

[From the Hartford Times, June 9, 1967]

#### KEN BURKE RETIRES

The retirement of Kenneth K. Burke as publisher of the Hartford Times will prompt tributes of respect and affection from all who worked with him in business and civic affairs. He was notable in his zeal for the improvement of this newspaper and for the advancement of the prosperity and human relations of Greater Hartford.

He saw to it that The Times, in its tradition, stood as champion of progressive movement and liberal thought. He brought here a vigorous spirit and personality that were appreciated in a community that was hitting a new stride.

At its start he sparked the Community Renewal Team with an energy that won him a rather unusual honor: His home was fire-bombed because he dared exert leadership in the fields of civil rights and social justice. We at The Times, it must be said, were proud of his misfortune.

In his association with the business powerhouse of the region—the Greater Hartford Chamber of Commerce—he was an expansionist, with a pride and certainty in the ability of this area to maintain a top position in the nation economically.

In journalism, both on the business and news sides, he was highly regarded in Connecticut and was honored with election to posts of leadership.

So it isn't easy to see his qualities transferred from us by retirement.

We are certain he knows how very many of us will miss his cheery help and guidance.

All who have enjoyed friendship with Ken Burke will join us in wishing him well.

#### MEAT IMPORTS AND THE CONSUMER

Mr. JAVITS. Mr. President, during the Senate consideration of the investment tax credit legislation an amendment was included which would have reduced by one-third the maximum annual foreign shipments of beef, lamb and goat meat into the United States. The amendment was dropped in conference. However, many of its features have been incorporated in a bill, S. 1588, which is presently pending before the Finance Committee.

In considering this legislation, unfortunately, little attention is being paid to the effects of import quotas on the American consumer. The bulk of the meats imported go into the production of hamburgers, frankfurters, and other meat products widely consumed by American families and which constitute an important share of their regular expenditures. The National Cattlemen's Association and the National Livestock Feeders Association both readily admit that their support for S. 1588 would have the effect of increasing consumer prices. It is clear that the American cattle industry is faced with a problem of over-production which has affected the prices of meat. They are entitled to Federal assistance as much as any other American industry in trouble, but I submit that it is entirely unfair and improper to blame the cattle industry's troubles on meat imports.

I strongly urge the Senate Finance Committee in considering a solution to the problems of the American cattle industry to bear very clearly in mind that the imposition of additional quotas on meat imports would have an adverse im-

pact on millions of American consumers without being of material assistance to the cattle industry.

I ask unanimous consent that excerpts from a statement on the meat import situation sent to me by the Meat Importers Council be printed in the RECORD at the conclusion of my remarks.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT OF POINTS IN OPPOSITION TO S. 1588 FROM THE MEAT IMPORTERS COUNCIL, NEW YORK, N.Y.

"Clout The Consumer"? Why do we term this an attempt at "Clout The Consumer" legislation?

Millions of American families rely on hamburgers, frankfurters and other convenience foods for their basic meals. Any proposal that would tend to increase the cost of these important, reasonably-priced food items is a "Clout The Consumer" Bill.

*Hamburgers, Frankfurters and Other Convenience Foods:* These low-cost popular food products, so important to the vast number of American consumers, are made of so-called manufacturing meat—a lean meat, produced by grass-fed cattle. Imports of such meat are primarily from Australia, New Zealand and Ireland.

*U.S. Production:* The U.S. cattle industry concentrates on sending its animals to feedlots to be grain-fed and to become "fat" cattle of higher grade and cost, destined for steaks, chops and other high-priced cuts. Use of this more costly grain-fed cattle meat for hamburgers and frankfurters would raise the prices of these foods so drastically as to price them out of the economic reach of the lower-income families.

If a "subsidy" is the true objective, would it not be more forthright to ask the Congress for that help without resorting to subterfuge in the form of a "Clout The Consumer" Bill?

If the U.S. cattle and livestock feed industries are indeed in trouble, as they claim, we favor doing everything practical to assist them. But this isolated attack on meat imports, without first having all the facts, seems hardly a practical or sound way to solve the problem.

When the facts are brought to light, they will clearly disclose these relevant points:

(1) Imports consist of entirely different types of meat than are produced in sufficient quantity within the United States; (2) they are not competitive with the vast amount of grain-fed U.S.-produced meat; (3) further meat import limitations will in no way solve the real economic problems of the U.S. cattle and feeder industries but will result only in penalizing the vast number of families who eat hamburger and frankfurters etc., at their main meals since such meat imports are used for these basic nutritious consumer products; (4) further import limitations will mean sharp and severe price rises, making the cost of hamburger and frankfurters prohibitive for millions of lower-income U.S. consumers; (5) proponents readily admit that consumer price rises are their primary purpose.

*Our Position:* We stand ready to rely on the facts.

