

Fritz

come.

Now, the common law, theoretically provides for damages for fraud. The reason that this type of protection is not adequate, and there should be additional legislation in the consumer credit code about this, is that the cases are often small, and the relief inadequate for the time and effort involved. If we are really going to try to attack the consumer credit problem, a vast proportion of the loans are too small to allow the ordinary fraud remedies to take place. And, of course, I mean they are primarily loans on commodities; either whether made through the sales finance method or whether direct cash loans in order to purchase the commodity.

Now, we need a class C provision in a statute whereby either the consumer counsel or private counsel, if they get several of these cases, can bring them all at once and be assured that they won't be divided up all into a bunch of separate cases. We need other provisions to ease the procedure for private counsel to handle these small matters, and among them is additional attorney fees in consumer fraud cases, just as in the Regulatory Loan Act, a provision was made which was helpful and remedial to allow attorney fees

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in violations of the Regulatory Loan Act.

Now, one of the types of fraud that has been mentioned here several times is trade schools, and I would like to affirm that this type of fraud is quite prevalent and there is the Federal Trade Commission which takes an interest in it, but any government agency is limited in how much it can do on a little case or even a group of little cases, because it has the whole field of regulations to take care of, and it has a limited budget. And, I should like to emphasize, that private counsel can work with government agencies in enforcing what laws you make if you do have adequate provision for this and reduce the taxpayers expense in supporting more and more in the government agencies to take care of the enforcement which could be done by private counsel.

And so, if we do have this type of remedy in consideration of the little borrowers access to private counsel, why, I believe that it will help the enforcement of the laws that we already have and will be necessary to an adequate enforcement of these provisions that I hope you will put in any consumer credit code that you enact.

Thank you.

1 Fritz

2 MR. MISKELL: Is that all?

3 MR. FRITZ: Yes.

4 MR. MISKELL: Thank you, Mr. Fritz. We would  
5 like to ask you a few questions.  
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1 Fritz

2 BY MR. LINDSEY

3 Q Mr. Fritz, we have listened to witnesses in  
4 San Antonio and Houston before coming here, and we have  
5 run into some interesting opinions on various facets of  
6 consumer lending. One witness in San Antonio, who is  
7 an attorney and a man who has done a great deal of work  
8 with the indigent people, made the flat statement that  
9 a loan of a hundred dollars or less should be prohibited;  
10 that anyone who needed to borrow a hundred dollars or less  
11 needed charity and not credit. On the other hand, we  
12 had a priest in Houston who has worked with the poor and  
13 he rebutts this very strongly, and cited any number of  
14 people who had borrowed from a credit union down there  
15 in sums of 20, 25, 30 dollars, and he felt that these  
16 people were entitled to the same dignity that the  
17 president of Sanger-Harris is when he goes to the First  
18 National Bank to borrow for his inventory for the fall.  
19 Do you have an opinion? Do you agree with either or both  
20 of these?

21 A Yes, I have an opinion which does not fall  
22 into either category, and that opinion is this:

23 That in our experience, most of the borrowers  
24 who have had a loan of less than a hundred dollars have  
25 had additional indebtedness at the same time, and their

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1  
2 indebtedness totaled well in excess of a hundred dollars  
3 in almost every instance. I made a study of that at one  
4 time and in out of over a hundred cases, in only one of  
5 them I didn't know of additional indebtedness. This was  
6 in instances of where they had loans of less than a  
7 hundred dollars. Usually they had a set of these little  
8 loans to go with it. Very frequently they are borrowing  
9 from one of these companies that specializes in the  
10 hundred dollars and under field and also borrow from  
11 companies that made loans mostly over a hundred dollars.  
12 And, in these loans, they would have two or three hundred  
13 dollars loans and \$50 and \$25 loans, all running at the  
14 same time.

15 Now, if they were able to put all these loans into  
16 one, they would not be paying 320 per cent on any  
17 of it. Since the little ones keep recurring more rapidly  
18 and do the most harrassment as a rule, or they tend to  
19 get you where they proliferate their little loans, they  
20 proliferate the highest rate of interest, although a  
21 lower rate is available to them for the same amount of  
22 money that they are borrowing, and so from a social view-  
23 point, -this is on account of ignorance, primarily, on  
24 their part - and so from a social viewpoint, it would be  
25 better if we frame the loss so as to encourage them and  
help them to borrow

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what they need at the lowest rate of interest available. For this reason, I do not think that we should frame the loss so as to just consider how much does it cost the lender to make a \$25 loan. He could, if he chose, be making a full portfolio of the loans, and taking care of this borrower's needs whether the borrower needed \$25 or had indebtedness of over a hundred dollars that should be consolidated, you see. So, I don't think that the cost basis of how to compute rates applies in these small fields where it causes so much damage. In my opinion, the high rates, the exorbitant rates that allow under a hundred dollars ceil, (which is short for ceiling,) cause more of this type of damage that I have been mentioning by far than the higher rates that come from the 17(a) and the insurance pile-ons and so forth.

And, so my answer, then, would be this: I don't believe they should be outlawed, but I believe that they should be encompassed under the standard type of a graduated loan rate structure that applies in all of the states that have what we call uniform small loan laws; that Texas would come somewhere nearer, if it abolished section 17(b) giving special privilege and inducement to people to limit their loans to under a hundred dollars and to proliferate small loans.

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Q A distinguished economist, Dr. Yeager, of the University of Houston, counseled with us and he said that the cost of lending had three components: one, the rent. In other words, a fair payment for the use of the funds; and, two, the administrative costs; and, three, the cost of the risk involved. Do you consider that a fair statement?

A I think that is a pretty good statement.

Q Well, do you feel that a lender is entitled to a profit on each loan he makes, or do you feel that the borrower who borrows a larger sum of money should subsidize the borrower of less than a hundred dollars?

A There are various ways to have a graduated rate structure without the latter taking place, without the subsidization of the smaller loan by the larger. I do not feel, in answer to your first question, that on loans of a hundred dollars and less where they are anti-social, which they are, when they equal 320 per cent, that the lender should be entitled to a profit to make anti-social loans any more than we should guarantee by law that a narcotics runner should be guaranteed a profit because he has such high expensive pay-offs and bribes and things like this. No. I don't think so.

Q If it is anti-social, you feel the loan should

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1 not be made. Is that it?

2  
3 A No, I think that there are some instances  
4 where the loan can be made and is made by a lender on a  
5 full graduated rate schedule, either as an inducement  
6 loan, some of them make these smaller loans at the  
7 maximum rate as an inducement loan, or as an accommodation  
8 to someone who otherwise might go to a loan shark, as it  
9 were.

10 Q Well, I have to confess that I am one of those  
11 uneducated people in the field of mathematics, and I  
12 can look at the Regulatory Loan Act and I know that the  
13 charge for less than a hundred dollars is a whole lot  
14 of money, but I haven't ever been able to reduce it to  
15 320 per cent, but I accept your statement that it does.

16 A It has been computed by the lending industry,  
17 as well as by the credit unions put out a manual which  
18 shows the whole rate structure, and I have one from  
19 Mr. Shuck who was one of the leading thinkers and helpers  
20 of the lending industry, and his shows the same maximum  
21 rate there.

22 Q When you say on a "graduated scale", do you  
23 mean by that that a smaller loan should have a higher  
24 maximum rate of interest—

25 A Yes.



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Q —than a larger loan and that there might be several plateaus?

A Yes, but to the extent that those plateaus could be reduced, it would be an aid to disclosure, to simplicity of disclosure, because there is a difficulty when you say you have to give the "conglomerate" per cent per annum, if I might use that term.

Q Yes, sir.

A On the graduated rate structure it causes the lender a little bit more computation, although they tell me that they have rate charts that they can do it without too much trouble. Still, I think that the reduction of the number of steps is advisable, even though it does have part of the effect that you mentioned there of the bigger borrowers are to some extent helping to pay for the cost of the smaller ones. I think that generally the lenders look at the total package for a profit making consideration. Since some of these smaller loans do lead into larger ones, well, they are often very anxious to have the total package, even though they may lose a little bit on the smaller ones.

Q Well, now, we have had several bankers testify before this group who tell us that, yes, they make loans of a hundred dollars and two hundred dollars. They lose

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1  
2 money on each loan, and to that extent they make those  
3 loans in the public interest, but when you ask them a few  
4 questions, they don't go out and solicit that type of  
5 loan that they are losing money on. They will take it.

6 A I don't think—

7 Q —they take it in some instances.

8 A I don't think it should be solicited, Mr.  
9 Lindsey, because I think that the borrower's actual need  
10 and total indebtedness should be considered and the  
11 people that are lending in the hundred dollar and under  
12 field generally have a tremendous advertising and  
13 pushing process to try to get people into this category,  
14 and that's all that they state on a lot of their signs  
15 and everything, and an ignorant person will think that  
16 is all they can get anyway, and then they advertise for  
17 small immediate needs, and agrandize any type of a little  
18 thing that they might be able to buy, and so they do  
19 increase the number of small loans far beyond the genuine  
20 social need for them.

21 Q Well, you do feel, then, that the small loan—  
22 that is a hundred dollars or less—should either be made  
23 on a profitable basis or not made at all? You don't  
24 really feel that somebody else ought to subsidize that  
25 particular borrower?

1 Fritz

2 A Well, you have to answer that from a total  
3 package and total portfolio viewpoint. I don't think  
4 that lenders should be expected to make loans to borrowers  
5 where they lose money on the whole. But I do think that  
6 they should not be permitted to say, "I get to charge  
7 this borrower what it cost me to make this little tiny  
8 loan of a hundred dollars or less." The cost of making  
9 that loan should not be the social basis for determining  
10 the maximum rate. I think that the graduated rate  
11 structures of the Uniform Small Loan Law, which seldom  
12 go above three per cent per month for the first hundred,  
13 two or three hundred dollars, has proven to attract  
14 very much, a very great flow of funds from small loan  
15 lenders. They are clammering to lend in about every  
16 state of the union, and they are even lending in the  
17 two per cent states, although I don't go that low person-  
18 ally; so I don't think that they should be encouraged  
19 further by raising the interest rate or by continuing our  
20 present exorbitant rate in the \$100 and below field.

21 MR. LINDSEY: Thank you.

22 BY MR. MISKELL

23 Q Mr. Fritz, in the studies I have been working  
24 on and have people working on in consumer credit, all the  
25 economic statistics seem to indicate that consumer credit

1 Fritz

2 is probably one of the most expensive forms of credit  
3 to provide to the public. Do you agree with that  
4 conclusion?

