Wall Street.\textsuperscript{34} The Walgreen's drug chain, based in

\textsuperscript{30} Strasser, Satisfaction Guaranteed, 222, 283; Rural Trade, July 1926, 9; Lebhar, The Chain Store in America, 57-58.

\textsuperscript{31} Strasser, Satisfaction Guaranteed, 224; The Booster, September 1, 1927, 1; Phoenix Magazine, May 1980, 80.

\textsuperscript{32} Whittier Bulletin, January 25, 1929, 1.

\textsuperscript{33} Rural Trade, July 1926, 9.
Chicago, catapulted into national prominence during the 1920s. It sold a wide variety of goods, not just prescription medication. Walgreen’s attracted its own regional competitors aspiring to the same success. Other retailers increased the size of their stores and the number of products they offered. Woolworth and its sister dime stores also expanded in the period. They were joined by a host of similar firms that distributed a wide array of goods. Among the most prominent of these was the J.C. Penney Company. Because of the success of firms like Penney’s, especially in rural areas, mail order companies decided that they had to expand their operations to maintain market share, especially since cars and paved roads encouraged farmers to shop in towns rather than rely on package delivery.

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Ward both entered the retail market during the mid-1920s, attracting widespread attention and prompting expressions of concern. These firms used their immense capital to expand at a terrific rate. During a twelve-month stretch of 1928 and 1929, for example, Sears expanded at a rate of one store every other business day. Over the course of a decade, the face of American retailing changed drastically.

Chain executives presented themselves as the wave of the future in retailing, the modern, scientific way of purchasing consumer goods. During the 1920s, they became aware of themselves as a distinct segment of retailing. The National Chain Store Association, which brought the industry together for conventions, promoted this new awareness, producing a magazine, *Chain Store Age*, and acting as a resource on distribution. The chains claimed to serve the public better because they could sell at the lowest possible cost and force other retailers to do the same. They lowered the expense of distribution

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42 Bruce Barton, “Speech before the National Chain Store Association Convention,” p. 4, box 122, “National Chain Store Association, Chicago, 1929,” Bruce Barton Papers,
because of two advantages. First, the chains freed retailing from the control of large wholesalers, capitalizing their stores better than small merchants and selling goods in high volume.\textsuperscript{43} The chains argued that a second strength helped them to buy and sell at low price: their expertise. Dedicated pursuit of the best retail practices brought about success.

Chain stores suggested that the immense size of their operations represented another important development in retailing. They noted that their rate of expansion and rapid accumulation of capital brought about tremendous cost-savings to the American people. They promised to liberate America from its bondage to wholesalers and the small, inefficient traditional store.\textsuperscript{44} As firms expanded, they could afford to buy trainloads of products.\textsuperscript{45} As a result, they could ask for quantity discounts and exert pressure on farmers and

\textsuperscript{43} Albert Morrill to Huber, February 17, 1931, "1931 February" Huber Papers; \textit{Congressional Record}, 71\textsuperscript{st} Congress, 3d Session, 1931, volume 74: 4000.


companies to sell at lower prices. They demanded extensions of credit and financed their operations, in part, through manufacturer credit. In some cases, these companies took over manufacturers or bought the entire output of a company to ensure low prices. Economists asserted that these changes offered substantial savings over the old wholesaler system.\(^{46}\)

Since chain retailers bought in high volume, they had to sell goods at the same brisk pace. Chains avoided large inventories, which endangered turnover and sapped the finances of the firm. They struggled to perfect inventory control so they could minimize the size of their holdings and avoid wasteful stockpiles. In order to accomplish this goal, they used trucks and the new highway system to transport goods between stores and move products to areas where they might sell.\(^{47}\) The most important innovations, however, concerned pricing techniques.\(^{48}\) Chains sold at one low price to all consumers, eliminating bartering. Chains could afford to charge low prices on each transaction


\(^{47}\) Monod, *Store Wars*, 160.

because of their high volume of sales and rate of turnover, which, in some cases, tripled the turnover of a typical store. In order to ensure higher volumes of sales, chains would even sell certain products below cost. They called these products "loss leaders." Although many branded goods had been protected by price agreements between manufacturers and retailers, a 1911 Supreme Court case, *Dr. Miles Medical Company v John D. Park and Sons Company*, had struck down these contracts and greatly increased the number of products that could be used as loss leaders. Stores exercised this opportunity and routinely sold some items below cost. These sales lowered overhead and prevented large stockpiles from forming in warehouse, but also attracted consumers who might purchase other products. The strategy produced overwhelming results. For example, the Owl Drug Company had to install guardrails in order to control rabid crowds inundating stores in search of bargains. In order to stop other retailers from purchasing low cost soap and reselling it, they defaced the labels. If Owl Drug damaged the packaging, other retailers could not sell them at their stores.

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The appeal of low price served as the best advertising for the chains, but the chains also worked to create an image of expert control. In their public statements, the chains celebrated their modernity and the role of the expert in their organization. They carefully crafted a visual impression of modernity. Although chain stores were the same size as their so-called "mom and pop" competitors, they worked with architects to create a different image, an image that emphasized the power and size of their corporations. The chains underscored their size and power through creating identical storefronts consumers could easily associate with a particular chain.52 Inside the stores, the chains sought to produce attractive, bright and clean shopping areas. Instead of the shabby appearance and pell-mell clutter of the old stores, the chains provided a modern layout.53 The chains improved retail lighting, hoping to show the vitality and spirit of the firm and contrasting it with the darkness of older stores.54 Sears used its tremendous resources to push for architectural change and modern building styles. It insisted on having large parking lots to

52 Winfield Caslow, Sob-Squad, 161-164, 224.

53 The Booster, December 8, 1927, 1; Monod, Store Wars, 151-155; Strasser, Satisfaction Guaranteed, 246-248; Sedgley, "The History of the Owl Drug Company," 1.

accommodate the new driving customer and also built the first windowless store, an innovation unthinkable before the development of air conditioning.\textsuperscript{55}

Chain advertising also emphasized their vitality. In part, the chains appeared so virile, because their advertising budget dwarfed that of most small retailers. Their print and radio ads argued that they provided the modern housewife with the sane, modern solution to purchasing. In a nation obsessed with newness, power and vigor, with the ideal of bigger and better, the chains claimed to be the future of consumption.\textsuperscript{56} The A&P corporation ran a series of ads in the 1920s that exemplified this approach. In one advertisement, a housewife is described as a "buying agent" for the home, a trusted individual responsible for marshalling resources to stretch precious household dollars. Throughout the campaign, the grocery chain emphasized its “scientific” approach to the problems of retailing.

In an effort to broaden their appeal and demonstrate their superiority and modernity, the large chains also emphasized efficiency and the role of the expert in their organization. Because of their immense size, chain retailers


\textsuperscript{56} \textit{The Community Builder}, March 2, 1931, 1; Lessing Rosenwald to Barton August 17, 1931 box 79 "Sears and Roebuck” Barton Papers; Barton to Rosenwald August 4, 1931 \textit{ibid}.
could afford to hire specialists in all aspects of retailing: store layout, advertising, purchasing and real estate.\textsuperscript{57} Real Estate experts, for example, selected the sites of future stores through "traffic studies," which sought busy locations to attract customers.\textsuperscript{58} The chains emphasized the importance of uniformity of rules and standardization of practices.\textsuperscript{59} The central offices dictated policies, including, in many cases, cutting expensive services like credit and delivery.\textsuperscript{60} They also developed manuals with procedures for dealing with employees and the public.\textsuperscript{61} The chains implemented these retail policies through a bureaucracy of regional managers and overseers that limited the autonomy of the local manager, even listing prices for products.\textsuperscript{62} Through attention to these rules, the chains believed they could streamline the process of distribution and ensure low prices and excellent service throughout the country.


\textsuperscript{58} Strasser, \textit{Satisfaction Guaranteed}, 226.

\textsuperscript{59} \textit{The Booster}, December 8, 1927, 1.

\textsuperscript{60} \textit{Empire Magazine}, July 8, 1962 in the Penney File, American Heritage Center, University of Wyoming; Strasser, \textit{Satisfaction Guaranteed}, 249-250.


\textsuperscript{62} Holsey to Barnett, January 11, 1930, box 251 folder 6, Barnett Papers.
The chains asserted that the nation received better service from them and their corporate efficiency. As the chains expanded across the country and trumpeted their growth, independent shopkeepers condemned them as an assault on the American way of life. The entry of mail order companies into chain retail particularly encouraged storekeepers to focus on the chains as a new threat to community life.63 Veterans of the progressive campaigns joined the retailers as vocal opponents. By the mid-1920s, a hodge-podge of critics condemned the chains, including union members, farmers, the Ku Klux Klan and black activists.64

These groups had different concerns. Trade unionists worried about the low wages and long hours in chain stores. Although they appreciated lower prices in chain stores, some unionists feared chain buying practices would force down union wages in the manufacturing sector.65 For their part, farmers had been the bulwarks of anti-monopoly forces since the Populist movement. They worried that strong corporate interests would use their market power to lower agricultural prices.66 Farmers had just fought a bitter battle to stop large

63 Chicago Tribune, October 26, 1926.
64 Diner, A Very Different Age, 46.
66 Rural Trade, September 1926, 14.
meat packers from entering into the grocery business because they feared corporate intrusion into distribution. Racial activists, including Black socialist A. Philip Randolph and the Ku Klux Klan, opposed the chains because they brought foreign intrusion into local communities. Randolph warned African-Americans that chains would strip opportunity from Black people and leave them at the mercy of white corporate interests. The Ku Klux Klan, one of the most powerful movements of the 1920s, criticized the chains for threatening the communities of America. Much like Randolph, the Klan argued that trade and money should be kept within the racial community and away from outsiders. The Klan promoted "Trade with Klansmen", or "TWK," a booster program that encouraged members to shop with one another. The pages of their newspapers reveal a large number of small merchants as members, and in sporadic editorial campaigns the Klan criticized the chains.


Of course retailers had an even greater interest in the chain stores. Large trade associations articulated their official voice. The National Association of Retail Grocers (NARGUS) and the National Association of Retail Druggists (NARD) were the two most prominent national trade organizations. Both groups had been founded in the late 1890s as part of a surge of professionalization. They represented the interests of retailers in government and promoted high standards of conduct and performance by their members, disseminating information on retailing through trade shows and the trade press.70 Both NARGUS and the NARD had state and local chapters that cooperated with them, and local trade organizations and chambers of commerce organized groups in towns throughout the nation. Such groups sponsored programs to boost trade in the community or control retail trade practices, including wages and hours.71 Despite the significant role played by these groups, many retailers refused to join them because they believed the organizations failed to act in their interests or they did not want to pay membership fees. In fact, the national organizations consistently organized fewer than ten percent of all merchants. Even local trade associations found

70 Strasser, Satisfaction Guaranteed, 246; Rural Trade, June 1926, 3.

71 The Man You Ought To Know, September 1928, 1, 2, 12; The Booster, July 19, 1929, 1; Strasser, Satisfaction Guaranteed, 219-221.
opposition from merchants unwilling to donate money or suspicious of efforts to control trade practices and hours of operation.72

The rise of the chains sparked numerous controversies in these associations.73 Some retailers believed the stores would crush the independents unless immediate legislative action was taken against their unfair trade practices; others proved more confident that modernization would save them from the new competition.74 Although retailers and their trade associations sought outside help to counter the growth of the chains, they also attempted reforming themselves in order to meet the challenge. Retailers and their trade organizations developed a number of educational initiatives to counter the chain challenge.75 Trade magazines covered all facets of retailing from purchase of the product to final sale, and encouraged modernization that emulated the techniques of innovative retailers. For example, they discussed the importance of inventory control and urged retailers to study their rate of turnover and carry better selling items. Other articles discussed accounting

72 Monod, Store Wars, 229, 342.


74 Diner, A Very Different Age, 42, 49; Rural Trade, July 1926, 17.

techniques and covered methods that could help in the calculation of adequate profit margins. They also suggested improvements in layout and advertisement that would lead to increased patronage. Although some of these techniques could be done quite easily, others required considerable capital outlay. Some retailers could not afford the cost of these changes and did not follow through with the reforms.\textsuperscript{76}

Other independent retailers joined together, often with the help of wholesalers, to create so-called "voluntary chains." Voluntary chains emulated their corporate opponents by pooling buying resources and sharing advertising campaigns, publicity materials, and information on improved retail techniques.\textsuperscript{77} The most famous of the voluntary chains was the Independent Grocers Association (IGA). J. Frank Grimes created this organization in Chicago to protect small retailers against the massive inroads made by corporate chains. As Grimes later bragged, "The IGA came into being when a small group of men banded together to whip collectively the problems we could not whip as individuals. At that time it was

\textsuperscript{76} Monod, \textit{Store Wars}, 187.

commonly accepted that the independent merchant was doomed because of the great strides being made by his highly organized corporate competition."
The IGA prospered, and still organizes independent grocers throughout the country. Because of their success, retailers combined in the drug and hardware fields.78

One of the most interesting voluntary chains was the Colored Merchants Association (CMA), established by the National Negro Business League, an organization founded by Booker T. Washington. The League sought to build economic prosperity through Black business and believed Black purchasing power should support good paying jobs for African-Americans.79 The CMA, like many other projects of the National Negro Business League, relied on help from white businessmen, politicians, and bureaucrats to organize its operations. These leaders offered expert advice and investment capital. But the organization always emphasized that Black members held the majority of investment.80 The CMA modeled itself on the IGA, pooling buying power and advertising dollars and passing along the latest techniques in retailing.

78 The Booster, September 14, 1928, 1; The Booster, March 15, 1929, 1.
80 Holsey to Barnett, January 22, 1929, box 251, folder 5, Barnett Papers; Holsey to Barnett, June 3, 1929, ibid.
Unfortunately, it dissolved after several years because of inadequate financing and infighting.\textsuperscript{81}

In addition to pushing to increase their efficiency, the CMA, IGA and other voluntary chains condemned the chains in their advertising and other public statements.\textsuperscript{82} Their criticisms mirrored attacks made by retail trade associations. Chain stores, according to these groups, endangered the community by threatening the stability, openness and equality of the American economy. The retailers argued, in addition, that chain stores did not contribute to civic improvement activities, which they referred to as “boosting.” Small retailers prided themselves on their donations to charity and efforts to improve the quality of life and economy of their towns through the road building and electrification projects they sponsored. In contrast, they said, the chains sought to suck as much money as possible from the pockets of local consumers.\textsuperscript{83}

Small retailers emphasized that citizens should trade at home and build up their


\textsuperscript{82}WISCO, \textit{A History of the WISCO Hardware Company}, 186.

\textsuperscript{83}The Man You Ought to Know, September 1928, 2; Lewis, \textit{Main Street}, 294; The Man You Ought To Know, August 1928, 1, 3, 11-12; Rural Trade, June 1926, 6; The Man You Ought To Know, March 1929, 1, 3; Palamountain, \textit{The Politics of Distribution}, 40-46.
communities by patronizing local storeowners. They condemned chains for driving small retailers out of business, eliminating opportunity, and concentrating wealth in the hands of the few.

Because of their hatred for the chains, independent retailers made direct attacks on the stores. Their assaults took two forms. They promoted boycotts, and shopkeepers urged government action against corporate retailing. Local groups led the boycotts. Their trade organizations had been active for decades in promoting local trade and civic boosterism. As Wayne Fuller discusses in his study of mail order businesses, the trade organizations had already responded to the rise of mail order and department stores with boycotts, which featured bonfires and marching bands. Emotions became so heated in some communities, that mail order catalogs arrived in plain brown wrappers. With chain stores as a new target, retailers started similar campaigns. They distributed anti-chain educational materials and also organized protests, complete with parades and community dinners to encourage consumers to withhold dollars from the chain.84

Independent retailers also championed attempts to get the federal government to control predatory behavior by the chains. National trade groups had not responded to the boycotts because they shied away from controversial tactics and preferred to remain in the background. In addition, NARGUS and the NARD had no history of involvement with boycotts because Sears and Montgomery Ward had little effect on their trade. Such direct action was foreign to their experience and outside their expertise. 85 Because they could more readily coordinate lobbying of the federal government, the national associations concentrated their efforts in Washington. NARGUS and NARD passed on complaints against the chains to the Federal Trade Commission (FTC) and lobbied it to apply existing law to the chains in order to curb their growth. The associations also promoted new legislation to strengthen the anti-trust laws and, in particular, permit price maintenance, or the right of manufacturers to set minimum retail prices.

The FTC did not take action against the chains for two reasons. First, and most important, the agency saw no violation of the Clayton Act, the applicable statute. It regulated purchase of stock, not outright takeovers. As such, the chain mergers, usually by purchase of assets, were not scrutinized. Furthermore, the act made no condemnation of predatory pricing. It prevented

manufacturers from discriminating based on locality but permitted quantity discounts. Although the FTC attacked predatory pricing in a 1927 report, there was neither a belief that chains were solely responsible for such pricing nor a conviction that there was a legal basis on which to attack them.\textsuperscript{86} Second, the FTC had entered a more conciliatory period in its relations with business. During the Republican administrations of the 1920s, the commission came under the control of administrators who were friendly with business. Commissioners believed that industry had proved its service to the nation and vowed to reward this service with a new policy. This approach, termed "associationalism' by historian Ellis Hawley and others, sought to promote business efficiency through support by the FTC and other governmental agencies.\textsuperscript{87} The FTC sponsored trade practice conferences to foster productive behavior by business and make the economy function as smoothly as possible. Through these meetings, the agency hoped to promote purchasing power. Following the advice of staff economists, the FTC concluded that chain stores


improved the efficiency of retailing and acted as a positive force for social change, lowering the price of retail goods to the consumer.88

Small retailers and wholesalers criticized the FTC for its policy on chain stores. These groups complained that the FTC failed to attack growing chain corporations.89 They believed that differences in sales costs could not account for the sharp discrepancy in prices, and they alleged that chain units, dubbed "fighting stores," deliberately sold below cost in order to drive competitors from business. Most of the states had moribund laws against such predatory pricing, and a small retailer, H. S. Riddle, filed suit against A & P for loss leader pricing in Topeka, Kansas.90 Riddle's suit energized militants in NARGUS, and they called for the association to investigate A & P's prices in various cities nationwide. The association concluded that they needed to take action and urged a congressional investigation of chain price-cutting. In 1928, Iowa Senator Smith Wildman Brookhart pushed this resolution through the Congress, starting an investigation that would not conclude for another five years.91


90 Voices of a Black Nation, 248-249; Strasser, Satisfaction Guaranteed, 251.

The retailers also called for legislation to restore the right to price maintenance. In the same 1911 session that dissolved the Standard Oil and American Tobacco trusts for predatory pricing, the Dr. Miles Medical Company case had invalidated sales contracts. Manufacturers, particularly Kellogg's, Gillette, and Cream of Wheat, tried various legal maneuvers to restore these contracts and protect their products. Because their efforts failed, manufacturers and retailers urged price maintenance legislation during the Wilson administration. The advocates of price maintenance legislation believed that price-cutting demoralized the economy and threatened prosperity. They urged the government to act before devastating economic consequences, including massive retail failure and depressed wages, resulted. Famed progressive Louis Brandeis drafted that legislation, and he also handled the public relations campaign to promote price maintenance, championing it as a way to protect small business. The House Committee of Interstate and


93 Strasser, Satisfaction Guaranteed, 227-228; New York Times, October 12, 1915; Diner, A Very Different Age, 43.

Foreign Commerce held hearings for the next three years of the Wilson presidency.\textsuperscript{95}

Supporters of price maintenance legislation formed the American Fair Trade League. The League, dominated by manufacturers, enlisted the support of retailers and consumer advocates to lobby for the bill. Manufacturers, for their part, testified that they needed protection from unscrupulous retailers who used products for bait, selling them at low prices to attract customers. Loss leaders, according to the manufacturers, made their goods appear cheap and, perhaps, substandard. They complained that this practice might lead other retailers to stop carrying their products, either because they feared handling shoddy products or they worried that customers would suspect them of price gouging.\textsuperscript{96} Independent retailers supported the bill because of their opposition to predatory pricing. They promoted price competition but not loss leaders designed to use market power to destroy competition.\textsuperscript{97} Storekeepers warned Congress that small businessmen could not survive the onslaught of giant

\textsuperscript{95} Strasser, \textit{Satisfaction Guaranteed}, 282.

\textsuperscript{96} \textit{ibid.}, 228, 270-274

corporations bent on their destruction. Famed home economist Christine Frederick, a consulting editor of *Ladies' Home Journal* and wife of the editor of *Advertising and Selling*, testified as a consumer advocate for the bill. She argued that too many consumers wasted “thousands of calories of energy and car fare” in an effort to save a few cents on a toothbrush. Price cutting, she declared, was not economically rational. Her credibility suffered, however, when it was revealed she had received financial compensation from several manufacturers who had promoted price maintenance. Although President Wilson supported the bill, the revelations about Frederick’s ties to manufacturers and concerns about additional costs to the consumer undermined it. The rise of high wartime inflation only exacerbated the situation.

After a few years the legislation returned to the fore with Arthur Capper of Kansas as a new sponsor. Capper, a leader of the farm bloc and well-known progressive, pushed forward with new hearings in 1926. Capper warned that price cutting threatened retailers and manufacturers. Retailers might be

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destroyed by large competitors using loss leaders to gain market share. Manufacturers, he said, could not operate without an adequate profit, and, he added, price-cutting threatened their products by making them appear cheap, or inferior. Upscale retailers, those providing a better price, might no longer want to handle the items. Capper amended the bill to allow for certain sales below price, such as sales ordered by a bankruptcy court. Capper's legislation once again won strong support from manufacturers and retailers. Proponents of the bill, especially druggists and pharmaceutical companies, supported it with the same fervor that had sparked boycotts against the chain stores in various parts of the country. These retailers believed the bill offered the only hope for the continued survival of independent retailing. Independents developed twin themes that were expressed in the local boycotts. They complained that chains used nefarious techniques to drive them out of business and boasted that they had offered solid retail service and built up the nation’s

100 Monod, *Store Wars*, 263


102 O. J. Schmitz to Capper, April 17, 1928, box 39, "Fair Trade 1925-1929," Capper Papers; Capper to Schmitz, April 20, 1928, *ibid.*
towns. One Kansas wholesale grocer, J. G. Thompson, described a Safeway Store opening with a big “hurrah” in his town. In the past sixty days, he said, he had seen why retailers throughout the country reacted so sharply to the chain threat. Safeway sold products cheaper than their own stores in the nearest large town—in his opinion, an effort to attract business through loss leaders. Thompson questioned the prices offered and the quality of the products and accused the chains of deceptive advertising, including broken slices of pineapple pawned off as a higher-grade product. J. F. Tatman, a storekeeper from Clare, Michigan, wrote Capper that he had been a pioneer merchant who had built his town from nothing. He resented the intrusion of the chains now that the town had grown and stumps no longer clogged its streets. Retailers begged for support. 103

Although a solid base of support existed, the bill could not overcome strong opposition. Many congressmen worried that this sort of legislation would reduce purchasing power and hurt the consumer. They wondered whether the bill would interfere with improvements in retailing and questioned excessive government control over the decisions of private business. 104


104 Strasser, Satisfaction Guaranteed, 271-272; Kelly to Whittier, June 23, 1928, box 44
Although retailers failed to win this legislation, small storeowners had succeeded in developing an effective critique of the chains by the close of the 1920s. They argued that they offered productive, effective retail service and bragged that they had built the prosperity of their towns. In contrast, they said, the chains offered false bargains and had no interest in the welfare of the local community. Chains endangered the consumer. They were a cancer in economic life. Those criticisms found fullest expression and seized the attention of the nation when a series of radio campaigns galvanized public opinion in 1929 and 1930.

In 1929 and 1930 opposition to chain stores reached national consciousness as a number of controversial radio campaigns attacked the chains and attracted the attention of the national media. After the collapse of the stock market, economic issues in general attracted even more attention, and for about a year it became a fad to discuss the chains and their impact on America's economy. As one Minnesota newspaper complained, "What a nation for crazes we are, anyway! A few years ago folks were bugs about the Ku Klux. We went hogwild about the land boom. . . . Now we're going wild about the chain stores."¹ Even the Lil Rascals made a film, Helping Grandma, that dealt with the chain store takeover of a small neighborhood store. In that short, a kindly old grocery woman finds herself the target of a chain store buy out. The film ends well with the chain store giving grandma a large sum of money to enjoy her retirement² Outside of Hollywood, the effects of chain

¹ Quotation attributed to the Worthington Times, a Minnesota newspaper, in Break the Chains, April 26, 1930, 4.

² See Helping Grandma, Volume 7 of the Cabin Fever Collection with Leonard Maltin, videocassette.
growth generated more controversy. Because of widespread public attention, the chain store issue became the national debate topic for 1930 as high school and college debate teams argued the merits of the chains.⁴

Those academic debates honed the reasoning and speaking skills of participants, but an argument with higher stakes developed between small shopkeepers and corporate retailers. Independent storeowners and their trade associations challenged chain claims to be the future of retailing. They denied that chains offered superior efficiency and service and instead depicted chains as a threat to independent retailing and a danger to the community. Customers needed to consider more than the dollar cost of merchandise, local retailers argued, more even than their own pocketbook. They should contemplate the repercussions of their actions for the community as a whole, since chains sucked prosperity and wealth out of them. In the Depression many Americans responded to local retailers’ calls to action. Boycotts of the chains sprang up around the country, ultimately failing to stop the growth of the chains, because consumers sought bargains where they could find them. The campaigns did,

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however, more fully develop critiques of the chains that would be used to promote legislation on a federal, state and national level.

Although foes had attacked the chains for more than a decade, a series of controversial radio broadcasts brought the issue to national attention, dramatizing the growth of the chains and criticizing them with great passion. W.K. "Old Man" Henderson pioneered these diatribes, bringing the plight of the independent merchant to greater prominence. His broadcasts over Shreveport, Louisiana, station KWKH repeated attacks made by retailers in earlier boycotts of chain stores. When Henderson delivered them, however, he used a clear channel radio station, which reached throughout the South and the Midwest. Listeners warmed to this vibrant new voice that offered a powerful critique of a widespread institution. He became a cult figure. A newspaper in Wichita, Kansas, reported that his broadcasts were topics of conversation throughout the city. Some Georgia businessmen chartered a special train car to meet him in person. The public enthusiasm spawned a host of imitators and attracted the attention of national newspapers and business magazines.4

Henderson's criticism of the chains grew out of his long-standing anti-corporate convictions. The millionaire owner of a Shreveport iron works, Henderson supported Huey Long in his 1928 campaign for Governor of Louisiana, donating free airtime over KWKH and ten thousand dollars to the Long campaign. The station gave Long a powerful platform to broadcast his message, and Long employed it to address the public directly, without going through the daily newspapers he correctly perceived to be hostile to his interests. After Long's election, Henderson supported the governor in his populist attacks on corporations. Because of Henderson's opposition to big business, he allowed his friend, Phil Lieber, the chairman of the Shreveport Chamber of Commerce and President of a Building and Loan, to deliver the first broadcast critical of the chains. Lieber's speech received an overwhelmingly positive response, and the resulting barrage of letters and telegrams convinced Henderson to launch an ongoing crusade against the chains.

Henderson sensationalized his attacks, portraying his broadcasts as the last defense of independent business. He promoted a homespun message that

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other media outlets refused to deliver: Boycott the chains or risk the future prosperity of America.\(^6\) Listeners heard Henderson sign on the air with his folksy "Hello World How the Doggone are you?" Then they sat back and listened as he waged war with tremendous ferocity. His antics provided plenty of entertainment. When Henderson once mocked Clarence Saunders, the Memphis based founder of the Piggly Wiggly chains he sparked a battle royal. In response to being called an effeminate liar and a cheat, Saunders threatened Henderson with a lawsuit for slander and, for good measure, placed full-page ads in several newspapers that referred to Henderson as a "shiny-eyed rat."\(^7\)

Henderson's dramatic approach and large radio audience attracted politicians to KWKH to address residents of the South and Midwest. Because of his relationship with Henderson, Huey Long became the first political figure to attack chain retailing over the station, and he emphasized the issue in his 1930 campaign for the Senate. Politicians from throughout the region flocked

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to the mike in Shreveport: Attorney General C. A. Sorenson of Nebraska, Senator Morris Sheppard from Texas, Representative Clyde Kelly of Pennsylvania, and Governor Phil La Follette from Wisconsin all spoke on Henderson broadcasts. The popular response to these criticisms led Henderson to create his own organization dedicated to preserving independent business in the United States: the Merchant's Minute Men. The group included small merchants and their sympathizers from throughout the United States. Although the national retail organizations refused to join the association, some state retail organizations signed up and many local organizations affiliated. More retailers joined Henderson's group than were members of the National Association of Retail Grocers (NARGUS), the largest retail association at that time.

In 1930 the Minute Men held a convention in Shreveport; thousands of delegates from dozens of states assembled to listen to speakers and propose

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solutions to the chain store crisis. Huey Long urged the retailers to stay the course and resist corporate forces. They had truth and God on their side, Long assured them, no matter what earthly power opposed them.\textsuperscript{10} Although the convention goers cheered Long’s speech, they bristled when Charles Brough, former Governor of Arkansas, rose to tell them that chain stores were there to stay. He advised retailers to improve their retailing techniques and cooperate in order to survive.\textsuperscript{11} Many of the attendees regarded such remarks as positively rude in present company—a major breach of etiquette. Most of the discussions at the convention centered on strengthening federal anti-trust law since Henderson and his supporters believed long-term boycotts would be difficult to manage and unlikely to succeed.\textsuperscript{12}

In addition, Henderson urged the convention to memorialize Congress to protect the broadcast rights of his station. Henderson condemned the encroachment of chain radio. In the late Twenties, the National Broadcasting Corporation and Columbia Broadcasting System had begun to tie together chains of stations, as they were then known. Henderson complained that the

\textsuperscript{10} \textit{Shreveport Journal}, October 4, 1930; \textit{Shreveport Journal}, October 22, 1930.

\textsuperscript{11} \textit{Louisiana Progress}, October 30, 1930; \textit{New Orleans Times-Picayune}, October 23, 1930; \textit{New Orleans Times-Picayune}, October 24, 1930; \textit{Shreveport Journal}, October 22, 1930.

\textsuperscript{12} \textit{Shreveport Journal}, October 4, 1930; \textit{Shreveport Journal}, October 21, 1930.
Federal Radio Commission, forerunner of the FCC and responsible for the airwaves, authorized more power to chain members than to independent stations. He also attacked the commission for discriminating against Southern stations. Henderson threatened to ignore the Commission rulings and operate at a higher broadcasting power.\(^\text{13}\)

Henderson and his broadcasts came under increasing criticism. Stung by his attacks, the Federal Radio Commission responded to complaints lodged by chain stores about claims made in his broadcasts. In addition, they reacted to citizens offended by Henderson’s vulgar language, which included liberal use of the “d” and “h” words.\(^\text{14}\) In turn, supporters of Henderson wrote their


governors and others to complain about the actions of the Federal Radio Commission. As one listener remarked, if Henderson played jazz music, "the delirium tremens of music" or talked against prohibition, he would not have been attacked.15

In addition to the chains and individuals upset by Henderson's vulgarity, other groups attacked the broadcaster. Unions condemned him for breaking a strike at his iron works with scab labor.16 Even more important, small retailers began to criticize his conduct. In particular, they resented his efforts to market goods over the radio. Henderson had developed a range of products, including his best seller, "Hello World" coffee. Small retailers considered it colossal hypocrisy for him to attack mail order companies and chain stores for subverting local merchants and yet sell goods of his own over the air.17 Trade associations especially questioned Henderson's priorities. The California Retail

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ibid.; January 25, 1930.


16 Louisiana Progress, April 17, 1930, 2; Jeansonne, Messiah of the Masses, 54-55; Anti-Chain World, February 15, 1930, 4.

Grocers Association, which had already expressed opposition to Henderson, blasted him for his schemes and questioned his handling of donations.\textsuperscript{18}

Questions about his financial propriety and criticism of his vulgar language limited Henderson's effectiveness as a leader of the anti-chain store movement, and he soon turned to other topics, including appeals to help cotton farmers suffering from the agricultural depression.\textsuperscript{19} Although Henderson slowly withdrew from the movement, he had had tremendous influence, spawning dozens of imitators on radio stations throughout the nation. These other broadcasters spread the criticisms of the chains, sparked debate on the chain store issue, and along with Henderson brought it to the forefront of national debate. Some of the more famous of these commentators received national attention, including Robert Duncan of Portland, Oregon; Winfield Caslow of Grand Rapids, Michigan; and Montaville Flowers of Pasadena, California. Robert Duncan received the most national attention. Although Duncan modeled his radio broadcasts on those of Henderson, he started his agitation against the chain stores as the publisher of his own trade newspaper in the mid-1920s. During that period, Duncan organized a boycott of


\textsuperscript{19} Harper, "The Anti-Chain Store Movement," 136-137.
manufacturers serving chain stores. He had also promoted a voluntary chain with a thousand members that emphasized modernization of stores.\(^2\) When Duncan heard about the Henderson broadcasts, from friends in Texas, he rushed to the new medium. Duncan celebrated the power of radio, which allowed him to bypass the local newspapers and reach directly to the people of the region with his anti-chain message.\(^2\) Referring to himself as the "Oregon Wildcat," Duncan prided himself on being a loud-mouthed fanatic. He joked that he would be making a public appearance at a meeting of the independent Meat Dealers. He would be in a "glass case," like some sort of exhibit from a freak show.\(^2\) Duncan reveled in his notoriety and the negative reaction he received in certain quarters. He once told his listeners that anonymous callers had threatened to dynamite him but bragged that the ladies or Portland loved an aggressive man like him and would revolt if he were injured. He even claimed that a chain in Portland had offered to pay for his police protection because they worried about such an occurrence.\(^2\) Despite his boasts, Duncan's

\(^2\) Duncan Radio Broadcasts, transcripts, pp. 305-306, 337, Special Collections, University of Oregon, Eugene, Oregon.

\(^2\) Duncan Radio Broadcasts, transcripts, 245 253, 272, 293-294, 351-352, 290-1.


\(^2\) ibid., 255, 257, 259, 289; Louisiana Progress, June 1931.
campaign lost force over the course of 1930. The FRC fined Duncan for using “damn” and “hell,” and he had problems finding a strong radio station to broadcast his program.

The other radio broadcasters, Caslow and Flowers, attracted less attention than Henderson and Duncan, but they still garnered mention in the national trade press and added a new element to the campaign by publishing books attacking the chains. Winfield Caslow broadcast against the chains in Grand Rapids, Michigan. Like Duncan, he had criticized corporate retailing for years. Caslow wrote the anti-chain movement's only novel: *The Sob-Squad*. The hokey, romantic novel describes the crusade of a newspaper editor to protect his community from the effects of chain and mail order retailing. In the end, the passionate young man leads a campaign to close the chains, survives a near-fatal assassination attempt, and gets the girl, his trusty secretary. After finding slightly less success in his own Michigan campaign, Caslow moved his anti-chain crusade to Chicago, where he broadcast against the chains into the 1930s. The other broadcaster to write a book was Montaville Flowers. Flowers, a long time Progressive who owned a public relations firm, began a spirited set
of public broadcasts against the chains on the West Coast and then published them as *The Chain Menace*.  

Because of the success of radio campaigns by men like Henderson, Duncan, Caslow, and Flowers, many local retail trade organizations developed campaigns against the chains. These local campaigns resembled the anti-mail order and booster campaigns of the early 1920s, but they often produced their own radio programs in order to inspire local consumers to action.  

Participants promoted the local economy by urging retailers, other business people, and consumers to support community institutions. The groups encouraged ethical business practices and campaigned against predatory price-cutting and short weight. In addition, organizations initiated other sorts of civic improvement, including beautification drives and projects to increase 

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community morale. Although anti-chain organizations appeared in every part of the country, they were particularly strong in Minnesota, Wisconsin, Texas and Nebraska.

Two organizations promoted anti-chain activities in Minnesota. In Minneapolis, "Break the Chains" broadcast anti-chain messages and published their own eponymous magazine. The group promoted a booster campaign for Minnesota products as well. The cover of its first magazine showed two muscular forearms, marked "truth" and "publicity" ripping apart a chain linking several stores to each other. The image announced the arrival of a new organization to inform the public about the chain threat. "Break the Chains" accused the local media of ignoring chain opponents and suggested the newspaper bowed to the interests of large advertisers. When supporters questioned local newspapers about their silence on the issue, one editor complained that he had never heard of the new trade paper and that

27 Break the Chains, February 15, 1930, 4; ibid., February 1.,5, 1930, 6; ibid., April 5, 1930, 4; ibid., April 19, 1930, 13.

28 ibid., February 15, 1930, 2, 4, 14.

Henderson's broadcast came from Louisiana, so he felt no obligation to support his campaign. The association countered that the paper was hopelessly out of touch if it had not heard Minnesotans mention the anti-chain issue.

Both the radio broadcasts and the magazine featured a variety of attacks on corporate retailing. The radio program included the "Chain Store Quartet" for a musical interlude, and the association hired a former black-faced comedian to spread their message. Despite the editor's claims that it had not been heard, Break the Chains published dozens of letters from listeners in the upper Midwest. Their magazine showed similar attempts to reach out for a larger audience. Instead of cramming their publication with statistics on retailing or relying solely on transcripts of broadcasts or articles from leading anti-chain figures, Break the Chains created a general interest publication. It packed its pages with features designed to attract a female readership, including short fiction, a regular cooking column, and assorted household hints. Even these items, though, featured an anti-chain message. One serial was entitled "Love Letters of a Chain Store Clerk." The story is told through a series of letters between two chain store employees, but the writer uses the forum to mock chain stores for thievery, fraud, and mistreatment of workers.

30 Break the Chains, March 22, 1930, 15, 30; Break the Chains, March 15, 1930, 5.
(and the young workers for ignorance and apathy). Another column featured the musings of "Auntie Chayne" who poked fun at chain stores but spent most of her time cracking jokes about her oldest niece who was living out her final years of flapperdom as a sexpot divorcee. The stories reflect the tension in the period between youth culture and traditional values. Despite some success with their publication and radio show, the organization endured repeated problems. Its secretary and magazine editor resigned in order to pursue other opportunities, and the group was sued because of an unpaid balance with their radio station. During the trial the president of "Break the Chains" became so enraged that he attacked the former editor in the courtroom, earning himself a stint in jail for contempt.

Another anti-chain organization in Minnesota was the Association of Independent Merchants. It later changed its name to the Association of Independents to reflect its inclusion of farmers and other interested citizens. For a $1.50 fee, members received a subscription to the Community Builder, its publication. The group sought economic justice for all members of society,

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31 Break the Chains, May 3, 1930, 22; ibid., April 26, 1930, 8; ibid., March 8, 1930, 2, 10; ibid., May 3, 1930, 10; ibid., April 26, 1930, 17; ibid., May 3, 1930.

32 ibid., February 15, 1930, 2.

33 ibid., April 12, 1930, 27; ibid., May 9, 1930, 4; ibid., April 26, 1930, 4.
including laborers and farmers. It also boosted economic products from the "Great Inland Empire," Minnesota, and urged Minnesotans to purchase local products with their "economic weapon," the dollar. The group championed full enforcement of the anti-trust laws or "other laws where the spirit or intent of the law is evaded or violated." (i.e. prohibition). Through concerted effort, they hoped to stop "centrally dictated economic control" and "wage slavery and peonage for all classes."34

The neighboring state of Wisconsin hosted a similar effort to fight off central economic control. Two associations left records in that state. Samuel Sigman, a lawyer and Progressive Party politician, organized merchants in the Appleton, Wisconsin area into an anti-chain store organization, building the group after Henderson stirred up excitement through his broadcasts.35 The organization, first named the Fox River Valley Home Merchants Association, later changed its name to the Menasha and Neenah Home Merchant's


35 Sigman to W. K. Henderson, January 20, 1930, box 4, "Orgs-Fox River Valley Merchants Association," Samuel Sigman Papers, Wisconsin State Historical Society; La Follette Progressive Republican Campaign, "Extract of Letter from Northern Wisconsin," n.d., box 4, "File Misc.," Huber Papers; Fred Huntington to O'Mahoney, November 13, 1939, "TNEC Correspondence #2," O'Mahoney Papers, American Heritage Center, University of Wyoming Library, Laramie, Wyoming; Appleton Post January 22, 1930; Appleton Post
Association to reflect its desire to form organizations in other towns. As the merchant’s association grew, it served as a regional umbrella for these groups. Because of its rapid expansion, Sigman even had pretensions of turning it into a statewide group because of its rapid expansion. Membership fees would be split evenly between local groups and the regional organization and Sigman’s own $1 per month retainer. The retailers also sent money from their organizational meeting to support Henderson’s Merchants Minute Men organization. In his donation letter to the “Old Man,” Sigman wrote that local groups should band together with national broadcasters to maximize protection for the independent retailer. Although his organization started with retailers, Sigman wanted to unite the people of Wisconsin, combining the power of farmers, workers and home merchants. In educational campaigns, he emphasized that independent retailers fought for the needs of the community. In an effort to promote these sentiments, speakers from the group addressed local service organizations like the Rotary, Kiwanis and Lions Club and

January 15, 1930.


37 Appleton Post, January 15, 1930.
sponsored an essay contest to teach children the benefits of purchasing through independent retailers. First prize for the contest brought an impressive $50.\textsuperscript{38}

The second Wisconsin organization, called “Community Builders,” attacked chains from the state capital of Madison. The group sponsored the "Voice of Independence," a radio program featuring Ben Saunders. Saunders attacked local newspapers, claiming they refused to print the truth about the chains, but he also urged local merchants to advertise in them to offset the tremendous power of corporate retailing.\textsuperscript{39} Like the other organizations, the Community Builders promoted a continuous campaign for membership and dues.\textsuperscript{40} The Community Builders of America issued official-looking application forms marked as "Summons and Cause for Action for the Court of Business Relations in the State of Prosperity and County of Cooperation.” Members paid on a sliding scale with large manufacturers and wholesalers paying more than storeowners.\textsuperscript{41} In return for their payment, members received a Community Builders insignia to place on their window, door or truck.

\textsuperscript{38} Appleton Post, January 15, 1930; Appleton Post-Crescent, January 22, 1930.

\textsuperscript{39} The Community Builder, March 2, 1931, 4.

\textsuperscript{40} The Community Builder, March 2, 1931, 2.

\textsuperscript{41} "Community Builders of America Application Blank, 1931," box 26, folder 5, William Evjue Papers, Wisconsin State Historical Society, Madison, Wisconsin.
Saunders and the campaign found a receptive audience and built their influence, receiving positive letters from portions of Iowa and Illinois as well as Minnesota. \(^{42}\) Saunders claimed that chains attempted to intimidate the radio station from which he broadcasted. Flushed with success, his supporters targeted the media and threatened the *Capital Times* newspaper, saying they would find alternative sources for news unless decisive action were to be taken against the chains. \(^{43}\) Their gambit backfired, and the editor, although a progressive, campaigned against the movement. Despite a strong start, the organization collapsed after the spring of 1931. \(^{44}\)

Similar anti-chain movements existed outside of the upper Midwest. The Texas Anti Chain (sic) Store Association developed in that state in the wake of the Henderson campaign to fight chain stores. \(^{45}\) The group included an array of wholesalers and retail dealers, including owners of movie theaters, who faced new competition from film company chains. It published a

\(^{42}\) *Community Builders*, March 2, 1931, 6; Ben Saunders to P. W. Ramer, March 19, 1931, box 26, folder 5, Evjue Papers.

