I say, Mr. President, as long as these conditions exist, there is a need for the help of reasonable men from both parties.

ORDER OF BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that I may yield briefly to the Senator from Pennsylvania without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah? The Chair hears none and it is so ordered.

MODIFICATION OF HIS ACT PENALTIES

Mr. CLARK. Mr. President, I thank my friend from Utah.

Mr. President, modification of a harsh and cruel law in the broad field of Federal personnel administration has been advocated by the Kennedy administration. The act is the so-called His Act, a modification of which passed the House last year and failed of passage in the Senate because of the objection of certain Senators.

I hope that this year the Senate will be able to carry out the request of the Kennedy administration.

Mr. President, I ask unanimous consent that a modification of the so-called His Act, approved during the height of the era of McCarthyism, has caused hardships and injustices for hundreds of persons, many of them innocent victims, which Congress has never intended and its sponsors couldn't foresee.

The law involved prohibits payment of Government or military wages to persons who are convicted of a felony, or of participation against self-lumination. Past or present membership in or support of the Communist Party also bars pension rights under this law.

Here are some His Act injustices:

An Army sergeant pleaded guilty on August 15, 1947, long before Congress enacted the His Act, to a charge of unauthorized use of a Government vehicle. That minor offense in retirement pay.

In May 1951 another sergeant took the wrong turn in a Government car he was driving. For $400 he ruined a car and a government official, a passenger, who was an impatient high-ranking officer, who had the sergeant court-martialed and reduced to the next lower grade.

Now the former sergeant, ready to retire, has learned for the first time that his driving eight-tenths of a mile, a scheduled route will cost him his retirement annuity, valued at $33,946.

A chief warrant officer was charged with several offenses of which there must have been an acquittal, on, as a pretrial conference to plead guilty on condition he would merely be imprisoned and returned to his post. The Washington Post summarized the case: "No, his attorney was aware that his convicted guilty plea would cost him retirement pay valued at $103,000.

A Treasury employee, with 33 years of service, stood on his constitutional rights and refused to answer questions put to him by a Federal grand jury on grounds of self-incrimination. A civil service pension valued at $35,000 under the act.

These are not isolated cases. The Defense Department warns that the law must not be allowed to "cause a great deal of hard feeling in the air force, on the morale of our Armed Forces."

Navy suspects that hundreds of its military and civilians are threatened with the loss of retirement pay under the act. Army estimates that 1 of every 1,000 persons it retires is affected. Air Force says about 375 of its members who will be eligible for retirement during the next 50 years could be affected. Marine Corps says 50 of its people could be denied pensions during the same period.

This, which must enforce the act, is using the strongest possible language to try to persuade Congress to limit it to cases involving the Nation's security. It points out that the law is "harsh, unjust and obnoxious when applied to the innocent survivors of employees." and continues:

"Our position is entirely consistent with the American practice that crimes be defined and penalties for the commission of such crimes be established through criminal statutes. It has never been a part of the philosophy of the Nation to institute and demand criminal penalties in a civil benefits statute."

The offensive law was approved with the prime thought in mind of denying a civil service pension to Alger His, the convicted perjurer, and he still couldn't be given the benefit under the proposed modification.

ORDER OF BUSINESS

Mr. YARBOROUGH. Mr. President, will the Senator from Texas yield to me for a minute?

Mr. BENNETT. I shall be happy to yield for an insertion in the Senate Chamber and hear no further requests to yield. Therefore, I should like to hold the floor without yielding until I finish what I have to say.

Last Thursday the senior Senator from Illinois [Mr. Douglas] introduced what he called the "truth in lending" bill, and he, the Senator from Wisconsin [Mr. Proxmire], and the Senator from Oregon [Mr. Hatfield] spoke in support of it.

Those who embark on a crusade in the name of truth take on themselves a great moral obligation. They must search for truth diligently with open minds—minds that are not so prejudiced that they refuse, oppose, or reject that which does not fit into their conceived goal or purpose. That is certainly required of us in Congress; and if we are to find truth in anything, including truth in lending, we must maintain truth in legislation.

Is this bill, S. 1740, conceived and supported in the clear spirit of truth? Do its requirements meet its stated objectives? Are the examples used and the arguments made to support it clearly relevant? Do they illustrate and free the Senate from concealed purpose? Speaking as a member of the Subcommittee on Banking and Currency, which heard a similar bill last year, my answer to all of these questions would be an unqualified "No."

It will take many hours of testimony and questioning in the committee to bring out all the evils buried in this bill; but from last year's hearings, this year's text and last Thursday's opening statements, we can easily discern what to look for.

Last year its author called it the Finance Charge Disclosures Act. This year, with a flourish, he rechristened it the "truth in lending bill." I could suggest a few other titles which seem to be more appropriate. For instance, "truth in Cartoon and the Senator from Texas for a brief insertion in the Record.

