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1

American Retail Capitalism and the Origins of the Amazon Economy

An upstart retail platform, led by a ferociously ambitious entrepreneur, is on the march. The company has been engaged in an aggressive strategy of relentless expansion, offering convenient at-home shopping for an ever-widening selection of goods while also maintaining low prices by generating huge sales volumes. Unsurprisingly, the company's success has provoked enormous antipathy among the small independent merchants who cannot possibly match its superior inventory and low cost. Critics complain that the company's profits are being underwritten by tax payers because of the central role the US Postal Service plays in delivering goods to customers. The firm's nonunionized employees bear the brunt of the monotonous but frantically paced work, in state-of-the-art warehouses deploying the latest technologies, on which the business model rests. The companies that supply many of the goods offered on the platform feel squeezed and trapped in a relationship of unequal dependence. Consumers, however, are smitten. They now have the luxury of shopping from home, choosing from a wide selection of every imaginable product, all available at unbeatable prices, with a money-back guarantee and special perks for preferred customers—and with everything delivered right to their door. What's not to love?

It is the turn of the previous century, and the company is Sears & Roebuck. Its hard-driving founder, Richard Warren Sears, had presided over the

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firm's spectacular growth with manic energy and flamboyant salesmanship. Mail order retail was an American innovation, and though the company was not the first in this space, within a decade of its launch it had come to dominate it. Originally offering only watches advertised on a one-page flyer, the company grew to become the original “everything store”—with catalogs of thousands of pages crammed with a breathtakingly wide array of products—everything from stump pullers to silk stockings. A marketing genius, Sears pioneered or, more often, perfected a host of consumer-facing innovations, including “send no money” purchasing to allow customers to inspect products before paying, generous money-back guarantees, and customer loyalty rewards programs. Like Amazon today, Sears made shopping cheap and easy—in the process satisfying but also generating seemingly insatiable demand on the part of American consumers.

Consumers occupy a central place in the political economies of all the advanced capitalist economies, but among its rich peers, the United States stands out as a shopper's paradise and the quintessential consumer society (Grewal and Purdy 2014). Consumption, and with it, shopping and retailing, are deeply baked into the American political economy and widely recognized as occupying center stage in the country's demand-driven growth model (Prasad 2012; Logemann 2012b; Baccaro and Pontusson 2016; Hassel and Palier 2021).¹ American consumers were watching TV and enjoying household conveniences such as washing machines and vacuum cleaners decades before their European counterparts (Berghoff and Spiekermann 2012; Logemann 2011). Today, no peer democracy depends as heavily as the United States does on domestic consumption to fuel economic growth (see figure 1.1).

Europe, of course, now has its own vibrant retail culture, one that also reflects the deep influence of American retailing actors and practices (De Grazia 2005). Nonetheless, striking differences remain (Logemann 2008, 2011, 2012b; 2021: 329–30). Credit plays a far less prominent role in supporting consumption in most European countries (Logemann 2008; Trumbull 2006b, 2012a; Wiedemann 2021). Excluding housing and other loans, consumer credit in the United States is over three times the EU average as a percentage of GDP, and more than twice that in Europe as a share of disposable income.² The average number of credit cards per person (aged

1. Carden notes that by the 2010s retail had “surpassed manufacturing as the leading sector in American economic growth” (2013: 402).

2. Figures are from the ECRI Statistical Package 2022, Centre for European Policy Studies (2023), figures 2.8 and 3.5.

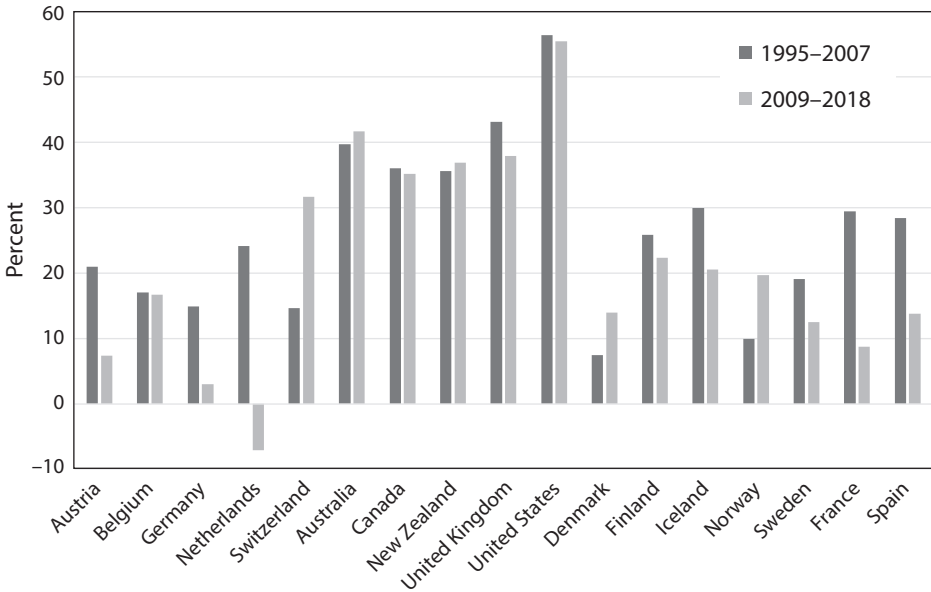


FIGURE 1.1. Contribution of domestic consumption to GDP growth, before and after financial crisis.

