

The Political Economy of Retailing into the Eighties - Part 2

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Retail sales have become increasingly concentrated in the stores of the large retail companies. As I have argued in the first part of this study (J.A.P.E. 15), the giant retail companies have come to dominate retailing through their own growth, by expanding their own outlets and taking over those of their competitors, and by their sheer presence in the large shopping centres where the large company stores are generally the major attraction for shoppers. The consequence of this concentration of retailing for smaller, independent retailers as well as for suppliers of consumer goods, and especially manufacturers, have been spelt out.

In the second part of this study I examine the consequences that this concentration and rationalisation has had upon workers in the industry. In addition, it will be useful to observe the impact that the monopoly on retail distribution enjoyed by the large companies has had for consumers. This is important because the retail industry provides the link between the public arena of firms, or more particularly shop assistants and selling, and consumers buying material goods for use and enjoyment in the private sphere of the household. Such a linking provides another dimension to the development of retailing, in terms of retailing being the most public face of the capitalist market system, as well as serving to highlight the patriarchal nature of the link between the capitalist enterprise, which has become increasingly dependent on the labour of women, and the household, which has historically been managed by women.

The other major concern of this study is the place of the state in representing and resolving the various conflicts between the various interests associated with retailing. Much of the focus will be on the extent to which the state has sought to promote a retail industry that corresponds to the image of the free market that is the basis of mainstream economic thinking.

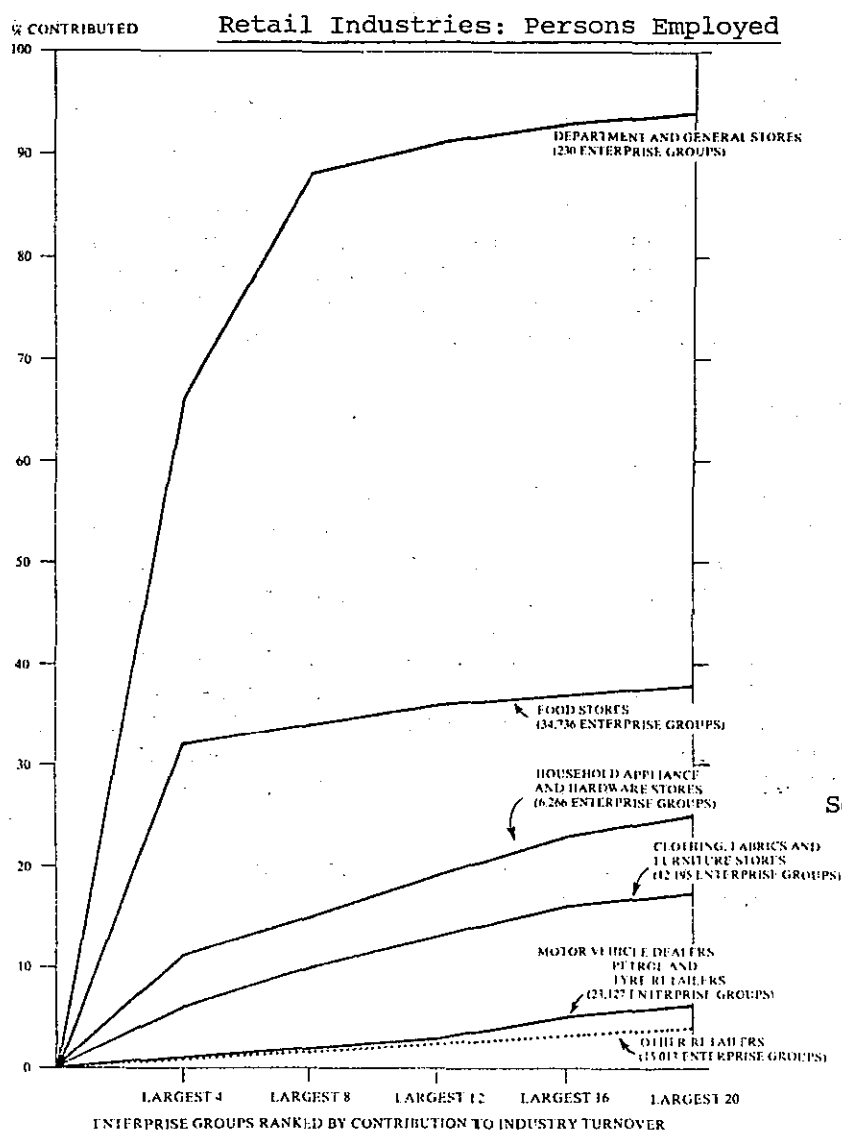
THE PLIGHT OF THE SHOP ASSISTANT

Historically, the retail industry has been an important employer, especially of women. The 1961 Census, for example, indicates that only 25 per cent of the total workforce in paid employment were women whereas 53 per cent of the 530,000 persons employed in retail activities were women. Retailing accounted for almost 30 per cent of women's paid work in that year. While employment figures for subsequent years are not entirely comparable, the number of jobs in retailing has not grown markedly and has, in recent years, declined. In 1969 there were some 532,700 persons employed in retailing, 56 per cent of whom were women. In 1974, 60 per cent of the 794,700 persons employed were women and this percentage has climbed to 64 per cent of the smaller total number of 737,400 people employed in June 1980. The industry

* I would like to thank Joan Templeman and Evan Jones for much useful discussion.

is still a significant employer of labour, accounting for 19 per cent of the women and 11 per cent of the men in paid employment. However, recent reports of store closures and layoffs indicate that the decline in retail employment is accelerating. More importantly, the casualisation of work in retailing has resulted in a very marked fall off of full-time employment.¹

Exacerbating this trend towards falling total employment and increased part-time and casual employment has been the ongoing rationalisation of the industry. This has followed the increasing concentration of ownership of retail outlets and the resulting intensification of competition as consumer demand has faltered. Increasing concentration has seen a decline in the proportion of working proprietors relative to employees per proprietor. Excluding motor vehicle dealers, garages and service stations and department store retailing (where there were only two working proprietors employed), the 1962 census reported that on average there was one proprietor working for almost every three employees. By 1980 there were four employees for every working proprietor. This is further reflected in the fact that 50 per cent of shop assistants now work in stores that employ ten or more shop assistants (when stores employing ten or more persons account for only ten per cent of the total number of retail outlets). On average there was a doubling of the number of shop assistants employed per store during the period 1962 to 1980. Some idea of the importance of the large retailers as employers can be observed by examining the graph depicting details of persons employed by the largest companies.



Source: A.B.S. Census of Retail Establishments and Selected Services Establishments: Industry Concentration Statistics, Australia 1979-82 Cat. No. 8627-0.