HELIUM RESEARCH CENTER AT AMARILLO, TEX.

Mr. YARBOROUGH. Mr. President, I am reliably informed that the Bureau of Mines soon will establish a helium research center at Amarillo, Tex.

Purpose of this new research center at or near the biggest city in the Texas Panhandle is to permit intensive studies of character and possible new uses of this lightweight, nonflammable gas.

This research will be carried on under the supervision of Dr. L. Warren Brandt, of Amarillo, one of the Nation's foremost authorities in this field.

New emphasis on helium studies was ordered because of the increasing importance of this element to space age technology and its prominent position in electronics.

Details of the helium research center plans will be announced by U.S. Bureau of Mines officials within a few days. But because of the free-world importance of this new research center to be located in Texas—which will have all its substantial research done on a field which produces helium—I wanted to express the pride and pleasure of Texans in welcoming this important new facility to our State.

This development is a most important one to the High Plains region, which is that area over 3,500 feet above sea level. This is a great underground resource which will speed the entire economy of our Nation.

THE TRUTH ABOUT THE "TRUTH IN LENDING" BILL

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emotional support for it, and its key provisions are, in my opinion, incapable of being understood, compiled with, or enforced. Resorting to a bad pun, I have called this whole procedure the hidden bill trick. That this designation fits is evident all through the bill.

First, the language which describes the stated objective of the bill conceals the true purpose.

Second, it also may conceal an anti-business bias, including an apparent belief that businessmen must be immoral, ifso facto.

Third, the lurid examples, presented in the testimony, actually involve fraud and other crimes which are already punishable by local law.

Fourth, the language of the bill hides a hoax, because the bill as it is written cannot be enforced without also setting up and using vast new Federal powers to change the whole pattern of our present system of credit in retail distribution, and to fix prices on every commodity and service in every town in the United States.

Fifth, our search for truth should lead us to try to discover whether there is any justification for legislation in this field at the Federal level. Have the States been asleep to the desirability of accurate, workable laws to provide truth in lending?

Sixth, and finally, we come to the question which should have basic and ultimate concern for all of us, who, as I said at the beginning, should be dedicated to truth in legislation. Is the bill constitutional?

**Unsupported Premise**

Let us start at the beginning with the objective. Does it state a great truth—or, in fact—is it truth at all? Let me read again—it claims that Congress finds and declares:

Economic stabilization is threatened when credit is used excessively for the acquisition of property and service. The excessive use of credit results frequently from a lack of awareness of the total cost thereof to the user. It is the purpose of this act to assure a full disclosure of such cost with a view to preventing the use of credit to the detriment of the national economy.

This premise is at best highly debatable. Not a single line of testimony was presented to support this proposition at hearings on a similar bill last year. On the contrary there was opposite testimony from a noted business economist, professor of marketing at Ohio State University. He presented official statistics demonstrating that consumer debt had shown a very stable relationship to gross national product and personal disposable income during the preceding 4 years. His data also showed that rates of repayment had maintained a sensible relationship to new extensions of credit during the same period. His testimony was uncontradicted.

Furthermore, Federal Reserve Board officials, in testimony with consumer credit, have flatly refused to commit themselves to any specification of a safe or unsafe ratio of consumer debt in relation to personal income or any other economic yardstick. So far as the record shows, consumers are better managers of their own credit problems than the sponsors of this bill would have the Congress believe.

Certainly I have seen nothing to warrant a congressional endorsement of the first bland assumption made in the declaration of purpose of this bill.

Now let us look at the bill's stated objective again in terms of its proposed solutions, which are inherently related—or is this a great non sequitur?

**How Much Credit is Too Much?**

In the first line it says Congress finds and declares that economic stabilization is threatened when credit is used excessively for the acquisition of property and services. Have we found that? Is credit a product, which is the total of goods and services, too high? Should we be working to cut it down? The bill suggests this, but does not say so specifically. If there is an excess of credit in this country, how great is it? If no economic stabilization, how shall we eliminate it? The bill does not attempt to set standards for proper credit volume, but says "this frequently results from a lack of awareness of the cost thereof to the user or aliens thereof. If so, is it the only reason? Or, the chief one? If the bill is passed, could we expect to have greater economic stability?

Or would we have economic chaos?

The plain inference of the bill is that there is now excessive credit in retail distribution and that the annual charge for credit services, too high?

By how much is automobile credit excessive? If we take this excess out, by how much will we add to the unemployment in Michigan? The same question can be asked for any industry whose products are bought on credit.

Underlying the bill is an ancient myth which assumes there is a limit of virtue in interest rates, and that this is set at 6 percent. The corresponding inference that every finance charge above 6 percent is immoral. Could we apply this yardstick to all credit transactions and improve the stabilization of the economy? The truth is that if all consumer credit transactions at an annual rate of 6 percent were considered excessive, and therefore had to be eliminated, our whole present economic system of mass distribution, instead of being stabilized, would collapse.