Source: Figures from Baccaro and Hadziabdic 2023. These figures are based on OECD input-output data, and they measure the share of total final demand growth that was satisfied by domestic private consumption (as distinct from investment, government consumption, and exports).

twenty-three and over) in the United States (four) is over twice the average in Europe (1.9 per person).³

There are also notable differences in the retail landscape. For starters, and as figure 1.2 shows, the United States features far more retail space per capita than peer democracies. This difference is partly a function of the large enclosed malls that one finds in most American suburbs. But it also reflects

3. For the United States, see Becky Pokora, “Credit Card Statistics and Trends 2024,” *Forbes*, <https://www.forbes.com/advisor/credit-cards/credit-card-statistics/>. The average for Europe is actually the same as the average number of credit cards held by the youngest (Gen Z) Americans (ages eighteen to twenty-three, who will actually need them because, unlike in Europe, a credit card is often required for other functions—to secure a lease, buy a car, or even land a job, since many employers check credit scores before hiring). The figure for the number of Europeans with credit cards is also likely inflated by the inclusion of debit cards, which are more widely used in Europe. For Europe, see European Central Bank, “Payments Statistics 2021,” <https://www.ecb.europa.eu/press/pr/stats/paysec/html/ecb.pis2021~956efe1ee6.en.html#:~:text=The%20number%20of%20cards%20in,cards%20per%20euro%20area%20inhabitant;andhttps://www.spendsk.com/en-eu/blog/credit-card-statistics/>.

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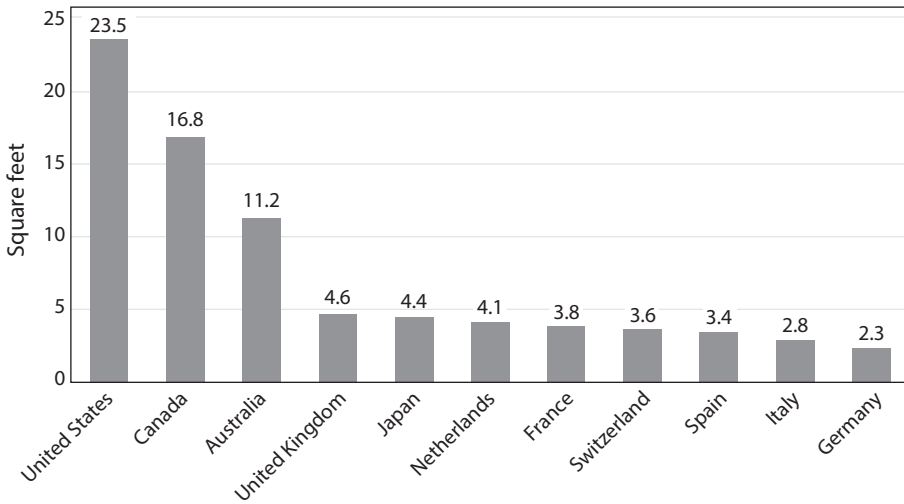


FIGURE 1.2. Retail space per capita in 2018, selected countries.

Source: Statista (accessed May 20, 2023).

the ubiquity of big-box discount centers across the United States. Walmart, for example, has over 5,300 stores in operation across all fifty states (Statista 2023); *Forbes* reports that 90 percent of Americans live within ten miles of a Walmart outlet.⁴ In Europe, by contrast, such shopping meccas—while not absent—are far less prevalent, and downtown shopping areas in most countries have remained more vibrant.

Moreover, despite some convergence on American practices, there are still significant differences in retail operations. One of the most noticeable is that shopping hours are more restricted across most of Europe. Americans living or traveling abroad are often aggravated to find that in many European countries stores are closed on holidays and Sundays. Beyond shopping hours, European countries often impose further (less visible) restrictions on retailing operations, and sometimes on large retailers specifically, in an effort to protect small merchants or preserve central city shopping districts. Figure 1.3 presents comparative data on various restrictions on retail operations. It provides a cumulative measure of three types of regulation—restrictions on shopping hours, restrictions on promotions and discounts, and regulations pertaining specifically to large retailers. It shows

4. Stephen McBride, “Walmart Has Made a Genius Move to Beat Amazon,” *Forbes*, January 8, 2020, <https://www.forbes.com/sites/stephenmcbride/2020/01/08/walmart-has-made-a-genius-move-to-beat-amazon/>.

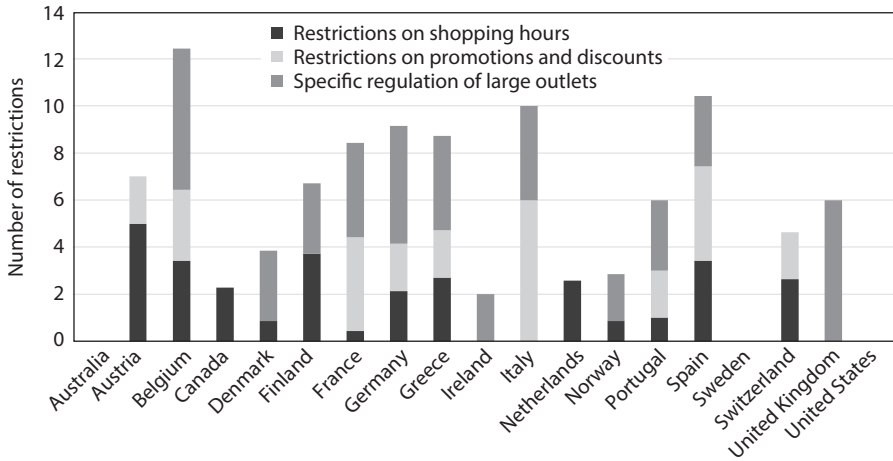


FIGURE 1.3. Restrictions on retail trade.

Source: OECD Data Explorer, “Regulation in Retail Trade 2013,” <https://stats.oecd.org/Index.aspx?DataSetCode=RETAIL>.

that different countries impose a mix of different regulations, but the United States stands out (alongside Sweden and recently liberalized Australia) for the unusually light regulations governing retail operations.⁵

And finally, shopping features far less prominently as a leisure activity than it does in the United States (Schor 1992: chap. 5). Indeed, the gargantuan Mall of America in suburban Minneapolis—with its twenty thousand parking spots and five-hundred-plus retail stores—beats out the Statue of Liberty among the top tourist attractions in the United States.⁶

Europe pioneered some significant advances in retailing (e.g., the department store), but it was American retailers who were responsible for many of the innovations that made shopping more accessible, and cheaper, especially for the masses. The list is impressive, and it includes not just mail order retail, but also installment purchasing, sales finance corporations, consumer credit

5. And the Swedish figure is somewhat misleading because issues such as shopping hours are regulated through collective bargaining rather than statute.