5 A What I would appreciate is if you would give  
6 me anything that you have obtained in the way of a  
7 written report on those studies. I have been asking  
8 for some type of written evidence of the findings and  
9 conclusions of the Regulatory Loan Commission. I would  
10 appreciate that and I would study that and I would give  
11 you an answer then.

12 Q Well, Mr. Fritz, we are talking about, we  
13 have studies figures. I think there are probably about  
14 45 states in the nation that have acts similar to the  
15 Regulatory Loan Act. Some of these acts have been on  
16 the books 50 years or more. In practically every one  
17 of these states, the Commissioner is required by law to  
18 make a report to the public—

19 A And that is true in Texas, too, is it not?

20 Q Yes, it is, Mr. Fritz.

21 A Has the Commissioner made one yet?

22 Q Yes.

23 A Do you have a copy of it?

24 Q We haven't made the report yet, Mr. Fritz, but  
25 it will be available to the public in the very near future.

1 Fritz

2 A Thank you.

3 Q But going back to these other states, Mr.  
4 Fritz, these 40 or 45 states that have been making  
5 reports for 40 or 50 years, some of them, all the  
6 reports show that there is a tremendously high cost to  
7 providing this type of credit, and I just wondered whether  
8 you agreed with that proposition.

9 A Well, of course, compared to what? I think  
10 that—

11 Q Now—

12 A I think that the cost, if you want to compare  
13 it, to compare consumer credit to an oil company loan  
14 on an established field or something like that, why, I  
15 think the rate would be higher. If you want to compare  
16 it to some of the speculative business loans, I don't  
17 know whether it would be or not. It is all a matter of  
18 comparison.

19 Q This has gone into an element of—I am talking,  
20 Mr. Fritz, of the statistics. If you get—and I'm just  
21 dealing with the statistical agencies. Let's just say  
22 the Federal Reserve System or the Comptroller of the  
23 Currency and the State. When you get into the field of  
24 banking, you are classifying loans, either commercial  
25 loans or installment loans or consumer credit loans.

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You are subdividing those within that group, and all the statistics seem to show in terms of consumer credit that this is much more expensive—

A Yes.

Q —to provide. I am talking about consumer credit is more expensive to provide to the public than any other form of credit.

A Than a commercial loan, for example?

Q Than a commercial loan.

A Yes. I think that is true.

Q Then you agree with that proposition?

A Yes.

Q And then, within consumer credit, there are differences in cost of the various types of credit. In other words, some forms of consumer credit are more expensive than other forms of consumer credit?

A For example?

Q A homes loans are generally excluded, but I mean, I think when we are talking about installment credit, it is a form of credit; it is not a productive form of credit; it is not a commercial loan, but I would say a cash loan to an individual, or even a home improvement loan would be more expensive than the original mortgage, would it not?

1 Fritz

2 A You mean if it is a second mortgage?

3 Q Yes.

4 A I suppose that since risk is one of the  
5 factors, as we all know, and all that, that the loss  
6 ratio may be slightly higher, would be definitely higher  
7 on second mortgages. Yes. And, therefore, the costs  
8 would be greater.

9 Q Right. Now, when you get to the proposition  
10 that this credit is expensive to provide, do you believe  
11 that the credit, even if you take on a portfolio basis,  
12 this form of credit ought to be at a rate, do you believe  
13 that the rate should be such that the lender, whoever  
14 provides the form of credit, can recover these costs of  
15 operations, plus enough money for a fair and reasonable  
16 profit?

17 A Yes.

18 Q This is across the board?

19 A Yes. That is on a total conglomerate picture.  
20 I do not think that a fellow that insists upon limiting  
21 his loans to a particular small loan area or any other  
22 area where the costs are too high to be socially desirable,  
23 and where they cause all the damages that these high  
24 rates that small loans do, should be encouraged to make  
25 a profit, no, if he insists on just doing that. But I

13 1 Fritz

2 think that the graduated rate structure should be such  
3 that a vast number, vast source of funds would be  
4 available, that a vast number of lenders could participate  
5 ipate and could compete.

6 Q Right. Well, from the statements we have had  
7 today we do have competition in the field, do we not?

8 A In the field?

9 Q Well, let me run to an act that I am familiar  
10 with, which would be the Texas Regulatory Loan Act. You  
11 have cited that there is a rate of interest on loans  
12 of a hundred dollars or less. Now, this is an alternative  
13 rate section. Is this correct?

14 A Yes.

15 Q In other words,— Well, let's put it to you  
16 this way: You have under Section 17(a), you have a  
17 basic rate of \$19 per hundred.

18 A Uh huh.

19 Q Is that correct.

20 A Yes.

21 Q All right. And under section 17(b), then you  
22 turn around and you have a graduated rate which you say  
23 is 320 per cent. Correct?

24 A Yes. That's right. The maximum on a \$20  
25 loan—



1 Fritz

2 Q Let me quote a rate. Now, let me give you an  
3 example and you just see whether I set it out fairly.  
4 At that \$19 a hundred rate under section 17(a) a hundred  
5 dollar loan for six months should cost the borrower  
6 \$9.50. Right?

7 A Well, I don't know. I take your word for  
8 it.

9 Q All right. Under section 17(b), that same  
10 loan would cost \$34 for six months.

11 A I will take your word for that.

12 Q I hope it's right. All right. Now, as you  
13 say, there are two costs, \$9.50 and \$34.

14 A Yes.

15 Q There are 2200 lenders licensed under the  
16 Texas Regulatory Loan Act. Is this correct? All 2200  
17 lenders have the option under the law of charging that  
18 rate of either \$34 or \$9.50.

19 A That's right.

20 Q So, there is competition that the lenders are  
21 holding out to the public. Now, at some point—and we  
22 have raised this at the other hearings—and under the  
23 law, under the law, Mr. Fritz, under the Texas Regulatory  
24 Loan Act, the borrower is not asked to compute that out  
25 as an effective rate of interest. In other words, if he

15 1 Fritz

2 goes out into a lender that wants to make that loan on  
3 Section 17(a), he is required by law to show him, put  
4 it in writing, that that loan will cost him \$9.50. Is  
5 that right?

6 A Yes.

7 Q And if he goes into 17(b), that loan operator  
8 is required by law to say, "This loan will cost you  
9 \$34."

10 A That's right.

11 Q Now, do you feel that that is not enough  
12 disclosure to give to a borrower, that he doesn't know  
13 that it is in his interest?

14 A I definitely do feel that, yes, and about  
15 every borrower I see doesn't have any idea, actually,  
16 after that kind of a disclosure on a big sheet which—  
17 Do you have a copy of the form and everything? There  
18 it is. It is often written out big and everything like  
19 that, in the corner, and everything. But even then the  
20 borrower is not, one, advised of how much difference  
21 there is, if any, in it, because there is frequently a  
22 difference in the number of months and the size of pay-  
23 ment and, actually, in the amount, they vary the amounts.  
24 They don't all just say, "Agree that here is what it is  
25 across the board for a \$50 loan and here it is across the

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board for a \$75, but one of them will have \$86.27 for 14 months; another will have \$50 for three months, and so forth, so the borrower can't tell by looking at it what his rate is.

Q No, we are talking about two different transactions. I am talking about one thing and you are talking about something else. I am talking about a hundred dollar loan for six months under 17(a) and Section 17(b).

A Oh, well, now I haven't given—

Q I am just talking about the one loan, now. We are talking about the borrower; I am talking about anybody here in Dallas.

A Yes, I am, too. I never have known.

Q This is one loan, now. Now, this can change off. If a borrower wants to go to one company and say, "I want to borrow a hundred dollars for six months," and then goes to another company and he says, "I want to borrow \$60 for eight months," I agree we will have a different set of figures. What I'm saying is, right now you have a transaction, the borrower is given a full disclosure in dollars and cents and to what a hundred dollar loan for six months is going to cost him.

A Yes, but—

1 Fritz

17 2 Q Now, wait a minute. Let me finish this  
3 question.

4 A Yes.

5 Q The borrower does have the option, then, does  
6 he not, to make that loan at one place or the other?

7 A All right. Sooner or later—theoretically,  
8 yes. Of course, he always has—but I want to know  
9 something. Would you give me an example of somebody  
10 that is lending under 17(a) and has on his rate chart  
11 and everything there a hundred dollars for six months?  
12 a hundred dollar loan for six months, even hundred dollar  
13 loan for six months, and there they have it. They are  
14 making these loans regularly. Can you give me an example  
15 of that? Maybe some of these gentlemen here have a  
16 company that makes a hundred dollar even loan for six  
17 months. I would like to—I never have encountered  
18 that in all of my experience, a nice simple case like  
19 that. They don't give it to them. They don't want to  
20 compete for price.

21 Q Well, if they change it around—now, we are  
22 just talking about a regulatory loan—

23 A I am, too.

24 Q —let's just hold it around. If they change  
25 it around, let's say they give them \$98 for seven months,

1 Fritz

2 and the other lender says, "I will give you a hundred  
3 dollars for five months." Now, if we change these  
4 figures around, we will have a difference here of \$9.50  
5 and \$34. Conceivably, we could change these figures  
6 around to \$33.13 and reduce that \$9.50 to \$9.17, or in-  
7 crease it to \$9.67, but the borrower is still going to  
8 know there is a difference between \$9.33 and \$33 or  
9 \$32, will he not?

10 A Not if one is at 7 months and one at 5 months.  
11 These people are too ignorant to figure that out and  
12 the more you go on these figures the more I join them.

13 MR. LINDSEY: That goes back to the problem of  
14 education.

15 BY MR. MISKELL

16 Q Well, this comes back to the point of education.

17 A That's right. And this can be done if they  
18 will have a per cent per annum rate, and then you just  
19 say, "This fellow is lending at so much per cent and  
20 this fellow is lending at so much per cent," and I don't  
21 care if you lend \$98 or \$227, you can get the comparisons.

22 Q In other words, the man can get the comparison  
23 if he is told that this loan is going to cost you \$9  
24 and this loan is -- I mean the same thing here. In other  
25 words, if I go in and say it's going to cost you \$9 and  
you go and it's going to cost you \$33, he doesn't under-

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stand that?

A If it were given that way, yes; but when they don't have to have a rate comparison, then the way they get out of any type of rate computation on lowering those rates, which they dearly love, is by varying the amounts and the terms.