\(^{43}\) J. Dalton to *Capital Times*, April 4, 1931, box 26, folder 5, Evjue Papers.

\(^{44}\) Ben Saunders to P.W. Ramer, March 19, 1931 box 26, folder 5; Ben Saunders to P. W. Ramer, April 18, 1931, *ibid*.; W. F. Rock to Evjue, n.d. box 26, folder “Community Builders.” All in Evjue Papers; *The Capital Times*, April 14, 1931.

\(^{45}\) *Anti-Chain World*, February 15, 1930, 6.
newspaper, *The Anti-Chain World* and held mass meetings in various Texas
towns in an effort to fight chain entry into the state.46

Another important group of anti-chain activists operated out of Omaha,
Nebraska. The *Omaha Journal of Progress* reached beyond the chain issue to
attack other injustice it found in the state of Nebraska, criticizing gambling,
drinking, and government corruption.47 Opponents of the chains sponsored a
special radio campaign in the city as well. The broadcasts anchored a
weeklong educational campaign on the chains that promoted independent
retailers. Newspaper ads promoting the event featured the liberty bell in the
background with the word "Independence" emblazoned across it. The
broadcasts starred a nine-year-old "boy orator" and the Attorney General of the
state, C. A. Sorensen.48 Because of Sorensen’s support, the Omaha group
succeeded in getting an investigation of the chains that garnered national
attention. Its study of pricing techniques by the Safeway grocery chain
uncovered evidence of predatory tactics in small communities. According to
surveys of prices, the firm sold below cost in order to build market share in

46 *Anti-Chain World*, February 15, 1930, 4, 7; *Break the Chains*, February 22, 1930, 3.

47 *Omaha Journal of Progress*, February 6, 1931, 1.

48 C. W. Watson to C. A. Sorensen, May 23, 1930, box 6, folder 231, C. A. Sorensen
Papers, Nebraska Historical Society, Lincoln, Nebraska; *Omaha News* April 23, 1930 in
new communities. Former employees confirmed this practice and accused the firm of short weighting and otherwise defrauding the public. Sorensen's investigation found its way into Henderson's broadcasts and was reported throughout the country as proof of the chain threat.

The campaigns of 1929 and 1930 popularized attacks that had been made for several years. These criticisms of chain stores can be broken into five sorts. The first three involved charges that chains had been spreading because of unfair advantages and deceptive practices. First, retailers accused the chains of misleading consumers. Although chains claimed to offer lower prices, they substituted inferior merchandise and provided shortweights. Second, independent retailers said that the chains could offer lower prices because they did not provide necessary services, like credit and delivery, to their customers. Third, independent retailers suggested that chains avoided taxes, which rightfully belonged to local communities. Chains, they claimed, could shift merchandise from store to store in order to avoid paying property tax in a given market and thus enhance their profit. The remaining two criticisms related to the chains' long-term effects. Fourth, the independents warned that the chains, because they sent their profits to

box 60, Scrapbook XIV, Sorensen Papers; *Louisiana Progress*, March 1931, 2.
distant financial centers, would drain local communities of wealth and leave them destitute. Fifth, the chains would destroy independent retailing and undermine American opportunity.

Of these claims, independents in 1929 and 1930 placed special attention on the first issue: that of short weight.49 Alleging that chains cheated housewives, they warned consumers that lower advertised prices per pound did not necessarily signal better bargains.50 Small retailers hoped to undermine consumer trust in the chains and encourage consumers to shop with their hometown dealers. According to the chain opponents, obsessive inventorying forced chain managers into short weighing. Chains demanded that managers get one hundred one-pound bags of sugar from a hundred-pound bag of sugar. Although this seems reasonable at first glance, shrinking and spillage meant that the managers lost some of the product. As a result, employees had to short weight consumers in order to meet their quota of bags.51 The "Break the Chains" organization focused particular attention on A&P in Minneapolis.

49 Anti-Chain World, February 15, 1930, 6; Break the Chains, February 22, 1930, 8; C. M. Sandstron to Capper, November 28, 1930, box 39, "Fair Trade 1930," Capper Papers.

According to several recent customers, a manager at one location had cheated them. When he had been fired, representatives of the company went around to injured customers, offering gifts of regret in hopes of retaining their business. *Break the Chains* poked considerable fun at the public relations effort, reporting that one of the women "was the recipient of an unexpected chicken," which was delivered to her home in her absence.\(^{52}\) But contrary to their claims, and those of other activists, the chains did not develop short weight. One can find references to dubious weights and measures in Plato and the Book of Deuteronomy in the Hebrew Bible. Some chain employees certainly defrauded customers. Countless chain store managers faced prosecution under city and state weight ordinances. In fact, government reports demonstrated that chains committed more violations than independents. However, the disparity between chain and independent was hardly so large as implied by anti-chain activists. Chains followed no clear policy of short weighing.\(^{53}\)

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\(^{51}\) Caslow, *Sob-Squad*, 169; Duncan Radio Broadcasts, transcript, 278-279, 288.

\(^{52}\) *Break the Chains*, February 15, 1930, 3, 11.

In addition to their complaints about short weight, small retailers warned about other tactics to defraud shoppers. Chain stores sold some products in smaller sizes than those available to independent stores because canning companies and other manufacturers provided them with special sizes of products. Since, at this time, containers did not have the net weight printed on them, these packages offered the chains ideal opportunities for fraud. If they sold smaller size products, the chains could obviously offer lower prices.\(^{54}\) According to anti-chain activists the chains would also substitute products in order to get a higher profit margin. Stores would sometimes advertise popular brand names at low prices but purchase only a small number of the items. When customers came for the specials, stores would offer other, inferior products, a classic "bait-and-switch" scheme. This practice occurred in independent stores as well, and was, furthermore, difficult to prove, but independents contended that chains specialized in these schemes.\(^{55}\) According


\(^{55}\) M. A. Johnson, Fifty Years of Country Storekeeping (Brainerd, Minnesota: Lakeland Color Press, 1955), 127; Helping Grandma, videocassette; Break the Chains, April 12, 1930, 28-29, 31; Democrat (Johnstown, Pennsylvania), March 4, 1930 in box 39, "Fair
to Bob Duncan, they handled shoddy merchandise and treated it in a disgraceful manner. He even accused Safeway and the McMarr chain of Portland of storing meat in their bathrooms.\textsuperscript{56} Aside from these lurid charges, retailers warned consumers to beware low advertised prices on certain products for another reason: they only disguised higher prices throughout the store. Loss leaders served to draw crowds, but the chains made up the difference, and more, by charging more for other items.\textsuperscript{57} Beyond the danger to the consumer, chain opponents warned customers that cut prices hurt farmers and union workers because they lowered the prices manufacturers and farmers could charge.\textsuperscript{58} Duncan made a special point of this criticism, attacking brands for having anti-union policies.\textsuperscript{59} Because of these many underhanded tactics, anti-chain activists accused the chains of fostering immorality in their

\textsuperscript{56} Break the Chains, February 22, 1930, 8; Break the Chains, March 8, 1930, 16; Duncan Radio Broadcasts, transcript, 234, 241-242, 337.

\textsuperscript{57} Caslow, Sob-Squad, 166-171.

\textsuperscript{58} Caslow, Sob-Squad, 296.

\textsuperscript{59} Duncan Radio Broadcasts, transcript, 224, 276, 280, 306, 332-334.
employees, enticing managers to forget business ethics and make money at any cost.\textsuperscript{60}

Although opponents emphasized these unethical practices, a second theme was that the chain stores offered lower prices because they cut out important services like delivery and credit. Because of the reduction in overhead, chains could charge less for their goods.\textsuperscript{61} According to opponents of the chains, these stores demonstrated a reluctance to cater to the needs of the community by eliminating free delivery. Anti-chain activists saved their harshest criticism, however, for the chains' refusal to offer credit to customers. The chains, with a few exceptions, considered credit a wasteful expense and shunned it.\textsuperscript{62} Anti-chain activists argued that this policy showed a distressing lack of concern, a "cold-blooded indifference," for the needs and welfare of others. Many consumers relied on credit for food between paychecks.\textsuperscript{63} In an

\textsuperscript{60} Break the Chains, February 22, 1930, 2; Monod, Store Wars, 280-281; Louisiana Progress, March 27, 1930, 3; Break the Chains, April 12, 1930, 6; Anti-Chain World, February 15, 1930, 3, 8, 9; Duncan Radio Broadcasts, transcripts, 296; Fred Cunningham, "Awake Ye Americans," May 9, 1934, box 230, "Federal Licensing-General #1," O'Mahoney Papers.

\textsuperscript{61} Duncan Radio Broadcasts, transcript, 280; Break the Chains, April 19, 1930, 5; Helping Grandma, videocassette.

\textsuperscript{62} Duncan Radio Broadcasts, transcript, 235; Strasser, Satisfaction Guaranteed, 227; W. A. Achilles and Company, "Receipt," "Folder 2 1934 Correspondence," Walter Prescott Webb Collection, Texas State Archives, Austin, Texas.
era before credit cards, the good will of a grocer meant quite a bit. Unfortunately, some consumers did not pay their bills. As mentioned in the first chapter, these past-due accounts receivable hurt the profitability of the stores and were frequently mentioned in bankruptcy proceedings. Still, independent retailers defended the practice as an important humanitarian contribution to the community and bragged that independents provided charity for the indigent when chain stores refused.

A third issue used against chain stores by the independent retailers was the lower tax burden of chain stores. According to the anti-chain activists, chains used loopholes in the law and deliberate subterfuge to pay a lower tax than independent retailers. The differential accounted, in part, for lower prices in the chain stores. Although this attack might seem to be without merit, state

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63 Anti-Chain World, February 15, 1930, 8; Break the Chains, February 15, 1930, 13; Mondovi Herald News, January 31, 1930 in Sigman Scrapbook, Sigman Papers; Louisiana Progress, May 1, 1930.

64 Wichita Independent, April 26, 1932, 1, 4; Caslow, Sob-Squad, 69.

tax laws in the 1920s and 1930s actually did permit chain corporations to avoid taxes in all towns but their city of incorporation. Independent retailers resented this rule because they felt that their competitors did not pay for city services. In addition, retailers complained that the chains manipulated assessments to minimize their tax bills. According to chain opponents, chains sent inventory to other stores outside of a city or county when the assessors came. This trick lowered the property assessment and enabled them to lessen their tax burden. Governmental investigators confirmed claims that chains paid lower taxes. In response, opponents complained that lower tax burdens meant that the chains acted as parasites, living off previous work by independent retailers. Anti-chain organizations worked to increase assessments in order to narrow the gap in tax burdens.

Fourth, anti-chain activists warned consumers that the growth of the chains would have a devastating long-term influence on American prosperity.

66 Strasser, Satisfaction Guaranteed, 227.


68 C. Morse to LaFollette, March 18, 1931, box 17, folder 1, Phil LaFollette Papers; J. F. Tatman to Clyde Kelly, January 16, 1928, box 39, "Fair Trade, 1925-1929," Capper Papers; J. G. Thompson to Capper, October 31, 1928, Ibid.
Chain stores stripped wealth from communities, they argued, and even if they offered better prices, a disputed point, they still undermined the local economy. Instead of profits remaining in town, where they could be invested, chains sent their money to a central headquarters. Instead of concentrating on better streets and a thriving downtown, chains worried about their own profits.\(^{70}\)

Chain opponents argued that, in contrast, local retailers built up the community. Some small retailers, especially from the Midwest and South, liked the image of the pioneer, the independent, rugged spirit responsible for taming a distant wilderness. Some small retailers remembered when they came into the community, before the age of chain stores, or even automobiles. They mentioned dirt streets with stumps in them, horses tied to posts in the front of the stores, and even bandit raids.\(^ {71}\) In the pages of the *Anti-Chain World*, the image of the independent pioneer blended with that of the freedom warrior. Writers compared themselves to the famed warriors of the American

\(^{69}\) *Break the Chains*, February 15, 1930, 12; *Interstate Grocer*, February 1, 1930; *Shreveport Journal*, October 23, 1930, 15; *Appleton Review*, April 4, 1930.

\(^{70}\) *Anti-Chain World*, February 15, 1930, 6.

Revolution and the Texas War for Independence, patriots dedicated to the protection of their homeland.\textsuperscript{72}

If chain stores were to be permitted to control the community, the city and state would be destroyed as purchasing power flowed into the hands of out-of-state predators.\textsuperscript{73} Some speakers worried that chains might create ghost towns, cities that dried up and blew away when local industry collapsed.\textsuperscript{74} Small savings on prices might therefore lead to terrifying consequences.\textsuperscript{75} This fear had strong roots in American economic history. Residents of the South and West had frequently voiced suspicions that the East profited from their hard work. Populists made this claim a rallying cry for their challenge of the

\textsuperscript{72} \textit{Anti-Chain World}, February 15, 1930, 2-3, 5.

\textsuperscript{73} \textit{Anti-Chain World}, February 15, 1930, 1, 3, 12; \textit{Break the Chains}, April 19, 1930; \textit{ibid.}, February 15, 1930, 6; \textit{Edelblute’s Drug News} (Topeka, Kansas) January 1928, 1; Duncan Radio Broadcasts, transcripts, 281-313; \textit{Break the Chains}, March 22, 1930; “Fire Department Banquet,” box 1, "Miscellaneous," Dave Jones Collection; \textit{Brooklyn Times}, December 17, 1930 in box 1, "Letters and Press Notes Covering Looking through Life’s Window-1931," Henry A. Meyer Papers, Brooklyn Historical Society; \textit{Flatbush Observer}, April 4, 1936 in box 7, "Sidewalks," Henry A. Meyer Papers; \textit{Break the Chains}, April 26, 1930, 33; \textit{The Community Builder}, March 2, 1931, 6; \textit{Break the Chains}, February 15, 1930, 6; \textit{Break the Chains}, March 22, 1930; \textit{Break the Chains}, May 2, 1930, 8; \textit{ibid.}, March 8, 1930, 2.

\textsuperscript{74} L. M. Mott, "Self-Preservation: An Address on the Foreign Chain Systems," pp.5-8, box 37A, folder 3, Patman Papers; Huber to Otto P. Kugler, June 12, 1930, box 6, folder 5, Huber Papers.

\textsuperscript{75} \textit{Break the Chains}, February 15, 1930, 5-6; \textit{ibid.}, March 15, 1930, 5.
American economic system. In *Coin's Financial School*, one of the most popular populist books, a cartoon depicts a cow feeding off of agricultural products from the West and South but being milked in New York. This metaphor reflected populist fears that wealthy financiers could dominate the financial markets and credit supply. If this happened, the circulating medium—money—would be stripped from the hands of honest working people in the countryside and concentrated under the control of greedy businessmen in the major metropolitan areas. Henderson used this cartoon in his campaign against the chains.\(^{76}\) At another time, the *Anti-Chain World* warned that the country faced crucifixion on a cross of chain store gold, clearly alluding to William J. Bryan's speech before the 1896 Democratic National Convention.\(^{77}\) These claims seemed validated by the experience of bankers. Many bankers complained that the chains kept minimum balances and shipped their money out of town as soon as possible, preferring central accounts in larger cities to holdings in small town banks. The bankers also alleged that chain store accounts endangered their institutions because they required frequent transfers and expense—with little potential for profit because the banks could not loan


\(^{77}\) *Anti-Chain World*, February 15, 1930, 14-15.
money that remained in their hands for just a few days. Because of the growth of chain banking in this period, many bankers worried that the era of small community banks had ended. Chains would prefer to bank with a branch of a larger bank. High bank failure rates intensified this fear. Interestingly, the problems of these banks mirrored those of retailers. The cashier of a Parkston, South Dakota, bank summed up these problems in the title to his presentation at a conference on commercial bank management: "How Much Should a Bank of $25,000 Capital Earn?" Bankers hoped to evade failure by improving their business techniques and adopting the same "scientific" approach expounded by retailers.

If this process of corporate growth continued, the independent retailers warned, chains threatened the future of America. If they continued to grow at the same tremendous rate, independent retailers would be crushed out of existence and the sons and daughters of America would be prevented from


79 Omaha Star, December 5, 1929, box 58, Scrapbook IX, Sorensen Papers.
earning a decent living. Anti-chain activists warned Americans that chains threatened to eliminate the small retailer. Small retailers exaggerated the threat of the chains when they spoke of a crushing onslaught. Although chains grew at an impressive rate during the period, the independents were in no immediate danger of destruction. According to federal statistics, independents continued to hold the majority of the retail business. Retail mortality rates hovered around the same range they had held for decades. In many areas of the country, the number of independent stores increased as the unemployed tried to go into business on their own.

According to the independents, the result of this growing economic tyranny would be an end to democratic government and the utter destruction of the American experience. Small retailers used these fears to great effect. The current situation in retailing might not be that threatening, particularly to those outside of the industry, but what if the trends continued and no one had an

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80 W. C. Rempfer, "How Much Should a Bank of $25,000 Capital Earn?" 1-2.

81 Break the Chains, May 2, 1930, 8; Anti-Chain World, February 15, 1930, 4; Duncan Radio Broadcasts, transcript, 331; Sinclair Lewis, Babbitt with an afterword by Mark Schorer (New York: Signet, New American Library, 1922, 1980), 41; Helping Grandma videocassette; Break the Chains, April 12, 1930, 27.

opportunity to enter the retail market? What would be the consequences for America? Opponents of the chains predicted that continued chain growth would destroy independent merchants. Within a few short years, according to their propaganda, chains would control the entire industry.\textsuperscript{83} As chains expanded, American children could hope for fewer opportunities. The chains had already wiped out jobs as traveling salesmen. In the future, children would be lucky to be low-paid clerks.\textsuperscript{84} They would have no chance to exercise their own creativity and initiative and would become tools of the chains, following the guidelines sent out from corporate headquarters instead of profiting on their own.\textsuperscript{85}

Small retailers condemned this concentration of wealth. According to them, chains destroyed an old America of prosperity for many and replaced it

\begin{itemize}
  \item \textit{The Booster}, January 31, 1930, 1; \textit{Break the Chains}, April 12, 1930, 15.
  \item \textit{Appleton Post-Crescent}, January 15, 1930; \textit{Anti-Chain World}, February 15, 1930, 5; W.A. Masters; \textit{Anti-Chain World}, February 15, 1930, 7; \textit{Anti-Chain World}, February 15, 1930, 3-4; M. A. Johnson, \textit{Fifty Years of Country Storekeeping}, 127; \textit{Omaha Journal of Progress}, February 6, 1931,1; \textit{Rural Trade}, September 1926, 22; \textit{Anti-Chain World}, February 15, 1930.
  \item \textit{Break the Chains}, April 19, 1930, 5; H. A. Sanger, "The Chain Gang," \textit{Break the Chains}, May 3, 1930, 25; \textit{Break the Chains}, April 12, 1930, 15; \textit{Omaha Evening Journal}, May 15, 1929 in box 58, Scrapbook IX, Sorensen Papers; \textit{Break the Chains}, March 15, 1930, 5; \textit{Louisiana Progress}, October 30, 1930, 1; \textit{Break the Chains}, April 12, 1930, 13; MacLean, \textit{Behind the Mask of Chivalry}, 78.
\end{itemize}
with wealth for a few. The openness of the frontier had allowed men the freedom to pursue their dreams and permitted them independence. This unique system contrasted with the European, feudal experience, a depressing old order with limited opportunity and freedom—an oppressive world in which the rich dominated the rest of society. As Winfield Caslow wrote in *The Sob-Squad*, "We cannot build up an Empire in Business and hope to maintain a democracy in government." Retailers warned that the rise of monopoly would lead to dictatorship, a powerful leader controlling millions of disfranchised citizens. The small retailers vowed, however, that red-blooded American citizens would not permit such destruction to take place.

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86 *The Community Builder*, March 2, 1931, 6; *Anti-Chain World*, February 15, 1930, 2; McLean, *Behind the Mask of Chivalry*, 77.


89 *Break the Chains*, April 26, 1930, 4-6, 9; M. F. Murray to Huber, May 5, 1931; *Anti-Chain World*, February 15, 1930.

In their broadcasts and other efforts, anti-chain groups portrayed chain and independent retailers as radically different. In independent shops, honest merchants provided hometown customers, their friends and neighbors, with the best bargains. In chain stores, corporate pawns schemed, substituted, and short weighed. Even if they did offer some bargains, their corporate nature endangered communities around the nation. They threatened to concentrate ownership in a few cities, undermining American prosperity and, ultimately, American democracy.

Although such provocative criticisms rested on a base of truth, this stark dichotomy proved unrealistic. In addition, reforms made by both chains and independents led to their increasing similarity. The independents created voluntary chains and promoted "scientific retailing." Perhaps the most interesting phenomenon was the inability of some listeners to tell the difference between voluntary chains and corporate chains. New style independent retailers resembled chains more than old style retailers, and chains made concerted efforts to control predatory practices and otherwise improve their public image.91

Retailers, if they modernized, possessed a powerful defense against the chains. Although they did not emphasize it during booster campaigns aimed at consumers, the trade press and leadership urged all retailers to reform themselves to meet chain competition. As mentioned in Chapter One, small retailers perished because they proved under-capitalized and under-prepared. These stores rotated in and out of business, rarely joining the trade associations. Perhaps, because of this, they realized that retailers in their cities failed to follow "scientific retailing."

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92 Break the Chains, March 15, 1930, 4; Anti-Chain World, February 15, 1930; Break the Chains, April 26, 1930, 14, 23; Caslow, Sob-Squad, 72-73, 151; Phoenix Magazine, May 1980; Break the Chains, March 22, 1930, 14; The Booster, March 14, 1930, 2; Break the Chains, March 22, 1930, 7; North Wichita Times, November 19, 1931, 8; Wichita Independent, February 6, 1931, 3; Michigan Tradesman, May 27, 1931, 31 in box 39, "Fair Trade 1931," Capper Papers; The Pharmacist, 1933 R.K.O.; Rural Trade, August 30, 1924; Bulletin of the Associated Merchants of Montana, January 20, 1934, p.2 in box 7, folder 8, Sherburne Mercantile Company Papers, University of Montana Archives, Missoula, Montana; "To County Chairmen," November 8, 1933, box 6, folder 30, Sherburne Mercantile Company; "Annual Window Display Competition, Announcing Fourth Annual Show Window Contest," Press Release, Wednesday, December 23, 1930, pp.2-3, 5, box 1, Downtown Brooklyn Association Papers, Brooklyn Historical Society.


95 Anti-Chain World, February 15, 1930, 2.
Opponents urged retailers to be "like a housewife with her house cleaning" and place their stores in order, cleaning dirt and grease off windows, shelves and floor stock. They called on owners to encourage their clerks to dress well and "meet the customer with a smile." Some retailers remarked that chain stores brought more intense competition and forced merchants to improve their service.\(^6\) According to the trade press, leading retailers practiced scientific retailing in modernized stores that had high turnover. They could meet chain competition.\(^7\) Some independent retailers used price appeals and bragged about their massive purchasing power just like the chains, while others eliminated credit and delivery because of the expense. Many of these "cash and carry" stores condemned the chains.\(^8\)

Retailers also pushed for voluntary chains.\(^9\) These institutions combined the streamlined distribution of chain stores with local ownership of

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6 Harold Featherstone to Ray Park Chase, May 23, 1930, box 6, "Carley Investigation-Chain Stores," Ray Park Chase Papers, Minnesota History Center, St. Paul, Minnesota; The Community Builder March 2, 1931, 6; P. W. Ramer to Ben Saunders, April 21, 1931, box 26, folder 5, Evjue Papers.

7 Duncan Radio Broadcast, transcript, 233; The Booster March 7, 1930, 1.

8 Louisiana Progress, July 3, 1930, 1; Break the Chains, May 3, 1930, 31; The Community Builder March 2, 1931; The Community Builder March 2, 1931, 6; P.W. Ramer to Ben Saunders, April 21, 1931, box 26, folder 5, Evjue Papers.

9 Break the Chains, April 19, 1930, 5; Philip Lieber, "The God of the Phenecians;" Louisiana Progress, August 28, 1930, 2; Herbert M. Sommers, My Recollections of the
stores. Although they obviously borrowed from the chain store idea, these members attacked chains as vociferously as their non-chain compatriots. J. Frank Grimes, the founder of the Independent Grocers of America (IGA), mentioned in Chapter One, lashed out at the chains for sucking out the life-blood of communities. Similarly, early advertisements from WISCO, a voluntary chain of hardware stores in Wisconsin, featured cartoons mocking the chains as dens of thievery. Despite these attacks, the appearance of voluntary chains, and other "scientific retailers," confused the consuming public. Anti-chain broadcasters received frequent queries about the ownership of voluntary stores. Some independent retailers warned against the spread of

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100 Break the Chains, March 1, 1930, 3; Break the Chains, March 8, 1930, 11; The Pharmacist 1933 R.K.O.

voluntary chains, especially wholesaler owned chains. These critics argued that
the wholesalers exercised such control over the retailer that the merchant could
not even be called independent. They further complained that mass buying by
voluntary chains had the same depressing effect on farm prices and wages as
chain purchasing.\textsuperscript{102} Other factors blurred the line between the chains and
independents. Some retailers moved between chain jobs and independent jobs,
or vice-versa. The manager of a chain store, for example, might be a former
independent.\textsuperscript{103} In addition, did chain stores include small local chains of a few
stores, or just the large national retailers? Wouldn’t local chains keep wealth in
the community? Was such a retailer any more dangerous than other
independents?\textsuperscript{104} No one could provide a definitive answer.

At first the chains mocked the anti-chain movement. After all, customers voluntarily shopped with them. How could they be such a menace?

\begin{footnotes}
\item[102] Break the Chains, May 9, 1930; Caslow, Sob-Squad, 187-189, 192-198, 206-7.
\item[103] Lloyd J. King Oral History 303, 7-8.
\item[104] The Spring 1927 year book," box 1, "Miscellaneous," Dave Jones Collection; Dave
Jones, "Write Friendly Copy for a Friendly Community," National Clothier, June 1937, 17
\textit{ibid.}; Louisiana Progress December 1930; Billings Gazette, November 30, 1953; Johnson,
\textit{Fifty Years of Country Storekeeping}, 121, 124; Kirstein to Sherill, November 4, 1936, box
89, "Sherill 1936-1937," Kirstein Papers; Sherill to Kirstein, November 6, 1936, \textit{ibid}.  
\end{footnotes}
Because of the vehemence of the campaigns, however, the members of the National Chain Store Association (NCSA) decided to respond. They derided the claims of broadcasters in a series of advertising promotions. Rather than allowing chain prices to speak for themselves, these campaigns emphasized the modernity and vitality of the chains. The NCSA voted in 1930 to use $12 million to promote their form of merchandising in public schools. They also produced debate books to be used to defend them in those contests. Leading chain retailers, like J. C. Penney and Robert Wood, the President of Sears, reassured Americans that they had no desire to drive their competition out of business. They only wanted to offer the best possible price on products. J. C. Penney told audiences that the chains saw themselves as only one method of distribution. Both men argued that their corporations were improving the general quality of retailing. The chains refused to condemn independent

105 Break the Chains, April 12, 1930, 13.


retailing as a whole, attacking the weak retailer alone. Competent, efficient small retailers could have success as well.

Although the chains argued that they were advancing retailing, they did, as an industry, admit the need to improve on aspects of their performance. To create a better atmosphere, the NCSA urged their members to play a greater role in the community, joining chambers of commerce and participating in charity events. Although corporate executives themselves had a reputation for civic activism, chain corporations had ignored chambers of commerce in smaller towns. Many of the small town chambers, according to the chains, had been hostile toward chains and had demanded exorbitant membership fees. In addition, chambers often tried to woo factory jobs away from nearby towns. Chains with stores in both towns had nothing to gain from such attempts. Despite these factors, the chains increased their memberships in local chambers of commerce, allowing them to deflect some criticism that they were transients uninterested in the fate of the community. During this period, many chains also began philanthropic endowments to support community activities.

109 Rosenwald to Insull, January 19, 1926, box 55, folder 2, Rosenwald Papers; Richberg to Rosenwald, September 11, 1930, ibid.; Merchants Journal, August 2, 1924.

causes. As part of this self-evaluation, chains attempted to curb short weight abuses, and some chain supporters even warned against the excessive use of the loss leader. In addition, the chains worked to improve their relationships with small town bankers in order to avoid attacks for looting the town of money. When combined with revenue sharing plans meant to increase compensation for employees, these actions presented a new image for the chains that emphasized the connection between the chains and the local community. Pointing to these changes, chains portrayed themselves as places of opportunity for local people. If a man joined their team, he could find endless opportunities for advancement and growth—far beyond what he could have had as a small town merchant.


112 Anti-Chain World, February 15, 1930, 2.


Despite these initiatives by the chains, anti-chain advocates fantasized about putting them out of business. The idea appealed to romantic notions of community solidarity and resistance. In Winfield Caslow's *Sob-Squad*, he had imagined a campaign in which the American people organized against the chains, crushing the corporations with a wave of outraged public sentiment. W. K. Henderson and his staff also promoted this idea. These anti-chain activists hoped they could use their broadcasts, publications and public events to halt the growth of the chains. Their boycotts resembled earlier anti-mail order campaigns. Although chains and their supporters often derided the assaults as mindless, the broadcasts mobilized retailers in communities around the nation.

Retailers reached out for support from their neighbors. The campaigns served as advertising campaigns for independent retailers, allowing them to pool their resources and pay for large-scale advertising. The campaigns

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gained the attention of certain preachers and revivalists, who championed the independent retailers in their battle against chains that several identified with the mark of the beast. The retailers made common cause with other Americans threatened by the new corporate order, including some representatives of labor and farm organizations. Both of these groups felt cheated by the developments of the 1920s, and neither believed they had benefited from the new economy. The wave of merger mania and boom economy had left them behind, desperate to join the economy of abundance. Retailers hoped that farmers and organized labor might offer support, but both groups offered tepid support for the boycotts. While some members of the labor movement urged members to shop at local stores, other union members believed the chains offered superior bargains and hoped that chains would be more open to organizing than small stores. A long history of conflict between farmers and town merchants hindered that alliance. The situation improved in the 1920s because cars ended the isolation of rural areas. Retailers

117 "Why Do You Buy Here?" Anti-Chain World, February 15, 1930, 3.

118 Anti-Chain World, February 15, 1930, 3-4.

warned farmers that the chains might encroach into their business in addition to lowering crop prices. They also warned about the threat of "chain," or corporate farming.\textsuperscript{120} Although many complained about the effect of chain purchasing on crop prices, others felt that the chains lowered the spread between retail cost and production cost, increasing consumption and improving the economic position of agriculture.\textsuperscript{121}

Ultimately, the anti-chain activists could not generate enough support to close the chains. Opponents of the chains received criticism from consumers skeptical of trade at home sentiment.\textsuperscript{122} Some observers remarked that this mindset ignored the important connections between the local community and the corporate economy. They reminded consumers of the many products

\textsuperscript{120} The Community Builder, March 2, 1931, 1; Lewis Lincoln, "The Growing Peril of Monopoly in Distribution," in the Anti-Chain World, February 15, 1930; The Booster, March 7, 1930, 1,4; La Follette Progressive Republican Campaign, "Extract of Letter from Northern Wisconsin," n.d., box 6, "File Misc.,," Huber Papers.

\textsuperscript{121} Harper, “The Anti-Chain Store Movement,” 124; Marvis Hogen, Fifty Years On Main Street (Kadoka, South Dakota: Marvis T. Hogen, 1996), 3-7; M. F. Murray to Huber, May 5, 1931, box 6, folder 5, Huber Papers; Caslow, Sob-Squad, 172, 254; Duncan Radio Broadcasts, transcript, 232, 240; Community Builder, March 2, 1931, 1; Anti-Chain World, February 15, 1930, 2, 3, 5, 6; Association of Commerce and Industry, "Minutes, July 1, 1931, box 1, "Combined Retailers," Association of Commerce and Industry Papers; "Minutes, November 7, 1932," ibid.; Huber to C. W. Warner Co-Operative Commonwealth July 11, 1930, box 6, folder 5, Huber Papers; Lloyd J. King, 1 Oral History 303, Colorado Historical Society, Denver, Colorado; Break the Chains, February 22, 1930, 12; Break the Chains, March 1, 1930, 11; Break the Chains, May 9, 1930, 18-19.

produced elsewhere that they enjoyed. They also pointed out the many consumers in other areas of the country using products made in their community.\textsuperscript{123} Consumers wanted to know why they should turn down lower prices and why they should worry about the problems of storekeepers.\textsuperscript{124} Opponents’ hopes for a quick destruction of the chains came to nothing. Studies of chain retailing in 1929 and 1930 show a drop in chain sales, and opponents took this as a sign of their campaign’s efficacy.\textsuperscript{125} Unfortunately, they never achieved more than slight victories.\textsuperscript{126} Perhaps the most authoritative study came from Robert Lyons in the industry magazine \textit{Advertising and Selling}. Lyons researched chain sales and discerned no noticeable, chain-wide effect. S. H. Kress and Company, a Southern chain exposed to numerous anti-chain campaigns, expanded its number of stores and increased sales during the period. Chains such as A&P and H. G. Hill opened more stores in Louisiana. Some stores, including Montgomery Ward, Kroger, and National Tea, experienced drops in sales, but their problems could be

\begin{small}
\textsuperscript{123} \textit{Break the Chains}, February 15, 1930, 6; \textit{Break the Chains}, April 12, 1930, 6.


\textsuperscript{125} \textit{Omaha Journal of Progress}, February 6, 1931; Duncan Radio Broadcasts, transcript, 246, 345; \textit{Louisiana Progress}, January 193, 1; \textit{Break the Chains}, February 22, 1930, 12.

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traced to management problems or the depression, which gripped the nation. Even in major centers of anti-chain sentiment, corporate retailing thrived. In Shreveport, the home of W.K. Henderson, for example, the chains continued to grow. As one example, a Sears store opened in May of 1928 and relocated to larger quarters by August 1930, during the height of the Henderson broadcasts. Not surprising, considering that even delegates to the MMM convention shopped in Shreveport chain stores! Lapses by independent retailers presented an ever-present problem for boycotts.

Despite boastful rhetoric about crushing the chains, opponents soon realized that other steps would be needed to slow chain growth. Both Henderson and Duncan told listeners that government offered the chief protection, and they urged citizens to elect representatives opposed to the

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128 "Shreveport Louisiana," Sears Retail Store Files, Sears Corporate Archives.

129 Shreveport Journal, October 23, 1930, 15.

chains. In the national trade associations, retailers had long complained that the boycott was flawed from the beginning. They were suspicious of some of the anti-chain broadcasters and worried that "racketeers" were preying on retailers for easy profit. The head of NARGUS approved moderate campaigns sponsored by organized trade groups if they did not make radical claims about the chains and their business practices. But trade association executives had believed this sort of agitation would fail because the public could not be driven to reject low prices and the campaigns would only serve to convince customers that the chains really offered lower prices, serving as free advertising campaigns for the enemy. Besides, the boycotts, to be effective, would have to continue in perpetuity. Experience proved them correct. As

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131 Wichita Booster, February 14, 1930, 1; Duncan Radio Broadcasts, transcript, 281, 353.


has been discussed in Chapter One, national trade associations had been created, in part, to lobby government. Now they spearheaded efforts to get action by federal state and local government, calling on federal and state government to enforce anti-trust laws, control predatory chain practices, and pass anti-chain legislation. At the June 1930 NARGUS convention, John Cunningham, the Iowa Secretary, pushed through a motion pledging a more aggressive, if undefined, approach to the chains. As will be discussed in the next two chapters, a bevy of politicians flocked to the cause, eager to help the independent retailers in their war against the chains. Retailers worked through their trade associations on two fronts. On a national level, they lobbied for price maintenance legislation to fight loss leader sales. State associations, on the other hand, pressed for legislation to address the tax differential between chains and independent retailers. These battles serve as the focus for the next two chapters.

135 The Booster, January 31, 1930, 1; Break the Chains, February 15, 1930, 1, 5.

136 Louisiana Progress, August 28, 1930, 5; Louisiana Progress, August 18, 1931.
Chapter Three: The Capper-Kelly Bill

Herbert Hoover rode the prosperity of the 1920s to the White House. He made a glorious entrance, but when prosperity crumbled, he left in a humiliating defeat. Americans had hoped that the former Secretary of Commerce, the architect of Twenties prosperity, could provide a solution to the Great Crash and ensuing economic devastation of the early Thirties.\(^1\) Hoover's initial response and image as a friend of business encouraged many Americans to conclude that he offered the solution for the nation. Retail merchants, in particular, responded to his calls for continued purchasing and his pro-business rhetoric. In addition, they anticipated he would act to improve their situation because of statements he had made when accepting the 1928 Republican nomination. Hoover had said that independent business was the backbone of the American economy, and small retailers hoped he would work with them to ensure their continued survival and slow the growth of the chains. But Hoover disappointed them when he did little more than sponsor studies of retailing. He even neglected the Capper-Kelly price maintenance bill, which had been bandied about Congress for years and remained the most significant piece of

\(^1\) George C. W. to Friend Phil, October 21, 1930, pp. 9-10, box 57, folder 3, Phil LaFollette
anti-chain legislation during his presidency. The Hoover program to end the depression buoyed small retailers’ hopes. Herbert Hoover responded to the crisis of the Crash and Great Depression in two primary ways. First, he sought to bolster consumer confidence and promote spending. Hoover knew that a drop in spending would lead to production declines and unemployment, triggering a massive Depression. Hoover's second response was to work with trade associations to collect information on economic conditions and disseminate it to business. Hoover hoped his work with industry would encourage efficiency and stability and improve the economy. Although he promoted a free market economy, he urged stability in business rather than championed pure competition. In a crisis, Americans had to cooperate to ensure economic survival.

Hoover’s first fear was that the Stock Market Crash threatened consumer spending. According to his view, purchasing power and consumption had fueled the business prosperity of the New Era, and without it, business gains would be wiped out.² Economists expressed concern that

Americans were hoarding their dollars, refusing to spend them.³ In response, Hoover urged businessmen to plan prosperity campaigns to encourage consumer spending. Retailers, always eager for new business, responded enthusiastically to these “Buy Now” movements, which resembled trade booster activities of the 1920s. In these promotions, retail associations cooperated to sponsor giant downtown sales and festivals. In Springfield, Illinois, for example, the Association of Commerce and Industry pushed a “Spend for Prosperity” program that mobilized the population for economic war. Merchants held a kick-off banquet and other festivities arranged around a military theme.⁴ Hoover authorized the Department of Commerce to assist such campaigns, although he refused requests to endorse prosperity drives. He worried that it would be improper for the President to appear in an advertisement for private organizations.⁵

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Some retailers concluded that additional efforts needed to be made to increase the purchasing power of the community. They complained, as had the anti-chain broadcasters, that chain stores and large financial institutions sucked wealth out of American communities and centralized it in the hands of a few individuals. They therefore believed that more money needed to be in circulation. So they printed so-called “scrip” money and pronounced it legal tender for their trading area. Scrip money would substitute, in part, for U.S. currency during the crisis. Consumers would receive it from their local trade association. In order to use the money, they would affix a stamp, purchased from a retailer that activated each scrip dollar so it could be spent. Most stamps cost two and a half cents, and a bill would be taken out of circulation after it had changed hands fifty times and more than covered its value. The Evanston, Illinois, Merchants Association issued some of the first Depression era scrip. These scrip campaigns proved to be the most interesting attempt by local retail organizations and other activists to promote purchasing by the American public. Throughout the nation, towns, especially towns where the banks had faltered, produced scrip money to allow business to continue. Noted Yale economist Irving Fisher wrote on the subject and encouraged various schemes.

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6 Richard Edmonds to Hoover, June 13, 1929, box 88, “Economic Correspondence 1929,” Presidential Subject Files, Hoover Presidential Library.
to build purchasing power. He urged towns and cities throughout the nation to promote scrip and fight against deflation.\(^7\)

Many retailers were, nonetheless, disappointed by the scrip efforts and “Buy Now” campaigns, but they still hoped to benefit from the other major approach Hoover took to the Depression: associationalism.\(^8\) During his days as Secretary of Commerce, Hoover had emphasized the need for stability in American business. In his view, a smoothly functioning economy required cooperation between government and industry. Associationalism encouraged judicious pooling of business information and government regulation to enforce competitive standards. Hoover hoped the Department of Commerce could work with business groups to create trade agreements. When a Supreme Court decision in 1925 declared that this cooperation did not violate anti-trust laws, the number of trade groups quintupled.\(^9\) Larger firms took the decision as a signal to release information on sales, purchasing habits of customers, and


basic operating principles. Hoover kept a close watch on these retail trade statistics in order to determine the health of the American economy, and national chain stores proved particularly helpful for gauging consumption because they centralized purchase information for hundreds, even thousands, of stores. Instead of having to contact each small merchant, the government could gather pertinent information by speaking with a few executives nationwide. Comparative sales by region were used to assess the impact of the Depression on different portions of the country. 10

Small retailers and their trade associations liked associationalism because it promised greater stability in business. They hoped that trade practice conferences, which set standards of competition for industries, and surveys of business could protect them from the competitive excesses of chain retailing.11 Some businessmen and politicians wanted to call a temporary truce on competition until the economy righted itself.12 They hoped that trade practice

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12 Harry Williams to Richey, June 27, 1931, box 63, Secretary's Files, Hoover Papers; Francis Seiberling to Richey, September 17, 1931, box 64, "Folder 1932 April-September,"
conferences could be used to ensure ethical standards in business and prevent predatory attempts to crush competition.\textsuperscript{13}

Independent retailers thought Hoover would be an ally in attacks on predatory behavior because he had said in his acceptance speech that independent business was central to the health of the nation. Anti-chain activists seized on these words as evidence of a deep commitment to their cause.\textsuperscript{14} Hoover’s administration did address the issue. During his four years in office, three significant examinations of the retail sector were conducted. First, the Federal Trade Commission had begun an investigation of chain stores in

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1928 at the urging of Congress. Activists anticipated the study would be completed in short order and that predatory practices could be stopped.\textsuperscript{15} Unfortunately for chain store opponents, it took years to complete.\textsuperscript{16} The Commission decided to collect as much information on the retail structure as possible, and that quest led the FTC into a mammoth survey of retail conditions in the United States. As part of the study, the FTC prepared several reports on the use of price-cutting by mass retailers.\textsuperscript{17} This study proved frustrating to most retailers because its complexity required them to submit tremendous amounts of information that overwhelmed their record keeping ability.\textsuperscript{18}

Second, the Department of Commerce promoted the census of retail business during the Hoover Presidency. This study surveyed all of the retail establishments in the country and studied profit margin, turnover and other aspects of business. The census provides the best statistical picture of retailing

\textsuperscript{15} Whittier Bulletin, December 15, 1928, 1.

\textsuperscript{16} Newton to Chairman Garland Ferguson, n.d., box 154, "FTC Correspondence, 1930," President's Subject Files, Hoover Papers.

\textsuperscript{17} FTC report "Resale Price Maintenance" issued to House on June 22, 1931," pp. 1-2; John Scott to Vandenberg March 18, 1932, box 39, "Fair Trade 1932," Capper Papers.