6. According to Wikipedia, accessed January 28, 2024, it is in fifth place. (Topping the list is Times Square, which is itself famous for its dense and flashing advertising billboards.) See https://en.wikipedia.org/wiki/Tourist_attractions_in_the_United_States. Another study, published in *Newsweek* in 2021, puts it at twenty-fourth (just edging out the Statue of Liberty). See Paulie Doyle, “The 25 Most Visited Tourist Spots in America,” *Newsweek*, August 10, 2021, <https://www.newsweek.com/most-visited-tourist-spots-america-disney-new-york-california-1616737>.

ratings, the shopping mall, customer loyalty programs, the credit card, UPC (bar) codes, “Black Friday” and “Cyber Monday” promotions, and, of course, e-commerce. Innovations pioneered by American retailers are now ubiquitous across the globe, but the American model of mass distribution and the cultivation of consumers has a far longer history in the United States than in most of its peers.

This book provides an account of the origins of what I call “the Amazon economy.” The Amazon economy is one in which consumption—and with that, retailing—plays a central role in driving economic growth. But it is also one that features a particular model of retailing—namely, ultra-lean retailing based on extremely narrow margins, dominated by players (such as Walmart and now Amazon) that enjoy enormous power over both workers and suppliers. It is an economy in which the low cost of distribution is partly underwritten by a precariously employed workforce whose low pay and unstable work hours are what allow for goods to be delivered to consumers at low cost and at almost any time of day. It is, in other words, a model that valorizes low prices and consumer convenience, and one that appears willing to accept, or ignore, the social costs that this model of retailing entails.

American lean retailing practices have diffused to other countries, and, indeed, a few foreign-based retailers have outdone their American counterparts in certain regards.⁷ Yet the model originated in the United States and is still far more dominant there. Five of the ten largest private employers are all big discounters,⁸ and the labor market as a whole features higher levels of labor market precarity than in peer democracies. As I have elaborated elsewhere (Thelen 2019), the United States stands out among the rich democracies both for its large low-pay sector (defined as employees earning less than two-thirds of the median wage) and for high levels of in-work

7. Germany’s hard-discount grocery chains—Lidl and Aldi—have dramatically reduced costs by offering a restricted range of mostly private-label goods and by dispensing with much of the labor associated with presentation—often displaying goods on the pallets on which they were delivered. And Aldi in particular has made deep inroads into the American grocery sector with the purchase of Trader Joe’s in 1979.

8. The most recent (2024) figures on the largest US employers show Walmart and Amazon with enormous leads (three to four times more employees compared to all others). The top ten also includes Home Depot, Kroger, and Target, as well as two major shipping couriers (UPS and FedEx), both of which are themselves key players in retail distribution. See <https://stockanalysis.com/list/most-employees/>, accessed 3/16/2024. In Germany and Denmark, by contrast, manufacturing firms still employ the largest number of workers (Davis and Sinha 2021: 4). For figures on employment in the retail and wholesale trades, see US Bureau of Labor Statistics, “Employees on Nonfarm Payrolls by Industry Sector and Selected Industry Detail,” <https://www.bls.gov/news.release/empsit.t17.htm>.

poverty. The most recent figures for the size of the low-pay sector (2022) show a significant gap between the US (at 22.6 percent) and the OECD average (13.9 percent) (OECD 2023). Levels of in-work poverty are similarly striking, with the United States coming in at nearly 15 percent in 2019 against an OECD average of 9.3 percent (unpublished 2019 estimate by Hick and Marx; for 2017 figures see Hick and Marx 2023: 496, figure 34.1).

Retail workers in the United States themselves make up a large share of this American precariat: over three-quarters of them fall into the low-wage category (Ross and Bateman 2019:11). As a group they account for 8.4 percent of all low-wage workers in the United States (Ross and Bateman 2019: 11). According to a US Census Bureau report, over 15 percent of retail workers qualified for Medicaid in 2018, and over 10 percent fell below the poverty line.⁹ The United States is thus characterized by a particularly bitter equilibrium, one in which large low-cost retailers have come to dominate the retail landscape and in which vast numbers of low-income workers now rely on them to make ends meet.

If we want to understand how we arrived at this place, we need to understand the way in which American retail capitalism has evolved. Analyzing the American case in comparative perspective and over a long time-frame—that evolution is what this book seeks to explain.

Prevailing Theories of Retail Capitalism

Given how prominently retailing and consumption figure in the economies of the rich democracies, it is surprising how little attention they have received in the comparative political economy literature (important exceptions include Chang et al. 2011; Rogowski and Kayser 2002; Trumbull 2006a; 2012a, 2014; Watson 2011). The vast majority of studies, my own work included, center on the politics of production. Hall and Soskice’s influential “varieties of capitalism” framework (2001), for example, focuses entirely on the institutional configurations that shape what firms produce (based on a country’s “comparative institutional advantage”) and how they produce it (based on differences in the infrastructure supporting different production strategies in liberal versus coordinated market economies).¹⁰

9. D. Augustus Anderson, “A Profile of the Retail Workforce,” US Census Bureau, September 8, 2020, <https://www.census.gov/library/stories/2020/09/profile-of-the-retail-workforce.html>.

10. Similarly, and relatedly, the “beneficial constraints” in operation in Streeck’s classic work (1991) on diversified quality production are exclusively about the incentives and constraints faced by the producers of goods in these economies.