The cattle and livestock feeder industries deserve to be helped if they have serious economic troubles. An objective effort to diagnose and to isolate the real cause of the cattlemen's "ailment" seems to be a reasonable request.

Therefore, we urge the Congress to order a full and objective inquiry into all of the facts, including realistic reasons for the current plight of the U.S. cattlemen and livestock feeders. The appropriate method is to order public hearings, conducted by appropriate Committees of both Chambers of the Congress and by the U.S. Tariff Commission.

Both sides deserve a chance to be heard. Major consumer organizations of the nation should be given an opportunity to know the true facts and to present their views.

#### CIVIL RIGHTS ACT OF 1967— RESOLUTION OF BOARD OF CHOSEN FREEHOLDERS OF ESSEX COUNTY, N.J.

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution dated June 8, 1967, adopted by the Board of Chosen Freeholders of the County of Essex, N.J.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A resolution concerning the civil rights bill of 1967—recommendation for immediate passage in the Board of Chosen Freeholders of the County of Essex, N.J.

"Whereas, Senate Bill 1026 and H.R. Bill 5700, known as the Civil Rights Bill of 1967, have been referred to the Judiciary Committee respectively in the United States Senate and House of Representatives; and

"Whereas, this Board has always supported the proposition of equal opportunity and equal rights for all men and women regardless of race, color or creed; now, therefore, be it

"Resolved, that this Board hereby petitions the United States Senators representing the State of New Jersey and the Representatives of the 10th, 11th and 12th Congressional Districts from the State of New Jersey to have these bills released from committee and recommends the immediate passage of the Civil Rights Bill of 1967 in the best interest of the public; and, be it further

"Resolved, that a certified copy of this resolution be forwarded to the Honorable Harrison A. Williams and Honorable Clifford P. Case, United States Senators from the State of New Jersey and the Honorable Peter W. Rodino, Jr., Honorable Joseph G. Minish and Honorable Florence Dwyer, Representatives of the 10th, 11th and 12th New Jersey Congressional Districts."

Attest:

CHARLES A. MATTHEWS,  
Director.  
HARRY DUDKIN,  
Clerk.

The foregoing resolution having been duly presented to me on June 8, 1967, I hereby approved the same June 8, 1967.

WALTER C. BLASI,  
County Supervisor.

Returned and filed June 8, 1967.

HARRY DUDKIN,  
Clerk.

#### TRUTH IN LENDING ON THE WAY

Mr. PROXMIRE. Mr. President, a significant victory for the American consumer was achieved on June 8, when a Senate Subcommittee reported unanimously the Proxmire truth-in-lending bill. For 7 years this measure, which was originated by former Senator Paul H. Douglas, had been bottled up in the Committee on Banking and Currency.

I believe we have reported a bill which is fair to the consumer and workable to the credit industry.

We have made a number of changes in the bill to improve its workability; however, the essential features of the bill remain intact. Creditors would be required to disclose the full cost of credit both in dollars and as an annual rate. In this way the consumer will obtain all

the facts about credit and will be able to compare the cost of credit among different lenders.

One of the most controversial elements of the bill was revolving credit. The department stores made a substantial argument that revolving credit ought to be excluded from stating an annual rate. We did not accept this recommendation entirely.

Instead, we covered the extended payment revolving credit which is commonly used for financing large purchases such as refrigerators, furniture, household appliances, and the like.

These extended payment plans would disclose the annual rate of their finance charge. On the other hand, those revolving credit plans which are most commonly used to finance small items on a short-term basis would not be required to compute the annual finance rate, but would be required to specify the monthly rate and all the credit terms.

We have also added a new provision to cover credit for agricultural purposes, thus protecting farmers as well as consumers.

I believe the bill represents a significant advance for consumer interests. Although revolving credit is partially exempted, 95 percent of consumer credit would be fully covered by the bill, and there is a possibility that the full committee will extend this coverage. The bill would provide protection where the consumer needs it most.

It includes provisions which will make the bill workable to the industry while still giving the consumer the information he needs to shop wisely for credit. I am hopeful that with the unanimous report of the subcommittee the truth-in-lending bill will be speedily enacted into law.

Mr. President, I ask unanimous consent to have printed in the RECORD an article about the bill, published in the Wall Street Journal of June 9, 1967; a summary of the bill; and the text of a committee print reflecting the changes made by the subcommittee.

[From the Wall Street Journal, June 9, 1967]  
TRUTH-IN-LENDING BILL VOTED BY SENATE UNIT AFTER PROPONENTS MAKE CERTAIN CONCESSIONS

WASHINGTON.—"Truth-in-lending" legislation scored a major breakthrough, though its proponents made important concessions to obtain unanimous approval by a Senate subcommittee.