\textsuperscript{18} Francis Walker to "Gentlemen," in "1927 Ledger," box 1, Bongers Papers, Western Business History Collection, Colorado Historical Society, Denver, Colorado.
in the period. The Department supplemented this census with additional reports on retailing.19

Third, the President's Committee on Recent Economic Changes studied the development of the chain stores, along with many other issues. That committee had been assigned to determine the true status of the economy through objective social-scientific inquiry.20 It sought to come to an understanding about the nature of the chains and their development over the last decade. The chapter in the report on the chains indicates that economists showed interest in the topic. The writers of the study considered the rise of chains to be one of the major economic developments of the twentieth century, ranking with suburbanization as an influence on the country.21 But they showed little sympathy for attacks on the chains or attempts to slow their growth. Economists pushed for efficiency. They wanted to see hard figures, and they adhered to a rigid free trade ideology. The economists, in other words, followed the chain position on their importance in the economy. Interestingly,


20 E. E. Hunt to Akerson, April 15, 1929, box 119, President's Subject Files, Hoover Papers.

21 Howard Odum to French Strother, February 5, 1930, box 3, "Committee on Recent Social Trends Correspondence, 1930-31," French Strother Papers, Hoover Presidential Papers.
Sears President Julius Rosenwald, well known for his philanthropic activities, helped to subsidize the publication of the findings of this committee and supported its research. He did not seem to be firmly committed to the project and, in fact, apparently forgot his promise of funds to pay for the work. Rosenwald's forgetfulness proves a distressing obstacle to a conspiratorial interpretation of the report. Of course the social scientists and the cult of efficiency they worshipped seemed more than ready to assure the country's leading retailers that they were doing the work of the just. These fact seekers, these hard-boiled students of the social sphere, were not likely to shed a tear for some pathetic back street trader who lost his business. They knew the path to progress, and it ran over little back street shops, bulldozing the individual entrepreneur. Nothing should stand in the way of the rising standard of living of the American people. Sympathy came in short supply.

The Department of Commerce promoted economic efficiency. The Department's Bureau of Foreign and Domestic Commerce (BFDC) determined United States policy toward the chain stores. Dr. Julius Klein, the head of the Bureau, had been a long-time adviser to President Hoover. Hoover even turned to Klein when he wanted research on past presidential responses to depressions. Klein dutifully reported back that they had done nothing. Some

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might think this report had too much of an influence on Hoover’s administration.23 At any rate, Klein supported efforts to lower the cost of distribution so as to increase consumption. He did not support attacks by small retailers upon big business, and he specifically criticized anti-chain campaigns. In Klein's view, the problems for retailers were, for the most part, the result of incompetence. He did not believe chain stores would force small retailers out of business. Investigations of the sector demonstrated, in his opinion, that the expansion of chains had slowed or stopped.24

Klein expressed his opinion in a variety of public forums, including magazine articles and his own radio broadcasts. In *Pathfinder* magazine, he wrote that the problems of small retailers "are due almost entirely to their own incompetence and not to competition." He further argued that the chains actually helped the independent retailer by providing a model of efficient operation.25 Klein did admit that the chains restrained trade on occasion, but he felt they had an overall positive effect on the quality of distribution.26

22 Raymond S. Rubinow to J. H. Dion, box 11, folder 17, Rosenwald Papers.


24 *Omaha Journal of Progress*, February 6, 1931.

25 William Cooper to J. A. Hughes, January 8, 1930, box 94, "Chain Stores, 1929-1930," President’s Subject Files, Hoover Papers; D. M. Newlon to Hoover, April 10, 1930, *ibid.*
Klein thought the best way to meet the threat of the chains was to teach the shopkeepers to become better retailers, and he hoped small retailers would understand this stance and see the department as a friend.²⁷ Klein cooperated with trade associations to survey business conditions among retailers, discover problems in retailing and uncover ways to fight waste. Klein also promoted the "model store" movement. At a time when retailers faced many changes, the progressive or modern retailer had been pushing through modifications of store design and behavior. State and local trade associations in towns like Atlanta, Philadelphia, Harlem, and Des Moines worked with the BFDC to build model stores that demonstrated the latest retail techniques.²⁸ These stores served as centers for continuing professional education, places where retailers could learn new ways to arrange stock, advertise products and otherwise increase turnover. In addition to these technical skills, retailers discussed how to interact with difficult or abusive customers and in other ways to deal with the "human

²⁶ Break the Chains, April 12, 1930, 15.


element" of retailing. They learned these techniques through drama, using scripts designed to simulate actual retailing situations.29

Chain opponents wanted Hoover and the federal government to do more than teach them how to retail, however. Like generations of trust busters before them, these retailers urged concerted government action to attack the chains.30 Henderson wanted the federal government to oppose attempts by meat packers to modify an anti-trust consent decree they had signed in 1919. It restricted packers to preparing meats for shipping and distribution and prevented them from entering other areas of food distribution. The packers, encouraged by the success of A & P and other chain groceries, tried to change that agreement in 1930 so they could open their own stores.31 In a letter to the President, Henderson warned Hoover that the modification would give packers full


opportunity to saddle the people of the country with a powerful and ruthless system. Some retailers worried that the big packing companies would use their resources and control over meat products to enter into retail markets with cyclonic force. Because of retailer protests opposition, Hoover did not endorse the decree.32

Anti-chain opponents extended their criticism beyond the consent decree to attack chain operations in general.33 As part of this effort, the Reverend James Cox, a Catholic priest from Pittsburgh, Pennsylvania, led a march to Washington in January of 1931. Cox was the parish priest at Old St. Patrick's Church in Pittsburgh, and he had been reaching out to the unemployed as part of a campaign for economic justice. Cox had been named honorary mayor of the local Hooverville and begun a series of broadcasts attacking the corporate economy for the depression.34 The march, sponsored by the Independent Merchants of Pittsburgh, brought twelve thousand


33 Harper, “The Anti-Chain Store Movement,” 141; Samuel Seigle to Phil La Follette, December 16, 1931, box 14, folder 1, La Follette Papers; Pittsburgh Post Gazette, December 11, 1931.

34 M. P. McInerney to James C. Collins, January 7, 1932, box 510, “James Cox,”
unemployed citizens to Washington to dramatize the plight of the nation. The march alarmed many right-wing Americans, who compared it to the Coxey's Army's march of the 1890s and an earlier hunger march led by the unemployed. Many saw Cox as an egomaniac intent on gaining publicity. Hoover granted Cox a brief audience, but the two discussed little of significance. Still, the reception proved far more favorable than that received by the Bonus Marchers later that year. Cox later drifted into the fringes of politics, running for President in 1932 as a candidate of the Jobless Party. That party mimicked the Fascist Party of Italy with blue uniforms and a promise to save the nation from communism.

Secretary's Files, Hoover Papers.


37 Les Reed to Hoover, December 31, 1933, box 510, "James Cox," Secretary's Files, Hoover Papers; Dr. Robert Xavier to Hoover, January 5, 1932, ibid.; Mrs. Amanda Schmidt to Hoover January 6, 1932, ibid.

38 Cox to Hoover, December 31, 1931, telegram, ibid.; Thomas R. Wrosley to Richey, October 18, 1932, ibid.; J. H. Stolper to Hoover, May 14, 1932, ibid.

Although the administration paid little attention to the anti-chain movement, Congress proved more responsive.\textsuperscript{40} The publicity surrounding the anti-chain movement generated support for the Capper-Kelly price maintenance bill, now sponsored by Representative Clyde Kelly of Pennsylvania as well as Senator Arthur Capper of Kansas.\textsuperscript{41} It permitted manufacturers to set retail prices for their brand name products, a privilege that had been stripped from most manufacturers by the \textit{Dr. Miles Medical Company} case of 1911.

The American Fair Trade Association, as in the past, served as the umbrella organization for those promoting the bill.\textsuperscript{42} Unlike in earlier campaigns, however, the association developed a reputation for inaction.\textsuperscript{43} Some price maintenance supporters complained that the director did not return their calls and letters and that the organization was understaffed. Most of the

\textsuperscript{40} \textit{Wichita Booster} January 24, 1930, 1; J. R. Burrow to Capper, August 30, 1922, box 3, "Banking," Capper Papers; Ralph Stodard to Hoover, October 19, 1932, box 340, "Relief," President's Subject Files, Hoover Papers; Ernest Bugh to Hoover, January 1, 1932, p.4, \textit{ibid.}

\textsuperscript{41} \textit{Wichita Booster}, February 7, 1930, 1; \textit{Wichita Booster}, January 24, 1930, 1; \textit{Wichita Booster}, February 12, 1930, 1.


\textsuperscript{43} Edward Plaut to Capper, July 2, 1931, box 39, "Fair Trade 1931," Capper Papers.
lobbying for the bill, therefore, came from manufacturers such as Quaker State, Gillette, various cosmetic companies, and retailers—especially druggists. These groups believed the bill was essential to their interests. Manufacturers hoped to protect their brand names and trademarks. For their part, retailers worried that predatory pricing would drive them out of business. Both groups feared the destructive effects of loss leader sales. They maintained that predatory pricing hurt the economy by depressing wages.

Manufacturers argued that loss leader sales of their products harmed them. The companies felt threatened by below cost sales of their products because they believed cut-rate prices for their products would make them appear cheap and, therefore, inferior.44 John Scott, the president of Quaker State, for example, worried that chain stores were selling his oil in five gallon drums for “ridiculous prices.” In his opinion loss leader sales would make the consumer think they had bought a cheap product. At the very least, the lower prices would make customers question why they paid so much for the product at other times if there wasn’t a difference in quality. As Scott noted, "I believe that the enactment of this piece of legislation will materially curb the chain

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store effort to smash to pieces the legitimate price of every article offered for sale. He and other manufacturers urged Congress to support price maintenance legislation for brand name goods because they believed this legislation would stabilize prices and the market. Manufacturers pointed out that certain industries, most notably automobile sales, retained control of pricing. The government permitted these practices to continue because the automobile manufacturers had developed a system of authorized dealers. The price maintenance supporters pointed out that this system, did not eliminate competition. Car manufacturers still fought for sales. The bill merely prevented dealers from competing on a price basis.

Retailers sought protection from competition based on price. Grocers found the bill less pressing because they handled unbranded vegetables and fruits. Nonetheless, the National Association of Retail Grocers supported the bill. Drug retailers, who handled many trademarked items, provided the strongest and most consistent support for Capper-Kelly. The National Association of Retail Druggists lobbied for the bill, although some price


47 W. E. McCollum to Capper, January 10, 1931, box 39, "Fair Trade 1931,” Capper
maintenance supporters criticized its national leadership for a lack of energy.\textsuperscript{48} Perhaps most surprising of all, this anti-chain bill even won the support of... chains! Because of pressure from pine board retailers, who ran low overhead stores and sold medicine at low prices, chain drug stores supported Capper-Kelly.\textsuperscript{49} Charles Walgreen, founder of the Walgreen's drug chain, expressed his hope that the Capper-Kelly bill could stabilize the drug business and prevent devastating competition. However, he suggested that manufacturers be permitted to set a minimum price instead.\textsuperscript{50}

Anti-chain retailers supported the bill because they hoped to avoid destruction through predatory pricing and other aggressive practices by chains. Independents argued that chains grew because they deliberately sold products below price. They pointed to the disparity in price between markets, disparities that could not be accounted for by transportation costs or other

\textsuperscript{48} Abraham Fink to the \textit{New York Evening World}, November 28, 1930, box 39, "Fair Trade 1930," Capper Papers; Robert P. Fischelis to Dargavel, July 7, 1932, box 35, folder 14, Fischelis Papers; Dargavel to Fischelis, July 9, 1932, \textit{ibid.}


\textsuperscript{50} Jerry McQuade to Capper, April 6, 1932, box 39, "Fair Trade 1932," Capper Papers; Kelly to Capper, April 12, 1932, \textit{ibid.}; Doten, "What Economists Think," 18, 19, 24.
factors in the cost of distribution. For example, as part of its Seventieth Anniversary celebration, A&P sold three pounds of coffee for seventy-three cents in Minneapolis and fifty-nine cents in Chicago. Freight rate differences could not account for such a wide variation. Small retailers concluded that the price divergence stemmed from predatory actions by the chains. Small retailers worried that chains and their loss leader sales would destroy them. And they called for federal action to protect them from the chains. 51

Arthur Capper made clear that he did not oppose chains as such.52 He believed they were part of the "natural evolution" of the economy: mass distribution for a mass production age.53 In a 1932 A & P radio program

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dedicated to promoting healthy nutrition, Capper, the head of the farm bloc in Congress, even admitted the chains had brought tremendous positive change to retailing, although he wanted to see a greater reduction in the spread between farm prices and retail food costs. The host of the program, Colonel Goodbody, must have been pleasantly surprised. He had already cautioned the audience that the Senator and A & P had not always agreed on all issues. Capper told independents that neither boycott campaigns nor legislation would make the chains disappear. The public, Capper said, was studying both chain and independent stores in order to determine where to shop. "The independent retailer is just as much on trial as the chain store," he said. "The consumers of the country are the jury." Capper believed chains had real strengths, but he did not believe they were wholly superior to independents. He warned small retailers they needed to improve their business and form voluntary chains to ensure the most efficient service possible. At the same time, he believed the chains had become a threat to independent retailing because of their predatory


pricing. Fearful that chains might develop monopolistic control over retailing, he warned the public cut-throat competition would endanger them.58

Both manufacturers and retailers argued that price-cutting had additional harmful effects on the economy and undercut prosperity. They complained that large corporate chains were expanding at an exponential rate, enveloping the entire nation in a corporate web.59 Following the attacks of anti-chain activists, supporters of the legislation suggested the chains had produced lower farm prices and wages, thus depressing the economy and stripping wealth from the community.60 The chains might well destroy the American standard of living. Congressmen urged action to guarantee

58 Capper, "Radio address over WIBW"); Capper, "Speech before the Retail Grocers Protective Association over WJSV." 5.

59 Louisiana Progress, March 1931, 12; Copeland, "We Are Traveling Fast," pp. 3-7, box 19, "Correspondence June 1930," Royal Copeland Papers; W. B. Yeary to "Governor and Senator La Follette," March 16, 1932, p.2, box 18, folder 5, Phil La Follette Papers.

opportunity for Americans and the future of the American standard of living. As evidence of this threat, they relied on the work of famed Columbia University economist E. R. A. Seligman. Seligman argued that price maintenance proved "economically defensible and therefore ethically desirable." Supporters of the Capper-Kelly bill prided themselves on Seligman's support. Seligman and his assistant, Dr. Robert Love, prepared commentary for the Capper-Kelly forces, including reactions to the FTC report, which concluded that price-cutting did not pose a substantive problem. Seligman's publisher even offered a special bargain-basement price on his work to Arthur Capper. No one gave any indication they considered such price-cutting to be unethical, hypocritical, or just plain ironic!

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64 Ordway Tread Business to Capper, August 2, 1932, box 39, "Fair Trade 1932," Capper Papers.
Seligman and his assistant were a minority in the economics profession. A Massachusetts Institute of Technology economist, Caroll W. Doten, surveyed professional economists about the Capper-Kelly bill. Doten wrote that he wanted to publicize the opinions of professional economists to improve the level of public debate. In his opinion, legislators too often ignored economists when they constructed public opinion and crafted bills. As a result, they lacked needed scientific information on the effect of their legislation. His survey of professional economists revealed a clear consensus: the bill challenged fundamental economic laws. Economists cautioned that the bill would increase the cost of distribution. They warned that the bill would improve the market position of manufacturers, allowing them to dictate prices. Needless to say, supporters of price maintenance legislation did not enjoy the pamphlet. Paul Lovewell, of the Merchant's Journal, criticized the questionnaire for being biased and including numerous quotations from individuals hostile to the bill. It smelled of "tainted propaganda" to him, and he asked who had funded the survey of 557 economists. He conceded, though, that, "...it may be true that the college professors are "agin" the fair trade bill."

65 Doten, "What Economists Think," 1-2,4-8, 12.

66 Paul Lovewell to Capper, January 3, 1931, box 39, "Fair Trade 1931," Capper Papers;
With the exception of the chain drug stores, supporters of mass distribution criticized the bill as an awkward, inefficient attempt to control prices. The National Retail Dry Goods Association (NRDGA) served as the main source of opposition to the bill. It argued that its stores served the public through efficient retailing and urged congressmen to allow the consumer to benefit from retail competition. It warned Americans about the consequences of legislation designed to slow change. Such plans threatened to restrict American business success, limiting change and permitting antiquated systems to undermine prosperity. Consumers would pay higher prices.

The NRDGA won the support of the fledgling Consumers Research organization, a group that continues to test products and lobby in the interest of the buying public. F. D. Schlink, its head, believed that the Capper-Kelly bill endangered the ultimate consumer. He praised the NRDGA for releasing information on the bill and lobbying against it. In his opinion, the interests of

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the association and consumers coincided in this area of legislation. In their lobbying against the bills, mass retailers identified themselves with consumers and argued that an attack on their style of distribution would hurt the buying public, whom they defended. One small retailer complained about this "high and lofty rhetoric" that they defended the best interests of all involved. He complained that the NRDGA pretended their only concern was the consumer: "It's [sic] only concern, ostensibly, is for poor, Mrs. Average Consumer; not an honest argument in their own direct behalf as business men." Critics, like the NRDGA, warned that the bill would reward mediocrity in business, shielding companies from the need to adapt. As one small retailer complained, many small businessmen proved incapable of running their stores. They proved to be useless for the community. As an example, he cited one of his best friends who owned a drug store. The storeowner would not advertise

69 Women's Wear Daily, September 22, 1930 in box 25, folder 17, Fischelis Papers; Thomas Amlie to F. D. Schlink, December 12, 1931, box 77, folder 11, Amlie Papers; Schlink to Amlie, February 26, 1931, ibid.; Shreveport Journal, October 17, 1930, 7.


and otherwise ignored the lessons of scientific retailing, refusing even to help boost the community and otherwise acted as a drain on the town. 72

The bill would thus protect retailers who might best be put out of business. It would eliminate competition and set the price, as George Soule of the New Republic put it, at the “level of the marginal high-cost distributor.” 73

As J. C. Emahizer, a Topeka, Kansas, retailer pointed out, the consequences for the consumer might appear minimal, but could have a significant impact over the long-term. He gave the example of “Pepsodent,” the toothpaste that sponsored the wildly popular “Amos and Andy” program. In Topeka, Kansas, Pepsodent, which Emahizer identified as the toothpaste of “Amos and Andy,” sold for fifty cents a tube at regular price. The local Kroger’s sold it for thirty-three cents. But in Miami, Florida, it could be purchased for twenty-nine cents. How much might the consumer benefit from saving one-third on their expenses? Such savings could make a significant difference in the nation’s standard of living. 74


The NRDGA argued that the Capper-Kelly bill, as written, would also subject retailers to the domination of manufacturers. Many economists expressed concern that the legislation extended too much control to manufacturers. Manufacturers of nationally advertised goods already had advantages over retailers because retailers needed to stock their products. Now they could set the prices for which their product would sell, preventing retailers from adjusting the price in response to consumer demand or the need to clear up space for inventory.\textsuperscript{75}

This complaint proved a real concern for retailers. Emahizer, the Topeka retailer, groused about his experience with price maintenance in the 1910s. He had ordered too many phonographs and attempted to cut the price on them when they sold poorly. The phonograph company heard about his sale and stopped it with the threat of a lawsuit. Emahizer then had to write off his loss on the machines.\textsuperscript{76} Emahizer wanted to know why he and other retailers could be told for what price they could sell goods they owned.\textsuperscript{77}

\textsuperscript{75} J. C. Emahizer to Capper, October 20, 1930, box 39, "Fair Trade, 1925-1929," Capper Papers.


\textsuperscript{77} Doten, "What Economists Think," 18.
Because of this opposition from the NRDGA, the Capper-Kelly bill went through hearings, but Capper and Kelly could not move it through Congress. It was mired in the same predicament it had been in since the Progressive Era. As the bill moved toward passage, critics assailed it as easy to evade and too vague. Their primary criticism centered on the wording of a provision intended to guarantee different prices for commodities of varying quality levels. The bill referred to these products as "commodities of the same general type." As economist Lawrence Guild pointed out, this phrase could be open to interpretation. In addition to this attack, some argued the bill left chains with options to evade the bill. Most obviously, chains could manufacture their own products and sell them for whatever price they chose. Because of such concerns, a number of critics suggested possible alternative bills. However, Capper-Kelly proponents rejected them as diversionary tactics.

One of the most surprising attempts came in 1930 when the bill was closest to passage. Charles Wesley Dunn, who had resigned as director of NARGUS, then announced his opposition to the Capper-Kelly bill. Dunn's

78 Doten, "What Economists Think," 22.

reversal shocked former colleagues because he had not mentioned his change of mind to them, even after asking for confidential information on the hearings. When Dunn suggested another approach to price maintenance, the representatives of the American Fair Trade Association responded with utter condescension. One executive suggested derisively that Dunn, a lawyer, wanted to complicate the bill so that he could get more billable hours from his clients.81 Despite Dunn’s reversal, the bill went through the House by a voice vote in early 1931. However, the bill stalled in the Senate.82

Public opposition and the indifference of the President killed the bill. The Capper-Kelly bill received negative press coverage. Hoover’s press office surveyed the editorial stances of newspapers on legislation. Their report on the Capper-Kelly bill demonstrated clear media contempt for the bill. Out of thirty-five newspapers surveyed, only two, the High Point, North Carolina’s

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Enterprise and the Gazette of Billings, Montana, supported the legislation. In the days before the Gallup poll, the press office used this as a barometer of public sentiment. Hoover would be unlikely to support the bill. By evaluating circulation figures for the paper, his staff members reckoned that the editorials amounted to a 2,239,000 to 17,000 vote of opposition to the bill.

In addition, Hoover never related well to the antitrust block of the Republican Party that championed the Capper-Kelly bill. Although Hoover hailed from the trans-Mississippi West, his approach to questions of business efficiency and anti-trust reflected the attitudes of the big businessman he became before he entered public service. Hoover personally knew J. C. Penney and other chain magnates. He even vacationed at Penney's Florida estate. Hoover also despised many members of the Party's left wing, and they reacted to him with similar disdain. Hoover had particular problems with the Senator from his home state, Smith Brookhart, who pushed anti-chain measures and criticized Hoover for his inaction in the face of the Depression.84


Despite the setbacks for the Capper-Kelly bill, retailers and other price maintenance supporters continued to hold out hope for passage. Frank Mortenson, for example, suggested that action might come in 1932 because candidates for office expressed their support of the bill.\textsuperscript{85} However, many retailers and legislators wanted to move beyond this legislation. They considered its approach insufficient to deal with the full power of chain predatory practices. Chains’ selling prices were only one side of their unfair practices.\textsuperscript{86} Chains also used predatory practices in buying. Paul Lovewell, the editor of the \textit{Merchant's Journal} suggested that the bill should also penalize "secret discounts, allowances or rebates." Lovewell believed the chains received rebates beyond the amount justified by economic expediency. C. H. Janssen, of the National Retail Grocers Association, shared Lovewell’s suspicion that chains benefited from special rebates. All of these critics wanted to see an investigation of chain buying and rebates.\textsuperscript{87} Lovewell


\textsuperscript{87} C. H. Janssen to Capper, April 21, 1930, pp.1-2, box 39, "Fair Trade 1930,” Capper
supported "reasonable" and public discounts. He did not seek to outlaw all quantity discounts, nor did he consider such a policy to be advisable.\textsuperscript{88}

Independent retailers complained about the overpowering market power of the chains. The chains could use their power to elicit significant rebates from manufacturers and farmers. Independents could not match the resources of the chains. Even if they had impressive skills as retailers, the corporate monsters might well defeat them. Trade association representatives believed the chain stores developed their business because they received special favors and rebates. According to some trade officials, these rebates made it possible for the chains to offer extremely low prices on certain items. The government needed to investigate these charges, according to these retailers.

On a federal level, the Capper-Kelly bill and its approach to the nation's economic crisis faded into the background as a new administration arrived to take control from Hoover. Roosevelt and his administration offered a new plan for economic renewal. The National Recovery Administration borrowed the notion of price maintenance from the Capper-Kelly bill. But this reform effort proved far more ambitious, seeking to provide wage and hour protections for

\begin{itemize}
\item Papers; \textit{Shreveport Journal}, October 23, 1930; Copeland to Pearson, November 13, 1930, box 39, "Fair Trade 1930" Capper Papers; Samuel Pearson to Copeland, December 18, 1930, box 30, "Correspondence December 1930," Copeland Papers.
\item Paul Lovewell to Whittier, August 28, 1930, box 39, "Fair Trade 1930," Capper Papers.
\end{itemize}
labor and a voice for the consumer. Retail trade would have to adapt to a new environment.

Opposition to the Capper-Kelly bill on the federal level discouraged small retailers. But they continued to fight on other fronts. Perhaps the most important battle came in state legislatures where the retailers succeeded in passing a wave of chain taxes in the early 1930s. If the national government under President Hoover would not act in their interests, perhaps state governments would prove more willing. Retailers would eventually succeed in passing a modified version of the Capper-Kelly bill through state legislatures. But their first goal was to pass special chain taxes. State governments needed to act in some way to meet the demands of the economic crisis. Perhaps they could be convinced to punish out-of-state retailers. During the early 1930s, attempts to pass chain taxes in the states became the most important expression of anti-chain sentiment.

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89 Frank Mortenson to Capper, June 17, 1931, box 39, "Fair Trade 1931," Capper Papers.
Chapter Four: State Anti-Chain Taxes

By imposing taxes on multiple stores owned by the same company, state governments found a political means to attack chains. States first passed these taxes in the 1920s but the number of statutes exploded after 1930 when anti-chain broadcasters called attention to the plight of small retailers. Although adverse court rulings overturned the earliest laws, a Supreme Court decision in 1931 hastened their spread. The new legal attitude came at an opportune time. State governments needed revenue to support the unemployed. At the same time, many Americans found it difficult or impossible to meet existing tax burdens and lost their house, farms and businesses because they could not pay their property taxes. The chain tax offered states a new source of revenue in which states could force outside corporations, to bear a larger portion of state government and relief. Chain taxes ultimately passed in over half of the states, although they had a negligible effect on chain growth.

Retailers had fought for legislation to control the growth of corporate retailing since the late nineteenth century, when the target had been department stores. Such legislative proposals continued through the progressive era and
into the 1920s.\textsuperscript{1} Mail order companies, although boycotted, eluded such attacks. They did not own property in most states and could avoid conventional means of taxation, and without offices in a state, they could not be targeted by regulatory measures. Their primary legislative battles involved parcel post legislation and rural free delivery, which small retailers fought because they made it easier for mail order packages and catalogs to get to rural customers.\textsuperscript{2} With the rise of the chain stores, however, shopkeepers sought a more direct means of control and focused on state licensing power.\textsuperscript{3}

Storekeepers in St. Louis, Missouri, organized the Association Opposed to Branch Stores and promoted the first anti-chain tax in 1923, a so-called graduated license plan. It worked through the licensing powers of the state to place penalties on chain stores. Each additional license cost a company a larger amount. This bill placed a $50 fee on the second store of a corporation, which rose to a $200 fee on the fifth store. Moreover, it prohibited any organization from owning more than ten stores in the state of Missouri, but it received little

\textsuperscript{1} Steven Diner, \textit{A Very Different Age: Americans of the Progressive Era} (New York: Hill and Wang, 1998), 44-45.

\textsuperscript{2} \textit{Rural Trade}, August 30, 1924, 3.

\textsuperscript{3} Two taxes, one in Delaware and the other in North Dakota, placed small taxes on branch stores in the 1910s. See Frederick Hardy, \textit{The Special Taxation of Chain Stores} (Chicago: University of Chicago Press, 1939), 128; \textit{Shreveport Journal}, October 23, 1930, 15.
attention and failed. In Michigan and Pennsylvania, pharmacists successfully lobbied for legislation that required licensed pharmacists, and not corporations, to own pharmacies. They argued that corporate control of drug stores threatened public safety and was therefore subject to state control. The Supreme Court disagreed. In 1927, North Carolina, Georgia and Maryland passed laws providing for additional taxation for chains of more than five stores, although Virginia and Mississippi rejected such proposals. Even in states which passed legislation, judges struck down the new laws. In the Maryland case, anti-chain activists, including representatives of trade associations, faced off against chain attorneys. At the conclusion of the trial, the judge remarked that chain stores appeared to play an important role in distribution. In this and all cases, courts argued that the definition of a chain

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6 Harper, "The Anti-Chain Store Movement in the United States," 150; *Chain Store Age*, June 1927; *Chain Store Age*, November 1926; *Chain Store Age*, October 1927; Hardy, *The Special Taxation of Chain Stores*, 146.

as consisting of five or more stores was arbitrary. In addition, they said that legislators could not justify higher levels of taxation for these stores. Because of these failings, the acts violated the Fourteenth Amendment rights of the chain corporations. The courts further argued that the taxes served a regulatory and not a revenue raising purpose.8

Despite hostile court decisions, retailers still held out hope for anti-chain legislation. Courts could and did change their minds. The anti-chain radio campaigns of 1929 and 1930 sparked tremendous excitement for tax bills. W. K. Henderson and his imitators prompted politicians to put forward anti-chain bills. Indiana passed a last minute tax in 1929, and over sixty such bills were introduced in 1930.9 The anti-chain activists watched these developments with real interest, eager to see states adopt substantive law to protect them.10 In Kentucky, the clerk of the House blurted out, “Hello World,” Henderson’s 

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10 Break the Chains, April 26, 1930, 12; Harper, “The Anti-Chain Store Movement,” 155-156; Omaha Star, September 29, 1930 in box 61, Scrapbook XVII, Sorensen Papers, Nebraska Historical Society, Lincoln, Nebraska; Break the Chains, March 22, 1930, 8, 20; Break the Chains, February 22, 1930, 13; Anti-Chain World, February 15, 1930, 2-3; Break the Chains, March 1, 1930, 3; Break the Chain, April 26, 1930, 9.
tagline, when an anti-chain bill was introduced. That bill started a new trend in anti-chain legislation. Instead of relying on the licensing power of the state, it taxed gross sales of firms at a progressive rate. As sales increased in a state, so did taxes. It passed the legislature and became law. 11

Following passage of the Kentucky law, candidates in the campaigns of 1930 promised to enact bills to stem the tide of chain growth. Politicians, many of whom had contact with anti-chain broadcasters, incorporated the criticism of the chains first developed by the anti-chain broadcasters. Politicians attacked the chains for their short weight offenses and failure to offer credit. They condemned corporate chains for stripping their states of wealth and transferring money to New York and other distant financial centers. They warned that continued growth of the chains would endanger American opportunity.

In Wisconsin, Progressive Party politicians embraced the chain issue. Ever since the days of Fighting Bob La Follette, the party had fought corporate intrusions, and the growing chain system caught their attention as a new threat

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to Wisconsin democracy. The first of the Wisconsin politicians to take a stand on the issue, Lieutenant Governor Henry A. Huber, began his assaults on chain banks before Henderson’s anti-chain crusade. The state had been gripped by merger mania in its banking community as large Madison and Milwaukee banks had begun to take over banks in other parts of the state. The consolidation provided Progressives with a home grown threat. Huber and his Progressive colleagues seized on the issue, in particular, because members of their political opposition served on the boards of these banks and, as the administration in power, supported the mergers.

After Huber decried the chain banks, he expanded his attacks to include chain stores as well. Huber’s attacks brought him national attention. W. K. Henderson invited him to write a speech to be broadcast over KWKH. Huber hoped radio would serve as an effective means to communicate the danger faced by the nation, and he urged small merchants to fight back against

\[12\] John W. Grobshmidt to Evjue, September 25, 1929, pp.1-2, box 51, folder 7, Evjue Papers; Evjue to Grobshmidt, October 1, 1929, ibid; Milwaukee Journal, January 6, 1930 in Huber Scrapbook, Huber Papers; Evening Telegram, December 11, 1929, ibid; Sheboygan Press, December 11, 1929, ibid; J. C. Klesges to Henry Huber, December 28, 1929, p.2, box 7, folder 3, Huber Papers; Huber to Carlton Mauthe, December 5, 1929, ibid; Evjue to Carlton Mauthe, May 8, 1930, box 90, folder 18, Evjue Papers; Mauthe to Evjue, May 7, 1930, ibid; Evjue to Mauthe, November 11, 1929, ibid; Mauthe to Evjue, November 11, 1929, ibid; Huber Scrapbook; Capital Times, December 10, 1929.
corporations. Following Huber's criticism, the Progressives in Wisconsin made chain stores a major campaign issue in 1930. Phil La Follette, son of the late "Battling Bob" La Follette and brother of one of Wisconsin's senators, used the chains as a major rallying point. Starting in January of 1930, Phil lashed out against the chains. He called for a unified movement of independent merchants, farmers and labor to back the Progressive Party and end the chain threat to economic prosperity. Huber and La Follette headed a statewide ticket that attacked the chains for their devastating economic and social influence. Chains were growing at a tremendous rate, the progressives warned, and if they were not stopped, Wisconsin communities would be destroyed economically and even American democracy would be threatened.

Huber and La Follette pointed to the mushrooming sales of the A&P corporation in the state. The grocery company sold six million dollars worth of products in the state in 1924. Its 1928 returns indicated sales of nineteen million dollars worth of goods. Huber noted that such growth followed a national trend, although he suggested that Wisconsin proved to be particularly happy hunting grounds for the chains. Sales had more than

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13 Huber to M. P. Campbell, July 24, 1930, box 6, folder 5, Huber Papers.


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doubled in the last four years to forty-three million. Huber and La Follette argued that this growth came through unfair and predatory tactics and cite loss leaders, low wages, dodged taxes and short weighting—and in doing so parroted the attacks of anti-chain broadcasters.

LaFollette and Huber also warned that the chains threatened independent merchants. They pointed out that merchant bankruptcies increased from sixty a year in the early part of the decade to over two hundred each in 1928 and 1929. But, La Follette and Huber added, the chain tactics hurt all citizens of Wisconsin. In a letter announcing his campaign, La Follette suggested that chains would raise prices if they eliminated independent competition. Even if they did not, their use of loss leaders would hurt farmers, who would receive lower prices for their crops from chains. Labor would receive lower wages and have their wages cut by manufacturers selling to chains at a loss.

\[\text{15 Capital Times, April 16, 1930 in Huber Scrapbook; Clintonville Tribune, March 28, 1930, ibid.}\]

\[\text{16 ibid.}\]

\[\text{17 Phil La Follette to "My Friends Everywhere," January 23, 1930, pp. 2-3, 7, box 57, folder 3, Phil La Follette Papers.}\]
According to the Progressives, the chains also sucked money from Wisconsin and endangered opportunity in the state. La Follette and Huber linked the growth of the chains to drops in bank deposits. Huber accused chain stores of funneling money out of the state to New York and attacked the chains as "carpetbaggers," intent on stripping Wisconsin of its wealth. If this trend continued, he warned the chains would drain the state of all its wealth, crushing it down and turning it into a colony for Eastern interests.

The ultimate effect of these developments would be the destruction of Wisconsin. Huber put forward a powerful image of a desolate ghost town to remind the citizens of Wisconsin what happened when the economy failed. "Some years ago, in travelling through the West, I visited a deserted mining-town with its empty buildings and every time that I make a chain store speech I see that horrible assemblage of desertion before me. I want none of it for Wisconsin." La Follette worried also that the growth of the chains would

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20 Huber to W. J. Butler, June 6, 1930, box 6, folder 5, Huber Papers; Huber to George C. Schleitner, June 3, 1930, *ibid.*
strip wealth from the state with devastating consequences. He wrote: "I cannot feel that the people of Wisconsin, who have cleared the land, erected their homes, founded their schools and churches, built villages and cities want the profits of their toil and labor drained to Wall Street." The results of this growth, he wrote, would be to destroy their community and the dreams of their ancestors. 22

Likewise, both Huber and La Follette warned that the growth of large chains endangered American democracy. According to Huber, the loss of independent businesses, and economic opportunity, would bring an end to the American experiment. It would result in Russian-style communism without private property. The loss of private property would mean the loss of solid citizens who formed the bedrock of the community, undermining the entire

21 Huber to Otto P. Kugler, June 12, 1930, box 6, folder 5, Huber Papers; Capital Times, December 10, 1929; Capital Times, April 16, 1930, Huber Scrapbook; Chester Collman to Huber, April 24, 1930, box 6, folder 4, Huber Papers; Huber to I. F. Moore, May 13, 1930, ibid.; Huber to C. G. Marshall, May 9, 1930, ibid; United States Daily, May 7, 1930; Huber to Ernest Kamemberg, March 26, 1930, box 6 folder 4, Huber Papers; M. L. Poundstone to Clyde Reed, February 15, 1930, box 1, folder 5, 27-10-02-07, Clyde Reed Papers, Kansas State Historical Society; Harold McGugin to Reed, February 22, 1930, ibid.; M. L. Poundstone to Reed, February 20, 1930, box 1, folder 6, 27-10-04-01 Reed Papers.

22 Phil La Follette to "My Friends Everywhere," January 23, 1930, pp. 8-9, box 57, folder 3, Phil La Follette Papers.
social and economic system. He compared the small retailers to the soldiers at Valley Forge, crusaders dedicated to independence, men watchful of their country. The Progressive Party Platform for 1930 warned of the danger posed by corporate intrusion into Wisconsin. If chains continued to grow, individual opportunity and prosperity would disappear. Individual liberty would follow shortly.

Although the Progressives made the chains a major issue in the campaign, the Stalwarts, their opponents, also condemned the chain stores, which indicated how widespread hostility to the chains was in Wisconsin at the time. La Follette blasted Stalwarts for their attempt to seize the chain issue. He argued that the Stalwart administration had permitted the chains to grow because of lax enforcement of fair practice and tax laws.

Nevertheless, La Follette did receive some criticism on the chain issue. One constituent and fellow Progressive, P. W. Ramer lambasted the governor

23 Huber to Murray, April 9, 1931, box 8, folder 7, Huber Papers.


26 Capital Times, June 11, 1930.
because of his stand. Although Ramer said he had once been skeptical of the chains, he had come to realize that chain stores improved the quality of retailing and the value to the consumer. He pointed to events in his hometown as evidence of the benefits chains brought, and he assured La Follette that the chains owed their tremendous growth to efficiency. Chains promised to increase American prosperity, not imperil it.28 Huber received similar comments from a young friend of his family, who agreed with his stand on chain banks but cautioned that chain stores seemed to promise real progress in retail distribution.29 In a similar fashion, a preacher friend of his attacked Huber for romanticizing the contributions of the small town retailer.30 Huber and La Follette won an overwhelming victory in the election.31

The Progressives, particularly La Follette, argued that they only wanted to take away chain advantages and prevent them from employing

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28 P. W. Ramer to Phil November 6, 1930, box 2, folder 2, La Follette Papers; Lorrence, Gerald J. Boileau and the Progressive-Farmer-Labor Alliance, 38.

29 Robert Riggs to Huber, February 16, 1930, p.2, box 6, folder 1, Huber Papers.


31 Burne Pollock to Huber, September 17, 1930, box 7, "1930 August-October," Huber Papers.
 unfair practices. No one in the Progressive camp urged retailers to focus on legislation as the only solution to their problems. They also promoted scientific retailing, in particular the development of a state-sponsored voluntary chain, endorsing the cooperative ideal in merchandising as eagerly as they did in farming. 

Progressives also argued that retailing should end its old habits. Wisconsin organized its own voluntary chains to permit small retailers to compete with the chains. The state Department of Agriculture and Markets banded together fifty independent merchants to build a chain that would assist with purchasing and other functions.

In Minnesota, the progressive forces mobilized a campaign similar to that in Wisconsin. Floyd Olson, the charismatic and handsome young darling of the left wing, championed anti-chain legislation. Unlike in Wisconsin, however, in Minnesota the rival political faction opposed anti-chain measures and ridiculed them as pathetic attempts to win votes from small retailers.

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34 Break the Chains, May 9, 1930, 4.
Because of the possibility of anti-chain legislation, a group of small retailers organized to support Olson. They sent letters to both candidates for Governor, asking them about their stand on chain stores. Olson, who had already indicated his support for anti-chain measures, repeated his statements. His opponent, Ray Park Chase, refused to reply to the letter, but the meat dealers quoted a recent speech by him in which he criticized attempts to slow the growth of the chains.

Following Olson’s endorsement by small retailers, he began to speak before anti-chain organizations throughout the state. In one small town, Olson spoke before a small group of supporters in the high school auditorium. Not all of the merchants in town supported him, despite his stand against the chains. A grocer who was a friend of Ray Park Chase had already written a letter to the local paper condemning Olson’s attacks on the chains. As Harold Featherstone, the independent merchant, wrote to his friend Ray Park Chase


that state governments could not stop the laws of economics. He pointed out that retailers had begun to fight back against the chains by forming voluntary groups, which could do something effective to improve retail efficiency and meet the chain challenge. Proposed political solutions would not end the competitive condition; the devil would still continue to take the hindmost.\(^{39}\) Featherstone found himself in a confrontation with Olson when the gubernatorial candidate showed up in his store the afternoon of his speech, spoiling for a debate. Featherstone reported on the encounter with glee.\(^{40}\)

After Olson began his spirited campaign against the chains, a Minneapolis good government organization issued a pamphlet that revealed that Olson had patronized a chain store for eight years. The association attacked Olson for hypocrisy. He canceled his charge account with the store shortly after he won the nomination for governor and began his campaign against the chain stores. They also took Olson to task because the National Tea Store at which he shopped had been on the union unfair list for a time during

\(^{38}\) Featherstone to Ray Park Chase, May 23, 1930, \textit{ibid.}

\(^{39}\) Ray Park Chase to Harold Featherstone, January 24, 1929, \textit{ibid.}; Featherstone to Chase, January 24, 1929, pp.2, 4-5, \textit{ibid.}

\(^{40}\) Harold Featherstone to Chase, May 23, 1930, pp.1-2, \textit{ibid.}
his patronage. Olson replied that his wife had been responsible for shopping and that she quit going to the store after she found out about the danger of chain groceries. "I am frank to say that before the anti-chain discussion was started, my own wife and many of her neighbors thoughtlessly patronized a local chain store occasionally. Knowledge of the dangers from the chain store system caused them to quit the chain store entirely. What is true of them is true of thousands of others." Olson promised to fight for a tax against the chains. He won the election, but questions about the constitutionality of chain taxes discouraged the legislature from passing anti-chain legislation until 1934.

In other states as well politicians flocked to the cause, including Huey Long, eager to help the independent retailers in their war against the chains. The Kingfish had close personal ties with W. K. Henderson and used KWKH as a platform for his political campaigns. Long made broadcasts from the station that could be heard throughout the United States. The value of the

41 Good Government Association flyer, "Floyd B. Olson a Patron of the Chain Stores," box 6 "Carley Investigation-Chain Stores" Ray Park Chase Papers.

42 Irving S. Anderson to "Brother Independent Merchant," n.d. [1930], ibid.; "Reprint From Floyd B. Olson's "Anti-Chain" Campaign Speeches," ibid.

43 Louisiana Progress, August 28, 1930, 5; Louisiana Progress, August 18, 1931, 1; Business Week, May 20, 1930; M. H. Cavanaugh to Huber, February 5, 1931, box 4, "1931 February," Huber Papers.
coverage was impressive. Long made numerous criticisms of the chain stores throughout his campaigns. But despite enthusiastic support from small retailers and Huey's attacks on the chains, the Louisiana legislature failed to pass anti-chain legislation until after Long left office. Of course, Long continued to influence state law from the senate, even sitting in the legislative chamber. His opposition to the chains accounts for the eventual passage of the chain tax bill in 1934.