The truth is that, if not all of our retail transactions involving delayed time payments include other factors, the total cost of all of which far exceeds a 6 percent simple annual rate.

S. 2755, introduced in the last Congress, presupposed that all charges for credit be totaled and stated as "simple annual interest". To have done this would have required a statement that is patently untrue; since interest, the cost of the use of money, is only one part of the cost of retail credit, while it is usually unimportant. In order to provide credit to his customers, the retailer must himself borrow money at prevailing interest rates. In addition, he must incur other costs, including the expense of checking credit, keeping records, making collections, and the burden of bad debt losses, to name only a few—of a myriad of small transactions.

Actually the sum of other costs which are added to the cost of the spot-time-payment credit service for retail purchases is several times greater than the cost of the interest component.

**Actual Costs of Credit**

A fundamental truth in lending, which the sponsors of this bill seem incapable of learning, is that the cost of providing small instalments payable in small installments at the customer's convenience, ranges from 12 to 18 percent per annum—the actual prevailing charges of reputable merchants.

The real cost of providing consumer credit is, of course, reflected by the numerous State small-loan laws. They authorize rates of 2 to 3 percent per month. In passing, it is significant to note that these laws require only disclosure of the applicable monthly rates, not the annual rate of simple interest per year. I believe this, too, traces to the 6-percent myth, which would drive consumers to unlicensed loan sharks operating on a larcenous lump-sum basis, in the mistaken belief that it was cheaper than interest at 24 percent per year, permitted under State laws.

The reasonableness of an 18-percent annual finance rate for retail merchandise credit, in the light of related costs, was affirmed by a proponent of the bill, Mr. Beckman, of Michigan. He is executive director of the Cooperative League of the United States of America. This is what he testified:

I know that retail stores have to charge monthly charges on credit accounts probably because it is a costly proposition. I also expect they do not maybe even cover that cost and that the people who pay cash are subsidizing the people who are getting the credit in many cases.

And I want to try to make it clear that I am not blaming the retail stores for charging 1 1/2 percent per month.

A banker witness, who testified for the bill, said the same thing. Speaking of retail credit charges, Mr. Herbert E. Cheever, vice-president of the First National Bank of Brookings, S. Dak., said:

There are transactions certainly where 1 1/2 percent per month would not be exorbitant, depending upon the risk and the amount of the transaction.

Official statistics prove that he is right and undermine any contention that retail merchants are using credit charges as a device to exploit consumers. According to Internal Revenue Service figures presented in the last year's hearings, the retail industry's after-tax earnings in 1957-58 were only 2 percent of sales and 6.2 percent of assets. Comparable figures for manufacturing industries during the same period were 7 and 10.1 percent, respectively.

The prevalence of the 6-percent notion was affirmed by credit union representative Donald J. MacKinnon of the Fort Dearborn Federal Credit Union, who testified:

We have even been accused of usurious practices when we tell a member that we charge 12 percent per annum.
We cannot escape the plain answer that in a competitive economy such a law not only can affect but it will affect in the actual annual rates unless all merchants do so. I repeat there is nothing in this bill that can require all merchants to do so. If they live so, the operation of this bill would encourage the very thing at which it is aimed. It would put a premium on deceptive pricing and advertising practices by a small group of unscrupulous credit merchants and in the long run force such practices on the great body of business.

Bill Would Hide Credit Costs

So passage of this bill will not affect the exploiters: less, not more, credit information will be furnished the public; and beyond this, cash customers will be saddled with hidden credit costs. Let there be no mistake about these inevitable consequences of this bill. They are borne out by the testimony of witnesses favoring the legislation at last year's hearings.

Let there be no mistake either about the decency of the credit practices of the overwhelming majority of American businessmen. The record of last year's hearings is equally clear on this. Again I refer to the testimony of witnesses who supported the bill. Mr. MacKinnon of the Fort Dearborn Credit Union said:

I simply do not agree with those who believe that a large proportion of the people who charge rates of interest in excess of our own are guilty of usurious practices, or in any way deliberately attempting to defraud the public. I think that the vast majority of those in personal credit business are honest and upright citizens.

Of course, there are the fringe operators who bring disrespect to any business but they operate largely outside or without benefit of legal control and are in no way representatives of the credit interests in this country.

Mr. MacKinnon was not alone in condemning the vast body of American merchants for their ethical credit practices. Other witnesses for the bill affirmed the same thing. President Buckmaster of the United Rubber Workers stated:

The overwhelming majority of our busiest customers—those who are dedicated to the good economics of fair and honest dealings. This bill strikes only at the unscrupulous few who give business in general a bad name.