Underlying this has been a radical reorganisation of work in retailing, as two recent studies by Game and Pringle, and O'Donnell have indicated.² The concept of self-service has entailed a de-skilling of the shop assistants' work. Check-out counters and centralised cash and wrap facilities no longer require the skills of service and selling. This re-organisation of work was first evident with the appearance of the self-service food markets and the concept was extended on a much larger scale to the discount hypermarkets. The refurbishing of department stores that commenced in the late 1970s was designed not only to make the stores seem brighter and more attractive but also to reorganise displays and layout in order to effect a rationalisation in the number of shop assistants required to service any area.

Another aspect of this progress is that computerisation has enabled management to check the progress of the re-organisation and the contribution of individual employees. This applies not only in the larger stores but also in the smaller specialty stores acquired by the retail giants for they have been linked directly to parent control with the introduction of cash registers that are linked to head office terminals. The use of scanners will reinforce this centralised control giving management instant recall of sales according to item. According to retailers, scanners make work easier for shop assistants by making price recording unnecessary. But it is evident that this entails further deskilling and will result in job losses for packers, who would not be required to put prices on individual items as they are being stacked on shelves, as well as for shop assistants working on cash registers.

The other fundamental aspect of this re-organisation of work has been the rapid casualisation of work. This has been associated with a marked increase in the proportion of women and teenage workers employed in the industry. Previous efforts by retailers to lower costs by employing more women and youths to work in the newly established variety and grocery chain stores in the 1930s brought protests from the labour movement and some restrictions on the proportion who could be employed alongside salesmen. But shortages of labour during the Second World War and the subsequent developments in the industry (the expansion of chain stores and suburban department stores the construction of supermarkets and the establishment of shopping centres) brought a marked increase in the number of women and youths employed in the industry.

The employment created with the extension of the retail enterprises into the suburbs was overwhelmingly of a part-time and casual nature. Between 1969 and 1980 the number of full-time positions in retailing fell by some 30,000, a reduction of some 10 per cent of the industry's workforce. By contrast, the number of casual and part-time workers grew by almost 100,000 over the same period. Women were more than disproportionately disadvantaged in the process. The percentage of female shop assistants employed on a full-time basis fell more than that of their male counterparts while the number of women employed as casuals and part-timers grew markedly. In 1960 the census of the retailing industry indicated that three-quarters of the women employed in the industry were employed in a full-time capacity. This compared with 86 per cent of all men employed. By the 1980 census only half of the women employed in the industry were working full-time, compared with three-quarters of the men. This casualisation of women's work is even more evident in department stores where the proportion of full-time women workers declined from 90 per cent to 50 per cent in two decades. It is apparent that this trend has accelerated. The recent New South Wales Government inquiry into retail trading hours suggested that only 30 per cent of the retail industry's workforce could be reckoned to be employed on a full-time basis. These figures are confirmed by the records of employment status of those shop assistants who are members

of their union.

The casualisation of work, and especially women's work, in retailing has coincided with the establishment of the suburban shopping complexes as well as with the reorganisation of work in the larger stores. Casualisation may also not have been as rapid had there not been important changes in the organisation of the family in the suburbs. Women are having fewer children and the child-bearing years are now more concentrated. In the context of smaller, planned families as well as the breakdown in the nuclear family, women's participation in the workforce increased markedly. Yet women's work remained restricted to traditional areas of employment. Retailing provided one important area of employment for women and, insofar as the employment offered was part-time or casual, this was attractive to those women who continued to assume primary responsibility for child-rearing and domestic management. It also had its shortcomings, the most obvious being that, while casual or part-time employment might provide such women with an opportunity to enter into paid employment, there was little choice over the determination of the number of hours that could be worked because of limits on the number of hours a casual could work, and, therefore, how much one could hope to earn. There was only a limited monetary attraction to be had from entering the workforce on this basis.

It has been the objective of the retail companies to cut costs by restricting the majority of the industry's workforce to a casual or part-time basis and so meet the fluctuating trade of the shopping day. Employers justify the employment of women in this capacity by arguing that they are only interested in earning "pin money", to supplement the male breadwinner's income, something akin to a diversion from their principal pre-occupation of managing the household.⁴ The consequence is that, whatever the ambitions of the women working in retailing, the opportunities for more gainful employment are simply not there. The possibility of becoming a full-time worker and of earning something approximating a living wage is extremely limited.

This can be borne out by other features of women's employment in retailing. The duration of women's employment is considerably less than that of their male counterparts, with 43 per cent of women employed in 1981 having worked for less than one year.⁵ Women receive noticeably less wages, on average, than do men in an industry that is noted for its comparatively low award level of wages.⁶ An additional factor that might be noted is that an increasing proportion of women employed in the industry are employed as



LOW PRODUCTIVITY WORKERS?

juniors, and especially as junior casuals, and do not receive an adult award rate of wages. The significance of this can be noted by reference to New South Wales where, in 1978, there were some 54,000 teenage school attenders working in the industry.⁷ This represented one-fifth of the industry's

workforce and did not include male teenagers whose increased employment goes some way to explaining the casualisation of men's work in retailing.)

The union representing the interests of shop assistants, the Shop, Distributive and Allied Employees Association (the S.D.A.), has done little to contest these developments. The S.D.A. has been more concerned with increasing the number of shop assistants joining the union, that is, with increasing unionisation, and in obtaining employer support for closed shop agreements. This has often locked the union into supporting extended hours and, because the need for more staff to work the extended hours was met by casuals, the union has supported the process of casualisation.⁸

Moreover, the S.D.A. success in winning employer support for a closed shop also served to preserve the authority of a conservative leadership for one of the objectives in signing up more members was to consolidate a particular faction's control of the S.D.A. and also to provide this N.C.C.-backed S.D.A. with more voting rights within the A.C.T.U. and more muscle within the labour movement generally.⁹ This has had immediate ramifications for the well-being of the union's members because N.C.C. dominance of the union leadership that does not include one woman has locked the S.D.A. into a very conservative conception of the place of women in the family and in the workforce. For instance, the N.C.C. holds as sacrosanct both the nuclear family and its management by a housewife who is in the position to devote all of her energies to the maintenance of the family. Such an outlook is of course, abhorrent to the notion of a woman working full time and pursuing a career. It is reflected in the S.D.A.'s policy on child care. Despite the fact that women make up over half the membership of the union, the S.D.A. does not consider child-care to be an industrial issue. It asserts that "child-care is a parental issue..." It takes for granted that women, who normally assume the major responsibility for child-rearing and management of the household, should not receive some support to enable them to enter the workforce on more equal terms with men. The same attitudes are reflected in the S.D.A.'s policy on what encouragement and support should be given to women to participate in union affairs. At the last A.C.T.U. Conference the S.D.A. opposed moves to require unions to provide child-care facilities whenever union meetings were held.¹⁰ Such a policy can only serve to preserve the continued male dominance of the S.D.A. leadership and of those attitudes which have resulted in the deterioration of working conditions within the industry.