Q All right. I can see we have reached a juncture here where—

A Yes. Well, I appreciate it. I would like to ask the Regulatory Loan Commissioner for information as to what, how many lenders in Dallas, for example, or in the state of the 17(a) class are giving a clear-but rate distinction, or how many lenders in the whole state are giving any kind of a rate disclosure; that is a per cent or dollars per hundred, either one of a disclosure in their advertising so the borrower can figure it out before he goes in there, or making loans even of a hundred even for six months.

Q I think, Mr. Fritz, under the regulations promulgated by the Regulatory Loan Commissioner, any lenders that advertises a loan must also advertise the amount of each monthly payment and the number of payments.

A A Yes.

Q He must also show in prominent type whether the

1 Fritz

2 payments include insurance or not.

3 A That's right. That's right. And you can't  
4 tell from looking at the ads without being a pretty good  
5 figurer where you can get the better deal and besides  
6 that, they are all charging at the maximum with possibly  
7 one rare exception, which is the only one I have ever  
8 heard of. There is no rate competition among them,  
9 with the exception that in this field of a hundred  
10 dollar loans and under, there actually is a difference,  
11 but they aren't telling even there, although it would  
12 be to the benefit of the 17(a) lenders to give the rate.  
13 It would definitely be to the benefit of banks to state  
14 their per cent per annum, but for some reason that I  
15 never have been able to find out all the way, they seem to  
16 resist agreeing to stating it in per cent per annum.

17 Q I think we might move on to the next point.

18 You made a statement there, you have talked  
19 about competition, Mr. Fritz, and, of course, this is  
20 one of the things that the Governor was talking about,  
21 competition between financial institutions; and I think  
22 this is one of the points we have tried to make to the  
23 various representatives of various industries when we  
24 talk about competition.

25 Now, you made the point -- and I don't know

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precisely what it was, but you were speaking as to banks.

A I say that they are charging more than ten per cent per annum frequently.

Q Well, do you feel this is a bad thing?

A I do when it is against the law. Yes, and I think that the more people you have violating the law the more it brings down the whole respect for law in your community, and the benefit of any laws that you do enact.

Q Then you have made the statement again, that the Regulatory Loan Act was to provide 320 per cent interest in certain cases.

A That's right.

Q But yet, when the banks come out and compete in this field at a lower rate, are they not trying to benefit the public?

A Well, I don't know what they are trying to do. I wouldn't try to go into their motives. All I know is if they are violating the law, then that's bad.

Q Are they providing competition to serve the public? You were talking about the social needs.

A Here's the way I would rather put it. I would rather put it this way, that I would be in favor of giving, if necessary, for their being able to make a profit



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1  
2 in the consumer credit field, I would rather give a  
3 lawful increase to the bank, accompanied by a full dis-  
4 closure requirement of rate per cent per annum. If  
5 we had the package, we would give the banks a higher  
6 rate, so they would compete for and be able to make  
7 a profit, plus they would disclose what their per cent  
8 per annum is and everybody else will have to disclose it.  
9 Then we will begin to have the results of rate competition;  
10 but why give them a raise if they don't add anything  
11 that will enable you to have competition?

12 Q Then you are in favor of providing an increased  
13 rate of interest for banks?

14 A Provided. I said, provided that it goes with  
15 a good consumer credit code that includes consumer  
16 protection all the way, specifically and without exception,  
17 with rate disclosure in per cent per annum.

18 Q You said you were a member of the advisory  
19 committee of the—what group is it now? The Uniform  
20 Credit Code, the National Commissioners on Uniform Laws,  
21 their project for uniform consumer code. Is that correct?

22 A That is correct.

23 Q All right. Now—

24 A But I don't speak for them here, either; I  
25 speak as an individual.

Fritz

Q Well, you are a member of the Advisory Committee?

A Yes, sir.

Q I think that is a correct statement of your position.

A Yes, sir.

Q The Commissioners have completed the first draft of that code. Is that correct?

A They didn't complete it, but there are some sections still blank, but they did have a draft in which they submitted many sections to the National Commissioners.

Q Well, I mean the Committee was working on it and did submit that draft to the meeting of the National Commissioners in Montreal Canada, at the end of July of this year?

A Partial draft. That's right.

Q But there is a draft, partial; some sections are omitted?

A Yes.

Q Does that draft contain a section where there is a requirement for disclosure of per cent per month?

A Not per cent per month; per cent per year. There is a section that requires that.

Q Does it require that, or does it require disclosure of dollars figures, dollars per year?

24 1 Fritz

2 A There is another section, on another type of  
3 loan that requires dollars per hundred dollars, and  
4 then by an amendment per year has been put in that. Now,  
5 there are two types of disclosures, there are two types;  
6 and I believe that will be corrected to where there's  
7 just one.

8 Q Well, there are two types of disclosure?

9 A Yes.

10 Q Per hundred dollars per year and then there is  
11 per cent?

12 A Yes, but for two different types of loans.

13 Q Could you clarify what the per cent is for?

14 A The per cent is for single payment loans and  
15 the hundred dollars per year is for installment loans.

16 Q The hundred dollars per year. Now, is that  
17 hundred dollars per year, I mean, here in Texas, we have  
18 the requirement that you have to show dollars per year  
19 or a per cent per year. Is that correct?

20 A Yes. That "or" is what ruins it. Nobody shows  
21 per cent.

22 Q Well, but even so, even with the "or", we would  
23 be stronger than the national code. Is that correct?

24 A Oh, no. Did you say dollars per year? No.

25 FROM THE FLOOR: Dollars per hundred.

1 Fritz

2 A I didn't say that. No, I think that we are  
3 much weaker than the Consumer Credit Code in its present  
4 status. Oh, yes. Then it takes a heck of a lot more  
5 than this type of statement too. The disclosure statement  
6 is Section II and it is by far the longest of all of  
7 them. You really have to make sure that you make them  
8 disclose everything in order to have an effective law.

9 Q Well, let me ask you this, then, Mr. Fritz.  
10 Would you be satisfied if we had the Uniform—if the  
11 Commissioners are going to promulgate that draft, it is  
12 still per hundred dollars per year on installment loans?  
13 Is that not an expression of the Commissioners' viewpoint,  
14 on this?

15 A That is definitely an improvement over what we  
16 now have. A definite improvement.

17 Q Well, it is different from what you have  
18 advocated, though, is it not?

19 A I advocated rate disclosure. I say preferably  
20 the rate disclosure should be in per cent per year.  
21 Secondly, if it can't be in per cent per year, it  
22 should at least be in dollars per hundred dollars per year.  
23 Now, let me read to you section 19—

24 Q Mr. Fritz, let me—

25 A —19-a-7 of the Act, and I will show it says:

Fritz

It says clearly, Item 7, of what has to be disclosed:

"A statement showing the total amount in dollars and cents of charges contracted for at the time the loan is made or the percentate that the total charges bear to the total amount of loan expressed as a nominal rate on the average outstanding unpaid balance on the principal amount of the loan."

It given an alternative not of hundred dollars per year, but of dollars per hundred per year, but the alternative is the statement showing the total amount of dollars and cents of charges contracted for.

The total amount, in dollars and cents of charges contracted for at the time the loan is made. That is the alternative and that is what they ought to do. They don't give the percentage.

Q But they do give disclosure under the Texas Regulatory Loan Act of the cost of a loan?

A Well, this is seldom considered as disclosure. They always did this before. The only thing that—full disclosure means in terms of rate, so that with one figure, anybody can compare whether this fellow is charging more than that fellow and you can't do it with just dollars because they vary the terms and they vary the

27 1 Fritz

2 amount of the loan and so forth.

3 Q All right, Mr. Fritz. I think we are getting  
4 to another juncture, but I would like to ask you one  
5 last question and in this regard.

6 As you say, the Commissioners, the draft  
7 submitted by the Commissioners does not contain the  
8 same disclosure that you are advocating here today.

9 A In part it does.

10 Q For installment loans?

11 A It contains— For installment loans, I would  
12 much rather have that—

13 Q No.

14 A —than none which is what we now have.

15 Q It does not contain the proposal that you have  
16 advocated here today?

17 A It is my secondary proposal that I advocated,  
18 as an alternative, less preferred than the first. But  
19 it is much better. I do propose, if you are going to  
20 pin me down to that or nothing, will take that rather  
21 than what we have now. Yes, sir.

22 Q Well, I was just trying to make the observation.  
23 As a member of the Advisory Committee, I presume that you  
24 made the same— Your first proposal, you submitted that  
25 to the Committee?

28 1 Fritz

2 A Yes, the first proposal was submitted.

3 Q All right. In other words, these National  
4 Committee didn't accept the proposal there?

5 A Not yet.

6 Q What if this Committee doesn't accept it  
7 here? We will be following a pattern.

8 A No, you wouldn't because the National Committee  
9 accepted rate disclosure in dollars per hundred dollars  
10 per year, and so far you haven't accepted any rate  
11 disclosure, but I hope you do.

12 Q It is not my business to accept it; it is  
13 the business of the Committee or the Legislature.

14 A Your recommendation could be very powerful  
15 in that connection.

16 Q Mr. Fritz, let me run on to this other point  
17 you have made. As you said, I think you have made the  
18 statement now that banks are not charging more than the  
19 legal rate of interest.

20 A Uh huh.

21 Q In terms of the rates they charge. Now, Mr.  
22 Fritz, as we well know, the Constitution does set out  
23 that ten per cent is the legal rate of interest; ten  
24 per cent simple interest per annum here in Texas. Is  
25 that correct?

Fritz

1  
2 A Unless otherwise fixed by the Legislature in  
3 the Regulatory Act.

4 Q We are talking about the general class of  
5 loans?

6 A Yes, sir.

7 Q All right. Now, but the law does provide,  
8 and numerous decisions of the courts do recognize the  
9 right of the lender to assess additional fees. Is that  
10 correct?

11 A Some laws, you mean like the banking law?

12 Q Well, the banking code permits a fee of one  
13 dollar per fifty, does it not?

14 A It says so there. Yes.

15 Q All right. Now, under decisions of the court;  
16 what about legal fees for investigating a title or  
17 other investigatory fees? Have they been accepted by  
18 the courts as a valid charge in connection with the  
19 loans?

20 A Well, when you added that "or other investi-  
21 gatory fees", then you expanded. Do you want to limit  
22 it to title? That has been in some states accepted,  
23 and I think probably would be here, too.

24 Q Right. In other words, now, in addition have  
25 the courts ruled that insurance which serves as insurance



Fritz

say, as security for a loan requirement, -- Let's say that a bank makes that individual take out insurance to protect the security as offered, have the courts accepted that as a valid charge?