Mrs. Alice Thorpe, representing the American Bone Economics Association, testified similarly and criticized only:

The few who, in one guise or another, cloak excessive charges and advertise in glowing terms so that the uninformed purchasers are unable to distinguish between the legitimate costs and padding, so to speak.

Credit Unions Not Comparable

Even the distinguished Senator from Wisconsin, a cooperator of the bill, recognizes the unfairness of comparing the credit charges of retail merchants or commercial lenders with those of credit unions and cooperative credit associations. He said during last year's hearings:

Of course, I am a great advocate and supporter of credit unions. They have their national headquarters in Wisconsin. But in all fairness, we have to recognize that they do not operate on the same basis as the commercial loaning operation.

They do not have the same charges at all, nor all kinds of privileges that the commercial operation does not have. And the competition, therefore, is really not very fair.

Cost More Important Than Rate

Apart from everything else I have said, the fact is the bill would not help consumers in the slightest, even if it were feasible and enforceable. The truth is that consumers are uninterested in annual percentage rates and could not use information provided. In this connection, the following testimony of the president of the National Association of Better Business Bureaus, who appeared at the invitation of the subcommittee chairman:

I have a great deal of doubt in my own mind from talking to hundreds of customers over the years that they are particularly interested in what the so-called interest rate is in the installment contract. They are interested in the actual dollar cost is and how much it is going to cost them per month to pay the balance which they have obligated themselves for.

Of course, he is right. Consumers are interested in not the percentage rate but the dollar expenditures that will fit within their budgets, not in abstract annual rate concepts which may be of importance to bankers and large investors.

On the uselessness of percentage rate information to customers, let me refer to the statement of Duncan Holthausen at last year's hearings. He is a former credit official of the Federal Reserve Board and is now the operator of a small family department store in Union City, N.J. Addressing himself to the claim that percentage information would enable consumers to compare credit costs, he demonstrated that this idea was illusory, even in the case of identical merchandise. Again I quote:

Of course, basic to this whole discussion, is the assumption that consumers can tell the difference between better and cheaper price and interest rate. Is a 1960 brand X car for $3,200 (financed) at 18 percent simple annual interest with 24 months to pay a better buy than the same price car for $3,300 at 15 percent simple interest with 24 months to pay? I am sure few consumers could give this answer. Professor Morse, in a college level family finance course, finds it necessary to spend 2 weeks dealing with minute calculations of consumer credit economics—in other words, the problems of relating credit costs to simple annual interest.

How can we expect the average consumer to relate simple annual interest to dollars, if it takes an expensive study on the part of college students?

How many Members of this body could make the computations required to answer the question posed by Mr. Holthausen and how long would it take?

Problems of Enforcement

Having shown my great doubt that there is any truth in the relationship between the stated objective of the bill and its requirements, and my feeling that the evil image of the American retailer who advertises no charges would not be accepted by the public, as evidenced by those witnesses who supported the bill in last year's hearings, let us turn now to consider the problem of compliance.
and enforcement with their inevitable efforts on our whole retail distribution system.

Anyone with even meager experience in retailing can easily see why the bill is so misleading and deceptive. The major provision is a requirement that no merchant can regularly sell goods on credit unless he informs each customer in advance, in writing, of the credit charge expressed in terms of a simple annual percentage rate. The claim is that this will insure the disclosure to the public of the real cost of consumer credit. This claim is deception itself. The bill will not and, as I have already said, cannot accomplish any such purpose. It is intended to suppress the cost of credit.

The reason is that as the bill is written, the annual rate requirement can neither be enforced, nor observed, except upon two intolerable conditions.

The first is Federal regulation of the methods and procedures by which merchants may extend credit. Even the author of the bill denies this purpose.

The second is the establishment of a full-time price control agency to fix maximum cash ceiling prices for every merchant and on every item in every corner of the United States, and to compel the separate statement of the percentage credit rate. Otherwise the credit would be buried in the price.

PRICE CONTROLS INEVITABLE

The proponents of the bill have maintained a discreet silence on these points, and although price control may not be the ultimate objective of the bill, it is meaningless without such control. This silence is understandable because it hides the unpalatable truth.

I cannot conceive that any Member of Congress who is dedicated to a free enterprise economy would support nationwide credit and price controls in peacetime. Too many of us remember the huge price control agencies of World War II when the Government dictated prices. They imposed on business and the consuming public alike.

The futility of the bill as it stands needs no intricate explanation. The point is simply that without such supporting credit and price control regulation, no merchant in the land would have to suffer the burden of stating credit charges in terms of annual rates. He would be free to fix his prices at levels which would hold off all of his credit costs and could remain free to advertise to consumers that he made no charge for credit, no matter how long the period of payment was extended.