Nevertheless, the union has demonstrated a little more industrial might of late. Various state branches have waged campaigns against the large retailers' moves to have restrictions on shopping hours removed recognising that an extension of shopping hours would accelerate casualisation. The Victorian branch was quite resolute in opposing the extension of shopping hours.¹¹ The N.S.W. branch organised pickets outside several discount stores which opened in defiance of state laws on legal trading hours.¹² On the other hand, the N.S.W. union agreed to the passage of legislation through State Parliament which would permit shops to open two evenings of the week and on Saturday afternoons on the condition that attempts would be made to increase the proportion of full time workers in the industry.¹³ Such a condition would seem quite difficult to implement given the noted objectives of employers. The South Australian branch has recently adopted the aggressive policy of demanding state intervention to halt casualisation. This follows moves by the South Australian retailer, John Martin and Company, to force the issue by reclassifying 246 of its 347 full-time staff as part-time workers by marginally reducing the number of hours they work. The

union has called for the insertion into the industry award of a "proportions clause" requiring that there be one full-time worker employed for every five hours of casual or part-time work.¹⁴

In the face of industry rationalisation and a static retail market retrenchment of shop assistants has become a new concern of the S.D.A. In the case of the decision by Waltons Bond to close its Melbourne stores, the Victorian branch confronted the company on the question of redundancy payments with a resoluteness not characteristic of the union. The union organised pickets to prevent the sale or removal of any stock from the stores until the company agreed to renegotiate redundancy payments. With A.C.T.U. backing, the union forced the company to renegotiate with retrenched workers and the redundancy payments finally agreed upon were more than double the amount the company had initially proposed.¹⁵ By contrast, the S.D.A. in N.S.W. took some time before indicating that it would fight to improve the more parsimonious offer on redundancy payments made by Myer when that company announced the retrenchment of staff in some of its Sydney stores.¹⁶ Notwithstanding these actions, the union has not been able to prevent retrenchments of both full- and part-time shop assistants.

THE PLIGHT OF THE CONSUMER

In an age of consumerism, the form that the distribution of consumer goods takes and the range of consumer goods offered is crucial in understanding the workings of the capitalist system. Moreover, given the place of women as the primary managers of consumption, an understanding of the changing character of the retail industry illuminates much about patriarchal relations. The industry has figured prominently in women's lives because, whatever their work status, women have traditionally taken charge of domestic affairs, of raising and feeding the family and taking care of the household. It has, then, traditionally been women who have been the retailers' main customers.

However, the relationship between the retailers and their main customers took on a new meaning during the course of the long boom with the ever greater socialisation of the basic processes of housework. The emphasis on buying more commodities in order to demonstrate social status has underlined this process. The result has been that the production of goods for consumption has increasingly been taken out of the home, away from women, with the manufacture of processed foods and consumer durables by capitalist enterprise. This has been further extended to the family meal with the recently established fast-food barns encouraging the family to dine away from the home. Thus, while the socialisation of domestic production has freed women from some domestic responsibilities, domestic labour has also been increasingly demeaned by its greater isolation from the sphere of commodity production. Production in the home has been increasingly usurped by the purchase of an almost inexhaustible range of consumer goods in the market place. The retail industry has, as a result, become an ever larger part of women's lives.

At the same time there have been dramatic changes in the relations between retailers and their customers. Only a generation ago, much of people's shopping centred on the commercial areas of the central business districts and on the inner suburban, main street shopping centres. The hallmark of retailing in this era was service. The increasing domination of retailing by the large retail companies has brought an increase in the size of retail establishments and a rapid diminution in services rendered. The social character of purchasing consumer goods, through the contact that shoppers once had with shop assistants and with one another, has all but disappeared. It has been replaced by an atomistic task where the only communication likely is of a purely pecuniary nature and that is fairly limited. The isolation of domestic labour is now mirrored in the supermarkets and hypermarkets only under brighter lights. The

anonymity of the consumer, indeed of the whole exercise of purchasing consumer goods, has been magnified.

Retailers have been pressing for further changes in relations with consumers. Government restrictions on shopping hours are viewed as a major factor discouraging consumers from spending more and retailers have been conducting a nationwide campaign in favour of deregulation of shopping hours. The retailers' major assets, the large shopping complexes, are little more than weekend wastelands. They constitute a substantial waste of resources, a situation which the retail companies fully appreciate. The removal of restrictions on shopping hours would provide for a more widely spread utilisation of the shopping complexes. Moreover, it is contended that this is what the consumer wants. In effect, it amounts to the retail companies seeking to reconstruct how we organise our leisure time. The attempt is to establish retailing as a frequent leisure activity at the expense of other activities, including those based around the home or those for which the consumer must pay, such as sport, movies and the like.¹⁷



CONSUME!

It is not to say that it will not come at some expense. On the contrary, it is clear that an extension of shopping hours will increase the cost of consumer products while, on the other hand it is unclear how extended shopping hours will increase retail sales.¹⁸ At a time when consumers are holding back on spending the retail giants are seeking to direct our energies into buying more commodities. It intensifies the pressure to define material affluence according to the particularly narrow conception of cash register sales.

The levelling out of consumption expenditure reflects the decline in the ability of the Australian community to buy goods. There is after all an economic crisis with more than 10 per cent of the workforce unemployed. In the grocery trade, the supermarket chains have appreciated the consequences of a faltering in the growth of consumer spending by resorting to decreases in the prices of a wide range of products. Coles and Woolworths have for some time now marketed a number of items under the respective house-brand labels at a price that is more competitive than the name-brand items, largely because of their ability to buy quantities of the house-brand products in bulk at a discount. More recently, the replacement of name-brand products on the store shelves by generic products, such as "No Name" and "No Frills", reflects an intensely competitive market in which the larger retailers, such as Safeways, Franklins, Coles and Woolworths, have sought to maintain sales by effecting a reduction in the cost of products retailed (at the expense of the manufacturer). It is quite clear that this has been to the consumers' advantage for the generic products are much cheaper than comparable name-brand products (even when they are exactly the same good).