Certain exemptions and changes in the bill approved by the subcommittee are designed to appease department stores, the housing industry, bankers and small businessmen in general. Moreover, the legislation, if finally enacted by Congress, wouldn't become effective until July 1, 1969, to give business time to prepare for it.

Basically, however, the subcommittee retained the essence of the bill sponsored by Sen. Proxmire (D., Wis.) and backed by the Johnson Administration. For most consumer credit, the legislation would require disclosure of "approximate" annual interest rates in percentage terms and the total cost of finance charges on an itemized basis.

#### SENATE BANKING COMMITTEE

Truth-in-lending legislation has been bottled up in the Senate Banking Committee for six years, but now that a nine-man subcommittee has given a compromise bill solid support it may finally be on its way to enact-

ment. The full committee probably will take up the bill late this month. Sen. Proxmire said, and he predicted it will pass with little or no change. Most of those involved in the extended Banking Committee fight over the bill believe that the legislation's consumer appeal will insure its passage if it reaches the Senate floor. There's some concern by the bill's proponents, however, about the House outlook. The House Banking Committee hasn't done any work yet on a bill.

The legislation, long opposed bitterly by lenders and retailers, is needed, in the view of its advocates, so buyers can shop wisely for credit and be protected against sales schemes that disguise huge interest costs. The measure would, in effect, end longstanding lending and retailing practices by which credit terms on most transactions are stated in percentage rates well below the "true" annual rate.

#### STATEMENT FOR BUYER

The bill would require that before a sale is completed a buyer be given an "approximate" statement of annual interest, except in these important cases:

—"Revolving credit" charge accounts, offered by almost all department stores, would be exempt from the requirement to disclose annual interest rates in percentage terms. For such accounts, a store would have to state only the monthly interest rate. For example, a store would be able to say it charges 1.5% a month instead of 18% a year on purchases charged to a revolving account.

—First mortgages given to home buyers by a lending institution would be exempt from the annual interest rate disclosure and the requirement to state total finance charges over the life of the loan. Sen. Proxmire said interest rates on mortgages already are stated in annual percentage terms and that to require the statement of finance charges for, say a 25-year mortgage would result in a "frightening figure" without much meaning since many buyers sell their house long before they have lived in it long enough to pay off the mortgage.

—All retail transactions involving a total finance charge of less than \$10 would be exempt from the disclosure requirement. This is intended to ease problems for small businessmen.

#### DIFFICULT ISSUE

Revolving credit was the most difficult issue in the subcommittee. The majority flatly opposed the original proposal to require disclosure in annual percentage-rate terms for charge accounts, arguing that it would be misleading because department store customers usually pay off purchases in a short time.

Proponents of the plan, however, feared that a flat exemption for revolving accounts would open a loophole encouraging many lenders to change over to such credit transactions so they could avoid disclosure of annual rates.

The compromise reached, while exempting typical department store revolving accounts, attempts to safeguard against a switch to open-ended credit arrangements in other transactions. It requires that the "approximate" annual rate must be furnished to a credit purchaser when the seller retains title of the merchandise until it is fully paid for.

The intent is to force annual-rate disclosure on sales of such "big ticket" items as refrigerators and television sets, which many retailers sell under installment contracts rather than under revolving charge accounts. This rule also is intended to discourage such retailers as auto dealers from switching to credit arrangements that would avoid disclosure of "true" annual interest.

However, this disclosure rule wouldn't apply if terms of the credit transactions specified that the buyer was to pay 60% or more of the total cost within a year. Sen. Proxmire said the Banking Committee plans a

public hearing on this aspect of the bill before voting on the legislation because the final compromise wasn't discussed during previous public hearings.

Revolving credit accounts for only about 3% of consumer debt. But it's the fastest-growing segment of credit transactions and the American Bankers Association has predicted that within several years such transactions will account for a large part of overall credit.

Sen. Proxmire said he wasn't entirely satisfied with the compromise on revolving credit. His proposal to require annual-rate disclosure on all purchases of \$100 or more lost in the subcommittee, 5 to 3. But he said he may offer that plan again when the full Banking Committee considers the bill.

The subcommittee bill also attempts to allay concern, expressed particularly by bankers, that disclosure of "true" annual interest rates might place lenders in at least technical violation of usury laws in some states. Accordingly, until Jan. 1, 1972, the bill would give lenders the option of stating annual finance charges in terms of "dollars-per-hundred" instead of a percentage rate.

But if this option is taken, the bill specifies that dollar disclosure must be based on the declining balance of the loan outstanding rather than on its face value.

This would effectively bar the "add-on" method used by many lenders in which the cost of the loan is stated at, say, \$6 a \$100, while the interest may total, say 10% because the borrower won't have the full \$100 available over the full term of the loan. The optional method would require disclosure of the \$10 a \$100 cost in such an instance.