This is no figment of my imagination. The point has never been denied, although it was raised during last year's hearings by the general counsel for the National Small Business Men's Association. This is what he told the subcommittee:

"If we embark on this course we can fully expect to pay the penalty of Federal price control. The whole concept of our economy, particularly our system of laws, is aimed at and reserving the freedom of each businessman to fix his own prices. This is basic to our economic system. Consequently, any merchant would be free to fix whatever cash price he chose and to advertise whatever credit costs for time payment he saw fit. The only way this inherent weakness of the bill could be overcome would be to compel the merchant to state which either fixed maximum cash prices, and compelled a separate statement of the credits for time sales, or which compelled the disclosure of the merchant's wholesale costs and his selling expenses for the goods he retails. I do not believe that Congress intended to create a kind of national agency which would be needed to administer a bill of that kind."

As a matter of fact, if the bill were passed, every merchant in the land would be under heavy pressure to set his price techniques so as to make his sales in the form of separate credit charges. And this could easily be done. As I have said, it would only be necessary to absorb credit charges in the base price in the same way as other overhead costs, such as advertising, rent and labor costs, are now so absorbed.

IMPOSSIBLE TO COMPLY WITH REQUIREMENT

In fact, the bill will force this result for at least three reasons. First, it is actually impossible to comply with the simple annual interest rate requirement in the light of commercial realities. In the vast majority of merchandise credit transactions, it is impossible to determine in advance what the simple annual credit rate will be. This is true of the most popular form of retail credit in use today, known as the revolving charge account. It is also true of the familiar kind of retail installment account known as the add-on account.

In those, as well as other types of retail credit procedures, a simple annual rate cannot be forecast because it is not known at the time of the original transaction how long the customer will use his credit and how much credit he will use over any defined period.

This failure of the bill to recognize the realities of commercial life was attested by an expert Federal agency during last year's hearings. With reference to this similar problem encountered in the home loan field, the Chairman of the Federal Home Loan Bank Board wrote the chairman of this committee as follows:

"It is not apparent how it would be possible to comply with the terms of the bill requiring a statement of the total amount of the finance charges, and the percentage that such amount bears to the balance, expressed in terms of simple annual interest.

S. 1740 asks Congress to ignore these elementary commercial facts. This is legislative irresponsibility. It departs from the experience and action of the numerous State legislatures which have since last April, at least 31 States have passed laws dealing with various types of merchandise credit, including measures establishing maximum rates and compelling comprehensive disclosure of consumer credit charges by merchants. They have acted responsibly. They have known better than to saddle the merchants of America with the impossible liability inherent in the simple annual requirement of the bill."

SIMPLE' INTEREST ISN'T SIMPLE

In the second place, if simple annual rates could be somehow calculated, the requirement would be intolerably onerous, burdensome, and expensive. There would be laborious paper work every time a credit sale was made. "Simple" sounds simple, but it is not.

It would be, if all contracts were to remain in the invariable form--"without interest"--with payments to be made in equal installments at equal time intervals. However, few contracts are written that way. They are generally written for periods shorter than a year, with payments weekly, biweekly or monthly, often with no payment for the first month or two of the contract, or with smaller payments at the end, or with a provision for skipped payments or with many other variations, all of which affect the interest rate, and make the computation of that rate extremely complex.

To illustrate, consider an example presented at the previous hearings by one witness. A man, caught in an emergency, wants to buy a $20 battery at a gas station, and wants to pay for it on time. The carrying charge is $2. He buys the battery on a Monday, and wants to begin payments on the following Monday, which is his payday. He is paid every other week, so he makes four biweekly payments of $3 each, with a final payment of $2. 2 weeks later. How much "simple annual interest" does the $2 represent?

I took this problem home with me that evening, and after a couple of hours came up with three different answers: 94 percent, 101 percent, and 104 percent, depending upon what assumptions are made about the amount of each payment going to principal and interest. Next day, I asked a member of my staff, who has the degree of Ph. D. in economics, to compute it. He spent half an hour on it, but did not have the formula he needed, so he referred it to the Library of Congress.

After an hour's delay, the Library came up with an answer of 129.5 percent. One of the committee witnesses, a professor of marketing, worked on the problem for half an hour, and came up with an answer of 130 percent.

The man who posed the problem in the first place could not figure it closer than between 110 and 130 percent.

A Newsweek article on the hearings and on the problem prompted a few letters to me. Three of these contained new and different answers to the problem. One, by a statistical expert for Beneficial Management Corp., brought an elaborate two-page computed solution of 132.3 percent. The other responses I received were 117.7 percent and 80 percent. In light of this variation among the experts as to the correct answer, how can an ordinary retail clerk possibly be expected to find the correct answer? I hope the sponsors of this bill will recognize enough of the problem by trying to figure one of these so-called "simple" problems for themselves as I did last year.
sume the proportions of the New York City telephone directory. Their accurate use would require the services of trained experts and hours of time, and there would still be more than two-thirds of the retail credit transactions which such books would not cover.