More historically oriented work on the origins of different political economies is similarly fixated on producer groups, especially labor unions and manufacturing interests (Fulcher 1991; Swenson 2002; Thelen 2004). For the United States, specifically, we have superb accounts of the industrial titans who spearheaded a revolution in production (Josephson 1934; Chandler 1962). And the role played by American manufacturers in the development of mass production technologies—from Eli Whitney’s interchangeable parts to Henry Ford’s moving assembly line—figures centrally in the literature on the political economy of industrialization.

But mass production presupposes mass consumption and mass distribution, and to my knowledge there exists no sustained political-economic analysis of how the politics of *distribution* has shaped the American political economy over the past 150 years.¹¹ American retailers were no less transformative than their more famous manufacturing counterparts. Aaron Montgomery Ward, Richard Warren Sears, John Wanamaker, Rowland Macy, Frank Woolworth, Sam Walton, and now Jeff Bezos have had as deep an impact on the shape of the American political economy as John Rockefeller, Andrew Carnegie, and Henry Ford.

There is a rich literature in history and sociology that documents the emergence of consumer culture in the United States. Lizabeth Cohen’s magisterial *A Consumers’ Republic* (2003) tracks the ways in which mass consumption in the post–World War II period transformed American politics by giving rise to new social movements demanding inclusion in the American dream. Louis Hyman (2011, 2012) and Lendol Calder (1999) have brilliantly probed how consumer credit and mass consumption grew symbiotically and in mutually reinforcing ways. There exist as well important comparative analyses that contrast aspects of the American and European consumer cultures and political economies (Beckert 2011, 2016; Berghoff 1999; Berghoff et al. 2016; Berghoff and Spiekermann 2012; De Grazia 2005; Logemann 2008, 2011, 2012b; Kocka 1997; Teupe 2016). These and other sociologists and economic historians have made signal contributions to our understanding of consumer culture.

But what have political economists had to say about the rise of large, low-cost retailing? The short answer is: not much. Economists mostly offer apolitical explanations of the triumph of mass retailing in the United States

11. Dunlavy and Welskopp (2007: 58) identify this as a significant gap in the literature. Bartholomew Watson’s excellent 2011 thesis, discussed below, focuses primarily on the post–World War II period. There are of course some wonderful accounts of individual entrepreneurs and companies by historians, and I draw on them here.

(for a similar critique, see O’Sullivan 2019; Dunlavy 2024). It is a story of technological and organizational innovations animated by entrepreneurs responding rationally to the opportunities afforded by America’s large domestic market to enhance productivity and efficiency through scale and scope. Chandler’s analysis of Sears is the classic on this point (Chandler 1962: chap. 5). More recent variations on the same argument can be found in Baily and Solow (2001), Basker (2007), and Bronnenberg and Ellickson (2015). A more surprising example of this line of argument is Philippon (2019), who—while otherwise sharply critical of the concentration of corporate power in the American political economy—nonetheless holds Walmart up as an example of “efficient concentration” (2019: 31–35).¹²

Yet as Chandler’s own research suggested, the large private retailers that rose to dominance in the United States were not the only alternative; indeed, a very different model of mass distribution took shape in Europe, where consumer cooperatives dominated the retail landscape in the nineteenth century and into the twentieth (Chandler 1990: 255–61). More generally, and as Bensel emphasizes, the largely unregulated national market that these large American retailers conquered was not “an historical ‘given’” (2000: 16) but was itself politically constructed.¹³ In fact, as we will see, the size of the domestic market was not a help but a hurdle for America’s first mass retailers, one that they only overcame with a very significant assist from the government. American retailers did not simply respond to market opportunities; they created them by exploiting regulatory gaps to grow in scale and scope—and with a great deal of help from the courts.

Legal scholars working in the rich “law and political economy” tradition often attribute the rise of dominant players like Amazon to a resurgence in monopoly power in the post–World War II period. Most famously, perhaps, Lina Khan’s seminal analysis (2016) places much of the blame on an important shift in antitrust jurisprudence beginning in the 1970s and 1980s, with the ascendance of the so-called Chicago school, which puts “consumer welfare,” routinely defined in terms of price, at the heart of antitrust theory and practice. She traces the growing influence, in both legal and political

12. Philippon (2019) contrasts such examples of “good concentration” from “bad concentration” (as in the American airline industry) according to whether the efficiency gains from concentration have resulted in lower prices to consumers (“good concentration”) or excess profits (“bad concentration”).

13. See also McCurdy 1978 on the legal construction of the national market; and Dunlavy 2024 on the central role played by the US Department of Commerce in promoting product standardization in the 1920s.

circles, of Robert Bork's work in prompting the "shift in antitrust away from economic structuralism in favor of price theory" (2016: 717).

The rise of the Chicago school is clearly important, and antitrust policy and jurisprudence play central roles in the argument developed in the pages below. So while I agree with Khan about the importance of antitrust in the rise of the Amazon economy, I show that in retailing specifically, the changes since the 1970s are just the latest chapter in a far longer story, one in which large, low-cost retailers have almost always enjoyed a privileged position in the American antitrust regime. American antitrust doctrine played a key role in the late nineteenth century, not just in defeating the worker (and/or small-retailer) cooperative associations that thrived in many parts of Europe as alternatives to large private retailers, but also in hobbling other organized interests—labor unions, trade associations (especially of small manufacturers), and other organized business groups—that elsewhere placed various constraints on the growth of big retail.

Even in periods of heightened antitrust scrutiny, low-cost retailers were often spared or even given a boost. For example, in 1911, the very same year that it ordered the dissolution of the Standard Oil empire, the Supreme Court sided with a large discount drugstore against a small manufacturer of patent medicine in the landmark *Dr. Miles* case that banned resale price maintenance contracts—coding both as involving illegal acts in restraint of trade (see chapter 5 for a full discussion). Similarly, and as discussed in chapter 7, even in the "golden era" of antitrust enforcement in the years following World War II, the courts handed discounters crucial victories in their battles with producers over pricing. In short, American antitrust jurisprudence had tilted the playing field toward low-cost large retailers long before Robert Bork came on the scene, and their growth to dominance has allowed them to solidify an impregnable alliance with consumers that has so far proved durable in the face of numerous subsequent political and legal challenges.