#### CREDIT LIFE INSURANCE

Under another provision softening the original bill, lenders wouldn't have to state the full cost of credit life insurance as a finance charge. In cases where such insurance is required, only the commission, if any, for the seller or lender would have to be disclosed.

The panel extended the terms of the bill in one respect: Credit extended to farmers, up to \$25,000, would be covered by truth-in-lending rules. The original bill excluded farm loans in the general exemption for business credit transactions.

The bill provides civil and criminal penalties for failing to comply with disclosure requirements. A court could find a creditor liable to his customer for \$100, or twice the amount of the finance charge in a transaction up to a maximum of \$2,000. The maximum penalty for "knowing and willful" violations would be \$5,000 and a year in prison. The Justice Department would be charged with enforcement.

The subcommittee specified, however, that a creditor able to prove "unintentional error" couldn't be held liable to a customer.

The Federal Reserve Board would write detailed regulations to put truth-in-lending into effect.

[Committee Print]

S. 5

A bill to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Lending Act".*

#### DECLARATION OF PURPOSE

Sec. 2. The Congress finds and declares that economic stabilization would be enhanced and that competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results

from an awareness of the costs thereof by consumers. It is the purpose of this Act to assure a full disclosure of such costs with a view to promoting the informed use of consumer credit to the benefit of the national economy.

#### DEFINITIONS

##### SEC. 3. For the purposes of this Act—

(a) "Board" means the Board of Governors of the Federal Reserve System.

(b) "Credit" means the right granted by a creditor to defer payment of debt or to incur debt and defer its payment, where the debt is contracted by the obligor primarily for personal, family, household, or agricultural purposes. The term does not include any contract in the form of a bailment or lease except to the extent specifically included within the term "consumer credit sale".

(c) "Consumer Credit Sale" means a transaction in which credit is granted by a seller in connection with the sale of goods or services, if such seller regularly engages in credit transactions as a seller, and such goods or services are purchased primarily for a personal, family, household, or agricultural purpose. The term does not include any contract in the form of a bailment or lease unless the obligor contracts to pay as compensation for use a sum substantially equivalent to or in excess of the value of the goods or services involved, and unless it is agreed that the obligor is bound to become, or for no other or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract.

(d) (1) "Finance charge" means the sum of all the charges imposed directly or indirectly by a creditor, or payable directly or indirectly by an obligor, as an incident to the extension of credit, including loan fees, service and carrying charges, discounts, interest, time price differentials, investigators' fees, costs of any guarantee or insurance protecting the creditor against the obligor's default or other credit loss, and any amount payable under a point, discount, or other system of additional charges.

(2) If itemized and disclosed under section 4, the term does not include amounts collected by a creditor, or included in the credit, for (A) fees and charges prescribed by law which actually are or will be paid to public officials for perfecting or releasing or satisfying any security related to a credit transaction; (B) taxes; (C) charges or premiums for insurance against loss of or damage to property related to a credit transaction or against liability arising out of the ownership or use of such property; or (D) if a clear and specific statement is furnished to the obligor that such insurance is optional and is not required as a condition for obtaining the credit, credit life and accident and health insurance. If credit life or accident and health insurance is required as a condition for obtaining the credit, such term shall include any part of the amount required to be paid for such insurance which represents a fee or commission payable, directly or indirectly, to the creditor or for the benefit of the creditor.

(3) Where credit is secured in whole or in part by an interest in real property, the term does not include, in addition to the duly itemized and disclosed costs referred to in clauses (A), (B), (C), and (D) of paragraph (2), the costs of (i) title examination, title insurance, or corresponding procedures; (ii) preparation of the deed, settlement statement, or other documents; (iii) escrows for future payments of taxes and insurance; (iv) notarizing the deed and other documents; (v) appraisal fees; and (vi) credit reports.

(e) "Creditor" means any individual, or any partnership, corporation, association, cooperative, or other entity, including the United States or any agency or instrumentality thereof, or any other government or political subdivision or agency or instrumentality thereof, if such individual or en-

tity regularly engages in credit transactions, whether in connection with the sale of goods and services or otherwise, and extends credit for which the payment of a finance charge is required.

(f) (1) "Annual percentage rate" means, for the purposes of sections 4(b) and 4(c), the nominal annual rate determined by the actuarial method (United States rule). For purposes of this calculation it may be assumed that:

(A) The total time for repayment of the total amount to be financed is the time from the date of the transaction to the date of the final scheduled payment.

(2) All payments are equal if every scheduled payment in the series of payments is equal, except one which may not be more than double any other scheduled payment in the series.

(3) All payments are scheduled at equal intervals, if all payments are so scheduled except the first payment which may be scheduled to be paid before, on, or after one period from the date of the transaction. A period of time equal to one-half or more of a payment period may be considered one full period.

(4) The Board may prescribe methods other than the actuarial method, if the Board determines that the use of such other methods will materially simplify computation while retaining reasonable accuracy as compared with the rate determined under the actuarial method.