A There have been some decisions where the facts were not brought out, that this was a device for obtaining a higher rate on the loan, or higher income on the loan. There have been cases that said it was. There was another case that held, even aside from statute that where they charged us more insurance in order to obtain more money for the loan, and it comes out to be more than the ten per cent maximum.

Q But there are courts that say that you can validly charge for insurance?

A You can, yes, if you do it without violating the other court decisions that say you cannot.

Q Well, all right. Now, in terms, the courts have permitted credit insurance if a borrower so desires. Is that correct?

A This is one of the types of insurance that have been specifically allowed in a certain case. Rodriguez vs. Youngberg.

Q Yes.

A Right.

1 Fritz

2 Q So if terms of the general statement that  
3 a bank or any other lending institution conceivably could  
4 charge more than ten per cent per annum, but that will  
5 not necessarily make it—the total charges won't run  
6 in excess of ten per cent. Let's put it that way.

7 A Maybe that way you might get it.

8 Q Let's say the total charges might run in  
9 excess of ten per cent per annum; but it still would not  
10 be a usurious loan.

11 A Well, if you include in those charges credit  
12 insurance that did not come under any of the numerous  
13 cases where credit insurance has been found to be  
14 additional interest, the premiums on it additional interest,  
15 compensation for the use of the money lent.

16 Q In other words, you can have that.

17 Mr. Fritz, I would like to get back to this  
18 one point because it just seems to me to be a contradictory  
19 statement. You have spoken, when you talk about section  
20 17(b) of the tremendously high cost to the borrower, and  
21 you have expressed the viewpoint—I mean, there is a  
22 question that these loans should be outlawed in terms  
23 of the interest of society. Would that be a correct  
24 statement of your position?

25 A No.

1 Fritz

2 Q Well, then, you believe that you should just  
3 allow those loans to continue if you have, if they can  
4 show justification for it, and economic justification  
5 for the rate of interest?

6 A Are you talking about a 320 per cent per  
7 year?

8 Q Well, let me rephrase it so we can be clear.  
9 In other words, we have a situation, and this is the  
10 thing that I can't be clarified in connection with your  
11 statement about banks, that the banks here in Dallas  
12 County are servicing 256,000 customers. They have  
13 almost \$419 million outstanding, and they are providing  
14 that I would say -- I would hazard a guess -- at a lower  
15 effective rate than any consumer finance company, section  
16 17-a or section 17-b. Now, they are providing it at a  
17 lower rate, but yet I detected a note that you would not  
18 criticize one segment of the finance industry for pro-  
19 viding almost half a billion dollars credit to the people  
20 in Dallas County at a lower rate than they can get it  
21 from another segment of the finance industry?

22 A No, I am not --

23 Q Then you turn around and go to another segment  
24 of the finance industry and you say they are doing it wrong  
25 because they are providing it at a higher rate than another

Fritz

1  
2 segment. In effect, what we've got, we've got layers  
3 here of rates. We've got all the statistics I have  
4 shown, and I don't know the Federal Reserve statistics,  
5 statistics of various states, and I think the people  
6 who have an acquaintanceship with the finance industry  
7 agree that banks usually provide consumer credit at a  
8 lower rate than consumer finance companies. All right.  
9 This is one thing. Now, consumer finance companies,  
10 by the nature of their higher costs, the type of  
11 borrowers their clientele have to provide the services  
12 at a higher rate. Under the present practices, the  
13 17-b borrowers, because they are down with the marginal  
14 borrowers and down at the highest end of the cost end,  
15 so to speak, have to charge an entirely different rate.  
16 Yet there is a competitive situation that any citizen  
17 here in Dallas County can go out and he can walk into  
18 a bank, he can walk into possibly two savings and loan  
19 associations here, and I think if they had a rate  
20 probably more, but he can go into a bank, he can go into  
21 any one of several hundred loan companies or he can go  
22 to 17-b and he can shop around and get, if he will shop  
23 around, he can get the best service. Now, what is the  
24 objection there?

25 A Well, in the first place, I am not criticizing

Fritz

the banks for providing credit at a lower rate than someone else. This is what I am for. I am for the American free enterprize system of people charging at a lower rate in order to attract customers. I am for that. Now, with regard to competition, unfortunately competition does not take effect until you have prices stated clearly, and in the ordinary shopping a customer can go in and find what the price of this one is and what the price of that is and compare quality. In the field of credit, they should be able to go in and be able to tell what the difference is since the price is varied by the terms if he has a loan and the exact amount of the loan and whether you pay it all equally or pay a larger amount later, or things like this. They should be able to go in there and just get one figure that they can compare, just like a price figure on a commodity. This one figure is either going to be that it is so much per cent per year or it's going to say that it is so much per cent per month, or it's going to be that it is so many dollars per hundred dollars per year, and if you get that one type of figure comparison and then you get the education and training that goes to enable to encourage the public—and the State should be encouraging the public to shop for credit, to get the lower rate—well, then,

Fritz

you are going to finally have competition in this field. Unfortunately, competition has never come in this field without some type of legislation to encourage it. This is the type of legislation, this package of it, that would encourage competition in the field.

Q Again, I've only got one observation. As the Regulatory Loan Commissioner, I think there would be a great number of people in the consumer finance business that would look at those 255,000 customers in Dallas County and \$420 million and would observe that that seems to be an awful lot of competition for even a place the size of Dallas.

A Well, it is competition on some of the transactions, but it is not competition obviously on the others, because they can still go on and get a higher rate from a lot of people, either A because those people are not able to get the bank loan in that field, and so it wouldn't be competition for them; or, B, because they are too ignorant. If they could get the loan they don't know how to compare the bank loan with the other. If the banks would just say, "Our rates are so much per cent," and if the law required everybody else to say, "Our rates are so much per cent per year," I think that then surely you would get everybody that can

Fritz

borrow from the bank borrowing from the bank at a lower rate.

BY MR. LINDSEY

Q In the field of automobile lending, the banks have already been active because they are dealing with a larger size loan which, on a unit basis, the administrative costs is less, and have you observed that the cost of automobile financing has advanced less than any other type of financing because of the broad competition between the banks and the finance companies?

A I will take that word from you, and I think that's a good illustration of where, in the new car financing, wherein some states where a study has been made and they do have the figures, such as New York, it has been concluded with the banks and the field and everybody else in the field, you see, the competition in rates has taken effect. This is what we ought to strive for in Texas.

Q Then you feel that if the Legislature should decide to authorize savings and loans associations and banks to enter the broad spectrum of consumer financing, by permitting these institutions to have a rate similar to the rate authorized under the regulatory loan act, that this competition would be increased in the smaller

Fritz

loan field?

A I think that would be true.

Q Thank you.

Q If it went with the disclosure provisions that I have mentioned, you see.

Q Would the same regulations that would be applied to the finance company inforced as against savings and loans and banks? In other words, open competition, the same type of regulation for everybody and the same rates for everybody, do you think this would be a healthy situation?

A I tell you what I think personally: I think that if you put disclosure in there, you are helping me almost to be in agreement with you. If you include disclosure. Not just the same, because if it is the same as now, no; the banks will take what they want and need and other people will continue to get all kinds and you won't have rate competition.

Q Whatever the Legislature should decide to provide with respect to disclosure?

A No. Not unless it is rate disclosure. If it is any of those three types of rate disclosure that we have mentioned, my first, second and third choices, yes. Yes. Any of those three I would think it would be good,



1 Fritz

2 and the banks subject to all the other regulations and the  
3 types of consumer protection things that the other  
4 witnesses have mentioned that I have not repeated,  
5 then I would think that it would be healthy to have more  
6 capital flowing into it, provided also that you have the  
7 educational provision in the law so that the rate disclosure  
8 can be made effective. Yes. I think generally economically  
9 speaking the greater the source of funds in a certain  
10 market, the less the market is limited in supply, well,  
11 then if you can control all the other factors that have  
12 prevented price competition, well, then, the more that  
13 the price competition is going to come in and the more  
14 you are likely to have a free market.

15 MR. LINDSEY: Thank you.

16 MR. MISKELL: Thank you, Mr. Fritz.

17 We have been running a little long. You may  
18 have missed the noonday crowd. We have two, and I think  
19 possibly three witnesses this afternoon. Professor  
20 Harvey Davis of S.M.U. has also expressed a wish to come  
21 by and testify. I may be rushing you, but we might be  
22 able to finish up early if we take a quick lunch break.  
23 Let's say we adjourn to 2:00 and we will try to pick up  
24 again and just get our work finished as quickly as we can.  
25 I appreciate your attention so far.

(Whereupon, at 12:50 p.m. the luncheon recess was taken.)

AFTERNOON SESSION

MR. MISKELL: In case some of you are wondering what happened to Mr. Lindsay, he had to attend an important business meeting. That accounts for his absence. I'd like to call Mr. Ducate.

MR. Ducate: My name is Jack Ducate. I am here to represent the Dallas Retail Merchants Association.

The things that I have to say will pertain only to the retail sale of merchandise. They have nothing to do with banking, financing, lending of money or anything of that nature whatsoever.

Before I get into what I came to say, I'd like to make a few comments on some points that have been raised earlier.

I think it is only reasonable to remember that in our era there are people who live on the fringe of things. Unfortunately this is true, has been true and probably also always will be true. If this were not so, we wouldn't have such a substantial investment as we have down at Huntsville wherein we have to incarcerate those who have been caught on the wrong side of the law.

## DUCATE

2  
1  
2 There are a great many who live either just closely  
3 inside or so closely outside that it is extremely diffi-  
4 cult to punish them under our laws and the interpretation  
5 thereof.

6  
7 Unfortunately there are some people on the  
8 other side of the fence, too, who are just as willing,  
9 frequently just as eager to take advantage of business,  
10 as it is frequently reported of business, to take advantage  
11 of them. I could bring to you many many such instances.  
12 I had one just in the last 48 hours that might be worth  
13 mentioning.

14 A young couple was referred to me through the  
15 National Foundation for Consumer Credit because they were  
16 seeking some advice in handling their indebtedness.  
17 This young couple had been married a year and a half.  
18 They have an income take home pay of \$700 a month. They  
19 have outstanding debts of over \$7,000 on installment  
20 obligations and contractual payments of about \$550 out  
21 of the \$700. In addition to these, they have a 90 day  
22 note at one of our local banks. This is an open note due  
23 the 12th of October. I asked the young man how he got  
24 this loan. He said well, previously his father had  
25 co-signed for him frequently on small loans from time to  
time which he had repaid. Therefore, the bank had a good

-3 1 DUCATE:

2 paying experience with him, I asked him further if  
3 he told the bank at this time that he had these installment  
4 obligations, and his answer was a very embarrassed, "No."