In contrast to the victories in Wisconsin, Minnesota, and Louisiana, other opponents failed to win their races. Perhaps the best known of these candidates came from Kansas. Dr. John Brinkley, an eccentric doctor with dubious credentials, made chain stores an important element of his independent campaign for governor. Brinkley first achieved fame because of his controversial medical advice. Brinkley's medical practice included a range of homeopathic remedies, but his unique contribution to medical science was an innovative procedure to treat erectile dysfunction in which he sewed a gland


45 *Louisiana Progress*, August 5, 1930, 1; *Louisiana Progress*, June 5, 1930, 5.
from a goat into the scrotum of patients, thus restoring dozens of men to fighting form. Brinkley dispensed that and other medical advice on his radio program, broadcast on his own station, and became extraordinarily popular. Brinkley then commissioned druggists to dispense his remedies in various parts of the state. He worked hard to maintain prices at the same level as he sold them at his clinic. As a manufacturer, however, Brinkley found himself threatened by price cutting retailers. He worked diligently to ensure that pharmacists did not substitute less expensive prescriptions for his own, firing off threatening communiqués with salutations like: "To My Reputable and Accredited Druggists Who Have the Constipation medication." In return for cooperation, Brinkley promised that he would provide pharmacists with additional business and free advertising.46 The Kansas Medical Association, the AMA and the Kansas Pharmaceutical Association called Brinkley a quack.47 All three lobbied the Federal Radio Commission to revoke his license.


47 Mrs. Blanche Benter to Clyde Reed, June 16, 1930, p.2, 27-10-04-01, folder 1, Reed Papers; G. B. Kierulf to Reed, April 2, 1930, p.1, ibid.; Journal of the American Medical Association, April 12, 1930, 1146; Brinkley to "My Dear Radio Friend," March 24, 1930, box 3, "Contents of Notebooks for Brinkley Druggists," Brinkley Collection; Brinkley to Petros Pharmacy, April 3, 1930, box 1, "Correspondence October 1925-September 1932,"
Brinkley’s supporters claimed that these and other efforts were part of a conspiracy by radio chains (now called networks) and the establishment to silence a fierce critic. They called for the governor to resist these attempts, as Huey Long had done when he supported W. K. Henderson in Louisiana. But the governor, Henry Woodring, showed no inclination to help Brinkley. Brinkley used the experience, however, to craft an all-encompassing critique of corporate America, condemning not just chain stores but convict labor, centralized credit and corporate farming. On the subject of chain stores, Brinkley convinced his opponent for the Republican nomination to oppose the chains as well.

Brinkley Collection; James Sonders to Brinkley, January 3, 1932, *ibid.*


49 *Publicity*, November 20, 1930, 4; *Publicity*, November 28, 1930, 4; *Publicity*, January 16, 1931, 4; *Publicity*, January 23, 1931, 4; *Publicity*, January 30, 1931, 2.

50 W. L. Barnes to Reed, July 11, 1930, p.2, 27-10-04-01, folder 5, Reed Papers; Mac Childs to Reed, July 9, 1930, *ibid.*
Despite the fact that chain stores had become a campaign issue, court challenges to the laws still acted as formidable obstacles to legislation. Courts maintained that the chain taxes were violations of the Fourteenth Amendment rights to due process.\textsuperscript{51} However, in 1930 in the decision the Chief Justice of the Supreme Court referred to the chains as "knaves."\textsuperscript{52} Independent retailers hoped that the Court, which some believed was becoming more liberal in the early 1930s, might change. In 1931 the Supreme Court did in fact reverse its position on chains. In a review of the Indiana tax, the Court ruled by a bare majority that the graduated tax was acceptable because chains possessed distinct advantages that differentiated them from other stores. The classification was not arbitrary and thus acceptable. In theory, any sort of tax could be set.\textsuperscript{53} After the Supreme Court upheld the Indiana chain tax in 1931, it became harder to criticize them as frivolous.\textsuperscript{54}

\textsuperscript{51} C. B. Randall to Clyde Reed, February 18, 1930, p.3, 27-10-02-07, folder 5, Clyde Reed Papers.

\textsuperscript{52} \textit{Break the Chains}, March 15, 1930, 4; Harper, "The Anti-Chain Store Movement, 168-169.


\textsuperscript{54} Harper, "The Anti-Chain Store Movement in the United States," 143, 175.
The court decision prompted small retailers to push for additional legislation. State retail associations throughout the country advocated anti-chain legislation, including licensing laws and graduated sales taxes. National trade associations refused to support the bills because they feared that imposing additional taxes on retailers would have a negative effect. The taxes placed additional tax burdens, no matter how slight, on the independent retailer. In the opinion of some merchants, they were crude weapons that might recoil to hurt independents as well. These retailers believed that a more important goal would be to attack unfair trade practices by the chains. In that way, unethical behavior by the chains could be punished, unfair advantages taken away, and independents would be able to benefit.

In their efforts to promote anti-chain legislation, political leaders picked up the themes from the 1930 campaign and the evolving anti-chain sentiment. They warned about the threat to opportunity and championed chain taxes as a way to preserve the American way of life into the future.

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57 Frank J. Weber, "Some Facts," March 18, 1931, box 8, folder 1, Huber Papers; Joseph
La Follette delivered an address to the Wisconsin legislature that attracted the attention of progressives nationwide and prompted predictable comparisons to his father. La Follette and Olson and the others argued that they were working to protect small retailers, many of whom felt incapable of remaining in business.

Phil La Follette tied work relief to an emergency chain tax. Along with independent retailers and anti-chain broadcasters, he argued that chains created dangerous economic conditions by sucking away the wealth of the community. He held them responsible for undermining the economy of the state and generating widespread unemployment. For that reason, he wanted to force chains to pay a portion of the cost of relief. These chain taxes would compensate for taxation evaded by the chains. They called for a

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58 A. F. Sweeney to Phil La Follette, December 9, 1931, box 13, folder 6; Montaville Flowers to Phil La Follette, January 5, 1932, box 17, folder 1; Montaville Flowers to Phil La Follette, December 21, 1931, box 14, folder 1. All in the Phil LaFollette Papers.

59 Joseph Slamka to Phil La Follette, January 8, 1932, box 17, folder 2, La Follette Papers.

60 Gustav A. Seeger to Senator Ben Gettelman, December 19, 1931, box 14, folder 1, ibid.

61 B. J. Hollenbeck to Phil La Follette, December 27, 1931, pp. 1-4, ibid; J. A. Metzger to Phil La Follette, April 1, 1931; Albert D. Bolens to Phil LaFollette, March 3, 1931, box 6, folder 4, ibid.
united movement of farmers, union members and independent merchants to fight off the power of monopoly. 62

The Supreme Court's reversal combined with financial exigency to encourage an explosion of anti-chain legislation in 1932 and 1933. States faced a foreboding economic future in the early 1930s. Phenomenal numbers of Americans had lost their jobs. Without a federal welfare system, the states and localities had to feed, clothe and shelter these individuals and their families. At the same time, many citizens, even those who retained their jobs, found it difficult to pay their property taxes. Foreclosure threatened increasing numbers of citizens, and legislatures wanted a solution. 63 If a state hoped to care for its


citizens during the worst depression in memory, it would need higher taxes. States had to find some source of revenue to allow them to pay for their relief programs.  

In addition to the chain license taxes, states passed laws designed to tax retail sales. These taxes based upon gross sales became another approach to the chain problem when they were graduated to ensure that corporations and department stores paid more than small retailers. The rate of taxation increased with the size of the stores. This form of the tax made it more palatable to small retailers, who often resisted sales taxes because they worried that it would interfere with their sales and add an additional financial burden. In states like Kentucky and Vermont storeowners enthusiastically supported graduated sales taxes as a way to attack their chain enemies.  


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The chain license and sales tax measures threatened the chains, but corporate retailers were slow to develop a response. The Kroger company played the most active role in opposing anti-chain legislation. Albert Morrill, the President of the company, wrote Henry Huber a scathing letter in 1931, when Senator Smith Brookhart of Iowa read Huber’s caustic comments on the chains to Congress as part of the debate over the Capper-Kelly bill. In the letter, Morrill lashed into Huber for irresponsible leadership and lectured him on the price advantages the chains brought to retailing. Kroger did not stop with letter writing campaigns. The company also organized lobbying efforts in state capitals.

Numbers of revenue hungry legislatures passed anti-chain store measures. Mississippi, Kentucky, Vermont, Minnesota, Wisconsin and New Mexico levied graduated sales taxes. Eighteen other states adopted

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66 Albert Morrill to Huber, February 17, 1931, pp.1-3, box 4, "1931 February," Huber Papers; Congressional Record, 71st Congress, 3rd Session, 74: 4000.


chain license measures. In most states, the governors signed the measures. In Michigan, however, William Comstock opposed the chain tax and vetoed it. Because of his actions, he won the animosity of a local anti-chain broadcaster, Clyde Fenner, who threatened the Governor with a recall. In the next legislative session, Michigan eventually passed the anti-chain bill, and Comstock signed it into law.\(^\text{70}\)

Chain taxes had a minimal effect. They collected small amounts of revenue, and they did not destroy chains in the state. In Wisconsin, the tax commission compared the revenue collected through the chain tax to the income tax. The combined taxes collected $3,400,000 for the state over the course of 1932 and 1933. Of that total, $3,000,000 came from income taxes.\(^\text{71}\) In other states, even states like Vermont and Louisiana with the highest rates of taxation, the levies had a nominal effect on state revenue.\(^\text{72}\)


\(^{71}\) W. J. Conway to C. E. Schaffer, January 25, 1932, box 17, folder 2, La Follette Papers.

In addition to having little revenue generating ability, the chain taxes did not have a tremendous effect on the chain stores. Only two significant results came from the acts. First, the chains closed marginal stores. David R. Craig of the American Retail Federation concluded in a 1937 study of chain taxes that chains chose to close less profitable stores in order to avoid taxation on them. Craig concluded that chain sales increased at remaining stores, as customers shopped at these central locations. In fact, he concluded that chain sales rose at a faster rate in chain tax states than non-tax states. This change worked along with the late 1930s trend in the food industry to so-called "super markets." 73

Second, the pressure on marginal stores spurred another important development in twentieth century retailing: franchising. Gas stations had notoriously low profits in the period, and the chain taxes place them in a great deal of danger. In West Virginia, for example, Standard Oil of New Jersey stations showed annual profits of about ninety dollars but would be expected to pay $250 in taxes under the state tax. 74 As a response to the chain taxes, oil


companies chose to sell their stations to local owners and charge them fees for gasoline and use of the corporate names. Butler Brothers, a dry goods chain, responded in the same way. This franchising concept caught on in later years.

Despite these developments, state taxes had limited effects on the chains. Taxation did not slow their growth. Although retailers continued to push to pass taxes or strengthen them, most activists looked for other ways to attack the chains. They hoped that Franklin Roosevelt would take steps to control the chains and their predatory practices as part of a federal reform package. When Roosevelt announced the National Recovery Administration, many hoped that it would provide the protection and stability they needed. They responded to the NRA with enthusiasm and hope. Unfortunately, their dreams for that organization would not be realized.

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Chapter Five: The National Recovery Administration and the Chains

In *Looking Forward*, a book written for his 1932 Presidential campaign, Roosevelt expressed special concern for small retailers and their plight in the face of chain competition. "The unfeeling statistics of the past three decades show that the independent business man is running a losing race. Perhaps he is forced to the wall; perhaps he cannot command credit; perhaps he is 'squeezed out,' in Wilson's words, by highly organized corporate competitors, as your corner grocery man can tell you."  

Roosevelt believed the challenge to small retailing was one facet of the great problem for America in the new century. With the close of the frontier, where would Americans find opportunity? In the nineteenth century, men could escape the cities and find opportunities in new regions. Now the country had been settled, and large corporations, based in the great metropolises, threatened to choke out individual initiative. Roosevelt believed government needed to counteract these developments, controlling corporations and ensuring a decent standard of living for all.  

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2 Roosevelt, *Looking Forward*, 26, 30, 31-33, 75 111, 139-140; William J. Ross to Roosevelt, April 21, 1933, OF 288, "Chain Stores 1933-1934," Roosevelt Papers, Franklin

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power of the sentiments expressed in his book and his famed speech articulating economic policy before the Commonwealth Club, many merchants felt that Roosevelt understood them and their needs. Like millions of Americans, they believed he offered a solution to the problems of the so-called "Forgotten Man," who had been ignored during the Hoover years. Although prominent anti-chain voices like W. K. Henderson and Frank Grimes stood by Hoover, the majority of retailers supported Roosevelt. He was a President who would restore justice to the American economy. In the Hundred Days Roosevelt pushed a number of initiatives, but his most important solution for business was the National Recovery Administration. This system of voluntary

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industrial self-control seemed to address the desperate needs of the nation. Over the next two years, however, storekeepers discovered it had limitations. It offered hope, but did little to challenge chain organizations, which, in their view destroyed independent merchants and exacerbated, or perhaps even caused, the Depression, forcing thousands onto the federal dole. Although the NRA failed to provide a safe retail environment, the experience did shape the concerns of retailers for the remainder of the 1930s.

In 1933, small retailers desperately needed help. Consumer purchasing had plummeted after the stock market crash.\(^5\) According to the retail census of 1933, the Depression had eliminated one-half of the sector’s dollar business. As a result, storekeepers could not generate enough sales volume to survive. Even competent and experienced shopkeepers found loans hard to repay. For storeowners, the Depression meant longer hours, closer margins of profit, and a constant fear that their plans and their energy would not be enough. They wanted protection from the devastating effects of the depression. Many of them felt helpless and alone. Retailers had to make a living profit in order to feed their families. In many cases they had their own life savings and decades

of labor invested in the store. Retailers feared they would lose their stores and join the growing ranks on the bread lines. This thought understandably frightened them. It provided an additional burden for older retailers who worried, as Princeton, Indiana, storekeeper George Rund remarked in a letter to President Roosevelt, that he had "reached the middle age at which no one wants to employ him...."7

The growth of the chains heightened retailers’ anxiety. Many believed chains were working to destroy them. Repeating complaints made since the 1920s, the retailers pointed, in particular, to the chains’ use of loss leaders to attract customers. Although many small stores sold below cost, independent retailers condemned loss leaders as a particular chain threat because these stores could use their superior financial might to crush their opposition. Small retailers saw chain stores popping up on every corner and warned that the chains intended to take over retailing.8 They deliberately sold products like


7 George Rund to Roosevelt, February 18, 1933, OF 288, "Chain Stores 1933-1934," Roosevelt Papers.

8 Thomas J. Seamans to Roosevelt, January 19, 1933, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; George Rund to Roosevelt, February 18, 1933, ibid.; S. H. Livingston to
cigarettes at a loss, so that they could wipe out their competition. One retailer, Thomas Seamans, wrote Roosevelt, that the chains were playing games with loss leaders, using these products as a "football" and making retailers charging a regular price for them look to "...the public as though we were robbing them." 9

Small retailers bemoaned changes in the economy that denied young people the opportunity to own their own stores. Both economic circumstances and the chain threat promised to eliminate the small store. A retailer remarked that he remembered the days when an unemployed boy could enter into business. That was no longer the case. 10 The failure of the small retailer would have ramifications for all Americans, he and other retailers believed. It would be the death knell of independent business in America 11 Perhaps former

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10 Thomas J. Seamans to Roosevelt, January 19, 1933, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; Plato McCourtney to Roosevelt, April 29, 1933, ibid.; William J. Ross to Roosevelt, April 21, 1933, ibid.

storeowners could work for a chain, but this opportunity, in their mind, was insufficient. One Kansas man wrote Roosevelt about a young chain store manager whose "affability and courtesy" had made him a favorite in Salinas. Yet the young man had been fired from his job by the chain, according to the writer, because the chain had wanted to give his job to someone else. A local outcry led to the reinstatement of the manager. Still, the author asked, what sort of opportunities did he face in the future? How much better would his life be as owner of his own store. He could buy his own home without fear of transfer.¹²

Small retailers warned that the nation's communities would be destroyed if the chains continued to grow. Chains did not worry about the fate of the town. They only worried about profits for the corporation. Small retailers claimed that, in contrast, they formed an integral part of the nation's life. They built the nation's communities, represented the potential for American opportunity, and kept alive the American tradition. Retailers ran community organizations, voted, served on juries and otherwise contributed to the life of the nation. Retailers served their communities, building them up

The wife of one grocer sent Roosevelt a poem that summarized the plight of the small retailer:

"The old home town has changed a lot since I was just a lad. For in those days the home owned stores were all we ever had.

I remember how the boss would come and meet us at the door. And he always made us feel at home when we were in his store.

When roads needed to be built folks went to the independent merchants [to] improve the towns. [...] always credit and delivery chain stores now have control. And it seems as if a man don't own his body or his soul. [...] pretty stores, flashy windows. [...] For their bosses live on Wall Street and we're a bunch of fools, if we think these fellows give a damn about our churches and schools.

Let's patronize our local stores and keep the cash at home. And let the doggone Chain Stores start a city of their own."}

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Small retailers warned that chain stores endangered all Americans—not just store owners. The new system of retailing undermined prosperity for the general public by sending profits to distant financial centers, and loss leader competition depressed prices for manufacturers and farmers. Although consumers thought they saved money in these stores, they lost far more. For their part, farmers, whose crops were used as loss leaders to lure consumers into chain grocery stores, could not get adequate payment to cover their cost of operation. A letter from Roosevelt’s home region Hudson River Valley Grape Growers asserted that they had not been able to cover costs for the past two years since prices had dropped because chain stores, their biggest customers, had been selling grapes for no profit. Anti-chain activists complained that such business practices, and not overproduction, produced low agricultural prices during the 1920s and 1930s. Manufacturers faced a similar challenge. Plato


McCourtney, who himself owned a small dry goods chain, attacked loss leaders for undercutting profit margins and forcing manufacturers to pay a “starvation wage” to their employees. For that matter, the chains themselves paid low weekly wages, according to the small retailers. Independent retailers accused them of being slave drivers, forcing their employees to work ridiculous hours. One retailer wrote President Roosevelt that he knew a young man who had dropped from 150 to 120 pounds after three months of working for a chain grocery. The story could be a metaphor for retailing in the Depression.

Retailers trusted that Roosevelt would use government power to curb cut-throat competition, restore stability to the retail sector and prosperity to the nation. They hoped that Roosevelt would offer some sort of solution, a way

24, NRA Records.

17 George Rund to Roosevelt, February 18, 1933; Frank Renick to Roosevelt, May 9, 1933, 2; S. W. Shaler to Roosevelt, July 1, 1933; James Burns to Roosevelt, May 26, 1933. All in OF 288, "Chain Stores 1933-1934," Roosevelt Papers; D. M. Hall to A. R. Forbush, October 15, 1933, p.3, box 6, folder “H,” NRA Records; Palamountain, Politics of Distribution, 245.

to protect them from the terrifying retail market. Their fears melded with the concerns of other businessmen and economists who worried about the destructive effects of competition in the economy. Leading executives believed predatory practices had undermined the American economy. When Roosevelt entered office, he sought a government policy to restore prosperity through control of unfair practices and promotion of purchasing power. The National Industrial Recovery Act, the last major piece of legislation from his famed Hundred Days, developed a program of industry imposed trade rules supervised by the National Recovery Administration. These rules governed competition and enforced basic standards of conduct. The act promoted purchasing power by stabilizing industry through codes, which regulated prices, wages and hours.

A large number of chain executives and trade association heads participated in the conferences producing the retail codes, which covered general retailing, hardware, drugs and the grocery business and created an

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*ibid.*

umbrella board to manage this confusing array of policies. The National Retail Dry Goods Association, Mail Order Association, Limited Price Variety Chains, National Association of Retail Druggists, National Association of Retail Grocers and National Retail Hardware Association all played a role in the conferences developing the various retail codes. Labor and consumers had a place on the boards, but little influence, although the mere presence of consumers signaled a tremendous advance for the youthful movement.

The NRA set out to stabilize retailing through the control of unfair practices, especially loss leaders, and the establishment of wage and hour standards. The codes specifically rejected predatory behavior and limited unfair trade practices, including boycotts, false advertising and substitution of inferior products. In the original drafts of the codes, put together by


representatives of all segments of retailing, controls were set on the level of advertising allowances given to firms in supposed return for in-store promotion.22 These sections of contracts had been used to grant chains substantial rebates for their products. The codes had also included provisions that provided wholesalers with price breaks that chains could not receive because they dealt directly with the public. Both of these elements were written out of the codes when a final committee drafted the version submitted to the government. Because independent retailers had no representatives on the committee crafting the final form, lawyers for large retail stores omitted the clauses from the final version.23 Although the codes lacked certain elements, they made an important beginning and included important loss limitation provisions. In addition to these controls, the codes set wages and hours for retail clerks. Managers, however, were not governed by these rules because they were counted as executives under the labor section.24 These codes controlled business throughout the country, although stores in towns under


2,500 in population were exempted. In some cases, states drafted their own versions, but the National Recovery Administration ultimately ruled that these provisions could not be more stringent than those required by the national administration.

In connection with the signing of the retail code in October 1933, General Hugh Johnson claimed that chains had killed 400,000 small retailers. According to him, the government hoped to promote full, fair competition. General Johnson liked the image of boxing rules. Instead of allowing the economy to descend into an eye-gouging, nose-biting bar room brawl, the government would ensure a fair fight for both parties. It would act as a referee, preventing blows below the belt but otherwise allowing boxers to compete. Retailers hoped to protect their profession with the code

Madison, Wisconsin.


27 Godfrey Lebhar to Johnson, October 25, 1933, box 4966, folder 24, NRA Records; Roosevelt to Mrs. Samuel Johnson, October 9, 1933, PPF 702, Roosevelt Papers; Hugh Johnson to Roosevelt, September 24, 1934 ibid.; Roosevelt to Johnson, September 25, 1934, ibid.

28 L. T. Jorer to Johnson, November 17, 1933, box 4966, folder 23, NRA Records; C. L.
and restore fair competition. Pharmacists, in particular, wanted to restore their sense of professional standing. Small retailers also found hope in the fact that the head of an independent retailing organization administered the retail code. Trade executives chose Rivers Peterson, who was head of the National Retail Hardware Association, to lead the code because his organization had the highest percentage of firms in the field represented—about one quarter. The National Retail Dry Goods Association, in contrast, included less than 4,000 members out of 168,000 stores that could have been members. Associations catering to grocers and druggists suffered similar problems. Trade executives believed Peterson would give the code legitimacy.

Despite concerns, retailing threw itself behind the efforts of Roosevelt with the same enthusiasm that led communities to throw parades

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Haggen to the NRA, p. 2, box 4966, folder 12, NRA Records.

29 Henry Drechsler to Fischelis, January 22, 1934, box 114, folder 15, Fischelis Papers; Louis Parks to Fischelis, January 29, 1934; Parks to Fischelis, January 25, 1934; Parks to Fischelis, January 30, 1934; Adolph Kiss to Fischelis, January 26, 1934; Fischelis to Kiss January 31, 1934; Prescott Loveland to Fischelis, November 18, 1933; Loveland to Fischelis, December 5, 1933; Loveland to Carl Christensen, December 11, 1933; Fischelis to Loveland, December 9, 1933; Loveland to Fischelis, December 8, 1933; “Minutes of the Fourth District,” p.2 in Loveland to Fishelis, December 26, 1933 All in box 114, folder 7, Fischelis Papers.


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and other kick off ceremonies for the code.\textsuperscript{31} Chains participated actively in code activities and advertised themselves as friends of the consumer, trying to restore prosperity to America.\textsuperscript{32} Local retailers organized to support the NRA as well. They sponsored mass meetings and formed local committees to help the administration enforce the rules of the Retail code.\textsuperscript{33} Firms signed the code, agreeing to abide by its provisions. They also paid an assessment to cover the cost of the code. In return, stores received a Blue Eagle to display in their window and the protection offered by the code authority. Sometimes these organizations offered education for retailers to improve their stores.\textsuperscript{34}

\textsuperscript{31} Kirstein, November 28, 1934, p. 2, box 89, "Material Mr. Widman Has," Kirstein Papers.

\textsuperscript{32} \textit{Footlight Parade}, 1933.


\textsuperscript{34} Sherburne to Martin Jacobson, August 7, 1933; Strain to Sherburne, August 7, 1933; J. A. Lovelace to "Members in Bozeman," September 14, 1933. All in box 6, folder 29, Sherburne Mercantile Company, University of Montana, Missoula; Val Bloch to Roosevelt, November 10, 1937, OF 466, "NRA Codes 1933-1935," Roosevelt Papers; Roosevelt to Bloch, November 22, 1937, \textit{ibid.}; J. C. Dills to Long, March 1934, box 4966, folder 24, NRA Records; Charles Woul to Johnson, Dec. 18, 1933, box 6, "Chain Stores W-Z," NRA Records; H. A. Georgia & B. T Clifford to Robinson, June 10, 1936, box 215, folder 1, Robinson Papers; H. N. Ruud to Amlie, May 12, 1936, \textit{ibid.}

\textsuperscript{34} C. J. Tanner to Fischelis, [n.d., 1934], box 114, folder 15, Fischelis Papers; Lovelace to Sherburne, November 8, 1933, box 6, folder 30, Sherburne Mercantile Company Papers; "Rules and Regulations for the Organization of Local Retail Code Authorities" in Harry Carr to A. D. Whiteside, May 9, 1935, box 6883, NRA Records.
Soon the retailers' enthusiasm gave way to complaints about the codes and their performance. Small retailers were among the most prominent critics of the National Recovery Administration. Files of the agency bulge with letters from merchants enraged by the NRA's failure to protect small retailers. The powerful role of chains in creating the codes frustrated and frightened small businessmen. They complained that control of the organization had passed to "money changers" and "syndicates." As a result, according to men like C. B. Purcell of the Florida Pharmaceutical Association, the small merchant was "more helpless than ever."\(^{35}\) Another shopkeeper complained about the role of the owner of a chain of shoe stores: "To me Ward Melville and his crowd being called in to write the retail code is like calling in Morgan to write the Securities Act and our Banking laws. . . ." In his mind, the problem had been invited to offer a solution.\(^{36}\) The NRA also frustrated small merchants because of its ineffective enforcement; it simply could not control a million retail stores. As a result, many firms evaded its regulations.\(^{37}\) One of the first causes for

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35 E. F. Babitcht to Johnson, n.d., box 4969, folder 26, NRA Records; C. B. Purcell to Johnson, February 29, 1934, ibid.

36 C. L. Haggen to the NRA, p. 2, box 6, "Complaints," folder 12, NRA Records.

37 D. M. Hall to A. R. Forbush, October 15, 1933, box 6, folder "H," NRA Records; David Rising to Roosevelt, March 7, 1934, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; John Burke to Kirstein, November 6, 1934, p.2, box 89, "Widman,"
concern was the assessment itself. In difficult economic circumstances, some retailers complained about having to pay an assessment for the operation of the code authority on a local and national level. In one area, a retailer led a protest of storeowners who opposed the assessment. The local administrator of the code admitted in a confidential letter that he would not be able to collect from all of the firms that evaded the fee.38

Many small merchants chafed at the regulations imposed by the National Recovery Administration. Although they had high hopes for the potential of the agency, they felt overwhelmed by the maze of new rules and regulations. In particular, they believed that the wage and hour regulations and provisions restricting the hours of operation were a direct threat to their businesses. One of the few advantages the small retailers had was that they often kept longer hours than the chains.39 E. F. Babitcht of Worthington, Minnesota, complained about the hour regulations on his store, which was in a

Kirstein Papers.

38 K. W. Hood to Neustadt, March 29, 1934, box 4967, folder 12, NRA Records; Neustadt to Donald Renshaw, September 29, 1934, box 4960, folder 7, NRA Records; Robert A. Neary to G. C. Gamble, March 18, 1935, p.2, ibid.

39 S. L. White Drug Company to Johnson, September 15, 1933, box 6, “Chain Stores W-Z,” NRA Records; Lovelace to Sherburne, October 2, 1933, box 4966, folder 30, Sherburne Mercantile Company Papers; Huffman to Costigan, March 21, 1935, pp.2-3, box 43, folder 6, Costigan Papers; Sam White to Robinson, May 20, 1935, box 262,
town slightly larger than 2,500 people. The farmers in his region, he wrote, expected longer hours than provided under the code, especially on Saturday night. 40 One hopeful retailer wrote the administration, asking if the hour restrictions for delivery boys included all of their time sitting around the store, or just the time they spent actually delivering groceries. 41 Without a trained legal staff or the benefit of advanced education, small businessmen found the codes confusing and confining, even daunting. 42

Small shopkeepers also found their hopes for the NRA thwarted by the limits of operations in the complex retail sector of the economy. With over a million retail stores carrying thousands of products, officials found it impossible to monitor trade. Samuel Untermeyer, an anti-trust veteran from the Wilson administration and an anti-chain activist in New York, pointed to this problem in one of his speeches criticizing the NRA. 43 Even NRA officials

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40 E. F. Babitcht to NRA, November 4, 1933, box 4969, folder 26, NRA Records; Sherburne to Lovelace, October 4, 1933, box 6, folder 29, Sherburne Mercantile Company Records, University of Montana, Missoula.


43 Samuel Untermeyer, "Address of Samuel Untermeyer Before the National Council of
admitted that the scope of their task overwhelmed them. Harry Carr wrote that compliance checks were a near impossibility because of the number of stores and the complex series of exceptions for peak periods and other reasons. A representative for the Kansas City Pharmacists Association complained that his members' reports to the NRA on prices and loss leaders got no reaction. The NRA could not keep up with the flood of correspondence from retailers. It particularly found irksome form letters issued by trade organizations. Eventually they refused to answer them, explaining that responses cost too much.

Because of the difficulty in enforcing the codes, stores flaunted NRA rules, staying late at night or opening on Sunday against code regulations. Many complaints centered on violations by the chains and other competitors in hour and wage regulations. But the plethora of price cutters frustrated small

Traveling Salesmen's Associations," 8.

46 Long to Freed A. Fulle, March 8, 1934, box 4966, folder 22, NRA Records.
47 Sherburne to J. C. Prince, [n.d.], box 5, folder 29, Sherburne Mercantile Company Papers; S. W. Johnson to John Gross, December 12, 1933, box 10, folder 1, Colorado State Federation of Labor Papers, Special Collections, University of Colorado, Boulder Colorado.
retailers, who believed loss leaders forced them from business.\textsuperscript{48} One retailer from Medina, New York, sent Hugh Johnson a long summary of a local chain's prices. "As man to man," he wrote, "how the hell, do you, the President, or your organizations, expect a man or merchant to compete with devastating prices as these."\textsuperscript{49} In his opinion, the pressure of rent and income taxes made it impossible for him to survive in business. Charles Woul from Elizabeth, New Jersey, remarked that the sixty independent stores in his hometown had shrunk to forty. Even old established stores felt pressure. One of these firms had cut from eight registered pharmacists to only one.\textsuperscript{50} All of those men had fine reputations as "ethical pharmacists," but they could not compete with loss leader attacks that made them look like thieves to their customers. Woul himself felt the pressure. Shortly before he wrote, he had sold a customer alcohol for fifteen cents. A moment later the customer returned with the same bottle of alcohol bought for a fraction of the cost at another store. "In the eyes of this customer I was a robber," Woul wrote, "I

\begin{footnotesize}
\begin{enumerate}
\item Long to Younker Brothers Inc., box 4966, folder 23, NRA Records; Egy to Victor Sadd, November 1, 1933, box 6, folder "G," NRA Records; Long to W. H. Pearce, November 17, 1933, box 4966, folder 22, NRA Records.
\item Charles Hislop to Johnson January 18, 1934, box 6, "H," NRA Records; \textit{American Progress}, March 1, 1934, 3; Sheridan Downey to Hiram Johnson, November 1, 1933, p.2, box 8, "Correspondence 1933 General January-December," Arnold Papers.
\end{enumerate}
\end{footnotesize}
tried to assure my customer that I hadn't made a fortune. It was only my legitimate profit. I even offered to show him my wholesaler's invoice, but it was of no avail.\textsuperscript{51} The culprit in this case, however, was not a chain store, but a "cut rate perfume shop."—another term used for pine board drug stores. The Woul story was not uncommon. As an Arkansas grocer wrote, "The chains are not the only offenders that make business unprofitable. There is in every town someone in business who has no idea of the cost of operation, and they sell on a basis that will not make them any money, or permit others to make a profit. .
\textsuperscript{52}

The complaints against price cutters not only overwhelmed the administration in terms of volume, they also involved complex legal questions. NRA officials had agreed to the general desire of small retailers that loss leaders should not be permitted. Especially in an economy that had gone out of control with many businesses on the verge of bankruptcy, they believed items

\footnotesize{\textsuperscript{50} Woul to Johnson, December 18, 1933, box 6, "Chain Stores W-Z," NRA Records.}

\footnotesize{\textsuperscript{51} J. C. Dills to Long, March 1934, box 4966, folder 24, NRA Records; Charles Woul to Johnson, December 18, 1933, box 6, "Chain Stores W-Z," NRA Records; H. A. Georgia to Johnson, October 16, 1933, box 8, "Protests," NRA Records.}

\footnotesize{\textsuperscript{52} Thomas Logan to Robinson, December 21, 1934, box 262, folder 2, Robinson Papers; William G. A. Kroemmelbein to Fischelis, March 19, 1934, p.2, box 114, folder 15, Fischelis Papers.}
should not be sold below cost. But there were many problems with the
definition of cost, problems that some retailers might not have considered. One
NRA official wrote that most of the dissatisfaction with the code involved a
misunderstanding of complex rules for pricing. Most small retailers could not
complete the complicated paper work requested by the government nor
understand the forms submitted by chain competitors.53 The NRA defined cost
as delivered cost plus store wages. If a firm could get low delivered cost, either
because of quantity discounts or other sorts of rebates, they could sell that
product for a lower cost.54 Some firms, for example, sold at a lower price
because they purchased large quantities of goods before the NRA codes took
effect, raising prices. These firms could then sell those goods for less than their
competitors.55 Any attack on price-cutting thus depended on confirmation of

53 Long to Charles Woul, December 19, 1933, box 6, "Chain Stores W-Z," NRA Records;
Ewin L. Davis to Robert Rogers, March 15, 1935, p.1, box 4953, folder 8, NRA Records;
Mark Merell to A. S. Donaldson, March 4, 1935, ibid.; Robert A. Neary to G. C. Gamble,
March 18, 1935, p.2, ibid.; Samuel Kolin to Sherburne, March 20, 1935, box 9, folder 12,
Sherburne Mercantile Company Papers; Associated Merchants of Montana to "Members of
the Montana State Legislature, November 6, 1933, p.3, box 6, folder 30, Sherburne
Mercantile Company Papers.

54 Kenneth Dameron to Paul Maunde, March 14, 1934, box 6, "M," NRA Records; Mark
Merrill to A. J. Urbish, April 3, 1934, box 8, "Protests," NRA Records; Whiteside to H. W.
Lea, Retail Memoranda, box 6, "H," NRA Records; W. N. Hughes to FDR, October 26,
1933, box 8, "Protests," NRA Records.

55 "Complaint by John Morgan," box 6884, "Regional Operation Retail and Wholesale
Codes," NRA Records; Sears Retail News, February 14, 1934, 1; W. G. Graham to
purchase price. When one proprietor of an electrical store wrote, complaining about prices at a nearby Walgreen's, an administrator remarked: "This office is in no position to determine the costs to the Walgreen Company of the various items advertised."\(^{56}\)

In the opinion of small retailers, the limitations of the NRA threatened them and the future of the nation. If chains continued to grow at the same fantastic rate, they warned, prosperity would never return to the country. The *American Progress*, Huey Long's newspaper, cautioned the country that a new, chain dominated America was developing. Independent merchants predicted the same future. One Kansas City hat manufacturer wrote president Roosevelt that he had just returned from a trip around the country and that he had been appalled by the preponderance of chains at every turn. He wrote: "I found one city after another dying on its feet because of chain stores. Every good town had the same stores (A&P, Penney, Safeway, Grant, Woolworth, Kresge) The downtown of one city was a replica of the downtown of the next one, and for every chain store that reared its head, three individually owned stores laid down and died."

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\(^{56}\) Long to Ellis Electric Company, n.d., box 4966, folder 22, NRA Records.
Independent retailers urged government to respond to the crisis. In response, retail Code officials assured retailers they were aware of their problems, and General Johnson promised them they would control unfair practices. The Recovery staff believed that prices would tend to equalize because of markup provisions and wage regulations. The President criticized unfair business practices and warned about the dangers of small men being pushed from business.

Retailers wanted to see coherent attacks on the chains. Anti-chain agitators developed publicity campaigns to fight against corporate domination of the media. They wanted to find ways to slow the growth of the chains,

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57 *American Progress*, September 7, 1933, 4; *The Voice of Progress*, Volume 2 Number 5 [1935], 2-4; Charles Lyon to Roosevelt, March 9, 1934, OF 288, "Chain Stores 1933-1934," Roosevelt Papers.


providing opportunity for the millions of citizens on the dole. They saw an attack on the chains as a basic, structural change that could be made to strengthen the economy. One of the most active anti-chain voices in this period was Ed Wimmer, of the Cincinnati area. Wimmer worked along with George Schulte, of the Independent Merchant and representatives of the National Association of Retail Druggists. Disillusionment with the NRA encouraged the NARD to embark on their first true anti-chain crusade.\textsuperscript{62} Although the rhetoric of the movement closely resembled earlier anti-chain campaigns, the campaign did include a distinctive new feature: an anti-chain movie entitled \textit{Forward America}. Frank Wilson, the former publicity director for the NRA, produced the six-reel film with his own funds. The film attacked the chain system for its assaults on opportunity and effect on national purchasing power. According to \textit{Forward America}, chains and their unfair techniques endangered America by depressing the economy and igniting the Depression. Although the film itself has disappeared, a detailed transcript exists. The film incorporated scenes of national despair and included the President's image and selected criticisms he made of the chains, which irritated chain companies.\textsuperscript{63} Chain store

representatives resented the film's depiction of their firms, and they complained that the use of the president's image implied both that he supported the attacks on the chains and that he thought chains were responsible for the Depression.\textsuperscript{64} Chain stores believed that certain government legislation and regulations worked against their interests. They complained about, for instance, a provision in the AAA bill that exempted floor stocks of retailers from the processing tax for thirty days. Owners of smaller chains complained that they suffered at the hands of the codes more than competitors. The exemption for retailers in towns under 2,500 did not extend to them. They had to pay code wages and abide by code provisions and their competitors did not.\textsuperscript{65} The chains wrote the administration about their support for the NRA and

\textsuperscript{63} Caslow's Weekly, April 27, 1935, 1.


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urged the President to respond to the movie. Their vehement criticisms led to a request by the White House for a FTC investigation of violation of trademark on the President’s name and face (a difficult case to make for a public figure). Despite attempts to suppress Forward America, small retailers and their supporters continued to promote the film. In Chicago, Balanow of the Progressive Food Dealers and the Piper Baking Company showed the film. The chains continued to follow the progress of the film, hiring the great public relations executive, Edward Bernays, the great nephew of Sigmund Freud, to keep the administration aware of the film.

*Forward America* and other assaults in the Roosevelt years followed the model of past anti-chain campaigns. They attacked predatory practices that endangered American prosperity and opportunity. Wimmer pushed a passionate assault on the chains with his own newspaper and a radio program.

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67 Joe Baker to Early, January 14, 1935, OF 101a, "Use of the President's Name for Advertising," Roosevelt Papers.


69 Edward Bernays to Early, October 9, 1934; Bernays to Early, October 5, 1934, telegram; Early to Bernays, October 13, 1934; Bernays to Early, October 15, 1934. All
Wimmer wanted to "disprove the economy of the chains." He condemned the chains for using predatory practices. Although chains might appear to offer better bargains, they actually practiced deception to fool the public into shopping with them. Wimmer and *Forward America* both complained about the housewife who had been duped into shopping with the chains. They warned that once chains eliminated independent retailers, they would charge exorbitant sums. Wimmer argued that the chains' low prices shielded predatory price cutting. Like earlier chain critics, he maintained that chains shortweighted and otherwise connived to offer apparently lower price. *Forward America* showed images of smaller-weight chain cans used in an era before net weight had to be printed on the sides of products; some chain bargains came because they sold less product. The movie also warned about tainted beef, especially pointing to Armour and Swift, who were accused of selling tainted beef during the Spanish-American War.

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in OF 101a, "Use of the President's Name for Advertising," Roosevelt Papers.

70 *The Voice of Progress*, Volume 2 Number 5 [1935], 2.

71 *ibid.*, 3

72 *ibid.*, 2.
Anti-chain activists warned America that the unfair competition and growth of chain stores endangered American opportunity.\textsuperscript{73} Without the possibility of owning a small store, Americans would lose their incentive. Winfield Caslow argued the growth of chain stores undermined capitalism, following, without reference, Marx's criticism that capitalism would destroy itself. He attacked Charles Walgreen for hypocrisy when Walgreen withdrew his niece from the University of Chicago because of the alleged communism of some of its faculty. Caslow accused Walgreen of fomenting communism through his business methods, which destroyed small business.\textsuperscript{74} Without freedom of opportunity, what would the future hold for America?\textsuperscript{75} America would be stripped of its wealth. The chain opponents emphasized that the depression developed because of the stripping of wealth from the community.\textsuperscript{76} Wimmer mocked the chains for pretending to care about the

\textsuperscript{73} \textit{Ibid.}, 2, 4


\textsuperscript{75} William Wirt, "America Must Lose—by a "planned economy," the stepping stone to a REGIMENTED STATE" (New York: Committee For the Nation, n.d.), 30.

\textsuperscript{76} Lee Tyler to Johnson, January 26, 1934, box 6, "H," NRA Records; C. S. Walton to Roosevelt, March 30, 1933, p. 2, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; Dr. Walter H. Ferguson, December 12, 1933, pp.2-4, 6-7, box 6, "F," NRA; Paul Maunde to Louis McHenry Howe, February 28, 1934, p.2, box 6, "M," NRA; Elmer Sorensen to Roosevelt, October 23, 1933, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; \textit{The
community. On one occasion he even took exception to a Kroger charity drive, which gave food to orphans.77 As one merchant representing the Dixon Loyalty League from Dixon, Illinois, wrote, the chains had claimed they would boost the nation’s economy "positive advertised assurances it would make for prosperity, now stands as its own condemnation." He asked President Roosevelt, "Can there be any permanent return to prosperity with this cancer in our Nation's Life?"78

Critics of New Deal policy argued that relief spending would be futile as long as chains existed. Many retailers resented shouldering the burden of relief in the days before federal relief developed. Small grocers, in particular, had supported families by allowing them to purchase on credit—even when they had amasses substantial debts and were unemployed. One Texas grocer had even operated his own soup kitchen for a time. In their view, independents deserved a share of the federal relief dollar, which was, after all, their tax

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77 The Voice of Progress, Volume 2 Number 5 [1935], 3.

dollars at work. Instead, some small retailers complained, relief money flooded to the chains, building their sales at the expense of small retailers. According to these critics, chain stores received an inordinate amount of chain business because of the interference of relief workers, who suggested that clients shop in chain stores. Lizabeth Cohen, who studied relief efforts in Chicago, validates this claim. In Minnesota and Colorado, complaints about the distribution of relief money grew to substantial proportions. A Minneapolis-St. Paul anti-chain newspaper investigated relief disbursement to stores in the state and concluded that chains had disproportionately benefited.