(5) For the purposes of section 4(d), the term "equivalent annual percentage rate" means the rate or rates computed by multiplying the rate or rates used to compute the finance charge for any period by the number of periods in a year.

(6) Where a creditor imposes the same finance charge for all balances within a specified range, the annual percentage rate or equivalent annual percentage rate shall be computed on the median balance within the range for the purposes of sections 4(b), 4(c), and 4(d).

(7) "Open-end credit plan" means a plan prescribing the terms of credit transactions which may be made thereunder from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time thereunder.

(8) "Installment open-end credit plan" means an open-end credit plan which has one or more of the following characteristics: (1) creates a security interest in, or provides for a lien on, or retention of title to, any property (whether real or personal, tangible or intangible); (2) provides for a repayment schedule pursuant to which more than 60 per centum of the unpaid balance at any time outstanding under the plan is not required to be paid within twelve months; or (3) provides that amounts in excess of required payments under the repayment schedule are applied to future payments in the order of their respective due dates.

(9) "First mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located.

#### DISCLOSURE OF FINANCE CHARGES

SEC. 4. (a) Each creditor shall furnish to each person to whom credit is extended and upon whom a finance charge is or may be imposed the information required by this section, in accordance with regulations prescribed by the Board.

(b) This subsection applies to consumer credit sales other than sales under an open-end credit plan. For each such sale, the creditor shall disclose, to the extent applicable—

(1) the cash price of the property or service purchased;

(2) the sum of any amounts credited as downpayment (including any trade-in);

(3) the difference between the amounts set forth in paragraphs (1) and (2);

(4) all other charges, individually itemized, which are included in the amount of the credit extended but which are not part of the finance charge;

(5) the total amount to be financed (the sum of the amounts disclosed under (3) and (4) above);

(6) the amount of the finance charge (such charge, or a portion of such charge, may be designated as a time-price differential or as a similar term to the extent applicable);

(7) the finance charge expressed as an annual percentage rate, if the amount of such charge is \$10.00 or more;

(8) the number, amount, and due dates or periods of payments scheduled to repay the indebtedness; and

(9) the default, delinquency, or similar charges payable in the event of late payments.

Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance may be attained by disclosing such information in the contract or other evidence of indebtedness to be signed by the obligor. Where a seller receives a purchase order by mail or telephone without personal solicitation by a representative of the seller and the cash price and deferred payment price and the terms of financing, including the annual percentage rate, are set forth in the seller's catalog or other printed material distributed to the public, the disclosure shall be made on or before the date the first payment is due.

(c) This subsection applies to extensions of credit other than consumer credit sales or transactions under an open-end credit plan. Any creditor making a loan or otherwise extending credit under this subsection shall disclose, to the extent applicable—

(1) the amount of credit of which the obligor will have the actual use, or which is or will be paid to him or for his account or to another person on his behalf;

(2) all other charges, individually itemized, which are included in the amount of the credit extended but which are not part of the finance charge;

(3) the total amount to be financed (the sum of items (1) and (2) above);

(4) the amount of the finance charge;

(5) the finance charge expressed as an annual percentage rate;

(6) the number, amount, and due dates or periods of payments scheduled to repay the indebtedness; and

(7) the default, delinquency, or similar charges payable in the event of late payments.

Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance may be attained by disclosing such information in the note or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, the disclosure shall be made on or before the date the first payment is due.

(d) (1) This subsection applies to open-end credit plans.

(2) Before opening any account under an open-end credit plan, the creditor shall disclose to the person who seeks to open the account—

(A) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit ex-

tended may be repaid without incurring a finance charge;

(B) the method of determining the balance upon which a finance charge will be imposed;

(C) the method of determining the amount of the finance charge (including any minimum or fixed amount imposed as a finance charge), the percentage rate per period of the finance charge to be imposed if any, and, in the case of an installment open-end credit plan, the equivalent annual percentage rate; and

(D) the conditions under which any other charges may be imposed, and the method by which they will be determined.

(3) For each billing cycle at the end of which there is an outstanding balance under any such account, the creditor shall disclose—

(A) the outstanding balance in the account at the beginning of the billing period;

(B) the amount and date of each extension of credit during the period and, if a purchase was involved, a brief identification (unless previously furnished) of the goods or services purchased;

(C) the total amount credited to the account during the period;

(D) the amount of any finance charge added to the account during the period, itemized to show the amount, if any, due to the application of a percentage rate and the amount, if any, imposed as a minimum or fixed charge;

(E) the balance on which the finance charge was computed and a statement of how the balance was determined;

(F) the rate, if any, used in computing the finance charge and, in the case of an installment open-end credit plan, the equivalent annual percentage rate;

(G) the outstanding balance in the account at the end of the period; and

(H) the date by which, or the period (if any) within which, payment must be made to avoid additional finance charges.