5 Now, there are fringe operators who do and will  
6 take advantage of people. They will take advantage of  
7 the law. They will take advantage of anything that  
8 they can possibly take advantage of. I am not here to  
9 speak on their behalf at all. If there were some way to  
10 legislate these people out of business, no one would  
11 appreciate it more than your reputable retail merchant.  
12 I would like to remind you that in speaking of retailing  
13 we seldom ever think of the magnitude of the business  
14 as a whole. Unfortunately it is not a close knit group  
15 as are many of the other phases of our industry. It is  
16 composed of many large merchants, but many many many  
17 more in the medium to small and even extra small category.  
18 This is almost the last frontier of the way of life that  
19 most of us have a love for wherein a man has a right to  
20 go in business and run his business to suit himself, serve  
21 whom he pleases, make a profit if he can; if he can't  
22 suffer the loss all by himself. The gross national  
23 product of this country preponderantly winds up into a  
24 retail transaction display along the line.

25 There was mention made of the harrassment of

## DUCATE

1  
2 people, of improper repossession, of illegal entry and  
3 things of these kind. These are violations of the  
4 criminal code. If we can't ~~we~~ enforce the criminal code  
5 in this area, then I think there is something wrong either  
6 with the code itself or with our method of enforcing it.

7 A question was raised about the question of  
8 debt counseling I have been very very interested in this  
9 subject a long long time. I have been instrumental in  
10 getting debt counseling established in some cities.

11 This is not a commercial agency.. I do not  
12 believe in them. Some of them are perfectly bonified,  
13 operated by reputable people. Some of them have been  
14 invaded by less than reputable people and as result  
15 the professional debt counseling as a whole has received  
16 a rather poor reputation. This would be a debt counseling  
17 service supported by the consumer finance industry of  
18 the industry of the city of Dallas, functioning at no  
19 cost to the customer at all.

20 The subject was raised about education, and  
21 the matter of financing. I concur wholeheartedly in  
22 everything that has been said. I have had the privilege  
23 of looking into both the material being used and the people  
24 attempting to use this material. I would say there is  
25 a tremendous weakness in this area, in our educational

## DUCATE

1 system starting at someplace below the college level.  
2 It's got to come someday. When this will be, I don't know.

3 I'd like to take issue with one statement that  
4 was made earlier today. The people can more readily  
5 recognize the difference between 16 and 18 per cent than  
6 between 16 and 18 dollars. Frankly, gentlemen, the  
7 retail industry cannot accept this premise. I think you  
8 know that Senator Douglas from Illinois had for many  
9 years promoted a bill in the Congress. He has had experts  
10 from every area of our country and to this day there is  
11 not a mathematician who has been able to decipher a  
12 reasonable way in which this can be expressed in a retail  
13 credit transaction. I'm not referring solely to revolving  
14 charge as was admitted earlier. In the retail industry  
15 it is quite common for a customer to buy an item such as  
16 a washing machine, subsequently buy a dryer, maybe  
17 eventually an ironer and as they buy such, they like to  
18 have these consolidated into one account so they have  
19 one payment. Obviously simple interest could be stated.  
20 There is no question about it. On the second one, the  
21 third one, the third one on down the line obviously it  
22 loses its identity completely. Furthermore, I do not  
23 and I cannot quite understand how anybody proposes to a  
24 proposition based on the fact that people can understand  
25

## DUCATE

percentage better than they can dollars.

Now, a retail merchant is in business for only one purpose and that is to sell merchandise. That is his sole reason for being. Where the customer gets the money with which to pay for this merchandise is of no consequence to your reputable retail merchants. He can have it in his pocket, he can draw it out of his bank, he can write a check for it, he can take it out of his savings account, out of his piggy bank if he wishes. He can go to the bank and borrow it, he can go to the loan company and borrow it, he can arrange to have it financed through a sales finance company. The retail merchants simply do not care. The retail merchant is in business to sell merchandise and this is his sole purpose for being. Credit to the retail merchant is subjunctive to the sale of the goods. It came into being many years ago, as an aid in the sale of merchandise. When this country in the growth of its economy came to the point where more and more people had an assured monthly income and a desire for better living conditions, they were in a position to where they could buy now and pay later, and this is exactly what the whole premise is about. This is a true fact. It is an actual fact, it is the basis of the entire economy of this country; that there have been some mishandlings in this area is unfortunate, but

## DUCATE

nevertheless, these are restricted as was evidenced by the questions, which you yourself asked Mr. Miskell, this morning, and the number of instances wherein the retail merchants have been guilty of malpractice is extremely small. Generally limited only to those who I would consider in the fringe area.

The question of rates was raised. I would remind you of only one very small thing in this area. There are several concerns in this country who publish catalogs. Offhand, I think of Wards, Spiegels,

Western Auto, J. C. Pennys, Sears-Roebuck and Company. I don't know how many catalogs these people publish but it is in excess of 25 million. This I do know. I do know that each one of those catalogues spells out very clearly and very distinctly the rates that a customer will pay for a piece of merchandise bought on credit as compared to a piece of merchandise bought on cash. Now, there are only something like 40 odd million families in this country. With 25 million catalogs or more in circulation, these are, I would say, rather generally available and certainly cannot be considered as any effort whatsoever not to let people know what it costs them to use credit.

In that area, I would like to say that in my



## DUCATE

1  
2 judgment the knowledgeable retailer attempts to tie the  
3 cost of his credit operations as best he can to the rate  
4 of charge which he is making to the customer. Obviously  
5 this is not a cost accounting accomplishment down to the  
6 Nth degree, but nevertheless, this is the purpose of the  
7 whole thing, with the thought in mind that the customer  
8 who uses credit will pay for it and the customer who  
9 uses cash will pay no part of it.

10 In the last several years, there has been the  
11 development of a new kind of retail account called  
12 generally revolving charge. It has other names, flexible,  
13 option, this, that. It is a derivation or a combination  
14 or a consolidation of the 30 day charge account that  
15 was prevelant in this country for many years and the  
16 installment account upon which people generally bought  
17 refrigerators, washing machines and things of this nature.

18 Truly this was not an invention of the retail  
19 merchant. Truly, this type of account has come into  
20 its popularity because of the demand of the people.  
21 Actually the demand of the people! There has been some  
22 abuse of it, too, I'm sure, on behalf of both the customer  
23 and perhaps in the case of some merchants. The intent  
24 of the account is to make it easier for the customer to  
25 buy his day-to-day needs without all the fuss, muss and

## DUCATE

1  
2 bother of creating a new installment sales contract on  
3 each transaction and pay for these by the month if he  
4 so chooses or pay for them in full if he so chooses and  
5 he pays the cost of the credit only if he uses the cost  
6 of the credit.

7           Now, there are three basic segments in the  
8 consumer credit field: the retail sales, the loan of money,  
9 and the consumer—and the sales finance company. Obviously  
10 the retail merchant in many instances is not in a position  
11 to handle his own accounts receivable. Some are, some  
12 are not. Most are not. He has two choices. He can either  
13 take these receivables and go to his bank, pledge them  
14 as collateral to his bank and secure advances against  
15 them. This is very true in many many cases, or he can  
16 arrange with one or more sales finance companies so that  
17 as a contract originates in his store this contract can  
18 be subsequently sold to or perhaps even discounted to the  
19 sales finance company. This is the purpose which they  
20 serve. Generally they are in the picture after the fact.  
21 This is the way they planned to operate, this is the  
22 way it should be operated, although I won't take your time,  
23 there are some arguments on the other side of the fence  
24 in which I have some faith, also, because to deny them  
25 the right to intervene during the fact is taking away from

## DUCATE

1  
2 the smaller merchant the advice and counsel of experts  
3 that are available to him at no cost.

4 I'd like to mention just very briefly the  
5 statutes regarding the sale of merchandise at retail  
6 which are in effect in other states. There are 40 odd  
7 states that have laws regulating sales. I have no inten-  
8 tion to speak about them.

9 There are approximately 30 states that have  
10 laws regulating the sale of other goods as it is frequently  
11 called. A bill of this type was introduced in the  
12 State Legislature last session. It was passed in the House  
13 by a substantial majority. Unfortunately it died on the  
14 calander in the Senate. This was a good piece of legis-  
15 lature. It is based upon the sale principals that  
16 most law is based upon, resident and experience.  
17 Gathering from the laws of the other states and their  
18 experience with those laws.

19 I'd like to mention that this would cure several  
20 of the ills that was mentioned here this morning. It  
21 requires a contract in writing. It specifically states  
22 that the type must be in 8 point type that can be read.  
23 It contains the most forcible notice that we can think of  
24 just above the customer's signature in 10 point bold type,  
25 a statement of the fact do not sign this until you read it.

## DUCATE

1  
2 Be sure it doesn't contain any blank spaces. You are  
3 entitled to a copy. The law specifically makes these  
4 things mandatory. The contract must be in writing.  
5 There cannot be any blank spaces. It must be signed by  
6 both parties, both parties must have a copy. It  
7 contains many other factors. I shall not dwell on those.

8 Services were mentioned this morning. Services  
9 are included. The car repair that was mentioned earlier,  
10 this would be included. It is covered in the statute.

11 Trade schools at this minute are not. In fact,  
12 gentlemen, this is the first time in 10 years of legis-  
13 lative experience on this particular subject that I have  
14 ever heard the subject mentioned. Obviously it could be  
15 included and based on what I heard here this morning, I  
16 think, undoubtedly should be included.

17 This law, this law does not relieve the  
18 seller of any of his liability to the buyer when a contract  
19 is sold to a sales finance company. Now, this also was  
20 mentioned this morning. This is not true. If this were  
21 the law of the state of Texas right now as it is the law  
22 of roughly 30 other states.

23 This places a serious penalty on any violation  
24 of a prescribed charge for delinquency. This was men-  
25 tioned earlier this morning, or in delinquency charges that

## DUCATE

1 were just added infinitum until such time the original  
2 concept has been wholly lost in the original charges.

3 It makes it plain mandatory a customer can be given a  
4 receipt for payment by cash. Obviously if made by check or  
5 money order he doesn't need a receipt. It prevents balloon  
6 notes.

7  
8 It prescribes a method of allocation of payments  
9 where going back to my example the dryer was combined  
10 with the original purchase of the washing machine, so that  
11 the seller cannot hang on to an original item for years  
12 and years and years on end. Not only does it prescribe  
13 this, it gives the customer the privilege of designating,  
14 under certain circumstances, where he wants the money to  
15 apply.