Yet the particular form this effort to extend the market takes is not without its contradictions. The consumer boom was associated with an appreciation of the value of new products coming onto the market and the advertising of national-brand products was a very important factor in establishing a place for these new products. But generic products sever consumer identification

with name-brand products and must undermine their confidence in the advertised qualities of these products. "Lemon-charged" "no frills" does not arouse the confidence that its name-brand counterpart seems to. Woolworths has apparently appreciated some of the short-comings of generic products. The company has decided to cease selling such products and concentrate on promoting the image and quality of its own house brand products following a store survey which indicated that shoppers had doubts about the quality of the generic products.¹⁹ On the other hand, the acceptance of generic products may well be prompting consumers to question the veracity of anything that the "hidden persuaders" have to say about consuming as an end in itself. The retailers' efforts to maintain consumer spending may well give rise to some questioning of the meaning of "consumerism", which has been the basis of the sales boom of the post-war period.

There is, perhaps, one further paradox that is worthy of consideration. The expansion of retailing in the post war period was founded on a consumer boom that was itself a product of suburban development and, more particularly, the development of the family home built on the quarter acre block. It required a host of consumer durables to establish it as well as a plethora of cleaning and polishing agents to keep it in a state that was considered presentable, rather than habitable. That fed the boom in retailing as well as provided sanctuary for the housewife who invariably assumed the task of making the home presentable. The sanctuary, especially in areas poorly served by public transport, also magnified the isolation of domestic labour to such an extent that fear of leaving the home overtook many of the full-time inhabitants. This fear, agoraphobia, cuts at the roots of the retailers' dream, for the consumer who does not have the confidence to go shopping is of little value to the retailer. The attraction of the suburban female consumer has not come without some cost.

THE HEGEMONY OF THE RETAIL GIANTS? - THE PLACE OF FINANCIAL INSTITUTIONS.

For the great majority of Australians post-war economic development was supposed to be contained in the objective of increased material consumption. It was an ambition that fuelled the hopes of retailers. Yet, retail companies rather than retailers in general were the best placed to reap the benefits of consumerism. In effecting major changes to the patterns of retailing and in monopolising particular areas of retailing, the force of individual consumers paled in comparison to the large retail companies as did the presence of the independent retailers. In being the most important buyers of locally manufactured consumer goods as well as imports, the large retailers have increasingly monopolised most sources of supply for retailers. Consumerism has been the boom of the large retailers.

However, the dominance of the retailers in the economy is not unchallenged. Banks have been successful in establishing a presence in the retail world with retailers accepting payment by bankcard - a service which costs retailers between two and five per cent of the value of sales. Moves towards a cashless society will tend to accelerate banks' influence in retailing. The introduction of the first nationwide electronic funds transfer system has already been mooted by Westpac in conjunction with Woolworths, B.P. and Food Plus. The shopper will be able to have the cost of goods purchased debited to her/his bank account at the point of sale. This is to the advantage of the retailer for it will mean a direct transfer of funds to the company account, although it will presumably come at some cost to retailers.²¹ Bank influence may be extended still further with banks now in a position to promote computerised shopping. Myer had bought

the Australian rights to the Canadian Telidon system which is a system designed to deliver services directly to the home. A consumer, using a viewer such as a television, can link up to a central data bank and get access to information which will enable business to be conducted "from the comfort of the home". "Non-shop shopping" and "home banking" were two possible uses of the system. But before Myer could introduce Telidon, it was forced to rationalise its expansion programme and Westpac bought the rights to the system. The sale of the system may see "non-shopshopping" being conducted at home through the banking system. Further evidence of bank's increasing influence in the management of retailing enterprise can be made by reference to the cash-management schemes which banks are seeking to develop. Retail enterprises are likely to provide most of the banks' business.²² The longer term effect will be retailers foregoing profits and perhaps a degree of autonomy in conducting the business of retailing.

The increasing indebtedness of the major retail companies in the last 1970s and 1980s has also meant that banks' importance in financing retail expansion has increased. This is not all that significant, however, for much of the expansion has been funded by the issue of debentures, particularly to shareholders. But, the presence of financial institutions is important in another respect. Family ownership of some of the larger retail companies is clearly quite strong and corporate control is also evident in the cases of David Jones and Waltons. Surprisingly, however, finance institutions are important shareholders in the large retail companies and have figured prominently in recent battles for control of Grace Bros. The A.M.P., in particular, is a significant shareholder being the largest shareholder in Woolworths and Coles, with 12 and 7 per cent of the respective companies' share capital, and it is the second largest shareholder in both Myer and David Jones with some 6 per cent of the share capital in each company. Other financial institutions figure prominently among the top twenty shareholders in both Coles and Woolworths. Although it is only in Woolworths and Coles that any one financial institution might be said to have a shareholding that could give anything approaching a controlling interest, insurance companies were important in determining the outcome of the battle for control of Grace Bros. They supported the Myer move in the belief that a Myer takeover would see the "establishment" within the retail industry bring some order to retailing.²² The importance of banks and other financial institutions in promoting concentration and facilitating rationalisation should not be underestimated.

While financial institutions are playing an increasing role in the future of retailing, another measure of the strength of the retail giants in shaping the course of economic, as well as social and political, development should be considered. This is in the role of the state in mediating between the various interests that retailing brings together and over which the retail giants have come to dominate.

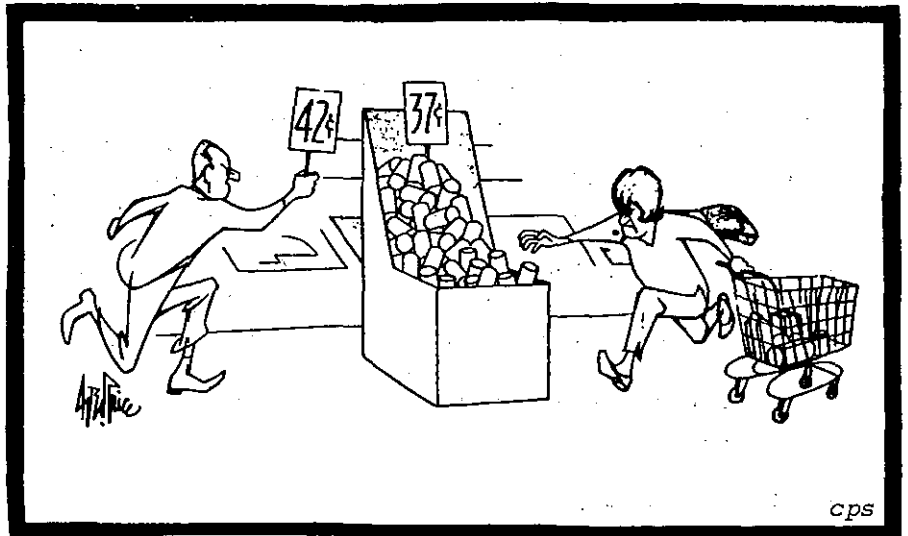
THE ROLE OF THE STATE

To some extent, government has been party to the growing concentration of ownership and rationalisation in the retail industry. The establishment of regional shopping centres was in line with some government planning schemes for metropolitan development. The construction of shopping complexes was evidence of modernisation in the suburbs that the governments were supposed to be presiding over. In Melbourne, the decision of the City Council to go ahead with the construction of a shopping mall adjacent to three major retailers was made with a view to revitalising city shopping though it was opposed by 71 per cent