Political scientists, as noted above, have generally not had much at all to say about the rise of mass retailing, focusing much more on the politics of production than distribution. Bartholomew Watson's (2011) dissertation comes closest to the present study by identifying different varieties of retailing. In his analysis, the American model of lean retailing is distinct from alternative arrangements in Europe that involve more collaborative relations with workers and suppliers. Watson argues that the European and American models of retailing, previously similar, diverged beginning in the 1960s. My own analysis, however, suggests something like the opposite: I show that the pre-World War II differences between Europe and the United States

were far greater, and I argue that the postwar trend is, if anything, toward convergence (De Grazia 2005).

An adjacent literature in comparative political economy has explored important aspects of consumption and consumer politics, topics that are clearly related to the politics of retailing that lie at the center of the present study. Ronald Rogowski and colleagues, for example, have argued that majoritarian electoral systems provide incentives for policymakers to cater to consumers, while proportional representation systems empower producer groups (Rogowski and Kayser 2002; Chang et al. 2011). While suggestive of important differences, Rogowski et al. do not problematize the very different ways in which “consumer interest” is defined—and defended politically—cross-nationally. Gunnar Trumbull addresses this very issue, exploring how different forms of consumer mobilization and organization drove cross-nationally divergent approaches to consumer protection in the 1960s and 1970s (Trumbull 2006a, 2012b; 2014). The present study draws on Trumbull’s work on the postwar period while also taking a broader historical sweep to emphasize the central role played by antitrust policy and regulatory fragmentation in shaping the balance of power between small and large retailers, between manufacturers and mass retailers, and between large retailers and their employees, as conflicts among these groups played out in the legislatures and courts at both the federal and state levels over the twentieth century as a whole.

A further body of work in political economy emphasizes the importance of *credit-based* consumption in defining and sustaining different growth regimes (Wiedemann 2021, Baccaro and Pontusson 2016; Ansell 2014; Thurston 2018; Carruthers 2022; SoRelle 2020, 2023). Most of these scholars trace the origins of America’s demand-driven growth regime to the actions of the government in the 1930s in response to the Great Depression and to the extraordinary expansion of consumer credit after World War II (Trumbull 2014; Cohen 2003; Schragger 2005). The embrace of a consumption-driven growth model in the postwar period clearly plays a role in the flourishing of mass retailing. However, as Calder (1999) and Hyman (2011) emphasize, mass retailers were not just beneficiaries, they were themselves central players in promoting consumer credit long before the New Deal and indeed even long before the banks got into the game.¹⁴

14. To give just one example, credit cards were not invented by bankers but by America’s large retailers (Calder 1999: 16–17, 72; Hyman 2011: chap. 4, 117–18). Today, most American teenagers still secure their first credit card not from a bank but through one of the large retailers in the United States (Gap, Old Navy, Target).

Moreover, the heavy focus on credit in the existing literature obscures the role of large discount retailers that eschewed credit as they grew. These big discount retailers are crucial to the story for the way they accelerated the decline of American manufacturing and the emergence of the low-wage, low-cost equilibrium that distinguishes the current period from the golden era of postwar economic growth.

Comparisons to Europe can help clarify the distinctive trajectory of American retailing. In this book, I compare the United States to the United Kingdom, Germany, and two Scandinavian countries (Sweden and Denmark). While a full analysis of a century of retailing across each of these other cases falls beyond the scope of the current project, I have sought to include sufficient detail to highlight the distinctive features of American retailing. Moreover, the comparisons that I chose are designed to address key theoretical issues at the heart of the argument. Thus, for example, the UK provides a comparison to a fellow common-law country that nonetheless featured a very different competition regime. Germany allows for comparison to another federal country, but one whose regulatory landscape is not as fractured as the United States'. And Sweden and Denmark provide the opportunity to underscore differences to other countries with widely dispersed rural populations in which—unlike the United States—agrarian and working-class cooperatives thrived as major retailers.

The Argument in Brief

The evolution of American retailing followed a distinctive trajectory. Whereas in Europe large-scale private retailers faced a host of legal and political obstacles throughout the late nineteenth century and much of the twentieth century, in the United States they grew in a far more permissive regulatory landscape. The constraints imposed on mass retailers in Europe (some, though not all, still in effect today) with which American firms have largely *not* had to contend are many. They include effective national-level restrictions on price competition, special taxes and rules pertaining to retail businesses over a certain size,¹⁵ licensing arrangements that restrict entry into the sector, urban planning rules that limit where large retailers can locate, and regulations

15. In some cases such taxes were partly a reaction to American-style firms entering (or threatening to enter) these markets, examples of the kind of transatlantic exchanges of which Logemann (2019) and Rodgers (2000) have both written, and a reminder that my analysis of European and American retail practices involves comparison across countries that are not wholly independent cases.

governing store opening hours, not to mention the indirect impact of stronger unions and sectoral bargaining on the wages and benefits European retailers are often required to pay (Tagiuri 2021; Carré and Tilly 2017). Viewed in a broad comparative perspective, it is clear that large American retailers have historically enjoyed unusually clear sailing compared to their counterparts abroad. Large-scale American retailers grew in scale and scope not simply through their own ingenuity but by taking advantage both of a uniquely permissive legal landscape and of opportunities for regulatory arbitrage that were not available to their counterparts in Europe.