(e) Written acknowledgment of receipt by a person to whom a statement is required to be given pursuant to this section shall be conclusive proof of the delivery thereof and, unless the violation is apparent on the face of the statement, of compliance with this section in any action or proceeding by or against an assignee of the original creditor without knowledge to the contrary by such assignee when he acquires the obligation. Such acknowledgment shall not affect the rights of the obligor in any action against the original creditor.

(f) If there is more than one obligor, a creditor may furnish a statement of required information to only one of them. Required information need not be given in the sequence or order set forth in this section. Additional information or explanations may be included. So long as it conveys substantially the same meaning, a creditor may use language or terminology in any required statement different from that prescribed by this Act.

(g) If applicable State law requires disclosure of items of information substantially similar to those required by this Act, then a creditor who complies with such State law may comply with this Act by disclosing only the additional items of information required by this Act.

(h) If information disclosed in accordance with this section and any regulations prescribed by the Board is subsequently rendered inaccurate as the result of a prepayment, late payment, adjustment, or amendment of the credit agreement through mutual consent of the parties or as permitted by law, or as the result of any act or occurrence subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom shall not constitute a violation of this section.

(i) Whenever a creditor is required under this section to disclose a finance charge which

includes any fee or commission for credit life or accident and health insurance, he shall, under procedures to be prescribed by the Board, disclose—

(1) the amount by which such finance charge is increased as a result of the inclusion of such fee or commission; and

(2) the total cost of such insurance.

(j) (1) Subject to paragraph (2)—

(A) whenever an annual percentage rate is required to be disclosed by this section, such rate may be expressed either as a percentage rate per year, or as a dollars per hundred per year rate of the average unpaid balance; and

(B) whenever a rate other than an annual rate is used to compute a finance charge and is required to be disclosed under subsection (d), such rate may be expressed either as a percentage rate per period of the balance upon which the finance charge is computed, or as a dollars per hundred per period rate of such balance.

(2) On and after January 1, 1972, all rates required to be disclosed by this section, shall be expressed as percentage rates.

#### REGULATIONS

SEC. 5. (a) The Board shall prescribe regulations to carry out this Act, including provisions—

(1) describing the methods which may be used in determining annual percentage rates under section 4, including, but not limited to, the use of any rules, charts, tables, or devices by creditors to convert to an annual percentage rate any add-on, discount or other method of computing a finance charge;

(2) prescribing procedures to ensure that the information required to be disclosed under section 4 is set forth clearly and conspicuously; and

(3) prescribing reasonable tolerances of accuracy with respect to disclosing information under section 4. (b) In prescribing regulations with respect to reasonable tolerances of accuracy as required by subsection (a) (3), the Board shall observe the following limitations:

(1) The annual percentage rate may be rounded to the nearest quarter of 1 per centum for credit transactions payable in substantially equal installments when a creditor determines the total finance charge on the basis of a single add-on, discount, periodic, or other rate, and such rates are converted into an annual percentage rate under procedures prescribed by the Board.

(2) The use of rate tables or charts may be authorized in cases where the total finance charge is determined in a manner other than that specified in paragraph (1). Such tables or charts may provide for the disclosure of annual percentage rates which vary up to 8 per centum of the rate as defined by section 3(f). However, any creditor who willfully and knowingly uses such tables or charts in such a manner so as to consistently understate the annual percentage rate, as defined by section 3(f), shall be liable for criminal penalties under section 7(b) of this Act.

(3) In the case of creditors determining the annual percentage rate in a manner other than as described in paragraph (1) or (2), the Board may authorize other reasonable tolerances.

(4) In order to simplify compliance where irregular payments are involved, the Board may authorize tolerances greater than those specified in paragraph (2). (c) Any regulation prescribed hereunder may contain such classifications and differentiations and may provide for such adjustments and exceptions from this Act or the regulations thereunder for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this Act or to prevent circumvention or evasion of, or to facilitate compliance by creditors with, this Act or any regulation issued hereunder. In

prescribing exceptions, the Board may consider, among other things, whether any class of transactions is subject to any State law or regulation which requires disclosures substantially similar to those required by section 4.

(d) In the exercise of its powers under this Act, the Board may request the views of other Federal agencies which in its judgment exercise regulatory functions with respect to any class of creditors, and such agencies shall furnish such views upon request of the Board.

(e) The Board shall establish an advisory committee, to advise and consult with it in the exercise of its powers under this Act. In appointing such members to such committee the Board shall seek to achieve a fair representation of the interests of sellers of merchandise on credit, lenders, and the public. Such committee shall meet from time to time at the call of the Board, and members thereof shall be paid transportation expenses and not to exceed \$100 per diem.