That was brought out by a study made under the auspices of Columbia University. The study will be available to the committee when the hearings begin.

The impact of this bill is not confined to professional financial institutions or even to large retail institutions. It would reach credit transactions in all walks of life and in every part of America. It would cover the credit transactions between the grocer and the housewife; between the corner filling-station operator and the local motorist. It is as broad in its sweep as the wartime price control acts.

Imagine the difficulty faced by a rural hardware dealer who on a busy Saturday afternoon would have to take time to make the required calculations and to fill out voluminous forms every time he made a sale on credit to a farmer. Imagine the situation that would be encountered by a housewife who made five separate purchases in five sections of a department store, and had to wait for a credit rate calculation from each salesgirl who waited on her. Yet that is exactly what the bill would require.

UNPRECEDENTED SCOPE

From what I have said, it is apparent that the bill requires unprecedented scope for Federal legislation. In this connection, I remind the Senate of the widespread concern about the intrusion into local affairs contemplated by the recently passed Senate amendment to the Fair Labor Standards Act. Let us, therefore, consider the record of last year's hearings.

The bill goes beyond the scope of Commission jurisdiction in that it contains no interstate or foreign commerce limitation. The impossible enforcement and compliance problems were enough to cause the Chairman of the Federal Reserve Board to back away from the administrative responsibility. He advised the Chairman:

Extension of the Board's duties into the field of fair trade practices as contemplated by this bill would be foreign to the Board's present responsibilities.

It is no wonder that the Federal agencies, suggested as the possible enforcement agency at last year's hearings, politely declined the honor. Even the distinguished Senator from Pennsylvania, whose name appears on the bill, is aware of the damaging enforcement problems. During last year's hearings, he said:

I would like to say I can see why the Federal Reserve does not want this administrative job. It is the job I do not think anybody would want.

FRAUD ALREADY ILLEGAL

Let us now consider whether the emotional supporting testimony presented at last year's hearing was either relevant to this bill, or indicative of any need for Federal legislation to control consumer credit. During those hearings, a parade of horror stories of consumer exploitation was presented to the subcommittee. Heartrending tales of episodes in which unscrupulous merchants charged exorbitant credit charges or palmed off shoddy merchandise on people of low income, some of them illiterate, were told on the record, presumably to give a surcharged, dramatic background to the proposal. However, most, if not all, of the stories had a common thread of deception which would not be covered or controlled by this proposal, and should better be left to the States and local communities.

This kind of consumer exploitation by a few unscrupulous merchants does not justify the extension of Federal domination over the millions and millions of transactions which occur every day in the marketplace. State and local enforcement agencies already have the power to cope with this problem, and ought to do so.

The Federal Reserve Board, the Federal Trade Commission, or any other Federal agency should not be required to exercise police power over the billions of local retail transactions in our economy.

RECORD OF THE STATES

Is there any justification for Federal legislation of any kind in this area? Has there been any imposition of unfair or unjustifiable restrictions on interstate commerce?

The truth is that many States have already dealt realistically and effectively with various phases of this problem, including maximum rates and disclosure, both in their legislatures and in the courts.

Let us take another look at the record of last year's hearings. This is what President Nyborg, of the Association for Better Business Bureaus, told the committee:

There is no question about the fact that many of the States have moved and others are considering moving in various ways to afford protection at the State level.

He is absolutely right. All States have laws covering the lending activities of banks. In addition, 42 States have laws requiring the disclosure of credit charges on small loans; 31 States regulate automobile installment sales; and 18 States cover installment sales of other types of goods, as well as automobiles. And in the new area of revolving charge accounts, the States have provided a base of study for the kind of consumer protection that is being considered, while such legislation is under active study in a number of other States. All indications demonstrate that the State governments are alert to the needs in this area and are going ahead with adequate legislation.

To me, this evidence is conclusive. Most State laws have been enacted in recent years. In other words, the current trend is for more and more States to meet the problem, thus making Federal regulation unnecessary. Before 1910, only three States—Maine, Michigan, and Wisconsin—had special legislation covering installment credit. Three more joined this group between 1914 and 1945—California, Maine, and Maryland. In the 1946-50 period, Michigan basically changed its statutes; and four new States passed installment credit laws—New Jersey, Ohio, and Pennsylvania.

Between 1951 and 1955, Colorado, Nevada, and Utah were added in the installment statute group. Then, in the 4-year period of 1955-59, 17 States passed their first special installment credit laws. In 1959 alone, nine States either passed their first statutes in this area or amended old ones. In total, about 1,000 legislative proposals were made in State legislatures during that year. It is clear that the States are protecting consumers today in the Nation's heaviest population areas. In addition, the States of Iowa, Maryland, Massachusetts, and Pennsylvania have established commissions to study installment selling.