An important article by the legal scholar James Q. Whitman (2007) can provide an initial orientation for the argument developed in the chapters to follow. Setting aside the usual “well-worn” distinction between common-law and civil law traditions within his own discipline, Whitman draws out a contrast between what he calls America’s “consumerist” and Europe’s more “producerist” legal orders. His definition of a producerist legal order is one in which the law looks out first and foremost for the rights of producer groups (farmers, workers, small firms)—that is, actors “on the supply side of the market.” Such a legal order conceives of workers as a producer class with rights to engage in collective self-help, while also recognizing the rights of other producer groups—for example, “the rights of competitors in a given industry to be protected against ‘unfair competition’ [and] the rights of small retailers to be protected against big discount stores” (2007: 345). Whitman contrasts this with an alternative consumerist legal order—most fully realized in the United States—that tends instead “to emphasize the right of consumers to buy goods and services at competitive prices” (2007: 346).¹⁶ The distinction, he emphasizes, is not hard and fast; it is a difference in degree and emphasis rather than in kind. However, it is central to his account of what appear to be relatively durable differences in the “values embraced by different legal cultures” (2007: 347). Focusing especially on the postwar period, Whitman is primarily concerned with the question of whether continental Europe’s traditional producerism is giving way to American-style consumerism. His answer is no: despite some pressures for convergence, “continental law continues to resist economic consumerism” (Whitman 2007: 372).

16. Whitman also includes in the consumerist orientation a concern for the interest of consumers in quality and safety, but he notes that while this *consumer protection* interest is wholly compatible with producer protection, “only *economic* consumerism represents a true menace to the producerist outlook” (2007: 347).

But how did these distinct legal cultures take root, and what impact did they have on the interest group landscape and on retailing and distribution in particular? The distinction Whitman draws, between producerist and consumerist legal orders, shares some striking similarities to the distinction between coordinated and liberal market economies that lies at the heart of the “varieties of capitalism” (VofC) framework as elaborated by Peter A. Hall and David Soskice (2001). Indeed, many of the arrangements that define Europe’s coordinated market economies are the same as those that also support a producerist politics as defined by Whitman. In particular, what distinguishes Europe’s more coordinated variety of capitalism from the alternative Anglo-Saxon liberal variety is a rich associational landscape of producer groups that allows employers to coordinate among themselves (and with unions) to achieve joint gains through cooperation (Hall and Soskice 2001: chap. 1).

Yet the connection between Whitman’s producerist/consumerist divide and Hall and Soskice’s coordinated/liberal market economy dichotomy remains unclear because the two frameworks approach these political economies from wholly different vantage points—with Whitman focusing on the balance between producer and consumer interests as expressed in the law, and varieties of capitalism focusing on the capacity of producers to coordinate among themselves in the market. However, combining Whitman’s emphasis on the law with insights drawn from VofC’s emphasis on producer-group coordination, we can pinpoint two features of the American political economy that differ not just from continental Europe’s coordinated market economies but also from fellow liberal market economies as well.¹⁷ I argue that these two features, together, paved the way for the rise of the Amazon economy.

The first is the uncommonly congenial (for large retailers) legal regime, starting already in the late nineteenth century with the American embrace of what in comparative perspective was in fact a wholly unique approach to competition policy and jurisprudence (or what in the United States is called antitrust). In that period, a severe economic downturn and overcapacity across key markets caused wages and profits to plummet, and everywhere, producers and workers alike sought to stabilize markets by organizing to defend themselves against “ruinous” competition through coordination and

17. Despite his dismissal of the conventional divide between common-law and civil law traditions, Whitman does not compare the United States with fellow common-law countries such as the United Kingdom, but instead contrasts it to two continental countries—Germany and France.

collective self-help. Among its peers, the American judiciary was uniquely hostile toward the new associational forms that emerged in this period. The effect of this stance on the interest group landscape was momentous, because, as the legal scholar Sanjukta Paul points out, “antitrust law decides where competition will be required and where coordination will be permitted” (Paul 2020a: 382). And, as she emphasizes, the choice of which forms of coordination to permit and which to prohibit has always been profoundly political (Paul 2020a).¹⁸

Of particular importance in the present context are the different approaches that Europe and the United States took in the early industrial period with respect to what Paul calls horizontal coordination—that is, coordination or cooperation between competitors or potential competitors in a market (Paul 2020a: 383). In Europe, national legislation historically sanctioned these efforts at coordination and collective self-help. Such permissiveness gave rise to cartels, but it also provided a more hospitable context for the emergence of centralized labor unions and trade associations that would come to define Europe’s more coordinated variety of capitalism (Thelen 2020; Foster and Thelen 2023, 2024). More important still were the radically different stances on the two sides of the Atlantic toward horizontal coordination among *nondominant actors*, including farmers, workers, and small businesses—all of which were consistently harassed by the courts in the United States. By contrast, in Europe, and even where explicit legislation was lacking, courts often exercised forbearance toward such arrangements. This applies not just to Europe’s coordinated market economies; British courts, too, recognized and sometimes enforced agreements that under American law were being condemned as anticompetitive conspiracies operating in restraint of trade (Thelen 2020).

In what Skowronek has called America’s “state of courts and parties,” the federal judiciary in this period assumed an outsized role in shaping the national economy (Skowronek 1982; Bensel 2000). Its uniquely unpromising approach to such forms of horizontal coordination famously

18. Paul’s work is crucial for the way she disentangles distinct forms of coordination: coordination within the bounds of the firm (firms as “collections of contracts” that are protected from antitrust scrutiny by conventional understandings of property rights), vertical coordination (involving firms in “adjacent” markets, i.e., at different levels in the production and distribution chain), and horizontal coordination (cooperation between competitors or potential competitors in a market) (Paul 2020a: 383). Paul’s core argument is that American antitrust has operated as a powerful “sorting mechanism to elevate one species of economic coordination [especially coordination within the bounds of the firm] and undermine others [especially coordination among nondominant actors beyond the boundaries of the firm]” (Paul 2020a: 378).

interfered with the development of unions (Forbath 1991; Hattam 1993). But as we will see, the courts also played a role in defeating the worker (and/or small-retailer) cooperative associations that thrived in many parts of Europe as alternatives to large private retailers, as well as in hobbling other organized interests—trade associations (especially of small manufacturers), small merchants, and other organized business groups—that elsewhere placed various constraints on the growth of big retail.