#### EFFECT ON STATE LAWS

SEC. 6. (a) This Act shall not be construed to annul, alter or affect, or to exempt any creditor from complying with, the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that such laws are inconsistent with the provisions of this Act, or regulations issued thereunder, and then only to the extent of the inconsistency. This Act shall not otherwise be construed to annul, alter or affect in any manner the meaning, scope or applicability of the laws of any State, including, but limited to, laws relating to the types, amounts or rates of charges, or any element or elements of charges, permissible under such laws in connection with the extension or use of credit, nor to extend the applicability of such laws to any class of persons or transactions to which such laws would not otherwise apply, nor shall the disclosure of the annual percentage rate in connection with any consumer credit sale as required by this Act be evidence in any action or proceeding that such sale was a loan or any transaction other than a credit sale.

(b) The Board shall by regulation exempt from the requirements of this Act any class of credit transactions which it determines are subject to any State law or regulation which requires disclosures substantially similar to those required by section 4, and contain adequate provisions for enforcement.

(c) Except as specified in section 7, nothing contained in this Act or any regulations issued thereunder shall affect the validity or enforceability of any contract or obligation under State or Federal law.

#### CIVIL AND CRIMINAL PENALTIES

SEC. 7. (a) (1) Any creditor who, in connection with any credit transaction, knowingly falls in violation of this Act, or any regulation issued thereunder, to disclose any information to any person to whom such information is required to be given shall be liable to such person in the amount of \$100, or in any amount equal twice the finance charge required by such creditor in connection with such transaction, whichever is the greater, except that such liability shall not exceed \$2,000 on any credit transaction.

(2) In any action brought under this subsection in which it is shown that the creditor disclosed a percentage rate or amount less than that required to be disclosed by section 4 or regulations prescribed by the Board (after taking into account permissible tolerances), or failed to disclose information so required, there shall be a rebuttable presumption that such violation was made knowingly. Such presumption shall be rebutted if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted

to avoid any such error: *Provided*, That a creditor shall have no liability under this subsection if within fifteen days after discovering the error, and prior to the institution of an action hereunder or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account as are necessary to insure that such person will not be required to pay a finance charge in excess of the amount or percentage rate so disclosed.

(3) Any action under this subsection may be brought in any court of competent jurisdiction within one year from the date of the occurrence of the violation. In any such action in which a person is entitled to recover a penalty as prescribed in paragraph (1), the defendant shall also be liable for reasonable attorneys' fees and court costs as determined by the court.

(4) As used in this subsection, the term "court of competent jurisdiction" means either any Federal court of competent jurisdiction regardless of the amount in controversy, or any State court of competent jurisdiction.

(b) Any person who knowingly or willfully gives false or inaccurate information or fails to provide information required to be disclosed under the provisions of this Act or any regulation issued thereunder, or who otherwise knowingly and willfully violates any provision of this Act or any regulation issued thereunder, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. The responsibility for enforcing this subsection is hereby assigned to the Attorney General.

(c) No punishment or penalty provided by this Act shall apply to the United States, or any agency thereof, or to any State, or political subdivisions thereof, or any agency of any State or political subdivision.

(d) No person shall be subject to punishment or penalty under this Act solely as the result of the disclosure of a finance charge or percentage which is greater than the amount of such charge or percentage required to be disclosed by such person under section 4, or regulations prescribed by the Board.

#### EXCEPTIONS

Sec. 8. The provisions of this Act shall not apply to—

(1) credit transactions involving extensions of credit for business or commercial purposes, or to governments, or to governmental agencies or instrumentalities; or

(2) transactions in securities or commodities in accounts by a broker-dealer registered with the Securities and Exchange Commission;

(3) credit transactions, other than real property transactions, in which the total amount to be financed exceeds \$25,000; or

(4) transactions involving extensions of credit secured by first mortgages on real estate.

#### REPORTS

Sec. 9. Not later than January 3 of each year commencing after the effective date of this Act, the Board of Governors of the Federal Reserve System and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this Act, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, reports of the Board of Governors of the Federal Reserve System shall include the Board's assessment of the extent to which compliance with the provisions of this Act, and regulations prescribed thereunder, is being achieved.

#### EFFECTIVE DATE

Sec. 10. The provisions of this Act shall take effect upon July 1, 1969; except that section 5 shall take effect immediately upon enactment.

SUMMARY OF CHANGES MADE IN S. 5, THE TRUTH IN LENDING BILL, BY THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, JUNE 8, 1967

1. *Revolving Credit*: Open-end or revolving credit plans would be exempt from the annual rate requirement except for "installment open-end credit plans." Such plans are ordinarily used to finance large purchases and are distinguished from ordinary revolving credit by the extended length of time permitted for repayment and the maintenance of a security interest in the merchandise. Such plans would be covered if 60% or less of any amount of credit was payable in one year, or if the seller maintained a security interest, or if accelerated payments are applied to future payments.