of the city's retailers. Where governments may have objected there were few statutory means to hold back the development because planning authority generally rested with local governments that were only too eager to welcome commerce to their municipality. Only recently, the Victorian Labor Government has moved to place some restrictions on the development decisions of the large retailers and developers by transferring the right of approval for such decisions to a state instrumentality.²³

With respect to the policing of weekend and after-business hours shopping, governments have been quite slack. It has often been the shop assistants union that has been responsible for policing adherence to the law. The Victorian Labor Government has been one exception. It recently moved to increase the penalty for after-hours opening and subsequently passed legislation to prevent stores employing more than 20 employees from circumventing the purpose of the law restricting shopping hours. This was prompted by Myer's moves to get around the law by partitioning off sections of its city store to sell only those items permitted to be sold outside the restricted hours.²⁴ By contrast, the New South Wales Labor Government remained reluctant to commit itself to forcing retailers to observe the law on shopping hours. One large retailer quite flagrantly abused weekend trading restrictions. Only the S.D.A. acted to see that the law was observed launching prosecutions against retailers and threatening industrial action against the retailers if they did not curtail their illegal trading. The Government sought to establish a compromise in the conflict between the union and large retailers by agreeing to permit longer trading hours!²⁵

The question of consumers' rights has also been raised in the context of retailers' moves to end the practice of itemised price marking. They contend that with scanners there is no longer a need to mark each good with a price and to do so must come at some expense to the shopper. One consumer group has studied price movements to demonstrate that there is no price advantage for shoppers with the abolition of itemised pricing and the Victorian Government has accepted the arguments put forward by consumer and women's organisations and has made itemised pricing mandatory.²⁶ Other state governments have yet to move on the issue.



In other respects, governments have long entertained a concern

with the possible effects of high levels of concentration of ownership in industry. The need for some form of legislative intervention has been considered necessary because it has been a long-standing judicial principle that disorder might arise in the free market from too much competition stemming from the anarchy of the market place. It has been held at common law that too much competition could be ruinous: the anarchy that would otherwise prevail if agreements that restrained trade were inhibited by law would not only cause manufacturers to suffer but would also be disadvantageous to the public interest.²⁷

The first moves in Australia to legislate against restrictions on trade by agreement or monopoly were made in the early part of this century to meet the challenge of the growing prevalence of cartels and monopolies in the economy. The Commonwealth Government moved in 1906 to protect the public from agreements among or between producers and or suppliers and from monopolies that restricted price or supply to the detriment of the public. The Australian Industries Preservation Act, 1906 was modelled along the lines of the U.S. anti-trust statute, The Sherman Act. However, the legislation did not substantially challenge the pre-eminence of the common law principles of the disadvantages that might flow from too much competition. There does seem to have been a reluctance to police the Act. More importantly, the legitimacy of the 1906 Act was challenged by the judiciary on the grounds that the Constitution placed certain limits on the authority of the Commonwealth Government over the operations of corporations. In addition, before being judged as illegal a restrictive practice had to be interpreted as having as an express purpose the intent to cause detriment to the public interest. The High Court had also held that the Act was inapplicable to intra-state restrictive practices. This provided a loophole for national companies to confine their restrictive trade agreements to each state. Cases of large retailers and manufacturers agreeing to enforce state-wide prices upon all retailers were not considered illegal according to the principles of common law, in spite of the apparent conspiracy, and, when restricted to one state, were not covered by the 1906 Act.

There were subsequent legislative moves to outlaw certain restrictive trade practices. Various State governments passed legislation but most had limited application and effect. Following a 1956 Premiers' Conference which examined the causes of a bout of inflation, the Western Australian Government appointed an "Unfair Trading Control Commissioner" and established a Royal Commission to inquire into restrictive trade practices. There was clear evidence of the prevalence of such practices but beyond recommending that it was desirable to publish details of these in order to try to prevent their extension, the Government was not prepared to intervene any further.²⁸

A more substantial move to introduce anti-trust legislation came in the early 1960s when the Commonwealth Attorney-General, Garfield Barwick, proposed the need for some restrictive trade practices legislation. A strong adherent to liberalism, his aim in calling for state intervention was to secure the operation of the market according to laissez-faire principles. Opposition to the proposed legislation from within the Liberal Government Cabinet and pressure from manufacturers and merchants, including the retailers' association, removed much of the force from the bill - including any controls over resale price maintenance - by the time it received the assent of Parliament in 1965.²⁹ The Trade Practices Act 1965 was, in fact, quite limited. The legislation

defined certain agreements and practices which were outlawed ... They were to be examined by reference to a very wide public interest test and, if found to be contrary to the public interest, a "cease and desist" order might be made. But until this occurred the agreement was not struck down ... Given the large number of agreements registered and the slow and costly process of examination and hearing this system was ... an invitation to make hay while the sun shines.³⁰

To make matters worse, inquiries were to be dealt with on a case by case rather than industry basis which would tend to make the setting of rules somewhat limited. The Trade Practices Tribunal, which was established to enforce the Act, had limited judicial power and its determination could not be considered as "final and conclusive" and, therefore, binding. (However, to meet the situation where a large retailer might impose certain selling conditions upon small traders or block supply to small traders, s.36 of the Act prohibited secondary boycotts, although the boycott had to result in a "significant effect" on competition so its application was debatable and, therefore, subject to much inquiry).

While the Commonwealth trade practices legislation was being debated there was renewed concern with rising prices in Tasmania. This was, in part, prompted by complaints from small retailers about the pricing policies of the large retailers and as a result of decisions by a number of retailers' associations to recommend increasing mark-ups. The Tasmanian Government set up a Royal Commission in 1965 to "Report on Prices and Restrictive Trade Practices". Retailers and manufacturers attested to the prevalence of numerous restrictive trade practices in the State: to price fixing arrangements among retailers, resale price maintenance imposed by manufacturers on retailers and such practices as collective boycotts and exclusionary dealing to enforce these arrangements. Acknowledging that such practices did in fact exist, the Commissioner concluded by accepting the legitimacy of marketing arrangements that had been approved of at common law: "restrictive trade practices do not necessarily operate against the public interest... and 'orderly marketing' ... in reality embraced most restrictive practices."³¹ In recommending the introduction of legislation to deal with restrictive trade practices in concert with the Commonwealth, by referring jurisdiction over certain local or State matters to the Commonwealth, the Commissioner's particular concern was to control "gimmickry" and "misleading advertising"!