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79 Caslow's Weekly, January 5, 1935, 6; Caslow, Sob Squad, 256; Caslow's Weekly, January 5, 1935, 6, 8; Rudolph Jensen to Costigan, February 18, 1932, box 47, "Senate Correspondence Unemployment Correspondence January-February 1932," Costigan Papers; Russell K. Parks, "Letter to the Editor," Denver Post, February 17, 1932, 12; Alice Van Diest, "Report to State Relief Committee," February 28, 1934, box 10, folder "Colorado State Relief Committee," Colorado State Federation of Labor; "Meetings of the State Relief Committee," July 24, 1933, p.3 ibid.; Caslow's Weekly, January 5, 1935, 1; The Voice of Progress, volume 2 number 5 [1935], 3; Chicago Retail Drug Association News, March 14, 1936, pp.3-4 in box 214, folder 1, Robinson Papers; "The Denver City Case," box 10, folder 1, Colorado State Federation of Labor; Irving Dilliard to Roche, August 18, 1934, box 10, folder 7, Roche Papers; St. Louis Post Dispatch, May 28, 1934; Robert Cotner, Texas Cities in the Great Depression (Austin, Texas: The Texas Memorial Museum, 1973), 25.

80 American Progress, February 15, 1934, 1; Epic News, August 28, 1934, 1, 3.

The findings led to public meetings on the issue. 82 A rumor circulated in some parts of the country that the President was going to respond to this crisis by forbidding relief workers to make purchases through mail order houses. An investigation by the White House, at the insistence of chain stores, determined that this rumor grew out of an editorial published in a rural South Dakota newspaper.83 In Colorado, the state investigated Safeway stores for falsifying relief reports in an effort to increase their revenues.

Small shopkeepers complained that government relief operations cost them business. They condemned the commissary system of government storehouses for taking money away from normal channels of trade and endangering “legitimate business.” In their minds government relief operations became yet another competitive threat to their business. How could they compete with a government supported by their own taxes? How could they


83 Howe to Aubrey Williams, August 23, 1934, OF 101a, "Use of the President's name for advertising August 1934," Roosevelt Papers; Howe to G. B. Stockton, August 31, 1934, ibid.; H. Holwegner to Montgomery Ward, July 27, 1934, ibid.; Stockton to Howe, August 27, 1934, ibid.
turn a profit when the government gave away merchandise? The New Jersey Pharmaceutical Association worked with the state office of emergency relief to ensure retail druggists received business from welfare clients. The association negotiated price schedules for prescriptions and worked to stop the development of commissaries.

The retailers did not call for money, as the American Progress remarked, they only hoped that the government would pass legislation to curb

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85 Henry D. Kehr to William E. Sutton, June 8, 1933, box 126, folder 6, Fischelis Papers; Graham McCloskey to Fischelis, n.d., box 114, folder 15, Fischelis Papers; "TO ALL PHYSICIANS AND DRUGGISTS," February 28, 193, ibid.; Graham McCloskey to
the competitive excesses of the retail sector and return prosperity to the
country. But some small retailers did ask for some sort of loans or other
relief.86 A. D. Whiteside began a survey of retail trade in an effort to obtain
money for retailers who wanted to modernize their stores.87

Other retailers pushed for an inflated currency supply as a way to build
prosperity. They complained that the nation's economy had been starved by a
lack of cash. Roosevelt displayed the same concern for the level of purchasing
power in the country, but he approached the problem through increasing wages
and providing federal support for the unemployed. Roosevelt hoped federal
spending programs would "prime the pump." At times, retailers criticized the
administration for this excessive spending, but, they still wanted government
dollars. Wimmer urged the government to boost retail sales through an old age

Fischelis, n.d., ibid.

86 American Progress, August 31, 1933, 3; W. C. T. Carter to Roosevelt, October 30,
1933, pp. 1-2, OF 288, "Chain Stores 1933-1934," Roosevelt Papers; D. G. Fish of
Cleveland, February 27, 1934, p.2, box 5, "F," NRA Records; Ollie Bannister to
Costigan, March 16, 1935, p.2, box 43, folder 6, Costigan; C. C. C. Camp to Robinson,
September 6, 1934, box 204, folder 1, Robinson Papers; Secretary to Prescott Camp,
September 12, 1934, ibid.; Prescott Camp to Robinson, September 18, 1934, ibid.;
Theodore Beckman, "Report to the National Emergency Council," November 11, 1934,
box 244, folder 4, Robinson Papers.

87 Dameron to Max Berk, March 22, 1934, box 4966, folder 23, NRA Records; E. D.
Martin to Louis Shatz, June 7, 1934, ibid.
pension plan. The advocates of an expanded money supply reasoned that additional money in circulation would mean more sales for their companies and greater prosperity for the country. If the depression and retailing woes were caused by a failure in purchasing power, then the country needed more purchasing power. An organization known as the Committee for the Nation hoped to inflate the currency supply in order to restore American prosperity.


This association included many leading chain retailers, who wanted to see purchasing power, and their sales, build.

Some anti-chain crusaders hoped to counteract the purported deflationary effects of the chains by promoting scrip programs. They believed that these local programs could build sales and combine with a host of similar programs to pump up the currency supply of the country. Winfield Caslow, an anti-chain broadcaster in Chicago, told his supporters that they needed to move beyond public education and boycotts to "actual business stimulation and control rather than speech-making and sentiment molding." He considered scrip to be practical action. As he explained the system, money in circulation could be used to promote spending. Caslow relied on the writing of Yale economist Irving Fisher to demonstrate the practicality of the initiative. Fifty-three customers went with dollar scrip certificates and bought merchandise. After it circulated 54 times, they made possible the conduct of

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$2,862 worth of business. If one estimates a twenty-five percent profit that would ensure $715.50 in earnings.92

Caslow urged the mayor, Ed Kelly, to adopt the scheme and met with him on one occasion, although the city did not join the movement.93 After about fifteen months in circulation, the scrip plan collapsed because too many individuals held onto the bills.94 Caslow then re-tooled, using a method of dating, which allowed him to provide for a more regular cash flow under the program.95

Caslow believed his scrip plan served as an alternative to relief. He alleged that relief benefited some who were not worthy, including bootleggers and other neer-do-wells Caslow also criticized the government for pursuing a policy of scarcity by refusing to inflate the currency supply.96 These comments demonstrate a similarity between Caslow’s thought and the sentiments of Huey Long and Father Coughlin, who also criticized the relief system and called for


93 Caslow’s Weekly, January 5, 1935, 1.


95 Caslow’s Weekly, April 27, 1935, 3; Caslow’s Weekly, April 27, 1935, 1.

96 Caslow’s Weekly, January 5, 1935, 1-2; Caslow’s Weekly, August 6, 1933, 1-3; Frank Renick to Roosevelt, May 9, 1933, p. 3, OF 288, "Chain Stores 1933-1934," Roosevelt
inflationary currency expansion. Although Caslow, Wimmer and the others did not support Long, many shopkeepers were attracted to him.97

Some small shopkeepers turned against Roosevelt. Because of their negative experience with the NRA, they concluded that Roosevelt would not act in their interests. As Alan Brinkley notes in Voices of Protest, many of these shopkeepers became strong supporters of Huey Long and Father Coughlin.98 Sinclair Lewis had noted the same phenomenon in his classic work, It Can't Happen Here.99 Small retailers wanted salvation, and they hoped that the federal government would provide the help they needed. Unfortunately, they held an unrealistic expectation of the capacity of federal power. As one retailer wrote to President Roosevelt, "It has been reported recently that Germany locked up its chain stores because they considered them

Papers.


a bad thing for the country. Why shouldn't we lock up the chain stores in the United States?" In America, no consensus existed to use government power for dictatorial control over the economy. European countries proposed such systems of strict control, but the United States proved wary of such experiments. Other retailers called for a limit to the number of the chains. They had an insight. Most likely it would take such extraordinary measures to curb the growth of the chains, but the United States would not attack private property in this fashion. If the National Recovery Administration fell because it did not meet constitutional specifications, then these proposals stood no chance of victory. Retailers and their supporters would need to find another way to attack the chains and take away their advantages.

Caslow made positive comments about Long but held back from endorsing the Senator. Neither Long nor Coughlin proved successful in building a relationship with the trade association leadership or created an


101 Brinkley, Voices of Protest, 279-281.

independent political movement. In Canada, a Conservative minister named Harry Stevens became the voice of the small storekeeper. Stevens led the Canadian Price Spreads Inquiry, an investigation of retailing. Stevens attracted interest in both the United States and Canada because of his spirited denunciations of the chains. The study of the chains uncovered short weighing and other corrupt practices. Stevens organized a campaign built around small retailers and their Retail Merchants Association. He ultimately left the Tory Party and made an ill fated run for Prime Minister in conjunction with the radical, agrarian Social Credit Movement.

Although the United States did not develop a movement on the scale of the Stevens campaign in Canada, critics of the NRA did attract attention. Long and other critics of the Roosevelt administration lashed out at a system, which they thought exploited small business to the benefit of the great corporations. William Borah and Gerald Nye condemned the NRA for fostering monopoly and crushing small business owners. Even Supreme Court Justice Louis

103 The Voice of Progress, volume 2 number 5 [1935], 4; Monod, Store Wars, 315; Beardsley Ruml, "The Function of a Retailer," pp.2-3, box 3, folder 2, Ruml Papers, University of Chicago Archives.

Brandeis blamed big business for the depression and expressed concern for the effects of the NRA.  

At the suggestion of General Hugh Johnson, head of the National Recovery Administration, President Roosevelt responded to these criticisms by creating the National Recovery Review Board. The Board was usually called the Darrow Board, after its chairman Clarence Darrow, the famed left wing attorney, whom Johnson had recommended. It responded to widespread complaints that the NRA threatened the existence of small business and the pocketbooks of labor and consumers. It spent a good deal of its time investigating the effects of the NRA on the growth of chain stores. Perhaps the best known member after Darrow was Fred Mann, Jr. of Devil's Lake, North Dakota. Mann's father had been in business in that town and built the business into one of the most successful in the country. He brought in trade


from throughout the country, managing to do $500,000 worth of business in Devil’s Lake. Mann himself had led several retailing groups. Other members of the board included John Sinclair, a banker, a lawyer, William Thompson and Samuel C. Henry, the head of the Cooperative Philadelphia Wholesale Drug Association.\footnote{M. H. Cavanaugh to Huber, February 5, 1931, box "1931 February," Huber Papers; Mann’s Inc., “Minutes 20 January 1930,” box 1, folder 2, Mann’s Inc. Papers, University of North Dakota; \textit{Manns Trade}, March 1931, p.3 in box 2, Mann’s Inc. Papers; Hawley, \textit{The New Deal and the Problem of Monopoly}, 84; Harper, “The Anti-Chain Store Movement,” 233; LaFollette to John Sinclair, January 17, 1933, PPF 1792, Roosevelt Papers.}

Hearings of the board ran on for months.\footnote{A. T. Court to Henderson, March 2, 1934, “Subject: Summaries of Complaints Against N.R.A;” Kiplinger and White House "Small Enterprises in the South Under NRA," p. 2; Memorandum R. A. Neary to R. H. Lansburgh “Subject: Field Investigation of the Small Firm,” March 11, 1935, p. 3.} As a matter of fact, as if emblematic of the unwieldiness of New Deal administration, the staff continued to work for a few days after the conclusion of their project because no one officially notified them to conclude their work. The majority report harshly criticized the NRA for endangering small business.\footnote{J. H. Landry to Roosevelt, May 22, 1934 Darrow; Senator Nye to the President May 16, 1934; Roosevelt to Nye, May 18, 1934; A.R. Forbush to McIntyre June 5, 1934 "PWA National Recovery Review Board First Report 1934," 77-78 OF 466e; Erwin L. Davis to Roosevelt, December 27, 1933, Official File 277, "Anti-Trust Laws 1933-1936," Roosevelt Papers; Majestic Theater to Roosevelt, June 16, 1934, \textit{ibid}; Harper, “The Anti-Chain Store Movement,” 287; “One Who Has Been Grievously Hurt by the N.R.A.,” April 27, 1935; J. Munz, Jr. to Blackwell Smith Memo December 16, 1934 box 51 "Senate Correspondence-}
however, provide a model for reform, suggesting merely that the NRA be scrapped.\textsuperscript{111} Sinclair issued his own minority report to emphasize his rather acrimonious break from other members of the board, but even he suggested an independent board of review to survey the effect of the codes on small business.\textsuperscript{112}

Many supporters of small business worried that the investigation by the board played into the hands of reactionaries, who wanted to stop

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\textsuperscript{112} Darrow, Thompson, Mann, Samuel, and Henry to Roosevelt, May 1, 1934, OF 466e, "PWA National Recovery Review Board January-May 1934," Roosevelt Papers; John Sinclair to McIntyre, May 24, 1934; F. D. R. “Memo from Early,” May 30, 1934; Sinclair to Darrow, May 15, 1934; Sinclair to Roosevelt, April 28, 1934; Roosevelt to Lincoln Filene, May 21, 1934; Lincoln Filene to Roosevelt, April 17, 1934, OF 466, "NRA Codes Misc. 1934," Roosevelt Papers.

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experiments in government regulation of business.\textsuperscript{113} Some small retailers hoped to continue the National Recovery Administration.\textsuperscript{114} Nevertheless, the Supreme Court's \textit{Schecter} decision ended the NRA, and it left chain opponents in search of new ways to control the chains. In a May 31 press conference, Roosevelt expressed concern about unfair practices by the chains. He even talked about the "desirability of regulating chain stores as a protection against unfair trade practices."\textsuperscript{115} His remarks attracted protests from the chains. John Logan of the Food and Grocery Chain Stores of America wrote Roosevelt that they had cooperated with the NRA in every way and had voluntarily maintained NRA standards for wages and hours.


after the administration collapsed. Roosevelt asked for verification of this claim.\footnote{116}

Because of their experience with the NRA provisions, many wholesalers and small retailers were convinced that other measures needed to be taken against the chains. As one Long Island wholesaler wrote to President Roosevelt, the chains would always be able to undersell the independent retailer because they bought as cheap as or cheaper than wholesalers. The wholesaler warned about the real danger of retailers being pushed out of business. Those businessmen, he noted, acted as consumers as well. If they lost their stores, they would no longer be able to purchase. Their families would lose income, hurting the purchasing power of the nation. This economic devastation was not worth the efficiency of the chains. Supporters of small retailers believed legislative protection of small retailers would lead to positive economic benefits.\footnote{117} They wanted to see

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additional government regulation of chain rebates and discounts. Independents complained that they could not compete with chains under present conditions.\textsuperscript{118} When Johnson left the administration, he concurred and expressed strong support for such price maintenance principles. Yet other chain opponents suggested a federal tax on chain stores to match the growing number of state taxes. They believed that a chain tax would ease the burden of other taxes and also work to control the growth of the chains.\textsuperscript{119}

Some supporters of the New Deal suggested the federal government should focus on ensuring fair wages and hours, allowing the rest of the NRA to fall by the wayside. They doubted the usefulness or possibility of enforcing price codes and worried that the consumer would be injured.\textsuperscript{120}


\textsuperscript{120} John Burke to Kirstein, November 6, 1934, p. 2, box 89, “Widman,” Kirstein Papers; H. P Vose to C. E. Roos, “Memorandum subject: Twelve Point Program for the
prices remained high, they reasoned, fewer Americans would be able to have the benefits of the new economy.

The struggle over the Robinson-Patman Act led to a collision between these two approaches to government intervention in the economy.\textsuperscript{121} The experiment with the National Recovery Administration convinced retailers that government would continue to play an important role in the economy. Retailers looked for ways to shape that role. As the National Recovery Administration collapsed, retailers of all sizes attempted to structure the economy in a way that would benefit them.\textsuperscript{122}

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N.R.A.," March 1, 1934, 2.
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\textsuperscript{121} The Voice of Progress, volume 2 number 5 [1935], p.3; Harold R. Young to McIntyre, January 26, 1935, OF 466, "NRA Codes 1933-1935 F-K," Roosevelt Papers.

\textsuperscript{122} New York Times, June 5, 1935.
LOCALLY OWNED AND OPERATED:
OPPOSITION TO CHAIN STORES, 1925-1940

Volume II

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
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in

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by

Cory Lewis Sparks
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Chapter Six: The Robinson-Patman Act

In response to increased government regulation of business, large retailers created an organization they hoped to make an all-inclusive association for retailing: the American Retail Federation. Even after the Schechter decision ended the NRA, mass retailers pushed for a group to be their voice.\(^1\) Small retailers interpreted this as a threat. They had their own plans for government action, and they wanted a set of laws to protect their position in the economy. Independent retailers hoped the Roosevelt administration would prevent chain stores from predatory practices and restore hope for the small storekeeper. The controversy over the ARF sparked a series of hearings and plans by small retailers to push for protective legislation.

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Ultimately, the turmoil led to the Robinson-Patman Act—a piece of legislation designed to restrict buying practices by the chains.

The experience with the NRA had convinced many mass retailers that cooperation with government was necessary—at the very least to prevent attacks on business. They wanted to work with government to ensure that the administration followed policies favorable to them, and they recognized the necessity of lobbying Congress in their interests.\(^2\) In their opinion, existing business organizations, such as the United States Chamber of Commerce were dominated by the production sector and not sympathetic to their interests.\(^3\) Other retail organizations did not represent the entire sector.\(^4\) A faction of mass retailers formed the ARF in 1935. As the group wrote in its first news release:


\(^3\) Fred Lazarus to Kirstein, November 9, 1934, box 89, "Widman," Kirstein Papers; Fred Lazarus to S. B. Walker, April 6, 1935,\(^6\) ibid.; Fred Lazarus to Aaron Frank, March 2, 1935,\(^6\) ibid; Aaron Frank to Lincoln Filene, February 28, 1935,\(^6\) ibid; Fred Lazarus to Clarence Strouss, February 21, 1935,\(^6\) p.2, ibid; John Burke to Kirstein, November 6, 1934, box 89, "Wash Folder," Kirstein Papers; Sherill to Kirstein, May 1, 1935,\(^6\) ibid.; "Memo From J. J. Kaplan to L. E. Kirstein," pp. 1-2, box 89, "Congressional Investigation," Kirstein Papers.


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"There should now be heard the voice of Main Street. . . . Mr. and Mrs. John Merchant. . . have paid the taxes while they have quietly watched groups numerically less and financially less important" get a greater voice in public affairs.\(^5\)

The ARF hoped to promote legislation that would encourage mass consumption, something all retailers could support.\(^6\) The new organization would also provide research and factual information on the nature of retailing and coordinate state councils to play a similar role on a regional basis.\(^7\) These groups, modeled on the Ohio State Council, could fight adverse legislation, including taxes on chains.\(^8\)

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\(^7\) Fred Lazarus to Kirstein, May 29, 1935, box 89, "Congressional Investigation;" Fred Lazarus to Kirstein, November 9, 1934, pp. 1-2, box 89, "Widman;" Fred Lazarus to Damon Frank, March 2, 1935, \textit{ibid}. All in the Kirstein Papers.


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Although the ARF sought to represent all of retailing, it began as a small club of leading retailers, their names familiar to many Americans. Thirteen members of the Retailers National Council formed the heart of the new organization: William Kirstein, president of Filene's; Percy Straus, president of Macy's; Lessing Rosenwald, president of Sears and Roebuck's; E. C. Sams, president of Penney's; A. H. Morrill, president of Kroger's; C. W. Kress, president of Kress's Company; H. J. Tilly, president of Strawbridge and Clothier's and head of the Retailers National Council of code days; Fred Lazarus, Jr., Vice-President of the FTR Lazarus's and George M. Gales, the president of Liggette's.9

An executive for Kroger, Colonel C.O. Sherill, headed the new organization. In the initial publicity for the American Retail Federation, Sherill bragged that the federation had the support of all facets of the industry, claiming that other members of the Retailers National Council, like the

National Association of Retail Grocers (NARGUS) and the National Association of Retail Druggists (NARD), were slated to join the ARF.  

Sherill and Kirstein appeared to believe that the ARF could and must unify all branches of retailing in order to represent the sector. They consciously chose to downplay the importance of large corporate interests.  

Unfortunately, the ARF had failed to include many of the members of the Retailers National Council in the planning of the organization, including the existing trade organizations it wanted to join the federation. The leaders of the National Retail Dry Goods Association (NRDGA), National Association


12 Kirstein to Fred Lazarus, May 22, 1935, box 89, "Widman," Kirstein Papers; Fred Lazarus to Frank Neely, February 27, 1935, ibid.; Kirstein to Thomas Conroy, April 22,
of Retail Grocers (NARGUS), and National Association of Retail Druggists (NARD) worried that the new association would place more pressure on them to secure members and funds in a tight economic market, threatening the power and influence of the heads of existing trade associations.

The NRDGA, made up of many prominent retailers, condemned the development of the ARF, but the greatest indignation came from small retailers. J. J. Lookbaugh from Elmhurst, Illinois, wrote Kirstein a sarcastic note: "Considering what the Federal Government is getting away with due to mass ignorance and gullibility," he wrote, "it is not surprising that you hoped to found the ARF on the same theory. So far as this insignificant 'little fellow' retailer is concerned," however, "your claims for the intents and purposes of the ARF amount to a direct affront to common sense." Lookbaugh noted that the executive committee is "made up of such little fellows" as Rosenwald of Sears and Roebuck's, Sams of Penney's, Strauss of Macy's and Morrill of Kroger's.\textsuperscript{13}

Across the country, small retailers had a similar reaction. Some independents were initially suspicious that their trade association executives,

\textsuperscript{13} J. J. Lookbaugh to Kirstein, April 17, 1935, box 89, "Widman," Kirstein Papers; Pierce Butler to Kirstein, May 6, 1935, ibid.
many of whom had been lukewarm to anti-chain agitation, might now be cooperating with large retailers. When trade executives assured their members they had not agreed to join, the ire of independent retailing came to be directed against the American Retail Federation itself. The reaction of small retailers was visceral. They believed Sherill's comments were indications of a widespread conspiracy to strip them of their voice in American politics.\footnote{Harper, "The Anti-Chain Store Movement," 242-246; Kirstein to Hugh Johnson, April 19, 1935, box 89, "Material Mr. Widman has," Kirstein Papers; William Grant to Kirstein, December 18, 1934, \textit{ibid.;} Morrill to Fred Lazarus, April 17, 1935, \textit{ibid.;} Harry F. Cappel to Herbert Tilly, May 31, 1935, pp.1-2, box 90, "C," Kirstein Papers; Harry F. Cappel to Herbert Tilly, p.2, \textit{ibid.}; Fred Lazarus to David E. Moeser, April 22, 1936, pp.1-2, box 90, "M," Kirstein Papers; Kirstein to Dr. Moeser, April 22, 1936, \textit{ibid.;} Moeser to Kirstein, April 20, 1936, pp. 2-3, \textit{ibid.}}

Their concerns prompted congressional supporters of small retailers to pass a resolution calling for an investigation of the ARF and its founders.\footnote{Kirstein to Jesse I. Miller, April 27, 1935, box 89, "Congressional Investigation," Kirstein Papers; Cochran to Fuller, April 29, 1935, pp.1-2, \textit{ibid.;} Stix, Baer and Fuller Company to Kirstein, May 1, 1935, \textit{ibid.;} Sherill to Kirstein, June 3, 1935, telegram, box 89, "Washington LK brought Back After Hearing," Kirstein Papers; ARF Investigating Committee to Kirstein, June 3, 1935, \textit{ibid.;} Harper, "The Anti-Chain Store Movement," 247-249; \textit{Congressional Record,} 74th Congress, 1st session, 1375-1376, 8646-8647; \textit{Investigation of the ARF: I,} 11, 13-14, 15, 158-159; \textit{ibid.:} III, 32-33, 45; "Merry-Go-Round," November 21, 1935, box 89, "Sherill ARF 1936-1937," Kirstein Papers.} John Cochran of St. Louis, who was to head the investigating committee, had a heart attack, so Wright Patman of Texarkana, Texas, took over the chairmanship. He subpoenaed those responsible for creating the organization...
and began hearings.\textsuperscript{16} Although the ARF officers were nervous about the investigation, they were certain they had done nothing wrong.\textsuperscript{17} They believed Patman simply wanted publicity for himself. In their minds the Texas Democrat had become accustomed to the national spotlight in agitation to make early payments on veterans bonuses, and he would do anything to retain his place in the newspapers and newsreels. Confident that he would absolve them, ARF officials cooperated with his subpoenas for papers and personal appearances at the hearings.\textsuperscript{18} One executive for S. S. Kresge wrote Kirstein that the investigation was "annoying and aggravating," but that it would have no lasting influence. He hoped the ARF would brush off the criticism.\textsuperscript{19}

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\textsuperscript{17} Paul Findlay to Patman, November 24, 1935, p.2, box 303, folder 9, Lucas Papers.


\textsuperscript{19} C. B. Van Dusen to Kirstein, May 3, 1935, box 89, "Widman," Kirstein Papers.
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Despite his advice, the ARF temporarily suspended its membership campaign. As the committee's focus shifted from the ARF to other aspects of the chain industry, the ARF tentatively resumed their recruitment efforts. All of the officers remained with the organization, even Colonel Sherill. They began to have some success with smaller retailers, but even many small chains distrusted the leadership.

Patman eventually turned the attention of the committee to an examination of the rapid growth of chain stores and their control over the

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economy of the country. Patman made the transition to an in-depth study of the chain industry through a study of Kroger and its business practices. Patman interpreted the involvement of Kroger representatives as evidence chains dominated the ARF. He went after the files of the Food and Grocery Chain Stores of America, which cooperated with the ARF. Patman's fishing expedition sparked controversy when the head of that association refused to turn over the materials. This resistance encouraged speculation that the ARF had been a front. As small retailers cheered his investigation of business conditions, Patman struggled to comprehend the complexities of the retail environment, especially the notion of price. He dissected information on shipping costs and unit costs. He took apart profit margins and looked at the mortality rate for small stores. His expanded study uncovered dubious


lobbying practices of the Kroger Corporation and other chains in their attacks on state anti-chain legislation. They had promoted letter-writing campaigns by employees and created fake farm activist groups to promote their interests. Patman even uncovered information on attempts to turn the Roosevelt administration and NRA in favor of the chain store interests.

Chain opponents urged Patman to broaden his study to include the economic power of department stores and chain stores, looking in particular at the relationships between the boards of directors and the companies' buying and selling practices. To the chagrin of the chains, Patman expanded his investigation. An attorney for Safeway, a corporation uninvolved with the ARF but implicated in this study, asked the committee why his company


should, "have to suffer for the public relations disaster of Filene's of Boston and Kroger?" In this new study, Patman searched for rebates granted to the chains by manufacturers. A recently completed FTC Report had concluded that chains received illegal rebates although they were not considered responsible for the growth of the chains.\textsuperscript{28} Patman probed further, asking chains to draw up lists of rebates granted to them by companies, many of them listed as "advertising allowances" for promoting products in stores. This list of concessions proved to be less than comprehensive because many of the rebates came to individual stores, carried out on an invoice-by-invoice basis, rather than any sort of formal agreement.\textsuperscript{29} His examination of retailing and the development of the chain systems brought many of the practices of the chain stores to public attention. Some chain executives objected to Patman’s handling of witnesses and what they considered to be grandstanding tactics in an ever-expanding investigation. They also

\textsuperscript{28} Harper, "The Anti-Chain Store Movement," 39, 235; Caslow's Weekly, April 27, 1935, 1; Caslow's Weekly, April 27, 1935, 3; Facts, February 1, 1937, 8, 18.

complained that Patman leaked information on the hearings to an independent wholesalers organization.30

Patman's investigation agitated many small retailers, who blamed unfair practices for the brutality of the Depression.31 Because of the ferment over chain practices, Patman sought a larger appropriation to support his investigation in the summer of 1935. His study required the assistance of economists and other employees of the FTC, and he could not continue it without this assistance, even with the funds earned by selling copies of the proceedings. Patman, however, failed to win this appropriation, and the investigation eventually concluded with two reports on the chains.32 Neither

30 Paul Findlay to Patman, November 24, 1935; Logan to Patman, August 14, 1935; Alexander Holtzoff to Patman, August 8, 1935. All in box 303, folder 9, Lucas Papers; National Grocers Bulletin, October 1935, 2-3.


accused the American Retail Federation of any wrongdoing but the majority report argued that chains used improper buying practices to extort lower prices.\textsuperscript{33}

The Patman investigation, following the difficulties experienced under the NRA, convinced many retailers that the chief threat came from chain buying privileges, or rebates. Although some retailers and wholesalers, especially in the drug industry, continued to push for price maintenance legislation, most began to focus their calls for reform on rebates.\textsuperscript{34} A case by the National Association of Independent Tire Dealers (NAITD) against a Goodyear contract with Sears encouraged the new approach. When Goodyear


offered the chain a much lower price per tire than independent stores, the NAITD, led by George Burger, protested the contract to the Federal Trade Commission. Retailers and wholesalers hoped the federal government could intervene to eradicate chain rebates. Their experience under the retail codes convinced them that federal regulatory power could have a positive effect on the retail economy—if it were focused on the right problems and not controlled by the chains. As seen in chapter five, statements by President Roosevelt encouraged them to believe the government would intervene. In both February and May of 1935, Roosevelt complained that chains used unfair business practices to force small merchant out of business.  

35 Harper, "The Anti-Chain Store Movement," 275, 278-282; Goodyear Tire and Rubber v. FTC, 101 Fed, 2D 620 1939; H. Bain to Robinson April 7, 1936, p. 2 box 214 folder 2 Robinson Papers; Marvin Williams to Burger April 4, 1936 ibid; M. H. McIntyre to National Association of Independent Tire Dealers, April 23, 1936, OF 277, "Anti-Trust Laws 1933-1936," Roosevelt Papers; Burger to Roosevelt, April 8, 1936, p.2, box 214, folder 1, Robinson Papers; G. J. Burger to Robinson, March 16, 1936, box 213, folder 14, Robinson Papers; National Independent Tire Dealer News, February 14, 1936, 2; Burger to Robinson, April 13, 1936, box 214, folder 2, Robinson Papers; Burger to Robinson, April 7, 1936 ibid.; Voice of Progress Volume 2 Number 5 [1935], 2; Roosevelt to Burger, October 19, 1936, PPF 4015, National Association of Independent Tire Dealers; Burger to Roosevelt, October 15, 1936, telegram, ibid.; Burger to Paul Aiken, October 15, 1936, ibid; Burger to Roosevelt, October 23, 1936, ibid; The N.A.I.T.D. News, October 31, 1936, 3; Roosevelt to Burger, October 25, 1940, ibid; Burger to Roosevelt, October 23, 1940, ibid; George Burger to Roosevelt, July 23, 1936, ibid; McIntyre to Burger, August 18, 1936, ibid; Burger to McIntyre, October 12, 1937, ibid; George Burger to Roosevelt, March 13, 1939, ibid; Burger to McIntyre, November 24, 1937, ibid; Morgenthau to McIntyre, December 7, 1937, ibid; Burger to Roosevelt, January 21, 1937, ibid.

36 American Progress, March 8, 1934, 1; Kirstein to Miss Meredith, February 21, 1935,
An attorney for the United States Wholesale Grocery Association (USWGA), Henry Teegarden, wrote the bill. It targeted chain rebates, setting upper limits for quantity discounts. In this way it acted as an amendment to price discrimination clauses in the Clayton Antitrust Act. 37 The USWGA bill also confined brokerage payments to brokers, preventing chains from claiming these price discounts. 38 In this way, it would help small retailers secure a level playing field, enabling them to remain in business. 39 The bill allowed buyers
who had been unjustly discriminated against to sue sellers for triple damages.40

Supporters of the bill compared it to the Interstate Commerce Act of the nineteenth century, which set out to control improper rebates railroads granted Standard Oil and other firms. In fact, Teegarden included an amendment setting carload limits for rebates, which mirrored the Interstate Commerce Act. Anti-monopoly politicians from the South and West later added an anti-basing point provision to the bill in an attempt to eliminate unnecessary costs to their products. Under the basing point systems, delivery prices of products were set according to their distance from Pittsburgh or other Northern cities, even if the product actually traveled a much shorter distance. This provision, not vital to the purposes of the bill, attracted tremendous opposition and was dropped.41

A constituent who was a member of the United States Wholesale Grocer's Association contacted Patman to serve as a sponsor for the new

39 Palamountain, Politics of Distribution, 197, 205; Josh Rogers to Robinson, February 28, 1936, box 213, folder 15, Robinson Papers; Teegarden to Robinson, February 27, 1936, box 213, folder 5, Robinson Papers.


legislation.\textsuperscript{42} At first, Patman did not understand the nature of the bill, and he thought that it might be a sort of price maintenance bill, similar to the old Capper-Kelly measure. But the USWGA explained the measure to him and inspired him to action.\textsuperscript{43} Patman requested that Senate Majority leader, Joe Robinson co-sponsor the bill, which he did.\textsuperscript{44} Representatives of state and national retailers associations struggled to get the message about the bill to congressmen. They rallied behind the legislation as the only salvation from a desperate situation.\textsuperscript{45} They could not survive if chains paid less for their products than they did. If that continued, as one wholesaler put it when writing Senator Joe Robinson of Arkansas about supporting the bill, "we are whipped before we start."\textsuperscript{46} If the retailers could control chain price advantages,


\textsuperscript{43} Patman to Cochran, April 20, 1935, box 37C, folder 5, Patman Papers.

\textsuperscript{44} Patman to Robinson, June 22, 1935; Thomas E. Logan Wholesalers to Robinson, June 25, 1935; Robinson to Logan, June 28, 1935; Patman to Robinson, January 7, 1936. All in box 244, folder 1, Robinson Papers.

\textsuperscript{45} The Reliable Drug Company to Amlie, March 26, 1936, box 77, folder 8, Amlie Papers; Frank Livick to Amlie, March 20, 1936, \textit{ibid}; Prince A. Willma to Robinson, May 29, 1936, box 214, folder 4, Robinson Papers.

however, they stood an excellent chance of survival. George Schulte, the St. Louis based publisher of the *Independent Grocer* newspaper, saw the bill as a chance to strike a decisive blow against the chains, and he urged independents to act at once to make sure that the bill did not fail. Schulte had created a counter-organization to the ARF, Independence, Inc., Schulte also changed the name of his paper to the *Independent Merchant* to symbolize his attempt to unify many fields of business. Schulte hoped his new organization would rival the American Farm Bureau Federation and the American Federation of Labor in size. The inaugural convention of Independence, Inc was held in St. Louis on March 1, 1936, with at least two thousand opponents of the chains in attendance. They came from all over the Midwest and represented eighty lines of business, which showed the growth of the movement since the 1930 Minutemen meeting in Shreveport. The organization would serve a similar purpose to the old chain store association, which had acted as an information clearinghouse and otherwise coordinated chain public relations efforts. In the face of press opposition, the retailers needed to find other ways to spread their message.47

The NARD and NARGUS, which had avoided participation in the early chain boycotts and chain taxation battles, warmed to Patman’s effort to use federal power to control the chains. They represented the largest numbers of small retailers and the businessmen most threatened by chain competition. The National Association of Independent Tire Dealers also played a role. The NARGUS, the NARD and their state and local organizations pushed forward with letter writing campaigns, urging congressmen to pass the bill. Some of these organizations had memberships of four to five hundred merchants, rivaling the size of groups during the heyday of the boycotts.

Overjoyed by the enthusiastic response, Patman bragged that he had been in contact with almost every independent trade group in the country and made speeches in at least fifteen or twenty states since Congress

folder 8, Amlie Papers.


50 “National Conference of Independent Business Men,” March 4, 1936, 117

51 Dargavel to Amlie, February 27, 1936, box 77, folder 8, Amlie Papers; Lacrosse Retail Druggists Association to Amlie, May 25, 1936, ibid.; John H. Robinson to Amlie, May 9, 1936, ibid.; R. N. Farrar to Robinson, March 6, 1935, box 203, folder 5, Robinson Papers; Frank Galloway to Robinson, March 6, 1935, ibid.; Max Frolich, Jr. to Robinson, March 5, 1936, box 213, folder 15, Robinson Papers.
adjourned. He wrote the President that he knew Roosevelt had an interest in the fate of small business and the use of “excess profits” to destroy less prosperous competitors. His remark built on the older criticism that chains used superior financial resources to starve out opponents, and it also expressed hope that Roosevelt’s corporate taxation plan could be adapted to fight corporate retailing. Patman urged FDR to join the campaign. He wanted to bring trade association officers from around the nation to Washington to speak with the President about saving business from "banker controlled corporate chains." In Patman’s opinion, the meeting could have positive political effects for the embattled president because "The Republicans would quickly forget politics and follow the President, who made a step in the direction of protecting their business." Martin McIntyre, the President’s secretary, mentioned to FDR that the same suggestion had come from several sources but that he did not think the movement headed by Patman would work very well.


Nevertheless, independents sponsored a mass rally in Washington, D.C., to promote the bill.\textsuperscript{54} Retailers from all over the country made arrangements to attend. Some even chartered rail cars for the event. A group of Chicago druggists, for example, took the B&O Railroad into Washington, making certain, in true American road trip fashion, that "liquid refreshments" were placed on board.\textsuperscript{55} At the rally, John Dargavel and J. A. O. Preus of the National Association of Retail Druggists presided. The delegates listened to a series of speeches in favor of the Robinson-Patman Act, including major addresses by William Borah, Joseph Robinson, and Patman.\textsuperscript{56} A central theme of the day was that the delegates present represented only the most prosperous of independent retailers, businessmen able to turn over control of their store, or stores and travel to Washington for such a meeting. As John Polhause reminded them, hundreds of thousands of other retailers wanted to support the bill. "Their hearts are with us. They look up to us, and let me at this time say that through the history of years it has been, and always will be, the duty of the

\textsuperscript{54} Arkansas Wholesale Grocers' Association to Robinson, March 28, 1936, box 214, folder 2, Robinson Papers; McMurtry to Robinson, February 26, 1936, box 213, folder 15, Robinson Papers; Hawley, The New Deal and the Problem of Monopoly, 251.

\textsuperscript{55} \textit{Chicago Retail Drug Association News}, March 14, 1936, pp. 1, 5-6 in box 214, folder 1, Robinson Papers.

\textsuperscript{56} \textit{New York Times}, March 5, 1936.
strong to fight for the weak..."

Underscoring this idea, organizers of the event read letters of congratulation from all over the country.57

Perhaps the most effective speech was delivered by Mrs. H. J. Holmes, who represented the Women's Club of Omaha, Nebraska. She enthralled the audience with her maudlin description of supporting her husband and son through difficult competition with the chains. At the conclusion of her speech, she said, "Oh, my friends, this is our Valley Forge, and let us not only strive but let us pray." The delegates broke into sustained applause. Preus remarked: "There are certain jobs that the women can do that we men can't do. I guess we just heard one."58

Following the emotional oratory, the delegates to the convention had an opportunity to meet with their congressmen. The organizers of the convention reminded the delegates that every one of them could and must be a lobbyist because lobbying is just a form of salesmanship.59

Retailers urged legislators to end special rebates given to chains.60 Their criticism of rebates had two major components. First, and most


60 W. E. Fine to Robinson, August 9, 1935, box 244, folder 3, Robinson Papers; E. P
obvious, rebates made it difficult, if not impossible, for independent retailers to survive. According to small retailers, they could compete as effectively as the corporate chains, but price breaks extorted by their larger competitors made competition impossible. They wanted a fair playing field. Second, rebates, like loss leaders, hurt more Americans than just the small retailers. They also endangered the profits of farmers and manufacturers. If this sort of competition continued, these citizens would be impoverished. Combined with the centralizing effect on credit and wealth, the downward pressure on profits and wages threatened to crush prosperity, opportunity and democracy in the nation.

The retailers pointed to rebates that threatened them. In letters similar to those mailed to the NRA, firms sent their congressmen documentation of dubious buying practices. Some of the small retailers provided evidence of the challenges they faced, sometimes in unconventional ways.61 One broker

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61 Dargavel to Robinson, February 27, 1936, box 213, folder 15, Robinson Papers; C. Schoenherr to Robinson, February 9, 1936, box 213, folder 13, Robinson Papers; C. Schoenherr to Robinson, February 7, 1936, box 213, folder 13, Robinson; W. H. McMurtry to Robinson February 26, 1936 box 213 folder 15 Robinson Papers; Independent Shoemakers of Marion, Ohio to Mayor Dr. F. C. Smith and the City Council, March 7, 1936, box 213, folder 13, Robinson Papers; Mr. C. Schoenherr to Robinson, February 9,
wrote Joe Robinson that canners gave Kroger tremendous discounts, enabling them to sell cans of peas and corn for about the price the brokerage firm charged wholesalers. He enclosed ads from the *Kansas City Times* to prove his point.\(^6\) Another wrote that Safeway bought most products for five percent cheaper than did wholesalers.\(^3\) A government bureaucrat wrote Robinson about a wholesale firm that inadvertently received an invoice for a chain's soap order. Although they ordered an identical amount of the same product, the chain received an advertising allowance the wholesaler did not.\(^4\)

In a keynote address before the National Association of Retail Grocers, Charles March, the chairman of the Federal Trade Commission, told about the problems a friend of his was having back home in Minnesota. When March visited home, the friend told him that he was being pushed to the brink by a chain store across the street. Whenever he lowered prices, the chain would undercut him. Upon his return to Washington, March met with the head of a


\(^{62}\) Fred Heryer to Robinson, April 4, 1936, box 214, folder 2, Robinson Papers; *Kansas City Times*, April 4, 1936, 2; Julienne Falk to Robinson, March 22, 1936, pp.2-3, box 214, folder 1, Robinson Papers.

\(^{63}\) W. H. Down to Robinson, box 213, folder 15, Robinson Papers.
large manufacturing firm. The man wanted to speak with March about the Robinson-Patman Act. Since the manufacturer wanted to live by the law, March asked him what discounts he gave to large distributors. By chance the executive mentioned that his firm gave a 32 percent rebate to the firm in competition with March's friend. March asked him how long the small retailer could stay in business under such conditions. The man replied, "Not very long." 

Many storekeepers wondered how they could possibly stay in business, no matter how skilled, if they purchased goods from wholesalers who paid more than the chains! As Wisconsin Congressman Gerald Boileau summarized the problem, "We can stand here and philosophize until doom's day about the advantages of you and me as consumers in our community patronizing independent business, but as long as ....[chains have advantages and sell at lower prices] the rank and file of the American citizens are going to continue to patronize the chain stores of this country...." Small retailers focused on the danger to the independent merchant and the actions that

64 Homer Adkins to Robinson, May 31, 1936, *ibid.*


66 "National Conference of Independent Business Men," March 4, 1936, 78; E. H. Wolff to
government could take to preserve their way of life.\textsuperscript{67} One retailer from Ada, Ohio wrote that seventy-year old businesses in his town had been forced into bankruptcy.\textsuperscript{68} At times, the retailers seemed certain that they were being destroyed by chain competition. They cautioned congressmen that chains had made such inroads that the age of the independent retailer had come to an end unless decisive action were taken.\textsuperscript{69}

Independents could only compete with chain power if rebates ended. Their quarrel was not with more efficient, modern and scientific methods of distribution, but with a system of unjustly gained advantages.\textsuperscript{70}

Independents claimed to be efficient retailers. They argued that the large chains bullied producers to obtain ridiculously low, undeserved prices and, 

\begin{quote}
\textit{Robinson, February 27, 1936, box 213, folder 15, Robinson Papers.}
\end{quote}


\textsuperscript{70} "National Conference of Independent Business Men." from Constitution Hall," March
could, therefore, provide low prices to the consumer. Firms used their superior purchasing power to threaten smaller firms, in addition to buying in large amounts and storing the inventory.\textsuperscript{71} Given fair competition, the independent could sell as cheaply as the chains. They believed that government studies, including the St. Louis Drug Study proved this contention.\textsuperscript{72} In their minds, the independent dealers promoted honest competition by protecting the number of outlets against monopoly by a few corporate chains.\textsuperscript{73} They might need protection from powerful chains in order to survive, but they did not believe themselves to be inferior retailers. They did worry, though, that consumers would consider them to be inept or even thieves because of the higher prices they charged.\textsuperscript{74} Some small

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\item \textsuperscript{73} "National Conference of Independent Business Men" March 4, 1936, 8.
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retailers pointed to continuing allegations of chain short weighting as evidence that the corporations and not independents cheated their customers.\textsuperscript{75} Storeowners spoke of their modernity and efficiency and emphasized that they were trained professionals, performing needed services for the community. The druggists, in particular, believed that they served the community in this way and should be considered more than mere businessmen. One pharmacist wrote Robinson that a cut-rate chain grocery had just opened next door to him in Little Rock. The prices on their patent medicines, Epsom salt, and castor oil, which they sold as deliberate loss leader products, were less than the pharmacist could purchase them for from the drug jobber. The grocery did not have to make a profit from these items. It could simply use them to attract business. When the manager’s wife stepped on a nail, however, he was quick to come next door and purchase tetanus serum.\textsuperscript{76}


\textsuperscript{75} Interstate Grocer, August 10, 1935.