16 The statement was made earlier, and I think  
17 most of these were made in connection with interest and  
18 I'm not talking about interest, that everybody charges  
19 the maximum rate. And, gentlemen, this just plain  
20 isn't true in the case of the retail merchant as it  
21 relates to the laws governing the installment sales  
22 of goods. To the best of my knowledge, to the  
23 best of my knowledge, no major retailer in the entire  
24 United States is going to do this. None of the—to  
25 the best of my knowledge they will not do it, and there is

## DUCATE

1  
2 a real good reason. We recognize that in the industry  
3 there are some people who deal with what I consider low  
4 income, high hazard risks who have to charge a slightly  
5 higher rate because of the risk involved. Most of  
6 your major retailers do not choose to deal with these  
7 people and if they did, then they would have to charge  
8 everybody because you can't have one set of rates for one  
9 person and another set of rates for another person when  
10 you are doing business at the pace that the retail merchants  
11 do business today.

12 I'd like to remind you of two things in closing.  
13 This law which we would like to see passed provides a  
14 point of appeal, so that the customer who feels he has  
15 been wronged doesn't have to hire a lawyer. He  
16 doesn't have to file a lawsuit. He has the right of  
17 appeal to the attorney general by the mere investment of  
18 a five cent post card, if he chooses to go this route.

19 Last and far from least, these laws have been  
20 in effect starting back, I believe, in Ohio nearly  
21 twenty years ago. I can speak of my own personal knowledge  
22 in four of our own mid-western states where I have been  
23 most active, Missouri, Kansas, Nebraska, and Colorado.  
24 Since the time that the laws regarding and governing  
25 installment sales of merchandise was adopted in those states

DUCATE

they have had not one single case of violation brought to the attention of the officials of the state and when I use that word, I include everybody: the attorney general, the courts, the better business bureau, the Chamber of Commerce.

Thank you.

MR. MISKELL: Thank you. May I ask you a few questions, please?

MR. DUDUCATE: Surely.

BY MR. MISKELL

Q Do you have any idea how many here in Dallas County would have established credits in retail establishments?

A Retail establishments?

Q Yes.

A In total?

Q There would be an over-lap. Probably would be more than a hundred.

A Let me make a calculation if I may. There is something over a million people in the county. This would be roughly 40,000 families. I would say somewhere—

Q 400,000.

A 400,000 families. I would say that 90 per cent or more excluding perhaps only a segment of those

## DUCATE

1  
2 which have been called indigent, and I'm not sure I  
3 understand that anybody ever truly gave me a definition  
4 of what an indigent is. In my own credit experience I  
5 have seen families that I thought were indigents that  
6 truly they weren't indigents at all because they were  
7 getting along a little better than some people I didn't  
8 think were indigents. May I say another word, sir. I  
9 don't want to take your time, but I feel very deeply  
10 about some of these things.

11 The credit fraternities as a whole, in the  
12 last 20 years, has come to be a real profession, and I  
13 think today your major merchants have truly professional  
14 people heading up their credit departments.

15 Nobody in their right mind is going to approve a  
16 credit transaction that they don't think they can collect.  
17 If they did, they wouldn't be there. It was my privilege  
18 to supervise for the last 20 odd years, and I have seen  
19 some of our people make some mistakes in judgment, and  
20 this I can forgive, but, to just truly give away merchan-  
21 dise, if we are going to do this, we are a whole lot  
22 better off to do it through our charitable channels. It  
23 makes a better deduction as we all know. I would say there  
24 are relatively few families in Dallas who do not have estab-  
25 lished credit of some kind in some place. In general, two,



## DUCATE

1  
2 thirds of the merchandise that moves at retail is sold  
3 on credit of one kind or another. I had an interesting  
4 experience that You might enjoy, just a few minutes ago.  
5 Are there any ladies in the room?

6 I was over to the men's room and if you have  
7 been over there, they have a very talkative gent who  
8 hands you a towel and wipes off your shoes. When I walked  
9 in, he happened to have his bill fold open and I told him,  
10 I made some offhand remark about this. I said, "That  
11 looks awful fat. It must be full of money." He said,  
12 "No, it's full of bills." I said, "Well, you ought  
13 not to keep your bills in there because it looks pretty  
14 fat and somebody will knock you in the head for it."  
15 He said, "No, sir. I have got accounts at this store  
16 that store and all, I have got the finest credit in Dallas."  
17 Now, he is on social security, supplementing it by handing  
18 it out towels in a washroom. This, gentlemen, in my  
19 judgment is entitled to credit because he takes care of  
20 his credit. Obviously he is not abusing it in any way,  
21 shape fashion or form. The average sale in a retail store,  
22 this may be of interest to some of you. The average sale  
23 in a retail store is much under a hundred dollars. The  
24 average account that you are talking about is well under  
25 \$200 on installment accounts and in the neighborhood of

1 DUCATE

2 a hundred dollars on a revolving charge account. You are  
3 not talking about the \$6,000 figure that I believe you  
4 used earlier in one connection.

5 Q Mr. Ducate, has anybody in the retail sales  
6 business, retailing, figured, do you have figures, that  
7 say what the average family--Let's take a young man 21, or  
8 22 out of school; he has just been married and he has  
9 started up a family. How much will that family spend in  
10 retail over a lifetime?

11 A Sir, I don't know. I didn't expect you to ask  
12 that. I don't know whether I can dig it up from some  
13 place or not. Is Mr. Williams here? Pete, check me on  
14 this figure. Isn't it something like \$200 plus a year.

15 MR. WILLIAMS: That sounds right.

16 A If this boy is 20 years old, he is just married  
17 he expects to live to be 70. He's got 50 years to live.  
18 If it runs somewhere I would say, Mr. Miskell, it's very  
19 close in the area of two to three hundred dollars a year,  
20 in the average retail store. I'm excluding food markets  
21 and things of this kind, you understand.

22 Q Yes. So, you are talking about 50 times \$300,  
23 let's say, or \$ 150,000.

24 A I'll take one of those zeros off. If I were the  
25 federal government, I'd add one.

Q \$15,000. I'd just like to make the observation.

## 1 DUCATE

-18 2 I think this might be considered a self policing facet  
3 of your consumer credit in retailing, is it not. If a  
4 man is going to do about 15, you can reasonably expect  
5 many to do \$15,000 worth of business with you over his  
6 lifetime. If you abuse him by harrassment or mistreat  
7 him in terms of state and radar conditions of anything,  
8 you are going to lose that customer to a competitor,  
9 aren't you?

10 A I'm certain you are, and I'd like to develop  
11 that just a point further if I could. Keep this in mind, I  
12 said earlier and I'll repeat again the retail merchant  
13 is in business to sell goods. This is his only purpose  
14 for being. If we could solve the riddle of why the man  
15 who owes us and can't pay us will go to our competitors  
16 and pay cash, we'd be real happy. If he is going to go  
17 some place and pay cash, we wish he'd come to us and pay  
18 cash, if he can't get credit any more. Obviously, many  
19 of the items that the average merchant sells today the  
20 customer has to buy some place. Shoes, socks, underwear,  
21 toothpaste, all of this sort of thing he has to get  
22 some place. We'd like to keep him as a customer on a  
23 cash basis even if we can't collect what he owes us.  
24 Unfortunately we don't get the opportunity very often.

25 Thank you very much.

1 MR. MISKELL: I'd like to call Mr. Jack Mitchell,  
2 Secretary of Dallas Teachers Credit Association.

3  
4 MR. JACK MITCHELL, SECRETARY,  
5 DALLAS TEACHERS CREDIT ASSOCIATION

6 was called as a witness and testified as follows:

7 MR. MITCHELL: Mr. Chairman, members of the  
8 Commission holding these hearings and those of us in  
9 attendance here, first of all, I would like to commend  
10 you, Mr. Chairman and members of this Commission for the  
11 investigative study that the governor and president of  
12 the finance commission has instituted in this area in  
13 the way of gathering information so that good will come  
14 out of it and service to people will be accomplished in  
15 this particular area.

16 My name is Jack A. Mitchell. I am a resident  
17 of Dallas County, Dallas, Texas. For 20 years I have  
18 been the Secretary Treasurer of the Dallas Teachers  
19 Credit Union. Currently we have approximately 20,000  
20 members of school employees of this county. I'm a former  
21 school teacher and I would say that I'm also a director  
22 of the Texas Credit Union League.

23 But, Mr. Chairman, I am here as a citizen of  
24 Dallas County, the county in which you are holding these  
25 hearings today and what I say is as a common citizen of

MITCHELL

1  
2 this county and has no relationship per se to my job  
3 or any office that I hold except for the feelings that my  
4 work has enabled me to form some opinions on some of the  
5 things that were discussed here today, and I reveal them  
6 for your consideration in the work that you are in as a  
7 study. In my connection and my experience of the past  
8 20 years, I have found it increasingly that there is a  
9 pressure for the people especially from 20 to 40 years of  
10 age to buy, to buy everything that they can and in a  
11 good many cases with a dollar down and a dollar when you  
12 catch me. In addition, Mr. Chairman, there's this area  
13 that I think we should all be concerned with, and that is  
14 the area that when these folks are getting out of college  
15 now days, in the area of 20 years of age, there is a  
16 pent-up demand to buy refrigerators, to buy various  
17 things, automobiles, furnishings for housing and so forth.  
18 And in this connection, I would say that in the work that  
19 I am in, we have had opportunity to observe people and  
20 deal with people who write an "X" for their name to college  
21 and university presidents and superintendents and profession-  
22 al employees and M.D.'s and Ph.D.'s in this county. It's  
23 my general personal feeling that the knowledge on interest  
24 rates of this vast group of cross-section of people is  
25 very limited whether they be Ph.D or M.D. or one who doesn't

## MITCHELL

1  
2 write his name. It's my personal opinion that their  
3 knowledge of buying a home is very limited. They do not  
4 know the papers that they sign. It's my personal opinion  
5 that in transacting automobile titles, there's very little  
6 information along that line by the consumers and individuals  
7 at hand.

8           Consequently, I'm speaking in behalf of a  
9 citizen of this county, in the public interest of the  
10 people of this county and the State that they, too, should  
11 be concerned. As men we think of all of our various  
12 organizations in this. In this connection I would say  
13 that I think there should be deep consideration given to  
14 a full and complete disclosure of any rates, whether they  
15 be a dollar amount or whether they be stipulated by a  
16 per cent amount: Whatever they be that they be disclosed  
17 to the individual so that they can compare. When they educate  
18 people that they can compete with one organization or  
19 another, let's try to give them information that they  
20 can compete on so that they can all be of the same mind.