In effect, the legislation, beyond recording the existence of restrictive trade practices, made little headway into preventing the restrictive trade practices that were undermining the independence of small retailers let alone offer much protection for consumers. Prior to the enactment of the Commonwealth and Tasmanian legislation complaints by retailers on their inability to obtain supplies from the Melbourne clothing manufacturer Crestknit prompted a Commonwealth Police inquiry and a resumption of supplies (although it is unclear what was the basis of the police's intervention).³² By contrast, when the A.C.T.U. moved to combat rising prices by entering the retail trade, joining the Melbourne retailer Bourkes in partnership, Dunlop refused to supply a range of goods unless the retailer sold them at a given fixed price. Industrial action by Victorian trade unions forced the manufacturer to capitulate.³³

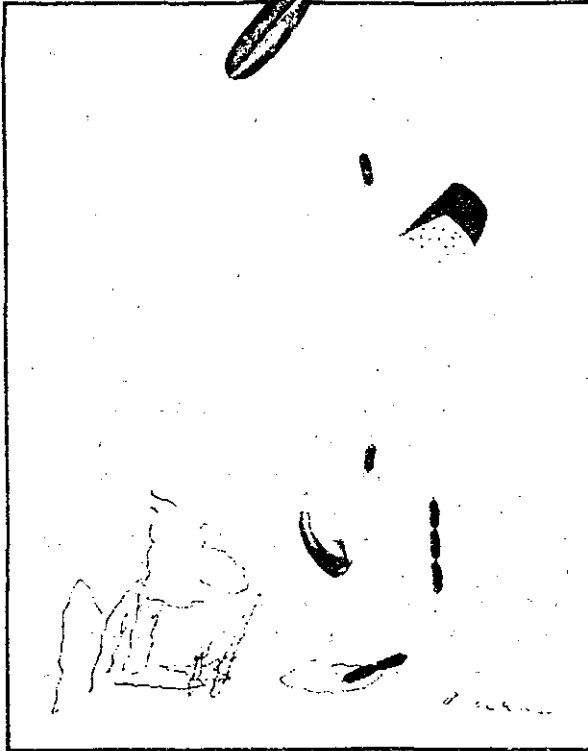
As this industrial action was being taken to limit the practice of resale price maintenance, the High Court ruled that the provisions of The Trade Practices Act, 1965 were so vague and general, as a consequence of the provisions having been so widely cast in order to capture restrictive practices throughout Australia, that they must be judged invalid. However, as momentous as this decision was the Court also ruled that the Commonwealth Government did have jurisdiction over corporations whether or not the particular restrictive practices they may be engaged in were national or confined to a given state

(and in the process, dismissed the reasoning that had limited action under The Australian Industries Preservation Act, 1906).³⁴

The McMahon Liberal Government moved to replace the invalidated legislation and, in introducing The Trade Practices Act, 1971, the Government legislated against resale price maintenance. Suppliers were, henceforth, only permitted to recommend retail prices and were not permitted to withhold supplies in order to secure selling at particular prices. This section of the Act was subsequently endorsed by the Labor Government in its foray into the field of anti-trust legislation in 1974. But one problem evident with this was that it was the supplier who could be prosecuted for resale price maintenance when price maintenance could well be something imposed by a third party such as a retail giant. Nevertheless, the passing of legislation to prohibit price control was an important advance, particularly given the successful opposition waged against such legislation in Barwick's efforts to control restrictive trade practices. This did result in a number of prosecutions against suppliers for resale price maintenance.³⁵ However, the more recent history of this section of The Trade Practices Act, 1974 has been disappointing. Subsequent amendments to the Act by the Liberal Government have watered down restrictions on price schedules. Whereas in 1974 the Trade Practices Commission could report that "the great majority of recommended price schemes interfere with the free operation of competition", hinting at a desire to police price maintenance more rigorously, by 1982, the Commission was soft-peddling on the subject. It was arguing that the price maintenance may in fact assist in promoting increased efficiency.³⁶

The lack of force in the restrictive trade practices legislation was only too evident. When the Labor Party was elected to office in 1972, it proposed the introduction of legislation with much more bite. The Trade Practices Act, 1974 aimed to provide for a more rigorous system of combatting restrictive trade practices and for more far-reaching consumer protection provisions. In fact, the main addition to the anti-restrictive trade practices legislation sought to offer consumers more protection from misrepresentation (and the Liberal Government's amendments in 1977 added further legislation on consumer protection by seeking to promote increased product standards).

The teeth in the Labor Government's legislation was the establishment of the Trade Practices Commission to replace the Commissioner of Trade Practices. Restrictive practices were to be prohibited by the Act instead of by ad hoc restraining orders made by the Trade Practices Tribunal after time-consuming inquiry. The Trade Practices Commission was given the responsibility to enforce the Act and gave it the power to impose fines for breaches of the Act's provisions. The 1974 Act substantially increased fines for those engaging in a prohibited practice. The Act also attempted to prevent restrictive practices being conducted through the actions of a third party, so that it afforded some protection for small retailers, for instance, from suppliers - or manufacturers - where supplies or prices were being restricted by the actions of another supplier or buyer. However, the section covering such practices has since been amended by the Liberal Government and its force is now directed towards prohibiting unions from taking industrial action against an employer in support of unionists in that employer's employ. (see s.45D)



Whatever the intentions of the Labor Government, precedent seemed to rule and in practice The Trade Practices Act, 1974 was to be a toothless tiger. The Commission's energies were expended in much the same way as had the Trade Practices Commissioner's: in examining applications for clearances and authorizations of agreements. More importantly, however, as one member of the Commission was later to observe, the Trade Practices Commission seemed to be wedded to the principles of common law on the attitude to be taken on restrictive trade practices. Despite his own efforts to bring an end to such practices, Venturini found the Commission moved very tentatively, presumably in order not to disrupt orderly business or to upset the business or businesses which it was examining. No action was taken in the courts to prevent price discrimination or to prevent other moves to restrict competition. Venturini concluded that the Act was more or less useless and resigned from the Commission in disgust.³⁷