Second, and again different even from America's fellow common-law countries, mass retailers in the United States also benefited from a fragmented regulatory landscape that divided authority not only across different arenas (courts and legislatures) but also across different levels of government (federal, state, and local). In the late nineteenth and early twentieth centuries, the central government's weak administrative powers afforded large retailers the opportunity to scale up quickly, unmolested by the kinds of legislative restrictions imposed on their counterparts in Europe. State-level governments in the United States possessed more tools to regulate business in this period, and in fact Gerstle suggests that they enjoyed "a staggering freedom of action" to limit the rights of private actors to safeguard public welfare (Gerstle 2016: 56–57; Zackin 2013). However, the laws that individual states passed were often wildly divergent, and their limited jurisdictional reach was no match for mass retailers that—based not least on the head start the courts had given them—were soon operating on a national scale.

Large retailers were able to exploit the fractured regulatory landscape of the American political economy to undermine enforcement of whatever rules subnational governments devised, engaging in venue arbitrage to avoid or mitigate their impact. In fact, retailers leveraged regulatory differences across jurisdictions to inspire competition among states and localities—for sales tax revenues, for jobs and investment, and for access to low cost goods—thus fueling a deregulatory race to the bottom. And as they grew in scale and scope, America's large retailers assembled an ever-growing coalition of supporters who came to rely on these companies in various ways and who could therefore be mobilized to defend them in subsequent political battles with would-be regulators.

A Framework for the Study of American Retail Capitalism

One of the challenges—also one of the joys—of studying the political economy of American retailing is that the relevant conflicts play out across a wide range of venues and levels of governance, far wider than existing

political-economic frameworks encompass. As Bart Watson (2011: 17–18) observed: “Retailers are among the most connected actors in the economy. . . . Politically, they must manage relationships ranging from international trade organizations and national regulators down to municipal governments. Within national economies, they connect with consumers, suppliers and producers, manufacturing firms, and wholesalers . . .” These multiple connections generated the tensions and conflicts whose outcomes shaped the retail landscape over time. Large retailers did not just battle smaller competitors in the market (and in politics), they also engaged in highly consequential struggles in the early twentieth century with manufacturers over “the right to cut prices” (as Macy’s, for example, put it). They tussled with federal regulators in the legislature and the courts and also with municipal governments over such issues as taxation and store hours. Tracing the politics of retailing thus demands a wider-angle lens than most existing political-economic frameworks have on offer.

In recent collaborative work, Jacob Hacker, Alexander Hertel-Fernandez, Paul Pierson, and I proposed a general framework for analyzing the American political economy that guides the analysis in this book (Hacker et al. 2022: chap. 1). A first component of that framework involves a recognition of the way in which distributional and power conflicts play out *across distinct levels and arenas of governance*. As we will see, efforts at the subnational level (whether by state or by municipal governments) to regulate large retailers often stood in conflict with one another and with the rules operating at the national level. This fractured regulatory landscape is precisely what allowed national retailers to engage in venue arbitrage, working around states and localities with stricter rules and playing different jurisdictions off one another as they grew in scale and scope.

Conflicts played out not just between different levels of governance, but also across different arenas. Alongside national and state legislatures, courts are a key site of contestation within the American political economy (Rahman and Thelen 2022). Although legal scholars and students of American political development have long understood the importance of law and the courts in the development of American capitalism (Skowronek 1982; Bensel 2000; Forbath 1991; Pistor 2019, Fishkin and Forbath 2022), political scientists interested in distinct varieties of capitalism have overlooked the role of the judiciary almost entirely. Among the omissions the current study addresses is the importance of competition (antitrust) law. Indeed, in retrospect it is astonishing that comparative political economists, myself included, have spent decades debating the varieties of capitalism

framework—which places the issue of coordination at the center of the distinction between coordinated and liberal market economies—while paying virtually no attention to cross-national variation in competition regimes (for a more fully elaborated discussion, see Foster and Thelen 2024).¹⁹ This gap is glaring because, as Paul has emphasized, “antitrust law’s core function is to allocate coordination rights to some economic actors and deny them to others” (Paul 2020a: 382). Competition policy—and the courts generally—thus figure prominently in the analysis below—shaping the interest group landscape and intervening in ways that tipped the balance of power among large and small retailers and between manufacturers and mass retailers in consequential ways over the entire century.

Tracing the origins of the Amazon economy also involves an analysis of shifting *coalitional alignments*, another of the foundational elements of the framework that Hacker, Hertel-Fernandez, Pierson, and I lay out (Hacker et al. 2022). The cleavages and conflicts that shaped and reshaped American retailing ran along a number of different fault lines: small versus large retailers, mass manufacturers versus low-cost distributors, retail employers versus unions. As the chapters to follow show, the complex interdependencies among these actors produced a changing geometry of alliances over time, often in response to evolving macroeconomic conditions. To take just one example, America’s large brand manufacturers were locked in conflict with low-cost retailers over pricing in periods of high consumer demand, but they made peace with them during economic downturns when they found themselves saddled with large surpluses.

Regional divisions also figure centrally in the analysis below. Whereas in Europe conflicts in the evolution of retailing were generally played out along lines of class (labor unions versus employer associations) or among competing producer group interests (e.g., “traditional” versus “modern” retailing), sectional differences were far more pronounced in the United States (Bensel 2000). Regional alignments did not follow a single unitary logic: southern states sided with mass retailers on issues of pricing but fought them tenaciously on issues of taxation. The analysis below also features some stunning regional reversals. Southern states that were at the forefront of the populist opposition to chain stores during the 1930s would in the 1960s provide the congenial regulatory context in which the largest of them all (Walmart) could grow to dominance.

19. Hall and Soskice do mention antitrust in passing in the introduction to *Varieties of Capitalism*, but political economists working in that tradition failed to follow up on that clue.