The purpose of this amendment is to eliminate any incentive to convert closed-end installment credit to revolving credit merely to escape annual rate disclosure. The amendment also provides greater comparability between installment open-end credit plans and installment closed-end credit plans. Smaller merchants who extend credit through installment contracts can compete on a comparable basis with the larger stores who use extended payment revolving credit.

Because testimony was not heard on this amendment, the full Committee will hold open hearings on June 20 to hear such testimony.

2. *Exemption for Small Retail Credit Transactions*: Any retail credit transaction would be exempt from the annual rate requirement if the finance charge was less than \$10. The purpose of this amendment was to simplify compliance, and particularly for small retail businesses.

3. *First Mortgage Credit*: First mortgage credit was exempted from the entire bill. The Subcommittee felt that there were no abuses in this area and that consumers were already receiving adequate information.

4. *Civil Penalties*: The bill was amended to permit a creditor to defend against a civil action by proving the failure to disclose was an unintentional error. However, the burden of proof would be on the creditor, and he would have to establish, by a preponderance of evidence, that such error was unintentional. The amendment also permits a creditor to escape liability for an error if the creditor discovers it first and makes whatever adjustments are necessary to insure that the consumer will not pay a finance charge in excess of the amount or percentage rate actually disclosed.

5. *Effective Date*: The effective date of the bill was postponed to July 1, 1969. The purpose of the change is to permit the States to amend their usury statutes in those cases where the disclosure of an annual percentage rate might possibly cause a legal problem. In addition, the later date permits the States to pass similar disclosure legislation, thereby securing an exemption from the Federal law.

6. *Form of Rate Statement*: The Subcommittee amended the bill to permit a rate statement either in percentage terms or as dollars per hundred per year. In all cases, however, the rate would be on the declining balance of credit. For example, if the effective annual rate, as measured by the actuarial method was 12%, the creditor could either disclose 12% per year or \$12.00 per hundred per year. This option will terminate on January 1, 1972. After that date, all creditors would use the percentage form of expressing the rate.

The purpose of this change is to minimize any possible conflict with State usury laws in those States where the percentage form of rates expression might cause a legal problem for some creditors. However, all creditors will be required to use the percentage form after July 1, 1972, on the belief that any such problem will, by that time, be largely solved.

7. *Credit Life Insurance*: The Subcommittee amended the bill to require that the dollar cost of such insurance be disclosed in all cases, whether such insurance was mandatory or not. The original bill required dollar disclosure only if such insurance was optional. If such insurance was mandatory, the original bill would have considered it to be a finance charge, the cost of which would be included in calculating the annual percentage rate. The Subcommittee also amended this provision by requiring that only the commission on such insurance paid directly or indirectly to the creditor would be included in the computation of the annual percentage rate.

8. *Credit Reports on Real Estate Transactions*: Such costs would not be included in the annual percentage rate. Under the original bill they would.

9. *Credit for Agricultural Purposes*: The Subcommittee amended the bill to include credit for agricultural purposes. The original bill would have only covered credit for "personal, family, or household purposes." The principal effect of this change would be to cover credit for farm machinery and equipment.

10. *Overstatement of the Annual Rate*: Creditors would be relieved of any civil or criminal penalty by overstating the annual percentage rate. The original bill provided for such an exemption from civil penalties only if the overstatement was due to an "erroneous computation." There was some doubt about the meaning of this phrase. The original bill also had no such exemption under the criminal penalties section.

11. *Other Amendments*: Other amendments of a technical and clarifying nature were adopted.

#### ERIE CANAL BOAT MUSEUM

Mr. JAVITS. Mr. President, as one of the sponsors and longtime advocates of the Federal Arts and Humanities Foundation Act, I am glad to bring to the attention of the Senate a laudable innovation sponsored by the New York State Council on the Arts.

This summer, between July 1 and Labor Day, the council will present the Erie Canal Sesquicentennial Exhibition, commemorating the 150th anniversary of the canal. A two-deck, display, canal boat, featuring multimedia exhibits on the history and operation of the canal, will visit approximately 30 communities between Albany and Buffalo. This celebration furthers the purpose of the Federal act, which is to bring the best in arts and culture to the smaller communities of the Nation.

As the canal was an important step in the development of New York State, the council hopes all persons having access to the exhibition, which will be free of charge, will be able to appreciate the historic role the canal has played, and continue to play as the New York State Barge Canal System.

Begun in 1817 and opened in 1825, the Erie Canal was one of the largest public works projects to have been undertaken in its day. Opening a direct water route to the western frontiers, the canal established New York as the leading economic center of the period.

The display boat will comprise a motion-picture tour of the canal; printed materials on the construction and early operation of the canal; working models of a canal lock and boats; an arrangement of technical inventions inspired by