Richard Gordon

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ful effort to quash the measure.

In separate congressional testimony, outgoing Carter-appointed FTC Commissioner Michael Pertschuk charged that Campbell wanted "to impose by administrative fiat a version of antitrust law at odds with Supreme Court decisions." Pertschuk noted that the court has stated "more than once in the last few years . . . that resale price maintenance [price-fixing] is per se illegal. When Mr. Campbell . . . says he wants to bring resale price maintenance or Robinson-Patman cases only when they 'make economic sense' or 'harm consumers,' it's hard to disagree with such an abstract proposition. The real question is whether that position amounts, in practice, to changing the law without telling the rest of us."

Pertschuk's only remaining colleague from the Carter era agreed. Outgoing Commissioner Pat Bailey predicted there would be few enforcement actions using Campbell's criteria. She was right. Merger activity, which totaled $11.8 billion in 1975, reached $42 billion by 1981 and continued unabated throughout the Reagan years.

But Campbell's employer had a solution for this problem as well. As part of a "cost-cutting" move — saving $116,900 annually—the FTC announced it would stop compiling and publishing its annual "merger report," which detailed the actual numbers of mergers and acquisitions each year. The busting of the FTC was now complete. Not only would the FTC no longer restrain corporate mergers and acquisitions—it would even stop counting them. And Campbell, his work done, accepted a teaching position at Stanford with a little help from Bill Baxter, the assistant attorney general who had "been instrumental" in Campbell's appointment to the FTC, and who was now a Stanford law professor.

Today, Pertschuk says that Campbell faithfully carried out the Reagan deregulation agenda, but "I wouldn't say that he approached it by trying to help business. It was much, much more ideological. They really believe in the tooth fairy, that the marketplace is self-correcting and that if you leave it alone, the consumers will ultimately benefit."

Last fall, the dragon-slayer unsheathed the saber again to disembowel the Price Fixing Prevention Act of 1991. The act itself was intended to protect discount retailers from rival high-price retailers who pressure manufacturers to cut off the discounter. Campbell introduced an amendment purporting to protect small businesses from, oddly enough, *consumer abuse*. Argues Campbell, consumers can go to a stereo dealer, learn which products are the highest quality, and then sneak off to the discount store and get the goods on the cheap. Campbell insists that, far from forcing businesses to be more competitive, this kind of bargain-hunting is bad because it hurts the high-price dealer and the manufacturer. And in Campbellian economics, regulating the manufacturer is the same as hurting the consumer.

"When it comes to the trenches of working these bills on the floor and in committees, frankly, I don't see Tom around," Mineta says. "Like they say in Texas: all hat, no cattle."

His amendment remedies this alleged inequity by exempting businesses that "lack market power" from the price-fixing law.

But the U.S. Public Information Research Group and Consumer's Union charge that Campbell's amendment "would only provide a loophole for most of the largest businesses in America. For example, Anheuser Busch is currently arguing in court that it lacks market power in New York." Even the U.S. Chamber of Commerce has acknowledged that the amendment would exclude "most companies" from such price-fixing laws.

Charges a Senate staffer: Campbell busted the bill "under the guise of supposedly being pro-small business. So it was a clever dodge, and he's a clever guy."