21           As an illustration, when I receive in my  
22 mail, and when I read on a billboard, for example, members  
23 of this group, the Study Committee, "Come in...we finance  
24 an automobile at five per cent", we know that this is  
25 either ~~two~~ one of two things. Whoever wrote that sign

1 Mitchell

2 doesn't know what he is talking about in interest rates  
3 or else they are trying to deceive and mislead the con-  
4 sumer. With the current rate at six per cent and currently  
5 business loans going at 7 per cent up in the thousands  
6 and hundred thousand dollars, this is no way, in my  
7 opinion, to advertise to people. That we should state  
8 that our rate is either so much or such a per cent or  
9 dollar amount but have a law that would state this so  
10 people could observe it.

11 In addition, I think we might consider, and  
12 this hasn't been brought out in these hearings, the  
13 tremendous area of credit card experience, that the  
14 gentlemen preceeding here has mentioned that people  
15 buy and they do buy—and I've seen the gauntlet, members  
16 of this Study Committee, from the individual who owes a  
17 \$10 debt to the junior executive of a large national  
18 chain right here in this city who's wife is a school  
19 teacher, both of them are working—he's in training in  
20 an executive position—because of their pressure and  
21 because of their own personal mistakes, would come along  
22 and obligate themselves to as high as \$600 in monthly  
23 installments. Now, we are all guilty in this area.  
24 Everybody that's in the consumer area, when we invite  
25 these people to come in and obligate themselves in this

23 1 Mitchell

2 area; and then they have an addition to the family and  
3 the income drops half and there the individual comes in  
4 and tears in their eyes and they expect somebody to bail  
5 them out.

6 Whether we believe it or not, we are just dealing  
7 with an area where people don't exactly come out clean  
8 with all of what they do owe when they make applications  
9 for credit nowadays. Whether it's to a bank or a  
10 credit union or savings and loan or anybody else or  
11 small loan company. They don't, a lot of times, tell  
12 all of this. And, they are encouraged to buy and they  
13 are encouraged to go into these various areas.

14 I would suggest that in your consideration  
15 that you also bring in the idea the credit card use,  
16 because when we bring out the various credit cards that  
17 are coming along and the various areas and the solici-  
18 tations to come in and buy and buy, I think we have many  
19 areas where people need tremendous education.

20 I'm not here to discuss the rates of various  
21 lenders. One can always tell the other fellow how to  
22 run his business, and I think we all should take cognizance  
23 of that. I wouldn't presume to tell anybody about their  
24 own rates. They've got to work those out. In some areas  
25 it costs more to do business than in others. But, gentle-



Mitchell

1 men, I would suggest that in your consideration that you  
2 take into deep concern the area of full disclosure of  
3 rates, whether they be either one, a dollar amount, or  
4 secondly, whether they be a per cent of the unpaid balance.  
5 In my opinion, the various business organizations, the,  
6 for example, chains and so forth, that have their revolving  
7 credit at one and a half per cent per month or true 18  
8 per cent, we all know these rates. I think they are coming  
9 clean with the public, whether we think it's high or whether  
10 we think it's low. When they state that, I think of no  
11 clearer rate than a per cent of the unpaid balance. If a  
12 man has an outstanding balance of a hundred dollars and  
13 he points off two places, that's one per cent and half  
14 of that, that's a dollar and a half and he knows that's 18  
15 per cent per year. I commend those who state it that way.  
16 In the retail industry we buy a suit of clothes here in  
17 town and that's the rate they put out.

18  
19 I believe it costs them that much to do business  
20 in those small amounts.

21 Thank you. I hope from this will come areas  
22 of public service to the people.

23 MR. MISKELL: Mr. Mitchell, could we—we'd  
24 like to ask you some questions.

25 MR. MITCHELL: Surely.

1 Mitchell

2 BY MR. MISKELL

3 Q I think you have made a point that is interesting  
4 here. We have heard these remarks as to disclosure so  
5 to speak, as a point made that this would be the end  
6 result, but now, your credit union, for example, your  
7 teachers Credit Union is a non-profit voluntary cooperative  
8 organization. Is this correct?

9 A That is.

10 Q In other words, there is no profit motive in it.  
11 You are not working for profit. It is owned by the  
12 members. Is this correct?

13 A Let me put it this way, Mr. Chairman. We  
14 make a profit. Yes, sir. Let's be straight forward.  
15 But it goes back to the membership. It's a closed  
16 corporation.

17 Q Goes back to the members. But the point that  
18 was interesting to me was this teachers. You have  
19 members of your credit union association that do get over  
20 loaded in debt. True or not?

21 A I think that's typical. Yes, sir.

22 Q Have you been able to find out why that is?  
23 What causes that?

24 A Mr. Chairman, just to specifically say what  
25 causes it, let me start at home. I think perhaps in our

Mitchell

case we are too easy. I think the other lenders would say they are too easy. I think the department stores would say they are too easy. I think that all of us together who get this young executive and his wife so much in debt, we are all too lenient with them. Then, on the other hand there is the pressure to buy everything now, their pent up demand and from this the ignorance of the people themselves.

Q We raised this point of ignorance in the Houston area, and we have been talking about the poor and the disadvantage of what you will, low income groups, but I can be—I can say it as a politician, we can say people are unsophisticated in terms of economic knowledge, or we can be frank and say there is an ignorance in regard to economic matters. It doesn't extend only to the poor or to the drop outs or to a person who is digging a ditch. Is that not correct?

A In my personal opinion, and I'm stating this as a citizen, from my work experience, I say that whether they are the man who signs his name with the X or whether it's a Mustang or the Mercedes Bend People, there's a general lack of knowledge on consumer information. A tremendous amount. On contracts, you ask a person in many cases, we have over and over, do you realize this one

1 Mitchell

2 and a half per cent is 18 per cent. No. And seem to  
3 care less, to be honest about it. But, I hold this out  
4 that this is an illustration. I think it's fair, but  
5 people whether they are a Ph.D or whether they are M.D.,  
6 when you get to talking about add-on rates and discount  
7 rates, and various rates of this nature, you lose them  
8 real fast.

9 Q I don't know whether you were present here  
10 this morning.

11 A Yes, sir.

12 Q I would like, before I go into this point,  
13 I'd like to preface it. When you make loans to a  
14 person, that person has to be a member of a credit union?

15 A That is true.

16 Q In other words, this is sort of a closed loan  
17 group?

18 A It's a closed corporation.

19 Q Closed corporation. Now, this morning, in the  
20 remarks, I raised the question whether any complaints  
21 in regard to credit unions. I might say, this is the  
22 first time we have ever heard anybody say yes in regard  
23 to having a complaint on credit unions in our hearings.  
24 But it would seem to me— I wonder about that, about  
25 education. I mean about even disclosure can be the answer

Mitchell

to everything. If you hear a person is a member of the closed corporation and in effect if he is complaining about the rate he is having to pay, he is really transferring from one pocket to the other pocket, isn't he?

A Essentially, yes.

Q So it is an indication he has a lack of knowledge?

A In the case here this morning, Mr. Chairman, I think the lady specifically, she said that yes, they had had some complaints. I'm not trying to interpret her speech, but I think the same question would be asked about banks, savings and loans, the small loan regulatory people, you just have a certain population. They are going to misunderstand the rates. Frankly, we have a good rate, a very good rate and as you and some of the group well know. Any kind of a rate, the people are going to misunderstand them. I think the complaints are rather minimum.

Q Of course, everybody believes the rate they pay is the rate that is too high.

A Yes, sir.

Q I think they understand that much about consumer credit.

A They are kind of like taxes.

Q By the way, I'd like to ask this, on behalf of

1 Mitchell

2 members of organizations who are not present, Mr. Bain  
3 and he is a banker from Stockdale, but he raised the ques-  
4 tion at this point, and you have touched on it here again,  
5 too, that many times people are not giving correct credit  
6 information to you when they make loan applications. Are  
7 you finding this is the common phenomenon?

8 A Increasingly.

9 Q Do you know of anything that can be done,  
10 Mr. Bain would like to pass a statute to make it an offence  
11 to give false information. I don't know whether we can  
12 go that far, I don't know whether the Committee will  
13 decide to recommend it, but it indicates there is something  
14 needed to be done along those lines.

15 A Mr. Chairman, this is kind of like sin. We  
16 are not going to eradicate it. I think it is an area of  
17 the times, and I bring up the morals, of the people  
18 that we are living with today, plus the fact— As I  
19 mentioned there in my personal opinion, the age group  
20 from 20 to 40, we are getting ready to really see some-  
21 thing in the credit field in the coming years, and I  
22 think they need consumer information. I think frankly  
23 that all of us, they need some—there is some public  
24 interest involved in this area.

25 Q Where can they get this consumer education?

1 Mitchell

2 Where do you think they ought to get it?

3 A Frankly, it should be taught, I think we'd all  
4 agree through the schools, beginning through elementary  
5 and high school. I have been a high school teacher, but  
6 you find a citizen right now who knows how to pass title  
7 to an automobile. They are few and rare between. How  
8 to pass title to a house. Just seemingly it doesn't get  
9 over until people get into it and they begin to use it  
10 then they begin to find out about it.

11 MR. MISKELL: Thank you very much, Mr. Mitchell.  
12 We appreciate your coming here.

13 MR. MITCHELL: Thank you and the Committee.

14 MR. MISKELL: I'd like to call Mr. Harvey L.  
15 Davis, S. M. U., Chairman, Committee to Prevent Unreason-  
16 able Interest Rates.

17  
18 MR. HARVEY L. DAVIS

19 was called as a witness and testified as follows:

20 MR. DAVIS: Mr. Commissioner, my name is Harvey  
21 L. Davis. I am appearing here as Chairman of the Committee  
22 to prevent Unreasonable Interest Rates. And, I'll have  
23 to first start out by saying, so far this Committee  
24 hasn't been very successful, in its objective.

25 But I was very happy that Governor Connally

Davis

1 charged this Commission as he did, and I think it might  
2 be a good idea at this time to look back at just what he  
3 charged the Committee with: and so I am going to read  
4 the words of Governor Connally:  
5

6 "There is an imperative need for an  
7 extensive consumer credit legislation for  
8 the State of Texas. This code should encom-  
9 pass all phases of consumer finance operations  
10 in our state. It should provide an adequate  
11 interest rate."