\textsuperscript{76} L. M. Culpepper to Robinson, July 2, 1935, box 213, folder 13, Robinson Papers.
The retailers bragged that they had become stronger over recent years.\(^7\) Supporters of the bill compared it to a set of rules for fighting, which prohibit unfair tactics but still allow for competition. If they could not compete after the special rebates disappeared, they deserved to be placed out of business, as one retailer put it. The sponsors of the Act denied charges that the bill was "class legislation" designed to help one small group of inefficient retailers. They argued that the bill was not anti-chain but simply designed to create an even playing field in distribution. It was even described as "An Equal Business Opportunity Bill."\(^7\) Despite increased costs for certain chain products, the Robinson-Patman Act would lower prices overall. According to the retailers, independents subsidized chain rebates by paying higher prices.\(^7\) An end to chain rebates would enable manufacturers and farmers to charge independent retailers less for products and ultimately

\(^{77}\) *Indiana Food Merchant*, March 1936, pp. 1, 2, 12 in box 216, folder, Robinson Papers.


\(^{79}\) "National Conference of Independent Business Men" March 4, 1936, 80.
lead to a general lowering of prices. The retailers also maintained that the end of rebates would widen the profit margin for retailers and allow them to pay higher wages and employ more workers.

The Robinson-Patman bill would not only protect small retailers from destruction but help the rest of America as well. Consumers thought they were saving money by shopping with the chains, but they really paid hidden costs. Retailers argued that prohibitions against rebates would increase employment and lower prices in the economy; they would also raise wages for labor and earnings for farmers who had been forced to sell goods for costs at, or below, the cost of production. Prohibitions on rebates would certainly help manufacturers. Even prominent brand names feared the actions of a firm like A&P, which then had about sixteen thousand stores. For example, Standard Brands, the maker of Fleischmann’s Yeast, had its products yanked from A&P’s shelves because it refused to grant a ten

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percent rebate to the firm. The company went to private label goods, produced exclusively for it by smaller manufacturers.\textsuperscript{83} Manufacturers faced a real threat from the chains.\textsuperscript{84} Unemployed workers—cut as attempts to lower costs—would be re-hired and factories forced out of business might resume production.\textsuperscript{85} Money would return to the community.\textsuperscript{86}

Small retailers warned the public that chain take-over meant devastation for America. America would lose opportunity, its citizens would become subjects of the powerful few and prosperity would drift away as communities had their wealth stripped from them. The retailers believed that prosperity would end as the rich sucked money out of the countryside and concentrated it in New York. They blamed the chains for the depths of the depression and accused them of adding to the relief burden.\textsuperscript{87} The chains would not assist with

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\textsuperscript{82} Indiana Food Merchant, March 1936, pp.1, 11 in box 216, folder 1, Robinson Papers.

\textsuperscript{83} Fishback to Robinson March 12, 1936, box 214, folder 1, Robinson Papers.

\textsuperscript{84} "National Conference of Independent Business Men," March 4, 1936, 110-111.

\textsuperscript{85} Indiana Food Merchant, March 1936, p.1 in box 216, folder 1, Robinson Papers.

\textsuperscript{86} Robinson to Bert Berry, February 4, 1937, box 245, folder 6, Robinson Papers.

\end{footnotesize}
local needs by contributing to charity efforts or helping people through credit.\(^88\) Instead, they centralized wealth in the hands of an elite few. The era of American opportunity, the era that led to American greatness, would come to an end if chains continued their growth.\(^89\)

In congressional hearings, representatives of independent business declared that without federal help, Wall Street would dominate the country.\(^90\) They cautioned that the power of the chains threatened to lead to monopoly, an end to opportunity in America and the collapse of American prosperity. Once chains obtained monopoly, Patman and others warned, they would raise their prices to exorbitant levels, bilking a defenseless public.\(^91\) Retailers warned that

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chain stores threatened to destroy American opportunity. At the mass rally, speakers emphasized that the small retailers would only be the "first victims of monopoly." After the demise of retailing, the youth of the nation would have little chance of becoming business owners. The retailers believed that this change, in turn, endangered American democracy as self-sufficient businessmen became pawns of corporations and lost their connection to the community and nation. These changes might, as one wholesaler wrote, cause disturbing developments in American society. "We are in no ways radical but believe that unless a check is put on big business we are headed straight for the maelstrom of revolution... The average wage earner is ready for revolution.

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94 Dagavel to Lucas, February 27, 1936, box 302, folder 4, Lucas Papers.
now and with the business man put out some Mussolini will appear and all will be chaos." 95

In the face of such severe criticism, the chains complained the ARF did not vigorously defend them against the Robinson-Patman legislation. They accused department store interests of abandoning them because of fears of bad publicity. Claude Kress, for example, asked why the ARF did not work to stop the "hampering of progress." He wrote Kirstein that some of his executives wondered why Kress's was even part of the ARF. 96 Because the ARF remained silent, only two umbrella organizations represented industry interests in the battle in Congress: the National Association of Food Chains and the Institute for Distribution, a chain funded think tank, led by Wheeler Sammons. Despite the existence of these organizations, chain executives did most of their own lobbying for the bill. Historian Ellis Hawley argues the chains suffered at the hand of small merchants. "The chains, unlike the small merchants, lacked


96 Kress to Kirstein, March 24, 1936, box 90, "K;" Claude W. Kress to Kirstein, October 22, 1936, p.2, ibid; George Gales to Kirstein, April 15, 1938, box 90, "G;" Dr. David Craig to Kirstein, April 22, 1938, box 90, "C." All in the Kirstein Papers.
the necessary political strength and political symbols." Hawley's acceptance of this argument proves befuddling. The image of efficiency and service offered the chains an important symbol with which to defend themselves. In addition, the chains possessed political contacts at the highest levels of government. A number of prominent retailers had close ties to the administration. Two of the best known urged the President to oppose the bill: Edward Filene of Filene's and Robert Wood of Sears. General Wood, President of Sears and Roebuck, and a member of the administration's Business Advisory Council, had previously shunned remarks on legislation directly influencing Sears. He did not want to be suspected of "selfish motives." The General, however, decided to make an exception for the Robinson-Patman bill. Wood warned that the bill would turn the "economic clock backward." In his words, linking "mass production to mass distribution" had many positive effects. In a similar way, Filene condemned the bill for

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undermining progressive retailing and threatening the buying power of consumers. At the direction of the President, his aides informed Robinson of these significant criticisms.99

Spokesmen for the chains made three criticisms of the bill. First, the chains argued that independent retailers exaggerated the threat to them. Chains still represented only a fraction of retail stores, and chains, themselves, split up into hundreds of fiercely competing firms. With the exception of A&P, no chain even bordered on monopoly, and even A&P fell well below the one-third market-share needed for charges of monopoly. It and all other chains faced tremendous competition. The most likely eventuality would be that many chains would remain in business, even in the unlikely case that all independents would collapse. America, in other words, was in no danger of monopoly. To the contrary, stiff competition had produced tremendous improvements in retail distribution and promised to do so for years to come. A second major argument put forward by chains and their sympathizers was that the proposed bill was a subsidy for inefficient retailers and wholesalers, those incapable of competing in the open market. Instead of providing a level playing

field, the bill erected barriers to full competition. Their third argument was that the bill was impractical, impossible to enforce and perhaps unconstitutional.

The chains argued that Patman exaggerated their growth and their control over the industry. As the Institute of Distribution, the major voice for the chains, suggested, independent claims to a chain takeover ridiculously exaggerated the situation. Arguments based on extrapolating from past growth curves could not be trusted. "By carrying out Mr. Patman's novel concept of national statistics, it could be argued that the state of Texas has suddenly gone heavily Chinese and that we are over-night favored with 5,600,000 Japanese in this country, to say nothing of 2,700,000 Indians!"  

Chains only occupied a small fraction of the market. Chains reminded Americans that shopkeepers had once predicted that mail order would destroy all competitors. When better roads made it possible for farmers to come into the city more regularly, mail order firms had been forced to enter retailing or be destroyed. Now, chains faced tough competition from early supermarkets and low cost drug stores called pine boards. Nothing guaranteed the survival of these chains against

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100 Institute of Distribution to Lucas, May 22, 1936, box 303, folder 7, Lucas Papers.

101 "Keeping Up With the Consumer This Business of Retailing—Where Is It," "Speech File," box 9, June 30, 1936, Kirstein Papers.
tough independent competitors.\textsuperscript{102} The current market position of chains in no way indicated the possibility of monopoly.\textsuperscript{103}

Chain stores alleged the United States Wholesale Grocer's Association represented a group of profiteering middlemen, intent on extorting money from the American people. They attacked the brokers groups for trying to get special privileges through government action, exactly the sort of monopoly that most critics had opposed in the nineteenth century.\textsuperscript{104} Newspaper columnist and savage wit Dorothy Thompson called Robinson-Patman bill the "Cracker Barrel Bill," which was a mocking reference to old style retailing. Because of the bill, she and others argued, the cost of living would rise and millions of consumers would find their shopping bills increased to fund 1,000 wholesalers.\textsuperscript{105} Wheeler Sammons and other chain advocates even suggested that the bill was more for wholesalers and other middlemen than retailers. They

\textsuperscript{102} New York Evening Star, June 30, 1936; New York Post, March 24, 1936; Grover T. Owens to Robinson, February 28, 1936, box 203, folder 5, Robinson Papers;

\textsuperscript{103} J. Spencer Smith, "Meeting Before Washington Chamber of Commerce," October 1935, box 303, folder 8, Lucas Papers.


suggested that wholesaler advocates pushed the bill in order to get a classification scheme. In the end, these firms would ensure their own profits at the expense of the small retailers foolish enough to aid them. After all, as had been the case for years, wholesalers already dominated many independents.  

Sammons told legislators that the bill would not cure the problems of retailing. In fact, he warned legislators that this radical action would be "as big of a flop as the "Townsend Plan or the Share-the-Wealth." The chains pointed to two major problems with the bill. First, the bill attacked rebates in quantity buying that were neither as important as suggested by the wholesalers nor confined to retailing. The chains suggested the bill was too broad. In hearings, both chain and independent witnesses disagreed as to the relative effect of buying advantages and advertising allowances. They could not agree to the extent of the practices or give a percentage of savings for the chains or determine a dollar amount. Charles Adams, for example, the treasurer of the

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107 Wheeler Sammons to Lucas, May 15, 1936, ibid.

108 Wheeler Sammons to "Congressman," May 18, 1936, box 77, folder 8, Amlie Papers.
First National stores, told the House Judiciary Committee that rebates no longer played an important role in chain advantages. The atmosphere of stores and superior merchandising accounted for any differences in price. Still, he claimed that the Robinson-Patman Act would amount to a sales tax of from 8-15 percent.\(^{109}\) The retail industry was willing to admit certain difficulties, but leading figures attacked the Robinson-Patman bill for poorly defining the problem.\(^{110}\) In addition to attacking an amorphous problem, the bill, although aimed at retailing, struck at all areas of business.\(^{111}\)

Since the bill affected all of the economy it would generate tremendous problems in enforcement. Emmanuel Celler, who had written a proposed New York state chain tax, surprised retailers when he came out against the bill. Among his other criticisms, Celler wanted to know how anyone could enforce


\(^{111}\) Wood to McIntyre, April 24, 1936; Wilbur Willey to A. V. Donahey, [n.d., 1936], box 203, folder 5, Robinson Papers; E. Ingraham to Robinson, March 9, 1936, p.2, box 246.
the bill for all 48,000 items in the Sears Catalog. Business groups, such as the National Association of Manufacturers, criticized the Robinson-Patman bill because they believed the legislation meant more regulation, and thus more interference from the federal government. They worried the bill interfered with basic economic laws and well established practices. In general, businessmen wondered how government could propose to legislate against long-standing business practices. As one put it, "The right to give a Baker's dozen is as old as Business itself." How could the government stop companies from disposing of their property as they saw fit? In order to enforce the bill, the FTC would need to be given tremendous powers. Wood warned about the expansive powers given to the FTC, and the Business Advisory Council joined him in this

214, folder 1, ibid.


criticism.\textsuperscript{114} Chain representatives and lawyers questioned the constitutionality of such steps. As one writer remarked in a letter to Scott Lucas, ""Mussolini and Hitler can stop changes in buying and selling methods." It was unclear how a government agency, in a free market economy could hope to have influence in such a far-reaching way.\textsuperscript{115} In addition, the bill would prove easy to evade because the chains could produce their own private label goods and buying the entire output of a factory. Even the drafter of the bill, the USWGA counsel Teegarden, admitted this might occur.\textsuperscript{116} For their part, newspaper columnists and economists seconded these criticisms of the bill and its potential impact on America.\textsuperscript{117}


In addition to the chains' own opposition, other groups expressed their doubts about the bill. The National Grange and the American Farm Bureau argued that the bill threatened a vital sector of distribution. Although the convention of the National Cooperative Council, another major farm group, endorsed the bill, its leadership reversed its position because of functional discounts. These discounts allowed wholesalers to get rebates but would have deprived farm cooperatives of the same savings.\textsuperscript{118} The hostility of the farm cooperatives succeeded in wiping out the classification clause, which gave special privileges to wholesalers and adding a provision allowing price changes made to meet competition in good faith.\textsuperscript{119} In addition to concerns about the technical wording of the bill, farmers worried about the loss of markets for their products. They believed that the chains offered efficient, low cost distribution for their products. C.C. Teague, of

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the orange growers association, a prominent Republican farmer, emphasized the value of modern retailing systems.120

Supporters of the legislation urged farmers to recognize the deflationary impact of the chains. Patman encouraged farmers to shake themselves from the belief that the chains offered efficient distribution. Another supporter of the independents declared that farmers suffered from a "delusion" that the chains benefited them.121 A Colorado farmer reported to Robinson that chains had a dangerous effect on farm prices. He, like many farmers, tried to offset grocery bills by selling eggs to the store. In his experience, however, a farmer could buy back the eggs for less than he had sold them to the chain. The chains, at least in Colorado, are the farmer's worst enemy and every farmer knows it. The farmer can take a case of eggs to a chain store and buy them back for less than the chain paid him. The next farmer is told that eggs are selling for below market price. He had the same problem with potatoes: "chains and chiseling go hand in hand." Despite his

120 Hoover to Teague, June 24, 1929, box 891, “C. C. Teague file,” Presidential Personal Files, Hoover Papers, Herbert Hoover Presidential Library; Lwellyn A. Banks to Hoover, April 8, 1929, ibid.

attitude, the majority of farmers remained confident that chains offered essential help in distributing goods.

Although organized labor traditionally endorsed anti-monopoly activities, it worried about the implications for their members if chains went out of business. Small merchants attacked the chains for paying low wages. But critics of the bill claimed, as had the chains, that it was a replacement for the NRA replacement, without needed wage and hour provisions to offset higher prices. In addition, some union leaders attacked the bill in hopes of prompting chains to support unions out of gratitude for their support. The failure to win strong union support for the anti-chain store movement stunted its growth.


Although consumers' groups were still relatively weak, they also protested the bill.\textsuperscript{125} The chains created some of these groups, and the majority of consumer protests came from letters written by chain customers. Groups such as the Consumers Union argued that the provisions would force consumers to pay more at the checkout stand, labeling the bill a discriminatory bit of legislation created to guarantee exorbitant profits to retailers. Progressive commentators argued that the government failed to recognize the importance of mass purchasing power but instead bowed to special interest groups, subsidizing the few at the expense of the many. If government catered to special interests, undercutting the power of the market, American consumers would not obtain the highest living standard possible. A report prepared by the Brookings Institution with assistance from government bureaucrats, supported this view.\textsuperscript{126} As one writer to Wisconsin congressman Thomas Amlie put it, "It certainly isn't justice to pat one on the shoulder who has been holding up the

\textsuperscript{125} C. D. Beebe to Robinson, March 27, 1936, box 214, folder 2, Robinson Papers; Daily Progress, June 30, 1936; Economic Justice Newsletter, February 1935, p. 3 in box 38, folder 15, Brooks Hays Papers.

consumer and kicking the other that gave the consumer his dollars [sic] worth." For their part, consumer cooperatives attacked the classification provisions as well.

In a similar way, many cooperative marketing groups, including voluntary chains, attacked the bill. Voluntary chains run by retailers complained that the language of the bill discriminated against them by undercutting their ability to compete along with the tremendous rebates granted to the chains. They suggested that the classification scheme gave undue power to wholesalers and food brokers. The bill legally protected the existence of these middlemen and protected discounts given to them. Ellis Hawley, whose *The New Deal and the Problem of Monopoly* is the seminal work on the economics of the period, concurred. He thought that the act prevented change and hurt the consumer. Instead of such bills, he thought the government should have promoted chain growth and encouraged small merchants to join voluntary chains. In this way the government could encourage positive economic change in the interest of the entire nation.  

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127 W. R. Wyss to Amlie, May 20, 1936, box 77, folder 8, Amlie Papers.


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Edward Filene and Robert Wood assured the administration that retailers could protect themselves in a positive way from economic collapse by forming voluntary chains.\textsuperscript{129} It appeared the administration did not even know what a voluntary chain might be. A bureaucrat from the Bureau of Foreign and Domestic Commerce had to explain that local businessmen owned them.\textsuperscript{130} Frank Grimes, founder of IGA, bragged about his organization to the administration: "IGA came into being when a small group of men banded together to whip collectively the problems we could not whip as individuals." At that time it was commonly accepted that the independent merchant was doomed because of the great inroads being made by his highly organized corporate competition. Grimes credited the IGA with a revival of independent retailing. Because of his firm, "the independent is stronger than ever before," and this anniversary marks the, "triumphant closing of a hazardous period in which the independent merchant who ten years ago was facing commercial oblivion has waged the battle and won. Only in our country can such things happen."\textsuperscript{131} One exception to this rule is

\textsuperscript{129} Edward A. Filene to Roosevelt, April 1, 1936, OF 288, "Chain Stores 1935-1936," Roosevelt Papers; Wood to McIntyre, June 5, 1936, \textit{ibid.}

\textsuperscript{130} A. J. O'Leary to Early, June 16, 1936, PPF 3614, Roosevelt Papers.

\textsuperscript{131} J. Frank Grimes to Roosevelt, September 29, 1936, PPF 3977, Independent Grocers'
the National Retailer-Owned Wholesalers organization, which switched to supporting the bill at the last moment.\textsuperscript{132}

Despite criticisms of the bill for undermining corporate efficiency and favoring independent wholesalers, the Robinson-Patman bill sailed through Congress. Congressmen from both parties believed the bill would eliminate many of the injustices of the marketing system and give small retailers the edge they needed to stay afloat in the highly competitive retail market. In part, the ease of passage reflected the power of Joseph Robinson, the Senate majority leader. Because of his involvement, Congress and the general public believed the bill to be an administration measure.\textsuperscript{133} Some retailers from Forrest City, Arkansas, in the delta of the state, put it best when they met to consider the measure. According to one of the merchants, a delegate "swept the meeting off


\textsuperscript{133} Teegarden to Lucas, October 24, 1935, box 302, folder 4, Lucas Papers; Hawley, \textit{The New Deal and the Problem of Monopoly}, 251-252; \textit{Business Week}, March 7, 1936.
its feet," when he exclaimed, "Hell! ask Joe Robinson to have it passed; he introduced it and he can put through Congress anything he wants." Robinson wrote a polite note back, reminding the retailer that his powers did have certain limits. 134 Such enthusiasm from retailers, however, proved to be another reason that the bill passed. The activity of small merchants in past political campaigns on a state level brought them to the attention of legislators, and congressmen were willing to act in a way that would assist small merchants.

But hectoring by retailers anxious for action even annoyed Robinson. The head of the USWGA had to beg retailers to slow their lobbying efforts and allow him to decide the best time to bring the bill before a Senate vote.135

The only real opposition came in the Senate, where critics of the Robinson-Patman bill suggested other ways to attack rebates.136 These

134 A. B. Nimocks to Robinson, March 30, 1936, box 214, folder 2, Robinson Papers; Robinson to Nimocks, April 4, 1936, ibid.

alternative bills gained support from some parties. Farmer and consumer groups, for example, endorsed them. But most commentators believed they would not have as powerful an effect as the Robinson-Patman bill. The final Senate version of the bill included provisions from one of these bills, the Borah-Van Nuys bill. Because it varied from the House version, a compromise committee met to reconcile the versions. It responded with an equitable decision, simply combining the two despite contradictory provisions. Of these, the most significant conflict was that Borah-Van Nuys set criminal penalties for violations and used the courts for enforcement, while the Robinson-Patman bill operated through the FTC and had only civil penalties.

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\item \textsuperscript{136} "National Conference of Independent Business Men." March 4, 1936, 24; Leo Herrick to Robinson, March 17, 1936, box 214, folder 1, Robinson Papers.
\item \textsuperscript{138} Hawley, \textit{The New Deal and the Problem of Monopoly}, 253; Celler to McIntyre, June 5, 1936, Official File 288, "Chain Stores 1935-1936," Roosevelt Papers; McIntyre to President Roosevelt, memo, June 7, 1936 \textit{ibid.}; Young, "Wright Patman," 209.
\end{itemize}
Although many observers had initially interpreted Robinson-Patman as an administration measure, the President had never promoted it. In fact, when the bill came to his desk he hesitated before signing it.\textsuperscript{139} During the time he held the bill, General Robert Wood wrote him, urging him not to sign it into law. Robinson-Patman, he argued, would hurt the consumer, voluntary organizations, and farmer co-ops. Because of the influence of farm organizations, Wood suggested that the bill might even hurt the administration in rural sections during the 1936 Presidential campaign. Despite these criticisms, Roosevelt signed the bill.\textsuperscript{140} He maintained it provided an important clarification of anti-trust laws and served as needed protection for small retailers.\textsuperscript{141} And Roosevelt used the Robinson-Patman Act to political advantage in the 1936 campaign. In speeches in Arkansas and Texas,

\textsuperscript{139} \textit{New York Times}, April 18, 1935; M. C. Hutton to Robinson, March 26, 1936, p.1, box 214, folder Robinson Papers.


\textsuperscript{141} \textit{New York Times}, May 24, 1936 in box 216, folder 1, Robinson Papers.
Roosevelt praised the bill, saying it guaranteed opportunity for small retailers.

The signing of the law left many questions. First, what, after all, did the bill mean for retailing? How would it affect retailers and their suppliers? Second, could the FTC, which had responsibility for the act, enforce the law? Would it get the appropriations necessary to control purchasing practices? In the early days after passage, retailers and manufacturers complained that the act was confusing and near incomprehensible. Patman and Robinson found themselves besieged with inquiries about the implications of the bill. Critics claimed the bill reached too far. A series of critical articles about the Robinson-Patman Act appeared in Raymond Moley’s Today Magazine. The articles developed the thesis, previously articulated by the chains in the campaign, that the law favored wholesalers and brokers at the expense of more progressive distributors. The Federal Trade Commission received a similar barrage of

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143 Kirstein to Sherill, November 7, 1936, box 89, "ARF 1936-1937," Kirstein Papers; Today Magazine, June 15, 1936; Today Magazine, November 14, 1936; Today
questions. For example, a representative of a voluntary chain wrote his congressman about the ramifications for his form of retailing. In response, a representative of the FTC informed the congressman that the cooperative clause of the act seemed “in general,” to permit purchases through a general agent. At the same time, he warned that his comments are only his own and that he cannot make a more definitive statement without access to more information on the buying group. He said he did not want to endorse actions that might violate other provisions of the act. He also asked, in a rather innocent way, why they were inquiring.\textsuperscript{144}

Businessmen wrote Roosevelt, encouraging him to push the FTC to set down clear and specific rules of conduct. As it stood, they complained, it benefited no one but lawyers. They also argued the bill was vague.\textsuperscript{145} The FTC


\textsuperscript{145} Moriss Belitz to Roosevelt, August 10, 1937, OF 200Q, box 232; Harper, "The Anti-
and Patman spent a great deal of time trying to explain how the act was supposed to be enforced. Many letters poured in asking for interpretations of provisions of the act. Both Patman and the FTC put out pamphlets designed to explain its significance.

In addition to the ambiguities of the Robinson-Patman Act, the legislation required the FTC to monitor the buying practices of many organizations. It became immediately clear that the FTC would have a difficult time enforcing any of the provisions of the bill. As *America: A Catholic Review of the Week*, a Jesuit publication, had warned: "enforcement of the provisions of the Robinson bill will be harder than Prohibition enforcement, and in the end, perhaps no more successful."\(^{146}\) The demands of enforcing the legislation on millions of transactions were immediately a strain on the resources of the Federal Trade Commission. The act's passage, in other words, hardly ensured its enforcement or the accomplishment of desired ends. Small retailers and the FTC urged Congress to provide additional appropriations for

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\(^{146}\) *America: A Catholic Review of the Week*, May 16, 1936 55 (6): 122-123; *New York
enforcement of the act.\textsuperscript{147} In practice, the FTC applied the act to the brokerage provisions, restricting the use of a central buying agency. The FTC liked to use the provision because it offered solid, easily winnable cases. These cases could be used for statistics to demonstrate the effectiveness of the agency. Despite the fact that these cases were often won, the abuses continued for years in some cases because of stalling tactics by the offender. The company could drag the agency through a series of appeals. If they lost these appeals through the federal court system they faced no further repercussions\textsuperscript{148}

\textit{Times}, May 17, 1936.


Despite these failings, the USWGA believed independent retailers gained strength from the Robinson-Patman act. They disputed claims that the bill failed in its purpose. They also denied that it unfairly attacked chain stores.\textsuperscript{149} Independent retailers, and their allies, believed that the bill brought necessary change to the retail sector. One of the best summaries of this attitude came from Senator Scott Lucas of Illinois, when he responded to the complaints of a constituent. The man from tiny Alsey, Illinois, an executive of a brick and tile firm, attacked Robinson-Patman for being vague. Senator Lucas admitted that the act proved confusing, and he called for courts to clarify its meaning. But he denied that it was a nuisance. "Unless something is done in the near future to curb the monopolistic tendencies of chains and large department stores, as well as some other of the larger businesses of this country, the small independent business of a community like Alsey owned and operated by citizens who own property and who are vitally interested in the welfare of the community, will be a thing of the past."\textsuperscript{150}

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\textsuperscript{149} United States Wholesale Grocer Association Bulletin, November 18, 1936, p.3 in box 215, folder 2, Robinson Papers; "Remarks of Robinson," August 5, 1936, p.3, box 215, folder 3, Robinson Papers; Nation, November 28, 1936.
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\textsuperscript{150} N. H. McLaughlin to Lucas, December 4, 1936, box 302, folder 1, Lucas Papers;
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\textsuperscript{263} Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.
Small retailers hoped to bring stability to their sector by preserving the quantity provisions and limited competition of the National Recovery Administration without, of course, the more troublesome wage and hour provisions. They opposed government interference, in other words, unless it worked to their advantage—hardly surprising. The Robinson-Patman Act promised to be one of the most important amendments to the Clayton Act. However, it proved difficult to enforce, and the Federal Trade Commission has allowed the act to linger, rarely enforcing it in any consistent way.


Chapter Seven: Referendums and Fair Trade Acts

Federal responses to the economy took center stage in the 1930s, but states continued to legislate against the chains as well, particularly with chain taxes. But chains responded with increasing opposition in the latter half of the decade. In a number of referendums in the West, most importantly one in California in 1936, the voting public rejected higher taxes on corporate retailers. After that, few states passed tax laws, and other anti-chain measures replaced them as means for controlling the chain threat. Because the NRA had demonstrated the prevalence of trade abuses, the states tried to attack these practices through fair trade legislation, particularly price maintenance legislation, which allowed manufacturers to set the prices for their products. Although the Capper-Kelly bill had failed on a national level in the early 1930s, its approach found widespread success in the states.

As the Roosevelt years began, state chain tax measures continued to pass. In fact, small retailers and their supporters in many states pressed with renewed vigor for legislation to slow the growth of the chains. Supporters of chain taxes promoted more damaging taxes against the chains, eventually
provoking a significant counter-attack from corporate retailers. This opposition began with lobbying in the state legislatures but eventually extended to the series of referendums in the West.¹ Chain taxes became important political issues throughout the country but particularly in Wisconsin, Minnesota, Texas, Louisiana, Florida, Iowa, California and Colorado. Strong support from chief executives proved an important element in most chain taxes. Many of the states where the chain taxes passed had activist governors. Phil La Follette in Wisconsin, Floyd Olson in Minnesota; George Earle in Pennsylvania, and E. D. Rivers in Georgia each promoted chain taxes in their states. All of these governors stand out for their strong reform efforts, which were often framed as "Little New Deals."² In those states with strong gubernatorial support, these taxes were, along with increased income taxes, part of an effort to raise funds to pay for unemployment relief and other social projects. The taxes continued to be a popular response to the demands of the Depression economy. Without


support from governors, however, chain taxes often failed because they were allowed to remain in committee or otherwise die.

An example of the importance of gubernatorial backing can be seen in Kansas. In the 1932 election Alf Landon had supported anti-chain legislation, as had many of his opponents. Kansas had been a hotbed of anti-chain sentiment since the 1920s. One of the most popular anti-chain newspapers, the *Wichita Booster*, was printed in the state, and it appeared probable that the state would pass an anti-chain tax. Small retailers believed that Landon, an independent oil producer, would support them in their push for an anti-chain proposition.3 Supporters of the chain tax argued, as they had done in other states, that the chains did not pay their fair share of taxes and drained money from the economy. 4 They showed the film *Forward America* to generate public support for their cause.5 Landon claimed to support the legislation, but

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he never made the bill a priority.\textsuperscript{6} He worried, in part, about taxing Kansas corporations and adding another tax to the retail sector. Chains also lobbied him, arguing that a tax on them benefited wholesalers.\textsuperscript{7} Rumors spread that Landon hoped to squelch the bill. Landon denied them and suggested he was doing all he could to help the bill.\textsuperscript{8} In response to delay, A. H. Gufler, a hometown acquaintance of Landon and a wholesaler, assured Landon that the bill was needed to protect the state from being defrauded.\textsuperscript{9} He failed to convince the governor. Without the support of Landon, the bill floundered and ultimately failed.\textsuperscript{10} Despite failing in Kansas, chain taxes spread to over half of the states and the District of Columbia. They appeared in every region of the country. Although the strongest support came from Southern and Central

\textsuperscript{6} Ford Wright to Landon, February 21, 1935, \textit{ibid.}

\textsuperscript{7} Sam Heller to Landon, February 8, 1935; W. S. Leake to Landon, March 7, 1935; W. C. Grigg and A. L. Duckwall to Landon, February 14, 1935. All in 27-11-03-06, folder 4, Landon Papers.

\textsuperscript{8} Harold McGugin to Capper, December 18, 1930; Landon to Fulk, March 6, 1935; Nusbaum to Landon, March 1, 1935; Landon to Nusbaum, February 22, 1935; Joseph L. Willemetz to Landon, February 25, 1935. All in 27-11-03-06, folder 4, Landon Papers.


\textsuperscript{10} Secretary to the Governor to A. H. Gufler, Chairman of the Wholesalers' Legislative Committee, March 2, 1935, 27-11-03-06, folder 4, Landon Papers.
states, even New Englanders showed a healthy support for these taxes.\footnote{Palamountain, The Politics of Distribution, 172.} According to a national poll conducted by the American Institute of Public Opinion, a majority of Americans supported special taxes on the chains.\footnote{Harper, “The Anti-Chain Store Movement,” 367.}

In addition to spreading to more states, the chain taxes increased in severity during the mid-1930s. Higher tax rates were encouraged by the case of \textit{Fox v. Standard Oil of New Jersey}, in which the Supreme Court addressed the West Virginia chain tax law. In that case Standard Oil refused to pay the West Virginia tax because, the company argued, it proved prohibitive. If a chain operated more than seventy-five stores in the state, it paid a yearly tax of $250 for each location. According to Standard Oil’s attorneys, the average profit for its filling stations was only $89.75. The company therefore complained that the tax was unfair because it would force it to close some of its stores. In the Supreme Court decision, Justice Cardozo, ruled that a state’s right to tax chains extended to the level of taxation as well. If a state chose to set a prohibitive tax, it could do so. A commissioner of the Federal Trade Commission, Charles March, argued that this decision permitted any level of chain taxation. As he put it: “Whatever the social and economic wisdom of
taxing out of existence all the competitive advantages of the chain store, the way to that goal now seems open from a legal and constitutional standpoint.\textsuperscript{13}

\textit{Fox v. Standard Oil} encouraged many states to press for more revenue from their chain taxes.\textsuperscript{14} Floyd Olson, the charismatic Governor of Minnesota, broadcast spirited attacks against the chains and made the anti-chain tax an important element of his governorship.\textsuperscript{15} Because of Olson’s influence, Minnesota strengthened an existing tax.\textsuperscript{16} In Louisiana, Governor O.K. Allen, the handpicked successor and puppet of the King Fish, Huey Long, promoted one of the strongest pieces of legislation against the chains. The 1934 Louisiana Chain Tax, written by Long himself, marked the first practical step


\textsuperscript{14} Harper, “The Anti-Chain Store Movement,“ 191.


his machine had taken to fight the chains. The bill proved to be the most radical in the nation, taxing stores based upon the number of units nationwide. A &P faced taxes of more than $500 per store. 17

As the rate of taxation increased, chain stores dropped their passive response to taxation. In Texas, as the Patman hearings had revealed, chains lobbied to stop the passage of a strong anti-chain tax. According to testimony in the inquiry, George Lyons of the Kroger grocery chain had operated a sophisticated machine to lobby legislatures. He hired attorneys, or former legislators, who were believed to be close to governors or otherwise influential. 18 In Texas, Lyons contacted a former state senator, George Purl. Purl decided that the best plan was to encourage speedy passage of bills tightening the collection of existing taxes, thereby delaying consideration of the chain tax bill and ultimately sabotaging it, despite the support of Governor James Allred. Purl then bragged to Lyons that he had taken legislators out to lunch three at a time to accomplish this ploy. Lyons praised it as a good


achievement. When made public, the Lyons correspondence prompted an investigation by the Texas state senate. Although the Lieutenant Governor said that Purl had nothing to do with the legislation and Purl testified that he had just been bragging to Lyons, one pro-chain-tax Senator said that his bragging seemed to indicate a great deal.19 After the revelation had been made, Governor Allred campaigned on a platform that complained about the influence of vested interests on the Senate and promoted a stiff chain tax of $750 on every store over fifty. When the bill came before the Senate, Allred sat at the presiding officer's desk. One anti-tax legislator complained about this sort of minding. Anti-tax senators attempted to escape to prevent a quorum on the bill but the sergeant at arms found many of them although he missed the Senator in a movie theater who put on a fur and woman's hat to escape attention. Nonetheless, the bill passed with the highest rate of taxation ever approved by a state.

An even more ambitious anti-chain bill in Florida sparked a stronger reaction from the chains. The so-called "Recovery Act" targeted chains and sought to return money to circulation. Robert Givens, a Tampa Bay attorney, argued that corporate retailers sucked money out of the Florida economy, 

19 Houston Post, October 1, 4, 5, 11, 1935.
stripping the final margin of profit from the local community and concentrating wealth in major cities. As an example, he and other supporters pointed to towns like Ocala, Florida, where chains had displaced independent merchants on the courthouse square and displayed no interest in community affairs, refusing even to donate money to charity.\textsuperscript{20} Givens wanted to ensure that Florida retained the profit on transactions so that it could develop. Such fears of sectional piracy had long roots in the populist tradition, as did its legislative sponsor, Henry Tillman, the son of “Pitchfork” Ben Tillman.\textsuperscript{21}

The bill enforced a strict licensing system for retailers. No firm could receive a permit for sales if it were not wholly owned in Florida, and no individual or corporation could own more than one store.\textsuperscript{22} The Recovery Act was also intended to attack the commissary and itinerant merchant “evils” because no permit would be issued to peddlers or corporations intending to sell merchandise to their employees.\textsuperscript{23} The radical nature of the proposal shocked

\textsuperscript{20} Business Week, June 1, 1935, 217; Florida Times Union, April 5, 1935; J. E. Davis, Don’t Make A&P Mad (Montana: J. E. Davis, 1990), 94.

\textsuperscript{21} Harper, “The Anti-Chain Store Movement,” 219; Florida Times Union, April 10, 11, 12, 16, 26, 27, 29, 30, 1935, May 2, 15, 16, 17, 24, 25, 29, 30, June 1 1935.

\textsuperscript{22} Harper, “The Anti-Chain Store Movement,” 199.

\textsuperscript{23} Ciro di Palma to Gerald O'Mahoney, August 4, 1935, box 197, "Legislation 1935 Federal Licensing-Correspondence #1," O’Mahoney Papers, University of Wyoming.
many observers. Newspaper columnist Roger Babson, well known for his financial column, said in a speech that he was stunned that the state would even discuss such radical legislation out loud. Even J. H. McLaurin, the head of the United States Wholesale Grocers Association and ghostwriter of the Robinson-Patman Act, regarded the bill as outrageous. He compared it to only allowing a person to own a single set of clothes.\textsuperscript{24} The bill languished in committee until 1937, when it was killed on the floor of the Senate.\textsuperscript{25} An opponent of the Recovery Act offered a chain tax as an alternative to the bill. He hoped that it would prove less damaging and yet placate independent retailers. It passed with a top fee of $400 plus five percent of gross sales although the Supreme Court later reduced the sales tax to a maximum of one-half percent of gross sales.\textsuperscript{26}

In the west the controversy over chain stores involved referendums. The referendum and initiative had been a force in western politics since the

\begin{footnotesize}
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\item\textsuperscript{24} Harper, "The Anti-Chain Store Movement," 199.
\item\textsuperscript{26} Harper, "The Anti-Chain Store Movement," 223; J. E. Davis, Don't Make A&P Mad, 96.
\end{itemize}
\end{footnotesize}
progressive era. They gave the public a chance to vote on pressing issues, and forced political campaigns with interesting consequences. Three states held referendums on chain taxes: Colorado, California and Utah. The chains made the mistake of underestimating their opposition in the first of the referendums—that in Colorado. In 1934, Colorado chain stores hoped to eliminate the tax on them, but they funneled very few resources into the battle because they thought their popularity with the public ensured the death of the tax. 27 Small retailers, in contrast, pushed for the tax with tremendous zeal. The Colorado Civic Association, funded in large part by grocery and drug wholesalers in Denver, publicized the value of the tax. Several of these wholesalers sponsored their own voluntary chains, including the Red and White Stores. Voluntary chains played an important role in the campaign, emphasizing that they protected the local community better than chains or under-financed independents. 28 The Colorado Civic Association promoted the chain tax as a way to ensure that outside corporations bore the full cost of government in the state. In their campaign rhetoric, they stressed that the

27 ibid., 192.

28 W. W. Schappler to Landon, March 1, 1935; C. M. Brown to Landon, March 1, 1935; Landon to Fulk, March 6, 1935; T. C. Whiteker to Landon, March 1, 1935; Paul A. Crowell to Landon, March 5, 1935. All in 27-11-03-06, folder 4, Landon Papers.
expense of state government could be spread to outsiders, a powerful incentive in the cash-starved 1930s. Their campaign also recycled the anti-chain themes of the pre-Roosevelt years.²⁹ In a little noticed election, the Colorado Civic Association won the battle against the chains. Colorado citizens had succumbed to the Mississippi syndrome described by Will Rogers, where people vote dry if they have to stagger to the polling booth to do it. Although Coloradans shopped in the chains, they still wanted to tax them. The Colorado Civic Association used the victory to push several anti-chain measures through the legislature in succeeding years. The acts related to selling below cost and other trade abuses.³⁰ But the chains’ defeat in the election encouraged them to develop sophisticated public relations campaigns to fight taxes. Their efforts resulted in success in the later referendums.³¹

The Colorado victory set the stage for the most famous of the referendums: the 1936 California battle over chain taxes. Some compared the furor over the California referendum to the EPIC controversy that occurred


two years before. The EPIC campaign, promoted by famed author Upton Sinclair, pushed for fundamental economic change in California. Sinclair hoped to transform the golden state into a socialist republic, promoting production for use and otherwise disrupting capitalism. Many small business owners feared the Sinclair movement and its radical prescriptions for economic reform.32 Although Sinclair condemned the growing corporate economy, including the chains, his socialism undermined his support from retailers, who feared he might take their property.33 Even more problematic, Sinclair suggested cooperative stores as an alternative to the chains, hardly the sort of proposal small retailers found encouraging.34 Sinclair's leftist program alienated too many other middle class interests.


In 1935, he endorsed the passage of a chain tax. When a powerful group of corporations and wealthy Californians allied to fight the chain tax through the referendum, the ensuing campaign dredged up many of the EPIC concerns about corporate growth in California. And the connection deepens because Sinclair's running mate in 1934, Sheridan Downey, played an important role in the referendum on the chain tax. Despite this support from Downey, the EPIC campaign distanced itself from the chain tax in the 1936 referendum. The Epic News argued that the retail grocers association opposed labor. The chains had begun to cooperate with radicals, even advertising in the newspapers of the growing Townshend movement. Safeway, in particular, argued that it promoted purchasing power by lowering retail prices. They said that they looked forward to a day when the elderly would receive pensions and, presumably, spend their checks in a Safeway store. An organization known


as the Anti-Monopoly League formed in August of 1935 to fight for the chain tax. This group received national attention because of the importance of the state. They cooperated with the Allied Independent Merchants of California.\textsuperscript{39} The retailers received donations from the National Association of Retail Grocers...\textsuperscript{40}

Despite these resources, independent retailers, spent only a fraction of the money of the chains. The California Chain Store Association, refusing to be over-confident like chains in Colorado, ran an excellent campaign against the tax. A representative of the California Retail Association, Samuel Leask, wrote Colonel Sherill of the American Retail Federation that a powerful battle had begun in the state. "Unfortunately, however, we are just now confronted in this state with a chain-store bill fight of unprecedented bitterness. The legislature last summer...passed a graduated tax till the chains, in turn, got sufficient signatures to get a referendum on the ballot. In the meantime, newspapers and radio have been employed by both sides to such an extent that the controversy which has been developed approaches in intensity the EPIC

\textsuperscript{39} Harper, "The Anti-Chain Store Movement," 346; Albert L. Walters to O'Mahoney, August 36, 1935, box 197, "Legislation 1935 Federal Licensing-Correspondence #2," O'Mahoney Papers.