Despite the weakness of the Labor Government's anti-trust legislation to provide any really serious challenge to restrictive trade practices and afford the consumer some protection from monopoly power, the Fraser Government moved quickly to examine Labor's anti-free enterprise legislation. A Committee, the Swanson Committee, was formed in April 1976 to review the operation and effect of the 1974 Act. A number of recommendations were made which were subsequently incorporated into the Liberal Government's The Trade Practices Amendment Act 1977. The most important, in terms of our concern with the retail industry, stemmed from the observation made by the Swanson Committee that s.49 of the 1974 Act "prohibiting price discrimination was operating contrary to the intended purpose of the Act, was resulting in increased prices and was in fact harmful to small business and the consumer." The provision which offered small retailers some protection from the price advantage that the retail giants possessed, ostensibly because they were in a position to purchase large quantities of merchandise, was repealed.³⁸ The supplier continued to be prohibited from discriminating between purchasers of goods of like grade and quality but not with respect to different quantities supplied in relation to prices charged, discounts, services offered or payments for.

Cut-backs in employment levels in the Commonwealth Government has further emasculated the effectiveness of the restrictive trade practices legislation.

Reductions in staff employed by the Commission has reinforced an historical tendency to adopt a conciliatory approach to the administration of anti-trust legislation. There is now much greater emphasis upon consulting with companies who are the subject of complaints. Senior staff now "seek the company's comments on the complaint" such that, overwhelmingly, action is dealt with "administratively" rather than legally through the courts. The consequences have been a "slippage in the commission's authority". The policing of the 1977 Act is receding as restrictive trade practices continue to operate.³⁹ Still, the present Labor Government has said it will examine the need to amend the restrictive trade practices legislation and the Western Australian Labor Government appears to be giving a newly formed prices commission some teeth.

CONCLUSIONS

With the likelihood that more small retailers will disappear as the depression takes its grip of the Australian economy and brings further rationalisation and concentration of ownership of retail outlets, the might of the retail companies will continue to grow at the expense of the small retailers and the interests of the Australian consumers. Experience demonstrates that the large retail companies are prepared to use their might to assert their presence in the market place. The more recent evidence that Myer, Grace Bros and David Jones may have acted in collusion in altering settlement terms to suppliers highlights the dominant position that these retailers have in the market place, both in dictating the terms of purchase from manufacturers and in determining the prices of and form in which we are able to buy consumer goods. The inquiry conducted into this possible breach of the Restrictive Trade Practices Act does little more than publicise the fact of the large retailers dominance.⁴⁰ Similar demands on suppliers by G.J. Coles and Safeways earlier in the year indicates that such action is not exceptional.⁴¹ The reluctance of the state to intervene and prevent such practices or to act against the takeovers and mergers that are the root cause of restrictive trade practices demonstrates the difficulty in managing the capitalist system and, at the same time, representing the interests of different capitals. In this case, the hegemony of the retail giants is secured at the expense of manufacturers and of small retailers and, most importantly, at the expense of consumers.

All is not plain sailing for the retail giants as can be seen by the struggle for control of Grace Bros and the ramifications that the settlement of this will have for the future of at least three major retailers and especially Waltons. Some of the dilemmas confronting retailing are encapsulated in a recent report by the Myer chairman:

retail spending would not rise until people were more confident that their jobs were secure. At the same time, employment would not rise until business was more confident that demand would rise, costs would be kept down and profits could be made.

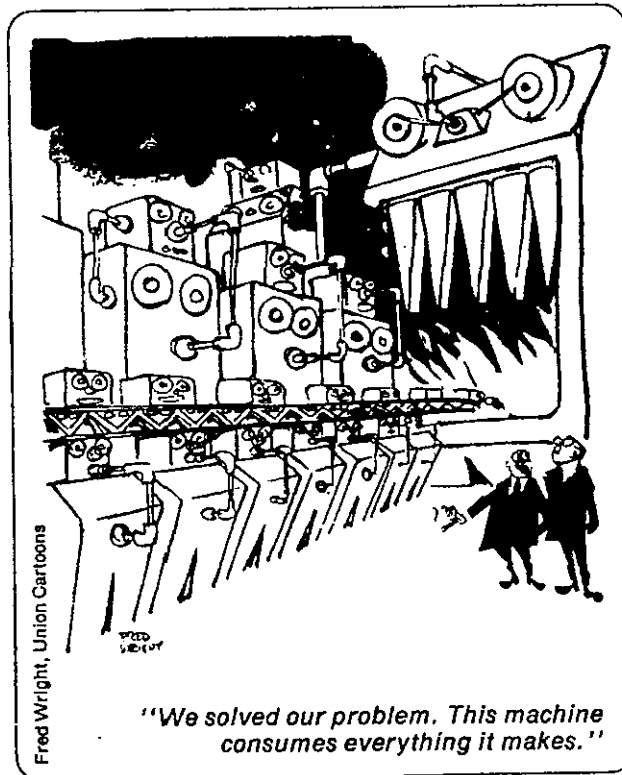
If consumer confidence is not restored and is not reflected in better profits, there must be a loss of jobs within the Myer group and throughout the retail industry.⁴²

The loss of employment in the retailing industry is already evident. The real wages of retail workers are among the lowest of any other group of workers and the large retail companies are seeking to effect an even further reduction in wages by appealing for an end to penalty payments.⁴³ But, more importantly, a survey of employment levels in retailing hides the very real reduction in total wages paid to retail workers that must have followed the increasing casualisation and feminisation of work. And, this process can not be divorced from the notion of consumer confidence for the bulk of consumers are wage-earners. The process of casualisation can neither be separated from the diminution of services offered by retailers. Nor can developments in the industry be understood without serious consideration of the place of patriarchy in structuring relations not only between men and women but also relations between capital and labour as well as capital and consumers. Yet, the irony remains that as the large retailers push these developments they are attempting to squeeze more out of the consumers' ever-diminishing purchasing power by extending shopping hours as well as their presence in the local community with the seemingly endless and irrational construction of shopping centres. The retail industry highlights the many contradictions of capitalist development and its interdependence with patriarchal relations.