Finally, understanding the origins of the Amazon economy requires *a developmental perspective* that appreciates the way in which outcomes and power relations are forged through conflicts over time within and across these multiple institutional venues. Historical sequencing plays an important role in the politics of distribution, for, as we will see, early victories in the courts provided America's large private retailers with opportunities unavailable to their European counterparts to grow unimpeded by alternative retailing models and countervailing political forces. Capitalizing on this head start, America's large retailers quickly grew to national scale and from there engaged in regulatory arbitrage to avoid—or directly challenge—whatever obstacles they faced within America's fractured regulatory landscape. Crucially, America's large low-cost retailers also picked up allies as they grew in scale and scope—farmers who came to rely on them to help unload periodic surpluses, capital-intensive mass manufacturers who came to appreciate the predictability they offered by ordering in advance and in large volume, and developers and local politicians who came to see them as valuable assets for local economic growth. Above all, American consumers got hooked on large chains as a go-to source of low-cost goods. America's large retailers understood the power of these alliances and dependencies and actively weaponized them in their ongoing battles with regulators at all levels.

An analysis of the American political economy through the lens of distribution holds lessons for both comparative political economists and students of American politics. For the former, the present study points to the importance of the courts as a hitherto neglected arena of contestation with the political economy. Beyond this, the present study also brings into view a new set of actors—large low-cost retailers—that have clearly left an important mark on the shape of American capitalism. While it is commonplace for comparative political economy scholars to code the United States as exemplifying a “consumption-driven” growth model, few have paused to consider where this model came from. For such a model to prevail, someone had to have been pushing this outcome, and the present analysis points to the very active and consequential role that mass retailers played in promoting it.

For Americanists, my hope is that the present study can denaturalize aspects of the American political economy that we often take for granted as the natural outcome of market forces. Without situating the United States in a broader international perspective, the highly unusual features of American capitalism frequently fade from view. The comparative analysis of the evolution of retailing in the chapters to follow brings these features into

focus, serving as a window on the distinctiveness of the American political economy across multiple realms, from the central role of the judiciary in shaping the landscape of organized interests, all the way down to the role of local authorities in the politics of zoning and shopping hours that have defined the spatial and temporal contours of American retailing.

Outline of the Book

I develop my argument loosely by chronology, tracing the evolution of American retailing through three broad phases and with attention in each to the ways in which the United States compares to other advanced democracies. Part II analyzes the origins of a consumerist political economy in the late nineteenth and early twentieth centuries. Chapters 2 and 3 trace the construction of a mass market in the late nineteenth century, a monumental undertaking in which large mail-order companies benefited from state-sponsored suppression of potential competitors (especially working-class and other consumer cooperatives) even as they opportunistically repurposed public infrastructure for private ends. Chapter 4 then turns to the explosive growth of chain store retailing alongside the expansion of consumer credit in the interwar period, developments that were facilitated by the politicization of consumption and prices in the 1910s and 1920s and judicial forbearance in the face of regulatory arbitrage.

Part III of the book documents the political backlash and mobilization that flared up against ascendant retailers in the interwar war period and during the Depression. Chapter 5 focuses on political battles in which brand manufacturers fought large low-cost retailers for control over pricing. It documents how—very different from Europe—the federal judiciary intervened early in conflicts over price maintenance in ways that tilted the balance of power toward price-cutting retailers. Chapter 6 then considers the populist backlash against chain stores in the context of the Great Depression. Compared to the battles over pricing, these conflicts featured a different set of alliances, organized primarily along regional lines and between large retailers and small merchants. But by this time, mass retailers had assembled a formidable coalition of supporters that could be mobilized to come to their defense.

Part IV of the book turns to the postwar period, when the government's full-throated embrace of a consumption-driven growth model further empowered large retailers. Chapter 7 considers the role that the government came to assign to mass retailers to countervail the powers of the country's

oligopolistic producers in a period in which heightened antitrust enforcement (often directed at large manufacturers) frequently redounded to the advantage of low-cost distributors. Chapter 8 tracks the rise, in this context, of a new group of highly disruptive discounters whose strategies of “Schumpeterian rule-breaking” (Teupe 2019) coincided with (and hastened) legal changes that sanctified the emerging consumer welfare standard.²⁰ Chapter 9 compares the resulting features of contemporary American retailing to the European model along several dimensions. It highlights differences in the recent evolution of competition laws, as Europe has taken a far stronger stance than the United States against “abuse of dominance” by powerful firms and platforms; it explores differences in the level of protection offered to retail workers on the two sides of the Atlantic; and it traces the politics that have driven differences in the spatial and temporal parameters of shopping in Europe and the United States.

Part V concludes by examining the turn to e-commerce and the way in which American retailing has shaped the political economy as a whole. Chapter 10 considers the extent to which Amazon represents a departure from or a continuation of the previous trajectory of American retail capitalism. Despite some important differences in the business model, Amazon’s political playbook is strikingly similar to that of its predecessors. Most importantly, the company’s strategy continues to rely on leveraging its market strength to squeeze suppliers and workers in ways that have contributed directly to the low-cost, low-wage trap we observe today. Chapter 11 pans out to consider how American retailing has shaped a growth model that relies on consumption even as it generates and exacerbates inequality. Through all three phases examined in this book, large retailers accumulated a growing support coalition as they expanded. Over time, policymakers, too, came to rely on them to soften the sharp edges of American capitalism, making it possible for a growing number of groups to participate (albeit on radically different terms) in the country’s consumption-driven growth model while allowing the government to dodge the income redistribution that would otherwise have been required to sustain it.

20. For a general argument about the role of the creative use of law and the courts in promoting gradual institutional change, see Streeck and Thelen 2005; also Pollman and Barry 2017 on “regulatory entrepreneurship,” and Teupe 2019 on “Schumpeterian rule-breaking” as a mechanism through which firms avoid or break laws strategically in an effort to shift the legal boundaries over time (2019: 186).

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