\textsuperscript{40} Harper, "The Anti-Chain Store Movement," 366.
battle of two years ago." Leask wrote that the California Retail Association could not consider joining the ARF because of the tension between independents and chain in the state. 41 An August poll showed that 42 percent of Californians supported the tax with 28 percent opposed and another 30 percent undecided.42

But the chains did an excellent job with public relations in the fall. A group called the California Consumers Conference, subsidized by chain contributions, paid for newspaper advertisements attacking the store license bill. The prominent advertising firm Lord and Thomas drafted the advertisements, which warned of the threat posed by the chain tax.43 One of the ads featured a mild mannered couple confronted by two immense gentlemen tagged "Powerful Wholesaler and Middleman." The two figures are stroking a rather innocuous looking sheep, but underneath the sheepskin or clothing lurks a hungry wolf: "Higher Prices for Food." The California


43 Edward J. Perkins, From Wall Street to Main Street: Charles Merrill and Middle
Consumers Conference returned to this theme time and again, always emphasizing its slogan "22 is a Tax on You." The group pointed to research by the Federal Trade Commission and the Business School at Harvard that concluded the tax would be passed on to consumers and lower the standard of living. They complained that taxes were high enough already, particularly on foods, and urged consumers to "vote NO and keep prices low." Furthermore, they claimed that the tax, which topped out at $500, was more than the net profit of four out of five chain stores. Another advertisement showed a voter yanking the whiskers of the retail store license from a dastardly looking figure straight from a melodrama. The cartoon warned Californians that they would pay for the tax if it were not repealed. The EPIC organization also accepted the argument that the tax benefited wholesalers, not small retailers.

The chains produced a statewide radio broadcast of a variety hour and trained their managers to promote a grassroots campaign against the tax in

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*Class Investors* (New York: Cambridge University Press, 1999), 119-121.

44 "It's a New Tax on Your Food," "Braun and Company, Proposition #22 Retail Store Licensing, 1936," Secretary of State Papers, California State Archives, Sacramento, California.

45 California Chain Store Association, *The Fifty Thousand Percent Tax* (Sacramento, California: California Chain Store Association, 1936), 22.
their stores. In addition to these initiatives, the chains sought to show their practical benefit to the community. The chains promoted better relations with farmers through surplus campaigns. One of the challenges that farmers faced was a sudden onslaught of perishable goods. Farmers could lose a portion of the value of their crop if they could not sell their goods. The chains proved their ability to market goods when they promoted peach and lamb campaigns for farmers desperate to sell a surplus of those products. The chains cooperated by advertising the goods and selling them to the consumer at the lowest possible price. The campaigns won support from farmers.

The California referendum proved to be a devastating blow to independent forces. Buoyed by these advertisements, fears of inflation and a letter-writing and publicity campaign by chain employees, the chain forces won a crushing victory in the referendum. Only one county supported the

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tax—San Francisco, where a radicalized population, recently involved in a longshoreman strike, hoped to fight back against corporate America.48

The victory for chain forces in California encouraged another fight in Colorado. In the second referendum, a number of important groups, including farmers and labor, turned against the tax.49 The chains chose to fight the tax this time, using an industry group similar to that in California. The group in Colorado pointed to the California referendum and the repeal of chain taxes in four other states to argue that the taxes had lost favor throughout the nation.50 They also pointed out that because of the relatively low rate, the tax brought in little revenue and proved difficult to enforce, as government bureaucrats had to identify chain units in the state.51

In their major attack, however, the chain stores argued that the bill helped large wholesalers, exempting them from the same taxes paid by corporate chains.52 Some small retailers criticized the chain store license for


52 Colorado Chain Store Association, *The Colorado Store License Law*, 42; *Facts,*
adding to their own tax burden to help wholesalers compete with the chains. Building on the point, the chains called the license tax "class legislation" because it benefited a few businesses at the expense of the rest of the population. They condemned such laws for being un-American because they used government to support a minority of the population. The chains also claimed they could not pay the taxes out of their profits. If the chain tax remained, they would have to close their stores. The burden of the chain tax, according to the chains, would therefore fall on the lower-income shoppers who patronized their stores. The rich could afford to pay higher prices for luxuries like credit and delivery, but those with a more difficult time needed the lower prices provided by the chains.

March 1, 1936, 5.


54 Colorado Chain Store Association, The Colorado Store License Law, 35.


56 Colorado Chain Store Association, The Colorado Store License Law, 70.

Chains argued that they were the targets of misplaced anger. Instead of blaming them for the failure of small stores, retailers should look to their own under-capitalization and the plethora of retailers in the sector. The chains complained that voluntary chains dwarfed them in size and did not pay the chain taxes. Safeway, according to the chain store operators, had the largest corporate chain in Colorado with 193 stores. Yet the Red and White had 246 stores and Home Owners, another voluntary chain, had more than 200 outlets along with 100 IGA affiliates in the state. Colorado chain stores addressed also the claim that they endangered opportunity. They pointed to the number of executives in their organizations who had reached tremendous heights despite humble beginnings. Of three division presidents for A & P, one started as a shipping clerk, another as a potato weigher, and the third as an errand boy.

Despite stronger chain store efforts, the pro-tax plurality nearly doubled in the state. Frederick Harper credits the victory to the Colorado Civic Association and its well-organized campaign and to the relatively mild nature


Despite the independents' victory in Colorado, the fate of chain taxes seemed bleak. The struggle over the taxes and the split over their usefulness, contributed to a turn against these taxes, as did a series of court rulings. The number of proposed tax bills dropped, and no new states stepped forward to consider these taxes in 1939. But several states did repeal their taxes and others lowered the rate of chain taxation.

A number of factors explain the decline of chain taxes. First, many Americans doubted the effectiveness of the taxes to control chain store growth. There were several available means to fight the taxes. Among the possibilities, other than simply closing less productive stores, was to sell units to local managers and become wholesalers. Another option was to re-incorporate firms...

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in each individual state, as Standard Oil had done. In Florida, the parent company of Winn-Dixie incorporated itself into five different firms so that it could minimize the effects of the chain tax. Yet a third was to open supermarkets, so that the chains could minimize the effects of the tax on themselves by lowering their number of stores.63 Second, some retailers worried that passing taxes would lead to a cycle of dangerous taxation on retailers.64 This argument proved accurate when 1939 Supreme Court decisions over Colorado and North Carolina laws determined that voluntary chains would be subject to chain taxes. In both states, voluntary chains had played a vital role in passing the laws. Now they were subject to the same taxes. The plan had backfired.65 Third, certain independent retailers believed

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the push for chain taxes hurt their image because it made them look desperate for protection from superior competition. Moreover, as the 1930s progressed, and the chains had not destroyed their independent competitors, the claims of the 1930s seemed more and more unreal. The 1935 Census of Distribution showed a halt in chain growth, and new institutions, like the independent supermarket, appeared to be the future of retailing. A few state politicians promoted the issue at the close of the decade, but the force of the anti-chain crusade had been spent. In 1941, a referendum in Utah resulted in an overwhelming defeat for the chain tax in that state. The era of anti-chain taxation had reached its end. Even in Colorado, the chains enjoyed a brisk business. Americans had made their decision about chain stores and their value to the economy.

Although chain taxation had become unpopular, fair trade legislation, which seemed to be less radical and without obvious expense to the consumer,

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68 The Commercial Bulletin, April 1938, 2.

was more palatable. Fair Trade legislation built on federal efforts to pass price maintenance legislation. Although the National Recovery Administration took Capper-Kelly’s place on a federal level, state supporters of price maintenance pushed for so-called “Junior Capper-Kelly” bills to acquire certain safeguards in the states. In California, independents, chains, and manufacturers, particularly in the drug industry, cooperated to produce the first in a series of fair trade laws. The law permitted firms to set retail prices for the products—with or without the permission of retailers.\footnote{Harper, "The Anti-Chain Store Movement," 61-62, 374-375; \textit{Facts}, February 15, 1937, 21.} California’s fair trade law became the model for dozens of state laws, passed between 1933 and 1937. These efforts became more widespread after a 1936 Supreme Court decision ruled them constitutional. In that decision, the Court ruled that a company had a right to set prices for products it produced. According to the majority opinion, cut-rate pricing damaged manufacturers because it made their products appear cheap or shoddy.\footnote{Palamountain, \textit{The Politics of Distribution}, 172; Harper, “The Anti-Chain Store Movement,” 196; \textit{Nebbia v. People of New York}, 291 U.S. 502.} Another sort of fair trade law was the unfair practices act,
which specifically targeted sales of products below cost. These bills targeted supermarkets, which had grown at an impressive clip since the mid-1930s.\textsuperscript{73}

Although many manufacturers had supported such bills, retailers proved to be some of their strongest advocates. Retailers hoped fair trade acts would provide stability, stopping the price wars that had characterized the Depression years.\textsuperscript{74} They believed that the problems of business stemmed from dishonest and predatory actions by a few. If businessmen could be forced to behave in an above-board fashion, sanity could return to the economy.\textsuperscript{75} Many supported fair trade bills because they feared the impact of supermarkets and reckless independent retailers.\textsuperscript{76} Druggists


\textsuperscript{75} \textit{Facts}, February 15, 1937, 8-12, 18-19.
provide enthusiastic and organized support for the bills, leading a nationwide charge to pass fair trade legislation. Booksellers and tobacco dealers proved to be another important source of support.\textsuperscript{77}

Opposition to chain tax bills stemmed from consumer groups and farmers. Consumer groups feared that they would raise prices at the checkout counter. Farmers worried that only manufactured products would rise and, as a result, they would lose the battle against a rising cost of living.\textsuperscript{78} Although these groups complained, they mounted minimal opposition to this legislation on a state level. Some opposition developed to the operation of the laws, but no substantial dissent.\textsuperscript{79} Because of the limited opposition, these bills swept through the states in 1937, setting the stage for a federal price maintenance law: the Miller-Tydings Act.\textsuperscript{80}

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\item \textsuperscript{76} Harper, "The Anti-Chain Store Movement," 63, 65; Bender, \textit{A History of Arizona Pharmacy}, 98; J. H. Foley to Landon, July 12, 1935, 27-11-03-06, folder 4, Landon Papers; K. J. M. Cooper to Landon, August 8, 1935, \textit{ibid}.
\item \textsuperscript{78} Harper, "The Anti-Chain Store Movement," 63.
\item \textsuperscript{79} Bender, \textit{A History of Arizona Pharmacy}, 104.
\item \textsuperscript{80} Hawley, \textit{The New Deal and the Problem of Monopoly}, 256; W. A. Ayres to Roosevelt, April 14, 1937, F 110 E 6 8, Benson Papers; FDR to Elmer Benson, May 6, 1937; Roosevelt to the President of the Senate, April 24, 1937; Benson to Roosevelt,
\end{itemize}
The success of fair trade and the failure of chain taxes show the limits of the anti-chain campaign in the United States. Americans wanted to see controls on chains. They fretted about the growth of the corporate economy and worried that small business might be crushed by corporate monopoly. At the same time, they wanted to pay lower prices for goods and distrusted government taxation. They showed no willingness to destroy corporate chains as such. The attacks on the chains would have stark limits in the American system.
Chapter Eight: Miller-Tydings and the Patman Death Tax

Encouraged by the burst of fair trade victories at the state level, retailers sought further federal solutions to their problems during the Roosevelt recession of 1938. They argued that the chains still used illegal sales and purchasing practices, and they called for the government to put an end to this behavior. The resulting Miller-Tydings Act enabled state legislatures to pass fair trade acts and required out of state firms to conduct business according to their provisions. In other words, it extended state laws on price maintenance to products involved in interstate commerce. As such, the act served as a new version of the defunct Capper-Kelly bill. Pharmaceutical manufacturers and the National Association of Retail Druggists were enthusiastic about the potential of price maintenance legislation. Although retailers took its success and the increasing attacks by the administration on corporations to be a signal to push for further and more radical legislation against the chains, the most drastic anti-chain bill, the Patman Chain Store Tax bill, failed utterly. It would have levied a federal tax on chains, designed to eliminate interstate chains by taxing them out of business. The fates of these very different pieces of
legislation marked the limits of anti-chain reform in the United States. Small retailers could persuade legislators to support minor taxes and federal and state regulations designed to ensure fair competition. They could not convince them to destroy the chains.

The Miller-Tydings Act developed out of earlier price maintenance legislation: the Capper-Kelly bill, which had been supported by small retailers since the mid-1920s. Desperate retailers hoped for protection from ferocious price competition.¹ When the Capper-Kelly bill failed to pass on a national level in the early 1930s, small retailers in California sought to secure a "junior Capper-Kelly bill" in their state. The bill permitted manufacturers to sign contracts with retailers to stabilize prices and required non-signers to live by the terms of the contract. In effect, manufacturers could set the price for their products. After a Supreme Court decision upheld the contracts, twenty-five state legislatures enacted similar laws. Although these state acts promised relief for small retailers, they did not extend enough coverage since they only applied

to intra-state trade. Retailers therefore sought federal legislation that would authorize state legislatures to protect goods in interstate commerce.²

Some retailers hoped Arthur Capper would re-introduce the Capper-Kelly bill. For example, H. C. Petersen of the National Association of Retail Grocers, begged the Kansas senator to resume work on price maintenance.³ Instead, the National Association of Retail Druggists sponsored new legislation written by their counsel, Herbert Levy, and introduced by his former law partner, Senator Millard Tydings of Maryland.⁴ The bill worked as enabling


⁴ Frank Mortenson to Arthur Capper, January 3, 1933, box 39, "Fair Trade 1933-1935" Capper Papers; Joe Demain to Capper, January 17, 1933; E. C. Brockmeyer to Capper; Henry B. Joy to Capper, April 6, 1933; L.W. Faber to Capper,April 12, 1933; Whittier to Nelson Gaskill, April 14, 1933; Whittier to Capper, April 13, 1933; Gaskill to the American Fair Trade Association, April 11, 1933; Phil Anderson of the Kansas Book Dealers Association to Capper, May 8, 1933; Mrs. A. J. Rowlands to Capper, May 12, 1933; Kansas City Star, May 2, 1933; The Paris Dry Goods Company of Great Falls, Montana to Wheeler, May 27, 1933, pp.1-2; New York Pharmacist, April 1933 , 7-8; E. A. Raymone to Capper, August 29, 1934. All in box 39, "Fair Trade 1933-1935," Capper Papers; Crichton Clarke to Capper, December 6, 1934; Kelly to Capper, December 17, 1934; Weeks to
legislation, permitting state laws that would control the price of products sold in interstate trade. Because of the structure of the Constitution, the state bills could only govern prices for products manufactured by companies incorporated in the state. If they attempted to control the prices for other goods, they were regulating interstate commerce, something the Constitution specifically confined to the United States Congress. Under the Miller-Tydings Act, legislatures could regulate prices in their states because the final sale came within their borders and was not, therefore, an interstate purchase.5

Supporters of price maintenance argued that the bill should be passed so that state legislatures could maintain prices in their states.6 They also encouraged the passage of additional state fair trade laws to create a bandwagon effect for the federal law. If forty-three legislatures were in session,


some hoped to see thirty new acts passed.\textsuperscript{7} By the time the bill was promoted, over forty percent of the population lived in states with price maintenance bills. John Dargavel, executive director of the National Association of Retail Druggists, wrote Capper that the Miller-Tydings bill would become the equivalent of the Capper-Kelly bill with accompanying state legislation if it passed.\textsuperscript{8} Although some price maintenance supporters worried that the act exempted states without fair trade laws, and wanted to wait for more complete legislation, many small shopkeepers supported the bill because of their concerns about retail stability.\textsuperscript{9}

Small retailers flooded the halls of Congress with telegrams and letters expressing their support for the bill.\textsuperscript{10} The National Association of Retail


Druggists developed a "captain plan." In every congressional district, a pharmacist took responsibility for drumming up letters of support for the Miller-Tydings bill.\textsuperscript{11} The retailers argued that the Miller-Tydings Act would have a positive effect on the nation because it would delay the growth of corporate retailing and, thus, ensure American prosperity and the equality of opportunity, which had, in their opinion, characterized the United States from the beginning. Some supporters of price maintenance feared the specter of government intrusion and argued that the bill brought a quick solution to the threat of corporate America without creating a bureaucracy.\textsuperscript{12}

Supporters of price maintenance warned that America’s prosperity and independence stood in jeopardy because of inadequate policing of chain retailing. These retailers continued the complaint that the chains deceived the public into purchasing inferior products. Apparent bargains actually disguised

\textsuperscript{11} Dargavel to O'Mahoney, February 18, 1936, box 242, "Legislation 1936 Tydings Fair Trade Bill," O'Mahoney Papers; John P. Tripeny to O'Mahoney, June 23, 1937; Dale G. Kilburn to O'Mahoney, April 29, 1937; Nick Duzik to O'Mahoney, January 28, 1937; Afton, Wyoming to O'Mahoney, February 9, 1937; Mrs. Geo. R Keeney to O'Mahoney, April 3, 1937. All in box 49, "Tydings-Miller Bill," O'Mahoney Papers.

\textsuperscript{12} Collins to Capper, February 1, 1937, p.2, box 39, "Fair Trade, 1936-1939," Capper Papers; French C. Jones to Borah, March 10, 1938, p.2, box 33, folder "Borah," Pat McCarran Papers, Special Collections, University of Nevada-Reno.
deceptive pricing schemes and shoddy products.\textsuperscript{13} Even if they offered real savings, however, chains drained money from the local economy and sent their profits to Eastern cities. But small retailers also told of how they felt crushed by competition. A California retailer lamented that his products were being used as “footballs” by large corporations, with these corporate giants playing games with his livelihood.\textsuperscript{14} One Little Rock, Arkansas, gas station owner complained that his chain competitors received rebates from the oil companies, which amounted to the total profit on a gallon. His complaints resemble those of the gas station owner in the \textit{Grapes of Wrath}. In that novel, a small gas station owner complained that no one stopped by his store. Instead, he lamented, they passed him by to shop at one of the big “company stores” in town. Tom snapped at him, breaking off his complaints. Why wouldn’t they shop at those stores, he asked. Why didn’t the station owner try to improve the quality of his service?\textsuperscript{15}


Even some chain drug stores, however, felt the brute force of competition and embraced the price maintenance solution. The searing effect of competition from so-called pineboard shops hurt many of the chains. These stores, which received their name because of cheap shelving, offered products at cut-rate prices, hoping to sell enough products to survive on a tight margin. Many of them could not survive, but they often took established chain and independent stores down with them. In October of 1932 Owl Drug went into receivership and its officers later supported fair trade legislation and the Miller-Tydings legislation as important responses to a threatening retail environment. They felt pineboard stores promoted dangerous and destabilizing competition.\(^{16}\)

The effects of corporate retailing would be devastating to American notions of opportunity. As one retailer expressed it, the chain store "rides rough-shod down Independent Avenue." According to him, they interfered with the freedom of America by their size, power and ability to control the economy. He begged for an end to the monopoly control over "money, life,

\(^{16}\) Sedgley, *History of Owl Drug*, 12.
liberty and the pursuit of happiness. . .”¹⁷ One Wyoming retailer wrote
President Roosevelt that the independent retailer was “. . .apparently destined
to follow the Indian and the buffalo over the horizon.” He argued that it was
better to have thousands of merchants and their clerks voting than “. . .millions
of employees dominated by, and dependent for their living upon the whims of
a few Algeresque tycoons or the doubtful leadership of labor executives.”¹⁸

Crichton Clarke, an attorney for the American Booksellers Association,
suggested that the Sherman Anti-trust Act, as interpreted by the courts, had led
to considerable danger to small business. Corporate chains continued to grow
in the absence of price contracts, but small retailers could not respond by
cooperating to maintain prices. As an Assistant Attorney General from New
Orleans wrote, the Supreme Court had eviscerated protection under the laws.
The effect had been devastating: "Since then the small storekeeper and
individual entrepreneur have progressively disappeared from the scene. [sic] It
is too late to go back, it cannot be done, all that can be done now is to regulate
these gigantic corporations and monopolies and make them give back to the

¹⁷ Arnold Craft, "Human Necessity vs. Monopoly," pp. 2, 4, 8 in Arnold Craft to
Papers.

people, in taxes, wages, hours, etc, what they illegally acquired or wrested from the people who now need such assistance."  

Despite the defection of chain drug stores, most mass retailers continued to oppose price maintenance. Miller-Tydings met predictable resistance from large retailers, who had been long opposed to the chains. Macy's, for example, and the National Retail Dry Goods Association challenged any bill depriving retailers of the right to determine the price of their products. They warned the administration that the bill threatened to undermine other economic achievements of the New Deal.

As had been the case with the Robinson-Patman bill, mass retailers found support from the National Grange, consumers, and labor. All of these


groups worried about the rise of consumer prices. William Green, the president of the American Federation of Labor, protested that the bill would increase prices for the consumer. Under the National Recovery Administration, he wrote, fair labor and wage standards had balanced provisions to stabilize prices. Since the demise of the NRA, he had witnessed a sustained rise in prices with the cost of living 22 percent higher than that of March 1933, reducing the purchasing power of the consumer's dollar. If this continues, he wrote, gains from wage increases would be completely wiped out—a catastrophe for the vast majority of the consuming public.23

Because the Miller-Tydings bill simply enabled legislatures to control prices in their states, it should have been easy to pass. It certainly had better prospects than the old Capper-Kelly bill because of the mandate from state legislatures. Nevertheless, concern for consumer prices led to some resistance in the Judiciary Committee. Another delay resulted when the Supreme Court Packing controversy, Roosevelt's controversial attempt to expand the size of the Court, occupied most of the attention of the committee.24 Opposition to

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Miller-Tydings grew when word came that President Roosevelt did not support the legislation. For its part, the FTC weighed in with its own opposition. In the view of W. A. Ayres, the chairman of the commission, the Miller-Tydings Act ran counter to the Sherman Anti-trust Act and other anti-trust measures. It threatened to raise prices to the consumer and use government power to benefit small retailers. In addition, Ayres warned that the fair trade acts passed by the states differed in form and would, therefore, create a patchwork set of pricing laws, undermining the uniformity of national economic policy. Perhaps worse, the bill turned over price setting to the whim of private corporations, endangering the public interest.\(^\text{25}\) Henry Morgenthau, the Secretary of the Treasury, also condemned the bill for raising prices.\(^\text{26}\) The Attorney General, Homer Cummings, responsible for the Anti-trust division, believed the bill to


\(^{25}\) W. A. Ayres to Roosevelt, April 14, 1937, p.3; W. A. Ayres to Roosevelt, April 14, 1937; FDR to Benson May 6, 1937; Roosevelt to the President of the Senate April 24, 1937. All in F 110 E 6 8, Benson Papers.

be ill-advised. Because of the advice of these administration figures, Roosevelt worked through Senate Majority leader, Joe Robinson to delay the bill.

When word leaked about the president's actions, retailers looked for ways to change Roosevelt's mind on the matter. John Dargavel of the National Association of Retail Druggists, wrote the President in protest. Reports blame the delay of the vote on the President, Dargavel wrote. "We hope these rumors are untrue and unfounded because we cannot conceive of you taking this position. This legislation is in the interest of the small business man and the consumer." Dargavel cited what had happened in California law, where prices had declined since passage of a price maintenance law. He warned Roosevelt that he spoke on behalf of 54,000 independent druggists. In response, the president's secretary, Martin McIntyre replied that FDR wanted to check the effect the bill would have on living costs and its implications for anti-trust policy. This letter incensed Dargavel. The trade executive wrote back that


29 McIntyre to Dargavel, May 1, 1937; Joe Baker to McIntyre April 28, 1937; Dargavel

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the President's actions might spark a rebellion against the administration by small retailers. Dargavel complained that he was getting the run-around in classic "Tinker to Evers to Chance fashion, preventing him from getting his thoughts before the President." In reply to Dargavel's second letter, Roosevelt wrote that, "Quite frankly, I am entirely sympathetic to much of the viewpoint expressed, and we are working toward an equitable solution of the whole problem involved." But Roosevelt reiterated that he wanted to look at the effects of the bill and the way in which it related to the nature of anti-trust. The "scope and perplexities of this problem," in his view, required more cautious action.

For the next two months, supporters of the bill tried to sway the President. They worked, in particular, through senators and governors to get an audience with the President. James Roosevelt, the President's son and


secretary, knew some advocates of the bill, and the younger Roosevelt encouraged his father to sign the bill. But retailers also intensified the telegram and letter campaign by average retailers. Administration members bristled at these mass mailings because of the strain it put on their clerical staff. W. A. Ayres, chairman of the Federal Trade Commission, complained that the FTC had answered six hundred letters protesting the President's stand on this legislation when another six hundred arrived. Ayres immediately suspected that they came from an organized lobbying effort.


34 James Roosevelt to Attorney General, June 22, 1937; A. G. to James Roosevelt, June 23, 1937; James Roosevelt to Parsons June 2, 1937; J. A. Latimer to James Roosevelt, June 18, 1937; Latimer to Farley, June 14, 1937; Parsons to J. R., May 27, 1937, p.2; James H. Allen to Roosevelt, June 29, 1937. All in box 68, "Tydings-Miller Bill," James Roosevelt Papers.
because of their similar wording. He later wrote McIntyre that an informant had confirmed this suspicion.\textsuperscript{35}

Despite the retailers' efforts, Roosevelt remained firm in his opposition to the bill.\textsuperscript{36} In order to push the bill through Congress, Millard Tydings attached it as an amendment, or rider, to the appropriations bill for the District of Columbia. Roosevelt could not veto Miller-Tydings without cutting funds to the District of Columbia.\textsuperscript{37} Needless to say, the President resented the maneuver. In order to reach an agreement with the administration, Tydings negotiated some revisions of the bill. After a conference with the President, arranged with the help of Wright Patman, Tydings agreed to include qualifiers, limiting the bill to goods of the same class in "free and open competition." In

\begin{footnotesize}
\begin{enumerate}
\item O'Mahoney to Tripeny, June 25, 1937; Charles Heale to O'Mahoney, June 30, 1937; Greybull Market to O'Mahoney, February 19, 1937. All in box 49, "Tydings-Miller Bill-Letters Committing on It," O'Mahoney Papers; James Roosevelt to John Miller, July 7, 1937, box 68, "Tydings-Miller Bill," James Roosevelt Papers.
\item Hawley, The New Deal and the Problem of Monopoly, 257-8.
\end{enumerate}
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other words, inferior merchandise could be sold for lower prices. Tydings also included an amendment that prohibited horizontal price contracts, or contracts between retailers, which would stabilize prices. Only price maintenance schemes from manufacturers to retailers, or wholesalers to retailers would be approved.38

More letters came to the President in an attempt to sway his opinion. Perhaps the most interesting correspondence came from a Denver bookseller. H. E. Bellamy, who wryly noted that he sold several books by the President and the First Lady, including *Looking Forward, On Our Way*, and Eleanor Roosevelt's *When You Grow Up to Vote*, said he was thankful those books had not been used as price leaders by local department stores.39 Even after these changes, the President hesitated to sign the bill submitted to him by the Congress.40 While the bill sat on Roosevelt's desk, Wright Patman, Rowland

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38 Hawley, *The New Deal and the Problem of Monopoly*, 258; Parsons to J. Roosevelt, June 23, 1937; Louis Filadore to James Roosevelt July 2, 1937; James Roosevelt to S. L. Antonow, July 6, 1937; Henry C. Levick to James Roosevelt, July 19, 1937; J. Roosevelt to Parsons June 29, 1937; James Roosevelt to Parsons July 14, 1937. All in box 68 "Tydings-Miller Bill" James Roosevelt Papers.

39 H. E. Bellamy to Roosevelt, August 9, 1937; Morris Belitz to Roosevelt, August 10, 1937; Percy Goldman to Roosevelt, August 10, 1937; Mrs. Tager to Roosevelt, August 6, 1937. All in OF 200Q, box 232, Roosevelt Papers.

40 Straus to Roosevelt, July 26, 1937; Roosevelt to Percy Straus, July 29, 1937; Herman Oliphant to Roosevelt, July 27, 1937. All in OF 277 Anti-Trust Laws May-July, 1937," Roosevelt Papers; M. L. Wilson to Roosevelt, July 26, 1937; McIntyre to Rayburn, August
Jones and other supporters of small retailers wrote to the president, imploring him to take positive action.\(^4\) At this point, the correspondence between Herbert Parsons, a pharmacy trade magazine editor from Boston, and James Roosevelt, the President's son, played a role. Parsons wrote the younger Roosevelt that he was worried about rumors that the President might still withhold his signature from the bill, despite the amendments to the bill approved by the Attorney General. From Parson's perspective, this action threatened to undermine support by small retailers for the President.\(^4\) The younger Roosevelt spoke with his father about the bill and Parson's concerns. In reply to Parsons, Roosevelt indicated he did not want to throw the power of the federal government behind one particular group of Americans. He said he

\(^2\), 1937; Gordon Browning to Roosevelt, August 4, 1937; O. M. Kile to Roosevelt, August 5, 1937; Chester Gray to McIntyre, August 6, 1937. All in OF 277, "Anti-Trust Laws August-December 1937," Roosevelt Papers.


\(^4\) Parsons to James Roosevelt, August 2, 1937, box 68, "Tydings-Miller Bill," James Roosevelt Papers.
continued to harbor suspicions about the overall economic effects of antitrust legislation.\textsuperscript{43}

In the end, Roosevelt relented, signing the appropriations bill and allowing the Miller-Tydings Act to become law. Small retailers thanked Roosevelt for putting aside his criticisms of the Miller-Tydings amendment. \textsuperscript{44} Many pharmacists bragged that James Roosevelt obtained the President's signature for the act. James Roosevelt worried about the notoriety he gained in regard to the President's acquiescence to the Miller-Tydings Act.\textsuperscript{45}

Even after the bill passed, some small retailers feared amendment to the acts because of the opposition of consumer advocates.\textsuperscript{46} The Miller-


\textsuperscript{44} George Burger to Roosevelt, August 19, 1937; Michael Kerwin to Roosevelt, August 19, 1937; Jessie B. Slocumb to Roosevelt, August 19, 1937; Paul Heckman Burgess to Roosevelt, August 19, 1937; Louis W. Oswald to Roosevelt, August 23, 1937. All in OF 277, "Anti-Trust Laws August-December 1937," Roosevelt Papers; James H. Allen to James Roosevelt, June 29, 1937; James Roosevelt to Leavitt C. Parsons, September 3, 1937; Parsons to James Roosevelt, September 1, 1937. All in box 68, "Tydings-Miller Bill," James Roosevelt Papers.

\textsuperscript{45} James Roosevelt to Early, September 3, 1937, box 68, "Tydings-Miller Bill," James Roosevelt Papers.

Tydings Act raised serious problems. Many manufacturers worried about setting sales prices—for fear giant retailers would dump their products.47 Supporters of price maintenance had to work with representatives of agriculture to convince them of the effectiveness of price maintenance for their business.48 In addition, pharmacists and others struggled with the logistics of establishing prices for goods and arranging contracts in more than forty states. Some advocates of the bill wanted to establish a national board to oversee these contracts, but the enormity of the task and wrangling between states resulted in independent systems in each state.49

Although there were problems implementing the bill, its passage thrilled retailers, who saw it as the culmination of decades of work. In response to this euphoria, Wright Patman proposed a federal anti-chain tax that he hoped would slow the growth of interstate chains and prevent them from destroying independent retailing. Patman demonized the chains,


48 Parsons to James Roosevelt, September 1, 1937, box 68, "Tydings-Miller Bill," James Roosevelt Papers.

49 Robert Fischelis to A. R. Granito, September 5, 1936; Fischelis to Dargavel, September 7, 1937; Dargavel to Fischelis, September 10, 1937; Fishelis to Dargavel, September 16, 1937; Dargavel to Fischelis, September 21, 1937; Fischelis to Dargavel, September 23, 1937; Dargavel to Fischelis, September 25, 1937; Fischelis to Dargavel,
painting them as dangerous agents of social destruction. He had at first contemplated a bill that would prevent manufacturers from selling their products to the retail public at outlets. In a time before gargantuan outlet malls, the bill targeted the large tire makers, which had begun a thriving business, squeezing out their independent competitors through aggressive pricing.

When Patman determined that he needed a broader-based attack on the chains, he proposed a tax, which targeted multiple outlet stores and would have had devastating consequences for interstate chains. Patman’s tax followed a tax proposed by Martin Dies for the District of Columbia, the first suggested on a federal level since Emmanuel Celler had promoted a bill in 1932.

November 1, 1939. All in box 35, folder 14, Fischelis Papers.


Patman proposed his bill because he believed that the Robinson-Patman Act and Miller-Tydings Act offered inadequate protection for small retailers. Written with the assistance from the Department of Commerce and a professor from the University of Virginia, Patman’s bill placed sharp taxes on interstate chains, multiplying the tax by the number of states in which they operated. The system modeled itself on the Louisiana tax, which had been ruled constitutional by the Supreme Court.

The boldness of Patman’s tax contrasts with most anti-chain measures. Although the rhetoric of the movement implied that chains posed an obnoxious and potentially fatal assault on American civilization, the proposed remedies raised marginal tax rates, dithered around the edges of chain purchasing practices and controlled loss leader tactics, which small retailers had used as much as their chain competitors. With the Patman tax plan, the hysteria of independent retailers met its match in legislation. Patman seemed to have responded to the cries of the small tire dealers and other retailers, who felt


frustrated by continued chain growth. At its heart the Patman bill contained the small businessman's dream for anti-trust: it offered a sort of handicapping system, which would have enabled the little store to exist. It is not "disguised" as anti-trust. It represents the heart of the movement. Patman tossed legislation into the ring that mirrored growing anti-chain sentiment and matched the anti-monopoly sentiment found in 1938. After all, President Roosevelt had signaled an attack on monopoly and encouraged small businesses to believe he would support them in efforts to stabilize their position in industry. With the profound support of small retailers, and the new-found enthusiasm of a popular president, Patman believed it to be time to act in a profound fashion. The bill, however, became the death throes of the movement, a fiery outburst that spelled the last gasp for the anti-chain movement.

The Patman Bill won strong initial support. An eighty-five member caucus supported the bill. Most of the members hailed from the South and Midwest, traditional homes of populist sentiment. In addition, the caucus fell

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55 Hawley, The New Deal and the Problem of Monopoly, 266.

into enthusiasm for President Roosevelt's anti-monopoly crusade.\textsuperscript{57} This issue offered them a way to express themselves in support of the average American. Of course the 1938 election year offered another incentive for them to act. In the more conservative Senate, however, the bill found few supporters. Only William Borah, the rabid anti-monopoly Senator from Idaho, supported the bill with real ardor.\textsuperscript{58}

Retail Trade Associations endorsed the Patman bill. This support proved unusual because the trade associations had opposed chain taxes on a state level. Because of the anti-monopoly spirit of the day, the success of past legislation and the strength of radical forces in the conventions, the major associations gave their approval to the Patman bill. The National Association of Retail Druggists (NARD), National Association of Retail Grocers (NARGUS), National Retail Hardware Association (NRHA), United States Wholesale Grocers Association (USWGA) and the National Association of

\textsuperscript{57} Harper, "The Anti-Chain Store Movement," 400; New York Times, July 12, 1937; Newsweek, September 5, 1938; Robert C. Allen, Jerry J. O'Connell, Henry G. Teigan and McIntyre to Burger, June 19, 1937; Patman to Roosevelt, April 24, 1938; FDR to Mr. McIntyre or Mr. Early, April 16, 1938. All in OF 288 "Chain Stores 1937-1944" Roosevelt Papers.

Independent Tire Dealers (NAITD) all supported the bill.59 When Charles March of the Federal Trade Commission addressed the NARGS convention in the summer of 1937, he expressed the anti-monopoly sentiment afoot at the time. According to March, major corporations had stripped the nation of its economic freedom by major corporations, not the socialism, which had once been feared. In the eyes of March, and many active in liberal politics, the grocers represented the last bulwark of free enterprise in the nation. He urged them to resist and not capitulate as the small manufacturers had done. March warned them that concentration of wealth threatened to destroy American ideals and force the country into economic dictatorship. If concentration of wealth continued in the way it had, he warned, small retailers would be adversely affected. As it stood, sixty percent of the nation had an income of under $1,500 a year. Since they spent one-third of their income on food, which meant about eight dollars a week per family for food, March warned that prosperity would be difficult. "You retailers, as the channel through which consumers' goods flow into consumption, can appreciate the importance of maintaining purchasing power at a high level and having it widely spread

among the families of your respective communities. Your economic interests as independent retailers are bound up in the outcome of the struggle with monopoly.” If they lost their fight with competition, he warned the effects could be wide ranging. He pointed out that competition had died before the takeover of the Nazis in Germany and argued that, even in America, iron-handed economic control led to fascism. As an example, he pointed to experiences in Harlan County, Kentucky, where mine owners kept strict control over workers attempting to unionize. As war approached in Europe, chain opponents increasingly voiced fears of fascist control over the economy.  

The bill found additional support from small business organizations that sprouted up in response to an administration conference of small businessmen. As part of the administration assault on monopoly, the Department of Commerce organized a Conference of Little Business. Roosevelt called the conference in an attempt to isolate big business corporations from public support. The administration hoped the small businessmen would support the Roosevelt program and discredit large corporations, portraying them as greedy

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and out of touch with the American people. Unfortunately, the selection of representatives of small business led to a string of hurt feelings and political bids. One small businessman, who had hoped to attend the conference, wrote James Roosevelt that he had been a tad disappointed. "Naturally, I was disappointed and chagrined to find no Navy patrol plane at my front door, with motors idling ready to bring me down for a special conference. I thought maybe the pilot had sat down at the wrong address." He was glad, however, that he did not attend when he heard about the antics at the meeting. Many small retailers at the conference believed that the administration had turned away from their interests and intended to support big business. They criticized the president and urged reform by the administration. These groups

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63 Vera Montgomery to LeHand, February 8, 1938, OF 277, "Anti-Trust Files 1938," Roosevelt Papers; V. W. Denen to Roosevelt, June 18, 1936, Official File 172a "Small
supported the Patman bill as a vigorous assault on the forces of monopoly.\textsuperscript{64}

Despite the approval from the conventions of small retailers, a sizeable minority questioned the wisdom of the bill because they believed it to be extremist. Pharmacists, in particular, were satisfied with the operation of the Miller-Tydings Act. Many rank-and-file pharmacists felt that price maintenance served to protect them from chain growth and the dangers of cutthroat competition. And they remembered that chains had cooperated with them to get that protection from supermarkets and "pineboards" as discount

pharmacies were called. The NARD had supported initially the Patman bill, but it soon recanted. As the First Vice-President of the National Association of Retail Druggists wrote in a letter to Congressmen, "... it is our belief that it is not good judgment, in the interests of independent retail druggists, to advocate at this time any legislation designed to force existing organizations out of business." Although he and other druggists knew and resented the underhanded tactics used by the chains, he argued that the general public did not support the legislation and would not react well to businessmen manipulating government to destroy their opponents. Several retailers told Congress they did not want to force chains out of existence. They argued, however, that chains needed to pay their fair share of taxes to support the community. In addition, taxation should aim to prevent the stripping of wealth from the community. Many small town merchants worried their homes, where chains chose not to locate, would be wiped off the map. Consumers, they worried, would take their trade to areas where chain stores were


66 Prescott Loveland to Dargavel, February 21, 1937, p.2, box 245, folder 6, Robinson Papers.

67 Dave Jones to O'Mahoney, March 14, 1939; O'Mahoney to Dave Jones, March 20, 1939; A. L. LaClair to O'Mahoney, February 10, 1939. All in box 71, "Legislation Chain Stores,"
represented. Because of the opposition of significant numbers of retailers, the major trade associations did not push the Patman Bill with the same enthusiasm as the Robinson-Patman Act or the Miller-Tydings Act. They sponsored no great rallies and even pulled back from state anti-chain taxes.

Some small retailers believed chain stores brought trade to their town and supported them for that reason.

For obvious reasons, the Patman bill attracted considerable criticism from the chains. For the first time, the nation’s largest chain, A&P, assailed an anti-chain measure. Although the company had believed political involvement to be counter-productive, the nature of the Patman Bill, which appeared to

O'Mahoney Papers.


70 C. O. Downing to O'Mahoney, December 26, 1939, box 71, "Legislation Chain Stores," O'Mahoney Papers; Walter A. Schultz to O'Mahoney, July 21, 1939, ibid.
spell doom for major interstate chains, convinced the Hartford Brothers to reply to Patman's claims. The brothers, who had shunned the spotlight in other anti-chain wars, hired Carl Byoir, a public relations executive in Washington, to spearhead an attack on the Patman bill. Along with other chain lobbyists, the attacks echoed those against the Robinson-Patman Act and Miller-Tydings. First, Byoir and A&P criticized Patman for promoting legislation that would reward well-paid middlemen at the expense of the consuming public. The chains emphasized that they offered strong, efficient retailing to the country. They had no intention of destroying independent retailing. If local stores combined with others in voluntary chains, they could withstand competition and provide the same excellent service as the chains. Second, chain retailers argued that the bill confiscated property and undermined the constitution of the United States. Third, they warned about massive unemployment if chain stores were shut down.71

A&P responded to the Patman bill with a simple and effective advertising campaign. They bought space in newspapers and periodicals to decry an assault on the American consumer. Following past success, they

cooperated with women's groups and promoted food campaigns, to ease over-supplies of certain foods. In addition, they worked with real estate owners, who feared the loss of stable and profitable clients if the Patman bill became law. This tactic had been useful in Colorado and California during the referendums over chain taxes in those states.\textsuperscript{72}

The chains' attacks on the Patman bill found strong support throughout the nation. Newspapers savagely attacked it. The \textit{Dallas Morning News}, for example, condemned Patman for demanding the death sentence of a "mild-mannered chain grocer." Other Texas newspapers concurred, even passing a resolution against the tax at their annual meeting\textsuperscript{73} Newspapers throughout the country reacted in the same fashion. The \textit{Los Angeles Times} wrote that Patman's bill lacked merit. Although he has "the rhetoric and emotion" on his side, the realities of the new economy made his bill an impracticality.\textsuperscript{74}

\begin{footnotes}


\item[74] \textit{Los Angeles Times}, October 17, 1938.
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Consumer, labor and farm groups opposed the bill as well. During the 1930s, the strength of consumer groups increased significantly. Although these groups could not mobilize tremendous resources, they could secure the attention of certain politicians and business leaders. Consumer groups opposed the bill as an attack on efficiency and a danger to low consumer prices.\textsuperscript{75} These attacks irritated some independents. One Kansas independent wrote Capper, "Do not allow some little cookies to make you believe that they have saved anything in the long run by patronizing the large interstate corporate chains."\textsuperscript{76} Like the consumer groups, labor representatives condemned the Patman Bill. Although it had been at odds with some chains, particularly A&\textsuperscript{P}, organized labor offered a more receptive response. Although one can still detect hostility toward mass retailers, the opposition pales in comparison to that of the past.\textsuperscript{77} Some union members hoped to swell their


\textsuperscript{76} A.H. Gufler to Capper, July 8, 1939, box 38, "Chain Stores," Capper Papers.

\textsuperscript{77} Wieboldt Department Store, "Minutes of the Board of Directors," March 18, 1937,
ranks by bringing along chain employees. They worried, as well, that an attack on the chains would increase the rate of unemployment and depress wages for everyone. As had been the case since 1936, major farm groups opposed the Patman tax as an assault on efficiency and danger to the price of agricultural products. The only farm group to support the bill came from Louisiana. A strawberry farmer's union from an area north of Lake Pontchartrain supported the bill because they believed that their prices had been depressed because chains used their crops as loss leaders. Nonetheless, their support represented a pathetic presence next to the combined opposition of the National Grange and American Farm Bureau.