12 This is the only word I'd change. I would  
13 say it should provide reasonable interest rates.

14 "Free and fair competition between  
15 financial institutions and industries, and  
16 effective regulations. Under such a code,  
17 the people of our State would be assured of  
18 low, competitive interest rates and protections  
19 from possible abuse. In addition, the finance  
20 institutions and the industries of our State  
21 would be assured of adequate rates and the  
22 right to competition. Such a code will bring  
23 establishment and progress to this most  
24 important segment of our industry!"

25 Now, that is one of the best systems I've ever



Davis

read, and I'd like to point out on two occasions he uses the word, "competitive" and then he also uses the word— No, "competition" and "competitive" interest rates. So, he emphasizes that. And, therefore, I think one of the emphasis of the Study should be on competitive interest rates.

Now from what knowledge I have, I think it is accurate to say that there is no competition in interest rates within the small loan industry in the respect of the rates that have been set. The rates that are charged are the maximum. There is no competition. No one has ever seen an advertisement by a finance company to the effect that they are offering lower interest rates than any of their competitors..

Now, how do you get competition? Everybody wants competition. We all agree on that point. Now, how do you get it? You get it by the knowledge of those in the activity looking around and getting the best deal, and the only way that can be done in the area that we are talking about is for the consumer to know what he is looking for at the time he goes into the consumer financing. And, the only way that can be done is to state it in terms of interest. That is what we are talking about. Interest rates. There is no other way

Davis

that people as a whole are going to be able to shop for credit without knowing what interest they are paying.

Now, I'm not up here to rebut anybody who spoke before, I don't intend to do that. But, in order to say what I have to, I have to make a few remarks of what I heard.

The gentleman from the retail industry, in essence is, his whole talk was they didn't need regulation they didn't have any problems.

Well, the Governor—I guess it was the Governor—at least in the list of those that were under consideration are the retail establishments, and I don't profess to know very much about the problems that they might have with respect to the people who use their consumer financing but I do know that the interest rates that they are charging now under the revolving credit plan is 18 per cent and I think all of them charge that. That's my information. And, of course, that rate is illegal under the law of Texas. So, that is one problem that a comprehensive code should look at.

So, that is the main point I think that I would like to make up here: that is that this code that you are going to make recommendations about, should carry out the mandate—well I won't call it a mandate of

34 1 Davis

2 of Governor Connally, the statement of Governor  
3 Connally, in seeing that we really get reasonable competi-  
4 tive interest rates, and I don't think it is an impossi-  
5 bility to do it. It is done much better in almost all  
6 the other states than it is being done here so far.  
7 I believe that our mathematicians are capable, despite  
8 what was said earlier of drawing up adequate information  
9 to show us interest rates that being charged to the  
10 consumer.

11 I have a friend who is a doctor in mathematics,  
12 and he tells me he can do it, and I believe there are  
13 lots of others who can, too.

14 Now, another thing that the code should provide  
15 for, and that is as between the industry competitors,  
16 the treatment should be the same as far as maximums allowed.  
17 Now, I say there may be different interest allowed for  
18 some people, banks, credit unions and consumer finance  
19 operators of small loan operators. There may be good  
20 reasons within the industry themselves to have different  
21 rates. But, there is no good reason to have a difference  
22 in rates, such as we have now, in the small loan industry.  
23 And, of course, I take the position that in this new code  
24 there should not be such a thing as our present Article  
25 17(b) of the Code.

Davis

I don't believe from the information that I know about that there is any reason for it. Without going into all the arguments and statements you have heard before, I just want to make that point again.

The third point I want to make is about the tie-in sale of credit life and disability insurance. In the first place, I think these tie-in sales are in violation of our present Federal and Anti-trust laws, and that in itself is a very bad thing. But also, the way it is used by the loan industry and by the consumer financing, it is merely an additional interest charge. Now, I am all for credit life insurance, if that is what the lender wants, I think he should be able to get it, but I don't believe there is any case in the history of loans where a credit insurance policy in a small loan situation was sold by any one but the lender, and the reason he sold it is for additional interest charges.

Now, we have had the rates lowered to some extent, but they are still too high and they are still additional to the interest charges being paid.

Something like a requirement if there is going to be credit interest insurance writers a lot more information about it and something like group credit insurance which can be written profitably by the insurance company

Davis

at a much lower rate, at such a low rate that some of the money loan companies who really want to compete on their interest would absorb the credit interest charge. That would be an awfully good thing to put in their advertisement. "We'll pay for your group credit life policy." It seems to me that some of the loan companies and consumer finance companies could well take some business away from their competitors just by doing that little thing, and I would suspect that they would make more profit than the way they are doing it now.

The only other thing that I would like to talk about is, of course, the problem of how do you get the consumer to where he is able to really shop for credit? Well, part of what I have already said would help some. But it seems to me that there needs to be a definite state effort for this, and this could come under your Department or whatever Department is set up for the administration of this code. It would eliminate many of the problems that the code is designed, or should be designed to eliminate. But very definitely without trying to say just how the education should be done, I think it should be done and a very likely by the state in order to to effectuate the purposes of the Code.

Thank you.

1 Davis

2 MR. MISKELL: Thank you Professor.

3 I would like to phrase some observations to  
4 you.

5 BY MR. MISKELL

6 Q I am quite frankly, you might say, a bit per-  
7 plexed. Mr. Ducate represented the retail profession,  
8 and I'm perplexed because I don't wish to rebut your  
9 statement, but I think at the time of his discussion—  
10 it's a question of interpretation— I know this has  
11 happened—but he was up here speaking of the legisla-  
12 tion introduced in the last session sponsored by the  
13 retail merchants here in the State, and he spoke of  
14 many of the provisions: In other words, disclosure  
15 copy of the contract to be completed, to be given to the  
16 borrower, the right of the borrower to—

17 A Well, I say I'm not trying to rebut him,  
18 Mr. Commissioner, and I don't think anything he said  
19 needs defending. I'm not criticising.

20 Q The point is made and I think it ought to show  
21 in the record. Either I misunderstood him or I misunder-  
22 stood the point was made that he was opposed to legis-  
23 lation.

24 A Let's make the record clear on that, then.  
25 I didn't say he was opposed to regulation. The whole

38 1 Davis

2 tenor of his talk was that his group didn't need  
3 regulation, that there were no problems.

4 Q Well, there again, you see I don't  
5 follow it if he said that they didn't need regulation,  
6 because he had spoken about regulation that he had  
7 sponsored, and indicated that they felt that they needed  
8 some regulation.

9 A Maybe we won't agree with how far they went.  
10 Well, then, we can get down to some of these things,  
11 yes. I'm sure they sponsored something like permissive  
12 regulations to let them do what they wanted. Of course,  
13 that type of regulation is fine with those who have it  
14 regulated as they want to be regulated. That's per-  
15 missive regulation. I am talking about real regula-  
16 tions, regulatory regulations.

17 Q We come to one other observation and I imagine  
18 people and I don't know about rebuttal, but you have  
19 raised the question of competitive interest rates and I  
20 think I need to make about three observations. I just  
21 pulled out a little booklet and there are 12 states  
22 that have regulatory loan ceilings of \$1,500 or more,  
23 and of those 12 states, well, there would be 13, really,  
24 including Texas, and I think that number may have  
25 changed with some other states, but out of the 12 listed

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1 Davis

2 Texas has a lower rate than 10. There are only 2 states  
3 that have a lower rate than Texas. At a thousand  
4 dollar level, there are about 19 states in that class  
5 and for regulated loans, Texas has the lowest rate of all  
6 19. So, it seems to me when we get to the point— You  
7 made the observation the rates are too high or they could  
8 be lower, I would like to carry the next point, on  
9 what is that based?

10 A Mr. Commissioner, I'll furnish figures where  
11 they are the highest.

12 Q At a thousand dollars or at \$1500?

13 A Yes. Including all the tie-in's. I'll  
14 furnish figures on that if you want the figures.

15 MR. MISKELL: I'm sure the Committee would be  
16 glad to have them.

17 A I came up here to state what I think ought  
18 to be in the new code. I didn't come up to debate the  
19 present law for information or to be a target for what  
20 observations you might have for the present law. I  
21 thought you wanted something about what I thought should  
22 be in the new code.

23 Q We did and we appreciate your giving us these  
24 thoughts, Professor. I'm sure the Committee would  
25 like very much to have your observations on the total



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2 rates on the Texas Regulatory Loan Act because I'm  
3 sure they would want to look into the act to provide  
4 a competitive system of consumer credit here in the State  
5 in response to the Governor's mandate to the Committee.

6 I'm sure we appreciate your coming by, and,  
7 as I said before, I was perplexed. As you say, the  
8 purpose of the hearing is to take testimony from any  
9 citizen who is interested, but I think it is the  
10 purpose of any Committee that is hearing testimony on  
11 any problem that is of interest to say 10 or 11 million  
12 citizens to make sure that there is a balanced record  
13 in terms of that testimony, so that if per chance the  
14 record is unbalanced or is distorted or even for some  
15 reason does not accurately reflect the situation that a  
16 transcript of the testimony, which is presented to the  
17 Governor and to the public at large and to the Legis-  
18 lature, would only magnify the distortion.

19 A I hope you are not saying that I have distorted  
20 any record, Commissioner.

21 Q I didn't imply that at all.

22 A That isn't what your—

23 Q That's the only reason I entered the observation.  
24 As I said, I was perplexed as to how to do it because I  
25 didn't want to appear to be rebutting you.

Davis

A I'm glad. The record will show whether you are rebutting me. Also, the record will speak for itself. Every word is being taken down.

MR. MISKELL: Thank you very much Professor Davis.

Are there any other witnesses who would like to appear at the hearing?

Here again I would like to remark that the record, written record will be held open, and we would welcome any written transcript of testimony which any of you would like to file, and I'll point out our next hearing will be held in Austin, the middle of October, and we do appreciate the appearance of all of you, and we appreciate the fact that many of you have come and listened to the testimony. We hope that it has helped you. I can speak for the Committee when I say it will help them in their deliberations. Thank you very much.

(Whereupon the hearing was adjourned.)


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CERTIFICATE

THE STATE OF TEXAS §  
  §  
COUNTY OF TRAVIS §

I, Walter H. Hickman, a Notary Public in and for Travis County, Texas, do certify that the above entitled matter came on for hearing before the CONSUMER CREDIT STUDY COMMITTEE OF THE STATE FINANCE COMMISSION and that the foregoing is a true and correct transcript of my stenographic notes taken therein.

GIVEN under my hand and seal of office this 26th day of September, 1966.

  
Walter H. Hickman, Notary Public  
in and for Travis County, Texas.

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