There is an impressive record of performance on the State level. And it cannot be suggested that the State laws are dead letters. On the contrary, these laws are effective. The president of the National Association of Better Business Bureaus, Mr. Nyborg, affirmed this in answer to a pointed question from Senator BUSH. Let me read their exchange:

Senator BUSH: You think then that the consumer and the average citizen is getting all the legal protection that he needs in connection with this matter of disclosure in the State of New York?

Mr. Nyborg: It seems to me that this is the case, yes.

And his testimony was corroborated by Mr. William Kirk, representing the Union Settlement House of New York, who told the committee:

I think it is very clear that where people in our community go down to established stores they are given complete information in every way that conforms with the law.

There is, in short, no reasonable basis for disregarding the advice of the Federal Deposit Insurance Corporation to Chairman LOTT,

This is a field of activity that should be appropriately by the State and local governments to govern and police.

THE CONSTITUTIONAL QUESTION

We come now to the last and ultimate question. I am not a lawyer and thus have not attempted any analysis of the legality or constitutionality of the bill. But I would point out that it contains criminal as well as civil sanctions. Speaking as a layman, I will only say that, from a purely commonsense standpoint, it seems to me that the Congress is attempting to extend the commerce clause of the Constitution far beyond its present limits, including the recent extension of the Fair Labor Standards Act to the retail trade.

For all of these reasons, I have considered it my duty to urge the Congress to be especially watchful of this legislation. Its alleged banner of truth is a tempting one to follow. But this truth label is a deceptive cover for a misleading package—a hidden bill trick. The bill will not lead to truth in lending. It will
produce exactly the opposite result. Congress is being asked to enact a bill which is absolutely unenforceable as it stands and would not be enforceable at all. It could not be enforced except with the aid of a vast army of Federal price control bureaucrats. Its adoption could only lead to widespread evasion and disrespect for the law, new elements of a Federal police state, and, above all, encourage the very ills it is intended to prevent.

If rigid enforcement of S. 1740 were attempted, it would burden the taxpayer with the heavy cost of a super-sniper agency, bring both weakness and chaos to our entire system of Federal administration, and lessen, rather than increase, the consumer's knowledge of truth in lending. On these issues I hope Senators Douglas, Proxmire, and Neumayer will join me in the search for truth at the forthcoming hearings. If they do so sincerely, I have no doubt of the outcome.

Mr. BUSH. Mr. President, will the Senator yield?

Mr. BENNETT. I am happy to yield.

Mr. BUSH. I wish to compliment the diligent work of the Senator from Utah upon the very interesting statement which he has made concerning the bill. Before I question him, I simply should like to say for the record that more than a year ago, when the Senator from Illinois [Mr. Douglas] introduced his first bill, I was one of the sponsors of the measure. I was the only Republican who did sponsor the bill. There was a large number of Democratic Senators who acted as sponsors. My purpose in joining was to explore the situation, because I felt that the general purpose of the bill—namely, the purpose of disclosing the finance charges in connection with the purchase of an item—was a desirable one. I believe even now this should be done, and that purchasers should know what they are paying in the way of finance charges, because I think it might have some effect on their buying habits.

However, as the hearings progressed last year, and the Senator from Utah and I attended most of them, and the Senator was very active in questioning witnesses and in bringing out some of the important points about the bill—it seemed to me three major points stood out as a result of the hearings, and the Senator has covered these matters in his address today.

First was the fact that the States already have laws underway, and those that have not are considering them. It seemed to me, from the witnesses who appeared, and from later talking with representatives of the States who know something about this field, it is indeed an area which should be left to the States, and that the intrusion of the Federal Government into this particular field is absolutely unnecessary and unwarranted.

Does the Senator from Utah agree that the witnesses brought out that point last summer?

Mr. BENNETT. That is correct. If the Senator followed carefully my statement as I presented it, he will remember that I listed the number of States which had already prepared effective legislation.

Mr. BUSH. I followed it. There were 31 States listed. I am glad the Senator categorized them. I think that will be very helpful to anyone who is really interested in the truth of this issue.

Then a second point impressed me as a result of the hearings.

Mr. BENNETT. Before the Senator goes on to another matter, the Senator from Utah should like to make the observation that the State of Illinois, represented by the author of the bill, is not one of the 31 States, which may be a point of real concern; but I would hope, now that his party is in control of the State of Illinois, members of his party will be interested in handling the problem at the State level, as have the other States.

Mr. BUSH. I thank the Senator.

The second matter which stood out, as a result of the hearings, was the problem of enforcement. By whom would the law be enforced? The bill provided that the Reserve Board should be the policeman. The Federal Reserve Board shrank from the possibility. The Board did not think they could do it, even if they tried to, and they felt such a field was not in their province of expertise, and from the prospect that the enforcement of the act might be put on them.