FOOTNOTES

1. Statistics on employment may be found in the following:
Tables 39/40. Number of Males/Females Working Mainly in Retail Activities in Retail Establishments by Type of Business and Category of Employment, Australia, June 1962, Commonwealth Bureau of Census and Statistics, Canberra, Bulletin No. 1: Census of Retail Establishments and Other Services, Year Ended 30th June, 1962. Table 1: Summary of Operations by Industry Class, States and Territories, Commonwealth Bureau of Census and Statistics, Canberra, Economic Consensus 1968-69: Retail Establishments and Selected Service Establishments, Ref. No. 11.18; Table 1: Summary of Operations by Industry Class, Australia, A.B.S. Census of Retail Establishments and Selected Service Establishments, 1973-74, Ref. No. 11.19; Table 2: Retail Establishments (A) - Type of Employment at 30 June, 1980 by Industry Class, 1979-80, A.B.S. Census of Retail Establishment and Selected Service Establishments, Details of Operations by Industry Class, Australia, 1979-80, 8622.0. See also "Women in Large Retail Companies", University of Melbourne/Equal Opportunities Board, cited in The Age, 29th April, 1983.
2. Ann Game and Rosemary Pringle, 'Working at a discount: retailing', in Gender at Work, Sydney, George Allen & Unwin, 1983; Carol O'Donnell, 'The Sexual Division of Labour in the Retail Industry', Macquarie University 1983.
3. Tables No. 39 and 40, 'Census of ... 1962', op.cit.; Table 2, 'Census of ... 1979-80', 8622.0 op.cit.; Sydney Morning Herald, 14 October, 1983; The Shop Assistant, September 1980.
4. John Engel, "The Right to Work Part-time", Shirley Watson, "The Advantages of Part-time Work", N.S.W. Women's Advisory Council to the Premier, Part-time Work ... Is it the Answer?, July 1980
5. By contrast, only 21 per cent of males employed in sales work had worked for less than one year. See Table 14. Persons employed at some time during the period February 1980 to February 1981: Duration of Employment in the period and occupation at the end of the period. A.B.S. Labour Force Experience During the Period February 1980 to February 1981. Ref. No. 6206.0.
6. On average, female shop-assistants were paid almost one-half of average weekly earnings paid to their male counterparts and both male and female employees in retailing had the lowest average weekly earnings of all employees. See Table 1, Average Weekly Earnings, All Employees, Industries, May 1981. A.B.S., Earnings and Hours of Employees Distribution and Composition, May 1981.
7. Manpower Research and Information Branch and Youth Section, School Leaver Survey 1981-82, Department of Employment and Youth Affairs, 1981.
8. Carol O'Donnell, op.cit., pp. ; Joan Templeman, "Retailing and the Sexual Division of Labour", Political Economy II Research Project, University of Sydney, 1983, p.5.
9. Carol O'Donnell, op.cit., pp.27-29, Committee to Defend the Victorian A.L.P. Pattern of Deceit: The N.C.C. and the Labor Movement.
10. Templeman, op.cit., pp.7-8; The Age 17 September 1983.
11. J. Maher, The Age, 11 February, 1983.
12. A.F.R. 21 September, 1983
13. S.M.H. 25 and 26 October, 1983.
14. The Australian, 5-6 March, 1983
15. The Age, 11 March, 1983, 1 March 1983
16. The Age, 13 March, 1983, S.M.H., 14 April, 1983.
17. The point was made in an interview with one retail company's director. See Templeman, p.12.
18. On this subject see the arguments of the fascist branch of the Federated Association of Australian Housewives, Inside Retailing No. 453, 2 March, 1983, J. Maher, loc.cit.
19. A.F.R., 30 August, 1983, 9 September, 1983.
20. A.F.R., 6 December, 1983.

21. The Commonwealth Trading Bank has argued this in establishing a cash-management system. A.F.R., 3 Feb., 1983.
22. Chanticleer, A.F.R., 31 March, 1983, 5, 6 and 8 March, 1983.
23. M.T. Daly, *op.cit.*, p.184; Inside Retailing No. 499, 15 February, 1982; The Age, 31 August, 1982. It should be noted, however, that the Victorian Government was cautious not to discourage one large retailer too much and was prepared to debate the restrictions on development. The Age, 21 July, 1982.
24. The Age, 6 December, 1982.
25. A.F.R., 7 December, 1982.
26. The Age, 11 October, 1983, 13 & 14 October, 1983.
27. Geoffrey de Q Walker, Australian Monopoly Law, F.W. Cheshire 1967, ch.2; G.Q. Taperell, R.B. Vermeeth, D.J. Harland, Trade Practices and Consumer Protection Butterworth, 1978, ch. 1. (These two references have been drawn upon for much of the following).
28. See the Report of the "Unfair Trading Control Commissioner", 1956-57, Minutes and Votes and Proceeding of the Parliament, 1958, Western Australia; "Report of the Honorary Royal Commission on Restrictive Trade Practices, 1957" Minutes and Votes and Proceedings of the Parliament, Vol. IV, Western Australia.
29. W. Pengilly, "The Politics of Anti-Trust and Big Business in Australia", Australian Quarterly Vol. 45 No. 2, June 1973; David Marr, Barwick George Allen & Unwin, 1980, pp. 186ff; Andrew Hopkins, "Anti-Trust and the Bourgeoisie, 1906 and 1965"; E.L. Wheelwright & Ken Buckley, Essays in the Political Economy of Australian Capitalism, Vol. 2, Sydney, A.N.Z., Book Company, 1978.
30. G.Q. Taperell, R.B. Vermeeth, D.J. Harland, Trade Practices and Consumer Protection, Butterworths, 1974.
31. "Royal Commission: Report on Prices and Restrictive Trade Practices", Paper No. 16, Tasmania. Journals and Printed Papers of Parliament Vol. 173, 1965, pp. 31-2, *passim*.
32. *ibid.*, p.16.
33. Jim Hagan, The History of the A.C.T.U., Longman Cheshire, 1981, pp.274-75.
34. Strickland v. Rocla Concrete Pipes Ltd. (1971) 45 ALJR, 485; Taperell, *et.al.*, 1974, *ibid.*, ch. 1 especially pp.8-9.
35. Taperell, *et.al.*, *ibid.*, 1978, chs. 6,8.
36. A.F.R., 17 August, 1982.
37. V.G. Venturini, Malpractice: The Administration of the Murphy Trade Practices Act, Non Moltaire, 1980.
38. C.C.H. Australia Ltd., Guidebook to Australian Trade Practices Law, C.C.H. Australia 1977, pp. 207; Taperell, *et.al.*, 1978, *ibid.*, pp. 17-18.
39. Stuart Simson, "Keeping Business Honest: Trade Practices Commission Runs Lame", The National Times, October 17-23, 1982.
40. A.F.R., 13 July, 1982.
41. A.F.R., 20 May, 1982.
42. The Age, 4 December, 1982. For similar observations by other retailers see the Annual Reports of the Retail Traders' Association of N.S.W..
43. A.F.R., 9 March, 1983, 10 March, 1983.



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