Patman attacked such criticisms of his bill as chain inspired propaganda. He believed that chain operatives had poisoned these groups

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against him and distorted true public sentiment against their growth. The 1938 campaign proved to be a challenge for co-sponsors of the bill. Although the tax did not prove to be an issue in the campaign, sponsors of the legislation fell throughout the country. Patman faced opposition in his 1938 race for the house. George Blackburn, his opponent, criticized the Robinson-Patman Act as class legislation passed to bail out wealthy wholesalers. Patman denied this allegation and pointed to the President’s support of the bill and legislation that had been added to the 1936 Democratic platform, praising the act and its protection for small retailers. His opponent criticized the Robinson-Patman Act as a give-away to wealthy wholesalers and attack on American consumers. The opponent argued that Patman was out-of-touch with his constituency and out-of-favor with the President, who had not met with Patman when he passed through Texas on a campaign swing. Although Congressman Sam Rayburn of Texas explained to Patman that the president had not even met with him on the trip, Patman fretted that his opponent would make political ammunition

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81 "Who is this man, George Blackburn, who has announced that he will oppose our congressman, Wright Patman, at the Democratic primary, July 23, 1938," p.5, box 20B, folder 6, Patman Papers.
from the incident. Despite these criticisms, however, Patman won re-election and continued his fight for the chain tax.

To make his problems worse, he faced charges of corruption based on his relationship with powerful drug wholesaler McKesson and Robbins. McKesson sponsored a lecture tour he took throughout the country. Patman argued that other prominent citizens had made such trips.\footnote{Wright Patman to C. T. Habberger, April 12, 1940, box 37B, folder 1, Patman Papers; Harper, \textit{the Anti-Chain Store Movement}, 416-418; \textit{Business Week}, December 24, 1938, 30-31; \textit{Business Week}, July 8, 1938, 29; \textit{New York Times}, January 25, 1939; \textquote{Associated Press interview of Patman in Texarkana, Texas,} Dec. 22, 1938, box 20B, folder 5, Patman Papers; Young, \textit{Wright Patman}, 216-217.}

\footnote{Patman to Roosevelt, July 15, 1938, telegram; McIntyre to Patman, July 16, 1938, telegram; Sam Rayburn to Roosevelt, July 15, 1938, p.2; Roosevelt to Patman, August 7, 1939; Patman to Roosevelt, May 29, 1940; J. Romagna, \textit{Memorandum for General Watson,} October 1, 1941; Patman to Roosevelt, January 5, 1940. All in box 20B, folder 5, Patman Papers; Harper, \textit{the Anti-Chain Store Movement}, 394; Young, \textit{Wright Patman}, 209.}

\footnote{\textit{Des Moines Tribune}, November 27, 1939 in box 42A, folder 4, Patman Papers; \textit{The Friendly Dollar}, July 4, 1939, p. 1 in box 37B, folder 1, Patman Papers; Hawley, \textit{The
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82 Patman won his quest for re-election, buoyed by his incumbent status, but a conservative swing in the off-year elections meant that twenty-five of his seventy-four co-sponsors met defeat.\footnote{\textit{Des Moines Tribune}, November 27, 1939 in box 42A, folder 4, Patman Papers; \textit{The Friendly Dollar}, July 4, 1939, p. 1 in box 37B, folder 1, Patman Papers; Hawley, \textit{The
262}} Despite the loss of so many of his colleagues, Patman pressed forward with his bill, hoping to build a coalition for the tax. However, he never succeeded in developing such a coalition or bringing the bill to the House floor.\footnote{\textit{Des Moines Tribune}, November 27, 1939 in box 42A, folder 4, Patman Papers; \textit{The Friendly Dollar}, July 4, 1939, p. 1 in box 37B, folder 1, Patman Papers; Hawley, \textit{The
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\footnote{\textit{Des Moines Tribune}, November 27, 1939 in box 42A, folder 4, Patman Papers; \textit{The Friendly Dollar}, July 4, 1939, p. 1 in box 37B, folder 1, Patman Papers; Hawley, \textit{The
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\footnote{\textit{Des Moines Tribune}, November 27, 1939 in box 42A, folder 4, Patman Papers; \textit{The Friendly Dollar}, July 4, 1939, p. 1 in box 37B, folder 1, Patman Papers; Hawley, \textit{The
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for his bill, it continued to falter. His attempts to interest the party hierarchy in such radical legislation failed utterly. Patman hoped he could cultivate a better relationship with the popular president and counteract this opposition. He tried to lobby the President with the help of Donald Foster, the president of McKesson and Robbins. As had been the case with the Miller-Tydings Act, however, the President proved unsupportive of attacks on the chains. The administration continued to criticize the anti-chain measures as a restriction on free enterprise and a danger to the health of a struggling economy.

In his frustration, Patman increasingly stooped to harassing chain figures, particularly those of A&P. That company’s public relations efforts infuriated him. On one copy of a public letter issued by A&P, Patman

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*New Deal and the Problem of Monopoly*, 262.


86 McIntyre to Patman, March 22, 1938, PPF 3982, Roosevelt Papers; Patman to Roosevelt, June 15, 1938 *ibid.*; Roosevelt to Patman, June 16, 1938, *ibid.*; Patman to McIntyre, August 24, 1938, PPF 5507 National Association of Retail Druggists, Roosevelt Papers; Roosevelt to Thomas Smith, September 6, 1938, *ibid.*; Roosevelt to Leon Lascoff, September 8, 1938, PPF 5508, National Pharmaceutical Association, Roosevelt Papers.

scrawled "Bunk" across the bottom. He urged an investigation of the income tax paid by the Hartford Brothers. And, in the case of Carl Byoir, the A&P lobbyist, he encouraged an investigation of him as a Nazi sympathizer. The Dies Committee, headed by a well-known chain opponent, investigated Byoir's public relations work for German railroads in the United States, but nothing came of this investigation.

Patman found himself deserted by most supporters. His crusade for the bill had failed, leaving him one of the few champions of radical anti-chain action. A variety of small business organizations formed and continued to promote the gospel of free enterprise. In particular, Theodore Christianson


and other advocates for small retailers continued the old argument that absentee firms threatened the economy of the community through price cutting and sucking its wealth from it. In his opinion, the chains knocked the underpinnings out of prosperity by lowering the cost of products, forcing business to operate at a close margin. As he put it in a 1939 speech, "We can't hope to make capitalism, which is a profit system, work without profits." Growing out of the small businessman's conference, these groups organized a modest number of retailers. Small retailers and their supporters continued their attacks on the chains and their dangerous influence on American life. According to small retailers, giant corporations undermined prosperity. They threatened to choke the life out of the economy and destroy the equality of condition, which had made American society unique. As the struggle continued, the movement turned increasingly to images from Europe to describe the influence of corporations on American life. They warned that

_Crusaders for Economic Liberty, March 4, 1937, 1._


93 Ralph Burton Public Markets to Capper, July 4, 1939, box 38, "Chain Stores," Capper Papers; _Bulletin of the Newton Independent Business Men's Association_, July 4, 1939, 1; G. M. Booth, Sr. to Capper, July 3, 1939, _ibid._

94 Mortenson to the President, January 23, 1940, box 37B, folder 1, Patman Papers; Mortenson to Patman, July 10, 1939, box 37B, folder 1, Patman Papers; M. H. Biemer to

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economic developments threatened to strip freedom from America as had been done in Europe. In a resolution by the Iowa Pharmaceutical Association, the druggists complained that “chains keep regimented groups goose-stepping to the bidding of New York executives.”95 Storeowners warned America that the future of democracy depended on small business. The basis of the American dream in their minds was the small store and free competition. If only a few could own a business, Americans would lose a sense of responsibility for their communities. Americans worried about the survival of democracy. They had survived years of economic and political crisis. Surely the American state had survived the worst threats imaginable. Yet the forces of tyranny and democracy loomed ever larger on the world scene. Even large retailers believed that small business was vital to the strength of the nation although they did not support attempts to interfere with full competition.96

Patman and other anti-chain activists attacked Roosevelt for failing to address the structural failures of the economy. As these retailers had argued for

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96 Beardsley Ruml, “The Protection of Individual Enterprise,” p.1, series 2, box IV, folder 332
a decade, the chains caused economic devastation in America. As long as they were allowed to strip money from the communities of the nation, prosperity would be unobtainable. In the later years of the movement, Patman developed more of a sectionalist critique of the growth of chain stores. He argued that Northeastern interests threatened to drain the South and West of their wealth, turning them into colonies of New York. Patman’s adoption of this criticism found support from Walter Prescott Webb, a well-known historian of the American Southwest. Webb authored *Divided We Stand*, an examination of the growth of industrialization and the relentless expansion of the consumer economy.97

As had been the case in the early 1930s, some anti-chain activists promoted the use of scrip as a way to inflate the currency supply and return the United States to prosperity. They hoped to break the stranglehold of big finance. 98 In Sioux City a group labeled dollar bills in order to determine how

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often they circulated in a week. They estimated that the city lost two million dollars a year to absentee owners who removed the money from town.99

The more radical critics of New Deal economics called for an all-out assault on chain retailing to correct this situation. As some retailers had argued since the early 1930s, nothing would change until the government addressed the structural changes in the economy. Existing attempts to boost the GNP were mere palliatives. Roosevelt needed to address the economic essentials. Instead of taxing and relief, the United States needed to attack the octopus. Concentration of wealth caused the Depression. It must be attacked to rejuvenate the economy. Retailers complained also that the chains received preferential treatment from social workers.100 After the bill failed to pass in 1938, Patman proposed a more relaxed version, which would freeze chains at

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100 “Consumers Tax Commission of Pennsuken Township” to Patman, n.d. [1940], box 37B, folder 1, Patman Papers; E. F. Hunter to Patman, January 19, 1940, box 37A, folder 3, Patman Papers; Union Saw Mill Company to Robinson, February 12, 1937, box 245, folder 4, Robinson Papers; Walter Davidson to Robinson, February 15, 1937, ibid., Robinson Papers; Frank Mortenson to Patman, October 24, 1938, box 37B, folder 1, Patman Papers; W. F. Powers to Patman, box 37A, folder 5, Patman Papers; C. J. Doherty to Patman, box 37C, folder 1, Patman Papers; Kansas Wholesale Company to Capper, July 3, 1939, box 38, "Chain Stores," Capper Papers; J. A. Todd to Laughlin
their current size, rather than destroying them. He argued that the President needed small business on his side if he hoped to confront the excesses of monopoly capital. Although Patman succeeded in gaining hearings for the revised bill in 1940, it never moved in the House.101

The anti-chain movement had broken apart from its own momentum. Without careful attention to bureaucratic operations or the complexities of antitrust law, the small storekeepers could not find another, more positive response to the chains. In the end, they had little alternative to the Patman tax. Their attempts to control prices and purchasing had proved inadequate and they could not control the chains. Moreover, many Americans had come to accept the place of the chains in the community. Sears, Walgreen's and A&P had established themselves on Main Street for over twenty years and employed many people. Shoppers found a wide variety of goods at them. Surely they were not the threat that they were said to be. How could America justify

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destroying them through excessive taxation? The efforts of small retailers had hit an impasse.
Conclusion

The film *Our Neighbors the Carters* tells the story of Fred Carter, a good family man whose small town drugstore is destroyed by an invading chain.¹ Carter has all the hallmarks of a well-meaning independent retailer. He knows the people of the community, extends credit liberally, and delivers. Nevertheless, when the chain comes to town, Carter's customers defect, his business fails, and he is forced to work as a day laborer in a quarry. Fortunately for Carter, his humiliation is only temporary. The cavalry arrives in the form of his long-lost multi-millionaire friend (a hometown boy made good), who threatens the chain with a price war, closes down its local outlet, and puts Fred back into business. The story thus ends on a happy note, with Fred's life returned to him. For most retailers, however, the Hollywood ending never came. If they lost their store, they faced bankruptcy and lifetime economic hardship. Although *Our Neighbors the Carters* shows sympathy for the plight of independent retailers, it displays a general skepticism about their prospects for the future. Although a flurry of anti-chain and anti-monopoly interest built in the late 1930s, a consensus developed that chains

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¹ *Our Neighbors the Carters*, Paramount, 1939. Available at the Film and Television Library of the University of California at Los Angeles.
promoted retail efficiency and were important contributors to the economy. Since consumers had long ago decided that chains provided better prices and did not significantly differ from hometown stores, the period for significant anti-chain action had passed. Many Americans felt sympathy for small retailers like Fred Carter. Few thought that anyone could do anything to help them.

As Alan Brinkley shows in *The End of Reform*, a spirited anti-monopoly campaign developed in the late 1930s. New Dealers, like Robert Jackson and Thurman Arnold, reacted to the Roosevelt Recession of 1937-1938 by blaming big business for a "capital strike." According to Jackson and Arnold, leading businessmen had deliberately used their power to drive the economy into recession, distort the mass media, and discredit the Roosevelt administration. President Roosevelt enthusiastically supported their assault on monopoly, accepting the notion of the capital strike and employing it in his State of the Union address. Some leading corporations felt they had been directly attacked.² Roosevelt pledged to root out the causes of economic turbulence and restore the nation to prosperity. For many small retailers, the President's address signaled a resurrection of anti-trust concerns.

in the administration. They hoped, in addition, that Roosevelt would try to destroy mass retailers. Wright Patman specifically requested that the President condemn chain stores in his monopoly message, but the President did not comply. Instead, the ensuing discussion of economics pushed the anti-trust movement in a new direction—one that accepted the importance of big business and offered little hope for chain opponents. In the new anti-trust policy, government intervened to ensure the maintenance of consumer purchasing power.

Robert Jackson, the Attorney General in Roosevelt's second term, began the anti-monopoly campaign in a way that seemed to bode well for small retailers. In a speech before the Trade and Commerce Bar Association

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4 Ralph Easley to Stephen Early, January 6, 1938; Walker C. Davis to Roosevelt, January 5, 1938; Wm. Tobias Butler to Roosevelt, January 28, 1938, telegram; Edmund Walsh to Roosevelt, April 19, 1938; Edmund Walsh to McIntyre, April 30, 1938, Drake Watson to Roosevelt, April 23, 1938; J. E. Bistor to Roosevelt, April 27, 1938; J. E. Bistor to LeHand, April 27, 1938. All in OF 277, "Anti-Trust Files 1938," Roosevelt Papers.

in New York City, Jackson lashed out against chains, which he identified as a particularly dangerous element of the new economy. He remembered his small town boyhood with tremendous nostalgia, and he worried that this world would be destroyed forever by the development of the chains.\(^6\) Insisting that chains had grown in power and influence until they threatened to become private governments, Jackson warned that the American small town and the freedoms identified with it stood in danger of destruction. Along with them, democracy teetered on the brink. Ownership of property, in Jackson’s view, provided a host of benefits. “My observation is that no employee ever has the same degree of interest in our system, as a proprietor of a small business.” Jackson pledged to fight the chains and their iron hold on the American economy.

In 1938, Jackson promoted anti-monopoly causes with even more fervor, attacking business concentration and the accompanying centralization of wealth. His concern was that the nation’s patent laws, tax laws and tariff laws placed more and more wealth in the hands of the few. He explained that he wanted to fight the centralization of wealth and work to provide assistance to the poor of the nation.\(^7\) Jackson, like many New Dealers believed the

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\(^6\) Brinkley, *The End of Reform*, 57-60.

\(^7\) Jackson to Bruce Barton, July 15, 1937, box 33, “Robert Jackson,” Barton Papers;
disparity in wealth stunted the national income. If, as studies indicated, the top sixty thousand families had as much saved as the bottom twenty-five million families, then serious ramifications might exist. How could those top families spend the exorbitant sums they had amassed? Jackson longed for policies designed to redistribute wealth and “place buying power back into the hands of the people”8 He worried that American values of independence and rugged individualism would be undermined by economic developments and cautioned against “balance sheet values” being substituted for moral virtue.9

Jackson went on to argue that government needed to protect American ideals by attacking the concentration of business. According to Jackson, the growth of big business promised centralization. He believed this amalgamation of power and influence ran counter to the best legacy of this country, a nation where power was divided in order to ensure liberty and prosperity for all. "We want no economic or political dictatorship imposed upon us either by the government or by big business," Jackson said before a group of trade association executives. He opposed the growth of big

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9 Robert Jackson, "Should the Antitrust Laws Be Revised?" 9, 10.
government and regulation as much as that of big business, but if one or the other had to be chosen, government influence would be superior. 10 The government, at least, sought the best interests of the nation. It represented all of the people of the United States. Corporations, in contrast, threatened to become “private governments,” with tremendous and sinister influence over millions of Americans.11

In an effort to fight these evils, Jackson selected an unlikely but brilliant candidate to lead the Anti-Trust Division of the Justice Department, Thurman Arnold. Jackson believed Arnold could bring reform to the sleepy division. Arnold, born in Wyoming, had been Dean of West Virginia School of Law and Professor at Yale Law School. While at Yale, Arnold wrote two works on the American anti-trust system.12 In Arnold’s view, anti-monopoly agitation had degenerated into name-calling and ineffectual rhetoric. His commentary on this situation exhibited the same characteristics, actually unleashing a barrage of rather un-academic invective that perhaps explains the curious friendship between the New Dealer and conservative curmudgeon

10 Robert Jackson, "Should the Antitrust Laws Be Revised?".2-3
11 Robert Jackson, "Should the Antitrust Laws Be Revised?" 12
12 Montague to Arnold, June 6, 1936, box 13, "June 1938,” Arnold Papers.
H. L. Mencken. Arnold mocked Western radicals for their caustic comments against the chains. In one particularly sarcastic passage, he lampooned William Borah, the Progressive Senator from Idaho, for his vociferous condemnations of monopoly. This passage came back to haunt Arnold, when he was forced to appear before Borah and the rest of the Senate Judiciary Committee after Jackson nominated him for Assistant Attorney General. Arnold struggled through the hearings, weakly apologizing to Borah for his intemperate statements. Arnold had to dance around his statements in order to explain why a critic of the anti-trust laws should be appointed to enforce them. In the end, however, even Borah voted to approve Arnold for the position.

When Arnold took control of the anti-trust division, he initiated a tremendous expansion of the division and its activities. As he explained the situation, the problem with United States anti-trust policy was that the laws

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were not adequately enforced. The United States did not require additional laws to create a less concentrated, free market system. Instead, the country needed simply to marshal its forces and wage war on a relatively small number of corporations.\textsuperscript{16} The Federal Trade Commission and the Antitrust Division of the Department of Justice lacked the necessary resources to thoroughly police the economy of the nation.\textsuperscript{17} At the time Arnold took office in 1938, the Roosevelt administration had revived the anti-trust division from its sabbatical during the National Recovery Administration, but it was still understaffed and underfunded. Roosevelt and Jackson authorized an expansion from fifteen attorneys at the start of the administration to ninety by 1938. Although more substantial, this number paled in comparison to departments with ostensibly more restricted responsibilities, such as the Maritime Commission, which claimed over one thousand employees.\textsuperscript{18}

Rather than preaching about the evils of monopoly, the country needed hard-eyed experts, who could monitor the growth of large


\textsuperscript{17} Thurman Arnold, "The Antitrust Laws, their Past and Future," p.1, box 1, folder 1, August 9, 1938, Arnold Papers.

enterprises. His department prosecuted a growing number of cases and found a good deal of success. Arnold's anti-trust campaign not only increased the size of the department but, through successful prosecutions and fines, began to make money for the government. In a 1940 speech, Arnold bragged that the anti-trust division had brought in 2.4 million dollars in fines against a total appropriation of 1.3 million dollars. Arnold believed, in addition, that his department improved the stability of the economy, allowing it to function along rational lines. Instead of constantly debating what actions the Anti-Trust division might take, he argued, businessmen knew his approach. Arnold believed lax enforcement had pushed businessmen into lazy habits regarding the law. If the anti-trust division were to more vigilantly enforce the law, businesses might be more likely to obey it, and the economy would become more stable. Some business people supported this idea and

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20 Brinkley, The End of Reform, 111; Arnold, "Free Trade Within the Borders of the United States," March 9, 1940, p. 15, box 2, Arnold Papers.
praised Arnold for making the rules available to the businessman on the street.21

Arnold believed the purpose of antitrust policy was to spread the benefits of enterprise to all of America’s people. He hoped to use antitrust laws to maximize the production of the nation’s economy. No firm should be destroyed because of its sheer size, Arnold argued, working from principles enunciated by Teddy Roosevelt. Instead, firms should be chastened if they were having a warping effect on the market and threatened the standard of living of the American people.22 Small businesses, specifically associations of these businesses, might have a harmful effect on the economy. Arnold believed he needed to root out restraints of trade. In short, the anti-trust division needed to ferret out any force hampering the efficiency of the U.S. economy. The department would not attack a company for simply being big. If a firm improved the productivity of the nation, it deserved to reap rewards. On the other hand, threats, no matter how small their size, would face prosecution under the laws. Arnold specifically condemned small town trade groups for enforcing trade agreements and maintaining prices at a high level. In Arnold’s mind, he


22 Jackson "Don’ts and Dos For Businesses," p.6 in Barnett to Holsey, July 17, 1941, box 283, folder 6, Barnett Papers.
had a solemn commitment to protect the purchasing power of the nation by attacking any impediment to trade.\(^2\) Arnold, as Alan Brinkley shows in *The End of Reform*, sought to raise the level of consumption of the American public. He believed that only this step could ensure the future prosperity of America and the continued existence of its way of life.\(^2\)

Like Jackson, Arnold praised small business as the backbone of the nation. According to the head of the anti-trust division, small business still made up the majority of the American economy. Arnold supported positive assistance for small businessmen, hoping the government would support efforts to encourage independent business. If they did not receive aid, Arnold warned, an "economic dictatorship" might result.\(^2\) Arnold's statements won positive responses from many small business organizations. Small retailers hoped his aggressive pursuit of monopoly would result in attacks on the

\(^{23}\) Arnold, "Do Monopolies Retard or Advance Business Recovery? (over NBC Town Meeting of the Air,)") January 30, 1938, p. 8, box 2, Arnold Papers; Arnold, "Free Trade Within the Borders of the United States" March 9, 1940, pp. 12, 14, 19, box 1, folder 1, Arnold Papers; Arnold, "Speech before the South Carolina Bar Association," pp. 7, 14; Arnold, "Speech before the IBA," 15, 16, 17; Arnold, "What the Antitrust Division Means to the Consumer," November 4, 1939, pp. 2-5, People's Forum, box 1, Arnold Papers; Arnold to Mrs. Harold Winterhalter, May 2, 1940, box 20, "Correspondence 1940 General May," Arnold Papers.

\(^{24}\) Beardsley Ruml, "The Protection of Individual Enterprise," 4; Arnold, "Fair and Effective Use of Antitrust," 1, 8, 11, 12, 13, 18.

Unlike these independent forces, however, Arnold insisted that the control of prices represented a similar threat to freedom. In Germany, he told an audience of trade association executives, the government developed price commissars responsible for setting the retail value of products.27

Arnold worried that anti-monopoly forces, especially independent retailers, had injured the economy through legislative enactments, such as the Miller-Tydings Act, which interfered with the competitive system and free pricing. Arnold concurred with leading retailers, such as the heads of the National Retail Dry Goods Association and American Retail Federation, who hoped to see the law repealed.28 In a speech before the Missouri Bar Association, Arnold told the story of a recent sealed federal bid for cement in Maryland. Of twenty-one bids, he said, most were "identical to the last decimal."29 Arnold wondered why the American public tolerated price fixing of this sort but complained about government taxation. For some reason, he wrote, "our 'peculiar mythology' makes higher prices a better tax than direct


29 Arnold, "Speech Before the Missouri Bar Association," p.9, box 1, folder 1, Arnold Papers.
In Arnold’s opinion, the Miller-Tydings Act jeopardized the future of the nation. Many small businessmen criticized Arnold and the administration for turning against the Miller-Tydings Act. One writer accused Arnold of parroting the old Macy’s lines on price maintenance. President Roosevelt had never supported the act in the first place, simply signing it as an unpleasant rider on the District of Columbia Appropriations bill, of course.

So Arnold’s concern about trade restraints in the economy found strong support in the Administration. Because of the anti-monopoly movement, Roosevelt authorized the creation of an unusual collaboration between the executive and legislative branches: the Temporary National Economic Committee. On it, representatives and senators sat side-by-side with representatives from the Commerce, Labor and Justice departments. Economists and lawyers from these executive agencies staffed the probe.

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Many government bureaucrats expressed a great deal of enthusiasm about its possibilities, which had been discussed since late 1937.33

A variety of other groups also had high hopes for the TNEC. Antimonopolists, particularly small retailers, hailed the committee as an opportunity to demonstrate the power of monopoly capital in the United States.34 Thurman Arnold believed this support stemmed from deep-seated fears that centralization of the economy imperiled democracy.35 According to Gerald O’Mahoney, the senator from Montana who chaired the committee, numerous retailers wrote him about their concerns for the future of the American way of life. O’Mahoney believed monopoly issues loomed as one of the great questions of the twentieth century. As Roosevelt had argued, the collapse of the old frontier left individual liberty and freedom


34 Brinkley, The End of Reform, 94, 126-127; New Republic, October 26, 1938, May 3, 1939.

of opportunity in jeopardy. The United States needed to articulate new ways of protecting old values. If it did not succeed, individual freedom and the distinctive American way of life might be lost forever. Even old opponents of small retailers, however, endorsed the committee. Consumer advocates supported the TNEC and hoped that the study would uncover the reasons for a declining economy. Organizations like the League of Women Shoppers wrote Roosevelt in support of the monopoly investigation. A “New York Conference on the High Cost of Living” sent a petition signed by consumers’ organizations throughout the country.\(^\text{36}\)

With broad support, the TNEC studied the American economy sector by sector, breaking down the market conditions within each industry. The staff members, including many economists, studied the level of concentration in the various sectors and the health of trade in different industries. New Dealers hoped the survey would enable them to improve the efficiency of the economy by uncovering areas of unfair competition. If blocks to the free circulation of goods could be removed, then, they believed, the nation could build its economy to new heights of consumption.\(^\text{37}\)

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\(^{37}\) Thurman Arnold, "The Anti-Trust Laws, their Past and Future," August 19, 1938, p. 4, box 1, folder 1, Arnold Papers; Brinkley, The End of Reform, 68, 75.
several industries begged for investigations of their fields. Many businesses wanted a detailed study of their industry so they could learn more about their operations and how they could increase efficiency and profitability. Other companies demurred, particularly retailers, who were reluctant to reveal the level of mark-up in the industry.

The TNEC cooperated with the FTC to survey the state of the economy. These agencies studied large trends in the economy and sought to understand the intricacies of supply and demand and to identify possible reasons for the slow recovery of the economy. They collected tremendous amounts of information, although, as William Borah once prophesied, the reports have spent most of their existence gathering dust on library shelves.

In the reports, the committee identified continuing unfair practices but indicated that corporate efficiency promoted prosperity. The report specifically criticized fair trade laws and other attempts to fix retail prices.

Gilbert Montague, an antitrust lawyer who had an array of prominent friends,

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including Louis Brandeis and Thurman Arnold, praised the TNEC and its investigation for laying bare the state of the economy and preventing runaway inflation through its focus on price and competitive efficiency.41

Small retailers were disappointed by the results of the investigation. Rather than getting a condemnation of the chains, independent retailers found themselves attacked.42 The TNEC reflected the long-held view of the FTC professional staff that the chains did not endanger the American economy. After the findings of the TNEC, the government clearly supported chains. Although a later set of hearings, led by Congressman John McCormack of Massachusetts, criticized the chains, these hearings proved anti-climatic and failed to draw the same attention as did those of the TNEC or Patman’s in 1935.43


42 Fred Huntington to O'Mahoney, November 13, 1939, "TNEC Correspondence #2," O'Mahoney Papers; N. H. Engle, "The Struggle for Marketing Control," box 201, "Committees 1937-1941 TNEC," O'Mahoney Papers; Helen Pierce to O'Mahoney, April 30, 1940, box 201, "Legislation, 1940 Taxation #2," O'Mahoney Papers; Lawane Yeatmanto to O'Mahoney, April 30, 1940, ibid.; Mildred Walker to O'Mahoney, April 30, 1940, ibid.; Nate Koontz to Capper, February 20, 1941, p.2, box 23, "Small Business" Capper Papers.

Because of concerns about efficiency and increasing consumption, the national government moved to cooperate with big business. The administration sought to increase consumption. Many leading New Dealers believed the crash of the national economy, and its continuing woes, came from a lack of purchasing power. In order to protect consumption, Roosevelt hoped to increase the efficiency of distribution, as he suggested in a speech before the Conference on Retail Distribution in 1937. Retail distributors like Beardsley Ruml, the President of Macy's, responded enthusiastically to the administration push. Borrowing from Stuart Chase and other economic writers of the period, Ruml wrote that the nation's economy revolved around consumption instead of savings. If Americans could be convinced to spend more of their hard earned money, the economy could grow by fifty percent. "I think it is generally agreed that the material standard could be fifty percent higher without a strain on our resources. It's hard to realize what fifty percent means "instead of four rooms you would have six; instead of smoking two


packs of cigarettes, you would smoke three; instead of having four suits of clothes you would have six..."\(^{45}\) Much as the Patman bill represented the last gasp of anti-chain legislation, the anti-monopoly crusade heralded an important transition in government policy. Although the government continued to monitor big business for restraints of trade, it showed no willingness to attack corporations for mere size. Two examples show this development in the late 1930s and early 1940s. First, the development of food stamps demonstrates a new level of cooperation between government and industry that aimed at promoting purchasing power and American prosperity through the action of government and industry. Second, Thurman Arnold initiated a series of campaigns against fair trade laws.

The National Association of Food Chains suggested the idea of food stamps to the Secretary of Agriculture, Henry Wallace. Wallace liked the idea because it appeared to provide an important market for surplus farm products. The Roosevelt administration had been sensitive to early accusations that the AAA slaughtered hogs unnecessarily and demonstrated indifference to the plight of the hungry. The food stamps plan followed the

example of the Surplus Commodity Corporation, which developed in the New Deal and continues to provide surplus farm goods to the needy.\footnote{Patman, "Food Stamps," p.2, box 37A, folder 7, Patman Papers.} This program began as a way of aiding farmers by purchasing their crops. Inspired by experience with surplus crop campaigns during the California referendum, the National Association of Food Chains suggested that the government distribute surplus dairy products and flour through regular retail stores, using food stamps to allot products. The program began on a trial basis in six cities.\footnote{Holsey to Barnett, May 23, 1939, box 252, folder 4, Barnett Papers; Barnett to Holsey, November 29, 1939, \textit{ibid.}} Government economists studied the effectiveness of the plan in distributing commodities to the general public.\footnote{Montague to Arnold, July 18, 1940, box 65, "Food Industry," Arnold Papers; Montague to Arnold, November 29, 1939, box 22, "November 26-December 14," Arnold Papers; Montague to J. Warren Madden, January 13, 1941, box 22, "January, 1941," Arnold Papers.} President Roosevelt and Secretary of Agriculture Wallace praised the chains for developing a plan that helped the urban poor and struggling farmers.\footnote{Franklin Delano Roosevelt to Logan, September 30, 1939, OF 288, "Chain Stores 1937-1944," Roosevelt Papers; Henry Wallace to Roosevelt, September 29, 1939, \textit{ibid.}; Logan to Roosevelt, September 22, 1939, \textit{ibid.}; "The Chain Food Store Policy" in Logan to Wallace, September 1, 1939, p.2; Logan to Roosevelt, October 7, 1939; Henry Wallace to Doughton, April 2, 1940, box 37B, folder 1, Patman Papers.}

Although small retailers had criticized the chains for attempting to win popular support through the surplus campaigns, small retailers, including
members of voluntary chains, wanted to participate in the food stamp program.\textsuperscript{50} They sent President Roosevelt their assurances that they would cooperate in the government program. Retailers realized that the food stamp program would bring them substantial revenue by routing commodity distribution through retail stores instead of hated government distribution warehouses.\textsuperscript{51} Although many small retailers had criticized people on relief and their dependence on the government, federal funds might make the difference for a marginal store. As the program expanded, the government monitored sales and reported that independents received an appropriate share of the volume benefits from the stamps.\textsuperscript{52}

Despite reaching out for federal funds, small retailers complained about the growth of government bureaucracy and the responsibilities it placed on them. As they saw the situation, the complexity of government had made their lives far more difficult. As one Wyoming retailer wrote to Senator O’Mahoney, "We are now nearly crazy with trying to keep up with the

\textsuperscript{50} Charles Daughters to Arnold, March 28, 1941, box 23, “Correspondence 1941 General March 19-31 April 1-10,” Arnold Papers.

\textsuperscript{51} T. Blair Willison to Roosevelt, October 20, 1939, PPF 6314; John Fitzgerald to Roosevelt, November 6, 1940, PPF 7122; Roosevelt to Fitzgerald, January 4, 1940, PPF 3977. All in the Roosevelt Papers.

\textsuperscript{52} The Wichita Shopper, February 28, 1940, 7; The Wichita Shopper, March 14, 1940, 7-8; T. Blair Willison to Roosevelt, October 20, 1939, PPF 6314, Roosevelt Papers; Roosevelt to Willison, November 9, 1939, \textit{ibid}. 357
reports, etc., etc., we are asked to fill out. If any more are needed we will throw up our hands and go out of business, before we are forced." Another small retailer wrote the senator that he and his firm could not handle the responsibilities because they did not have a "legal and expert accounting staff..." required by his bill.\footnote{F. H. Bresee to O'Mahoney, March 23, 1938, box 231, "Legislation Federal Licensing #6," O'Mahoney Papers; Irving McHenry to "Dear Sir,"

O'Mahoney agreed with them, blaming the growth of government on the power of modern corporations. For many bureaucrats, however, this was one more example of inefficiency in the retail sector.\footnote{O'Mahoney to Lewis C. Hall, January 11, 1936, box 197, "Legislation 1936-Federal Licensing Correspondence," O'Mahoney Papers.}

When Thurman Arnold began his assault on restraints of trade, he specifically targeted fair trade acts because he believed that the laws diminished purchasing power.\footnote{Pugh to Arnold, July 14, 1942, box 28, "July '42," Arnold Papers.} The Bureau of Foreign and Domestic Commerce of the Department of Commerce assisted Arnold in his attacks. In the opinion of its bureaucrats, these measures interfered with the free flow of
goods and endangered the American economy.\textsuperscript{56} Arnold vowed to eliminate practices that raised prices for the consumer.\textsuperscript{57} Arnold argued that unions could interfere with the market.\textsuperscript{58} Arnold’s criticism of unions excited a great deal of controversy. Big labor, which had prospered under the New Deal’s Wagner Act, bristled at Arnold’s suggestion that they raised prices to the consumer.

Arnold’s investigation rooted through important industries in an attempt to uncover the causes of economic problems in the United States. One of the most important studies focused on food. Arnold announced the investigation to study the margin between retail food prices and the money paid to farmers. Small grocers were enraged when Arnold blamed them instead of big business for the price spread.\textsuperscript{59}

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\textsuperscript{56} \textit{New York Times}, August 12, 1940.
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\textsuperscript{59} Nate Koontz to Capper, February 20, 1941, p.2; James Murray to Capper September 20, 1941; "Special Committee to study problems of American small business” in R. B. Stratton to Capper, September 29, 1941; J. M. Keller to Capper, October 18, 1941; Frank
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grocers had used fair trade laws to set artificially high prices and bilk the public. \(^{60}\) His probe targeted grocers groups in California, Washington, Colorado, Oklahoma, Texas and the District of Columbia. Among the indicted groups was the H. A. Marr Company of Denver, which had been integral to the Civic Improvement Association and the passage of the store license tax in that state. \(^{61}\) A similar study targeted the high price of prescription drugs. The NARD and New Jersey Pharmaceutical Association faced charges in that probe, dragging Robert Fischelis, a passionate fair trade advocate, into the fray. \(^{62}\) Although Arnold also investigated A&P and unions for their role in raising prices, many retailers felt betrayed. \(^{63}\)

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\(^{63}\) Arnold to Montague, August 6, 1940, box 6, "General August 6-September 30 1940," Arnold; Harry F. Chrysler to Roosevelt, March 7, 1941, Official File 277, "Anti-Trust Laws 1939-1943," Roosevelt Papers; Brien McMahon to McIntyre, January 7, 1943; Arnold, "Labor Racketeering," pp. 7-9; Arnold to Wesley Stout, December 16, 1941, p.2,
In the late 1930s, the food stamp experiment and Arnold's attacks on small retailers had made clear the government's passion for efficiency and its hopes to increase consumption through mass distribution. In the case of World War II, government needed the assistance of big business more than ever. In a wartime economy, with many goods in short supply, America needed products brought to the consuming public as cheaply and easily as possible. In an attempt to promote this efficiency, the government created the Office of Price Administration, a new wartime agency, which fought to control inflation in the red-hot economy. In April of 1942 President Roosevelt issued the General Maximum Price Regulation. The measure called upon merchants to keep as their ceiling the price for which they had sold a product in March of that year. The act also said that prices should be "generally fair and equitable." The OPA enforced this act and targeted price maintenance agreements and other inflationary influences. Mass distributors like Macy's, which had long opposed price maintenance, supported the

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Many small retailers resented the OPA, however, because it advised consumers that they could obtain lower prices in the chain stores. Comments such as those reopened old wounds from the National Recovery Administration. As had been the case with the NRA, the OPA experienced tremendous difficulty when it attempted to monitor retail prices. The sheer volume of the task overwhelmed them. Of course many retailers did not want to accept the ceilings so they tried to find ways around them. They would sell shoddy merchandise at regular prices or close down and reopen with higher prices or refuse to sell regulated price items unless unregulated items were purchased as well. In an interesting twist, the OPA organized community based groups of shoppers, over 300,000 in almost six thousand towns, to monitor prices.

The war acted as a watershed for the anti-chain movement. After the conflict, the old anti-chain spirit died. Not only had the superior efficiency

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67 Marvis Hogen, Fifty Years on Main Street (Kadoka, South Dakota: Marvis T. Hogen, 1996), 42, 50.


69 Ralph Tucker to O'Mahoney, January 22, 1950, ibid.; Weldon Lloyd to O'Mahoney, January 24, 1950, ibid.; Laurene Howard to O'Mahoney, July 27, 1948, box 144,
of the chains played an important part in swaying the Roosevelt administration to the side of the chains, but small retailers had lost their passion. Even Wright Patman appeared to have relaxed his opposition to the chains. Although he worked to get more contracts for small business during the war, his attitude toward the chains appeared to have improved through contact with Don Nelson, a top executive from Sears.\textsuperscript{70} Nelson supported efforts to protect small business and otherwise ingratiated himself with small business supporters. Nelson did such an excellent job that even Patman, the supposed bane of the chains, warmed to the executive, even writing a mutual friend that Sears was not at the root of the chain problem.\textsuperscript{71} One New England trade association executive wrote Thurman Arnold during the war that, "We find, among our neighbors, some chain store men who are fair and decent..." He said that he had a pleasant relationship with chain store


men and didn’t want to jeopardize it—even if he still considered A & P to be a “menace.” 72

For their part, the public had long ago accommodated itself to the chains. Most Americans could identify with the customers in Our Neighbors the Carters, who started shopping with the chain when it came to town, despite their sympathy for the independent retailer. Their experience is revealed by correspondence over the chains between Bruce Barton and Robert Jackson. Barton, best known for his biography of Jesus, The Man Nobody Knows, bristled at Jackson’s contention that the chains threatened American life. He had held similar views about the chains for many years, Barton wrote. He had tried to show hometown loyalty to merchants in Foxboro, Massachusetts, outside of Boston, where he had summered for over forty years. When chain stores made their way to Foxboro, in fact, Barton and his wife refused to patronize them, preferring to stay with the neighborhood merchants they knew and trusted. Barton liked them and their contributions to the community, which included serving on the school board and acting as deacons at the church. Despite this loyalty, the

chain stores gained more and more strength until, finally, they eliminated
their local competitors. Then and only then, Barton wrote, his wife entered a
chain store. What she discovered appalled her. The chains substantially
undersold their independent competitors. Now, Barton's wife saved on her
food purchases and received a fine quality of service form the A&P manager,
whom she knew and trusted. From Barton's perspective, the issue came
down to a simple question, and one that summarized neatly the concern he
held for the New Deal: "We would like to have the independent merchant
back in Foxboro, but we would like to have the prices charged in the A&P.
Can we have both? Is there any real way to turn the clock back?" How, in
other words, could the government control business, while still ensuring low
prices and economic development to the American people? "These and many
others are the questions of a perplexed American. I wish I could talk them
over with you some time." 73

As far as the record indicates, Jackson never discussed these matters
with Barton. Without proof that the chains threatened them, many
customers would continue to shop with the chains. Actually, the percentage
of Americans shopping with chain and independents remained fairly stable
with slightly over 20 percent of sales being conducted by chains into the

73 Barton to Jackson, June 28, 1937, box 33, "Robert Jackson," Barton Papers.

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1940s. At no point did they command more than 25 percent of total sales. In certain fields, such as grocery sales, the chains had a larger share of business, about 38.5 percent in 1929 and 43 percent of the market by 1954. But the number of chain stores actually dropped in the period, as grocery chains, encouraged by chain taxes, built new supermarkets around the country.

For the past decade, independents had based their attacks on the claim that chain stores threatened to become a monopoly and drive independents out of existence. This scenario had not come to pass, however, and consumers had to wonder why shopping with the chains endangered freedom of opportunity. During the Depression, many unemployed workers had turned to operating their own small businesses, undercutting claims that corporations dominated business. With that rationale for attacking chains gone, government would no longer interfere with the evolution of retailing, and chains could continue their slow capture of the market.

74 Palamountain, Politics of Distribution, 160; Lebhar, Chain Stores in America, 34.


Other battles against the chains would develop over the course of decades, and these battles continue to this day, but the ultimate result is clear. Independent retailers thrive in fields avoided by chains, such as high-end retail and specialty shops. Some small grocery and drug stores continue to exist, but the power in retailing has shifted to corporations. Americans wanted to support their hometown stores. In propaganda films, such as Frank Capra’s “Why We Fight” Series, the American ideal of free enterprise and individual opportunity played a critical part. Capra’s seventh film in the series shows the Main Street Market as an example of this spirit. A narrator praises free enterprise as part of the American heritage endangered by Nazi and Japanese aggression.77 Despite this nostalgia, small retailers faced a difficult time during the war and the years to follow. In the film The Best Days of Their Lives, selected as Best Picture in 1946, the returning heroes arrive in their hometown and smile in a manic fashion as they survey it. Conspicuously present as they take their first tour back home since the war is the local Woolworth store. The chains have become part of hometown business. They had come to symbolize the healthy standard of living that

77 "Why We Fight," American Information Film #7, War Department Army Picture Service.
Americans desired and were part of the fabric of American life.\textsuperscript{78} Chains had demonstrated their efficiency and their staying power. Although independent retailers remained in America, and still exist, chains had become a familiar sight on American streets and the dominant force in retailing. A&P had not acquired a monopoly, and most Americans identified chains as helpful additions to economic life. The chains participated in the amazing economic growth of the post-war period, and independent retailing waned. Although locally owned shops continue to exist, chains have replaced them as the dominant force in retailing.

\textsuperscript{78} The Best Days of Their Lives, Goldwyn Pictures Corporation, 1946.
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Cory Sparks was born in Fort Smith, Arkansas. After graduating from Columbia University in 1992, he matriculated at Louisiana State University. He received his Master of Arts degree in 1994, and he taught at Nunez Community College in Chalmette, Louisiana, for four years following the completion of his course work. At the moment, he is Chaplain at the Methodist Home for Children in New Orleans, Louisiana. He expects to receive the degree of Doctor of Philosophy at the December 2000 commencement.
DOCTORAL EXAMINATION AND DISSERTATION REPORT

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