I believe Chairman Martin expressed the view that there was some merit in the purpose of the bill, namely, to acquaint a person with the amount of the charge in the overall price. He expressed some sympathy with that purpose. However, so far as enforcement was concerned, I am sure the Senator from Utah will bear me out that the Board shrank from it, and had no alternative suggestion that made any sense.

Mr. BENNETT. The Senator from Utah remembers that when we met in executive session last summer on the bill, the question of who would enforce the provisions was left in the air, and was decided very casually, without consultation with the Federal Reserve Board officials. I think that is what Senator Bingham has in mind when asking them finally whether they would accept the responsibility.

Mr. BUSH. No doubt the Senator from Utah has read the new bill.

Mr. BUSH. I have not had an opportunity to do it. Would the Senator care to say which agency would be the enforcement agency?

Mr. BENNETT. It is still the Federal Reserve Board.

Mr. BUSH. So, in spite of what was brought out in the hearings respecting the impossibility of such enforcement by that agency, the provision is in the bill again. Is that correct?

Mr. BENNETT. Yes.

Mr. BUSH. The third matter which I think stood out—and I think the Senator from Utah had most to do with bringing it out, although he very ably helped the witnesses bring it out—was the obvious problem of being able to reduce the carrying or finance charge to a matter of simple annual interest.

I think the impact of the revelations which came out as a result of the Senator's questioning last summer is revealed by the fact that in the present bill the rate of simple annual interest is not mentioned at all.

Mr. BENNETT. Yes. There has been substituted, instead, the phrase "simple annual rate," which means nothing.

Mr. BUSH. I ask the Senator what "simple annual rate" is. We speak of rate of progress. We speak of rate of speed. We speak of rate of interest, rate of growth. What does "simple annual rate" mean?

Mr. BENNETT. The Senator from Utah can believe only one thing—that the criticism of the use of the word "interest" to be applied to charges extending credit which had nothing to do with interest—collection and other activities—forbade the author of the bill to take the word "interest" out, and being eager to hang on to the basic concept, he substituted, instead, the phrase "simple annual rate," he substituted the word "rate" for "interest." Without really knowing exactly what it meant, himself. I do not think he can explain what "simple annual rate" is, unless it is a synonym for "simple interest." It is not.

Mr. BUSH. I thank the Senator. I am sure he and I will both look forward with interest to questioning our good friend from Illinois as to exactly what is the meaning.

In conclusion, Mr. President, I should like to ask the Senator another question. The Senator touched on the fact that a dealer or retailer could conceal the finance charge by putting it in the price. Is that correct?

Mr. BENNETT. That is correct.

Mr. BUSH. Has the Senator in his broad experience ever seen that device used by dealers?

Mr. BENNETT. I think it is used every day, particularly by comparatively small dealers in out-of-the-way localities which have to attract customers by some unusual device. They advertise, "No downpayment, no carrying charges." That is a common practice.

Mr. BUSH. So the bill, as the Senator views it, would not come to grips with that practice?

Mr. BENNETT. Instead, I think it would.

Mr. BUSH. It would encourage the practice?

Mr. BENNETT. It would not only encourage it, but do more. The American retail industry has had a hard fight and has seen a lot of legislation passed which has to do with the encouragement and the opportunity to separate finance charges from other charges, so that the two could be stated separately. There has been a fight against the people who have always, as they still do, lumped these two. So that is Back.

If the bill were passed, all that progress would be lost and we would be back in the situation in which a man who paid cash would be paying, without knowing it, for a great variety of credit privileges intended for the purpose of attracting business.

I think this is probably the most serious defect in the bill; that in an attempt to enforce the law we would actually force credit charges back into price and,
instead of giving truth in lending or increasing truth in lending, we would for a long time, at least, complex court opinions on the truth which we now available, when, under 31 States' laws, the customer has to be told, "The price of the article is so and so," in dollars, "and the price of the credit you are being extended is so and so," in dollars.

There has been a lot of discussion about the fact that we all now know how to figure simple interest, that we learned it in high school, and therefore we should be concerned about expressing these things in interest or interest rates. I think the basic question is, for the man who is deciding to make a major purchase on time and to fit it into his monthly budget, is not to know what percentage of interest he is paying, but how many dollars he has to put out every month to obtain the service.

Mr. President, I yield the floor.

FAIR LABOR STANDARDS AMENDMENTS OF 1961—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1538) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to $1.25 an hour, and for other purposes.

Mr. McNAMARA: Mr. President, it is my understanding that the conference report on the minimum wage bill is now before the Senate. Is that correct?

The PRESIDING OFFICER. The Senate is correct.

Mr. BYRD of Virginia. Mr. President, I yield to the Senator from Michigan.

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I yield to the Senator from Michigan.

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Mr. McNAMARA. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor, and I state for the Record that I do not propose to yield further until we obtain action on this important proposal.