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 HISS 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 Hiss 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 an article written by Jerry Kluttz, which was published in the Washington Post and Times Herald April 30, 1961, be printed in the RECORD as a part of my remarks, in order that my colleagues may have their recollections refreshed as to the meaning of the act.

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

ADMINISTRATION MOVES TO MODIFY HISS ACT PENALTIES

(By Jerry Kluttz)

Modification of a harsh and cruel law is the No. 1 legislative goal in the Kennedy administration in the broad field of Federal personnel.

The so-called Hiss 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 never intended and its sponsors couldn't foresee.

The law involved prohibits payment of Government pensions to civil servants, Congressmen or military servicemen who are convicted of a felony, or who plead protection of the fifth amendment against self-incrimination. Past or present membership in or support of the Communist Party also bars pension rights under this law.

Here are some Hiss Act injustices:

An Army sergeant pleaded guilty on August 18, 1947, long before the Hiss Act was approved (September 1, 1954), to a charge of unauthorized use of a Government vehicle. That minor offense cost him $38,922 in retirement pay.

In May 1951 another sergeant took the wrong turn in a Government auto he was driving. Unfortunately, a passenger 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 off his scheduled route will cost him his retirement annuity, valued at $32,946.

A chief warrant officer was charged with several offenses of which there must have been some doubt. He was prevailed on, at a pretrial conference, to plead guilty on condition he would merely be reprimanded and be required to forfeit $400. Neither the officer nor his attorney was aware that his convenient 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. He was denied a civil service pension valued at $35,000 under the act.

These are not isolated cases. The Defense Department warns that the law must be modified to prevent "a drastic effect 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 575 of its members who will be eligible for retirement during the next 2 years could be affected. Marine Corps says 50 of its people could be denied pensions during the same period.

CSC, 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 "particularly obnoxious when applied to the innocent survivors of employees," and continues:

"Our position is entirely consistent with the American concept 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 our legal system 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 Hiss, 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 Utah yield to me for a minute?

Mr. BENNETT. I shall be happy to yield for an insertion in the RECORD. I have been on my feet for an hour trying to make a speech. I should like to make the speech. However, I am happy to yield to 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.

The research center will be 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 with all its substantial natural gas reserves has only one or two fields which produce 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 in 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

Mr. BENNETT. Mr. President, I look around 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 [Mrs. NEUBERGER] 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 reject, oppose, or ignore all facts that do 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, internally consistent, and free 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 Disclosure Act. This year, with a flourish, he rechristened it the "truth in lending bill." I could suggest a few other titles which seem to me to be more appropriate. For instance, if Perry Mason were naming it, he might very well call it "The case of the cross-eyed credit controls," because its stated objective looks toward one goal and its key provisions toward another. Another phrase that suggests itself is "nonsense and non sequitur" because the bill would not affect most of the evils described in the "horrible examples" used to arouse emotional support for it, and its key provisions are, in my opinion, incapable of being understood, complied 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 antibusiness bias, including an apparent belief that businessmen must be immoral, ipso 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 using 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 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 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 uninformed 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 by Prof. Theodore N. Beckman, 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 concerned 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 solution. Are the two 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 our gross national 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? And if this excess threatens 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." Is this a valid reason? 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 our distribution system which must be taken out. Where? Examples given point to durable goods such as automobiles. 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 above 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 most, 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, required 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, which is usually unsecured. 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 required to provide "on-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 retail merchandise credit, repayable 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 rates of 24 to 36 percent 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, former Congressman Voorhis. 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 1½ 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 1½ 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 included in the record of 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.

HORRIBLE EXAMPLES

Now let us see what the bill will do in the light of these facts. The irrelevant horrible examples contained in last year's hearings, and the uninformed editorials they inspired, some of which were put in the RECORD last Thursday, reveal an unwarranted attempt to besmirch the image of all retailers, big and little, who sell on credit. In his speech on Thursday, on page 6854 of the RECORD, Senator DOUGLAS says he is not trying to indict the American business community, but he also says the consumer does not get true and accurate information from them—businessmen—about credit. He then implies that they cannot be expected to have any morals because they "have fallen into a business jungle where survival seems to have depended on camouflaging, hiding, or understating the real price of credit." This bill is supposed to release them from that bondage. I claim that there is no such jungle now, but that this bill would create one. Where is the truth?

Let me put this problem in the framework of the bill before us, S. 1740. Let us assume that the Douglas bill is enacted and the reputable retail merchants advertise credit charges of 15 to 18 percent on the basis of simple annual rates as required by the bill. What will be the reaction of the credit exploiter who is the assumed target of the bill? I can envision the ads now:

> Why pay 15 percent or 18 percent for credit? Buy here and get 24 months to pay without any credit charge.

The very enactment of this bill and the attendant publicity on the importance of percentage rates would put a premium on such advertising. Nothing in the bill could stop such advertising because every merchant is free to absorb his credit costs in price, if he so chooses. And what will the legitimate merchant do in the face of such competition? The answer is plain. He will have to follow suit. For the average consumer will mistakenly assume that the merchant who advertises the true annual cost of retail consumer credit—15 percent to 18 percent—is the exploiter while his benefactor is the merchant who provides credit without charge. Precisely those consumers who are presently susceptible to exploitation by way of excessive credit charges will be the first to patronize the merchant who advertises no charge for credit.

DISADVANTAGE TO STATE THE TRUTH

The unfortunate fact is that because of public conditioning, the communication to consumers of an 18 percent annual rate would penalize the honest merchant who gave the message. Let me quote a witness who appeared at the behest of the Senator from Illinois.

I refer to Professor Morse of Kansas State University. These are his words:

> Yes, this seems to be the market truth. That is, one would be at a competitive disadvantage to state the truth, the true rate of interest under prevailing conditions.
>
> It would appear to be quite disastrous to be quoted at 12 percent or 18 percent, et cetera.

We cannot escape the plain answer that in a competitive economy such as ours no merchants can afford to state actual annual rates unless all merchants do so. I repeat there is nothing in this bill that can require all merchants to do so. On the contrary, adoption 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 legitimate 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. It is my experience that the vast majority of those in the personal credit business are honest and upright citizens. Of course, there are the fringe operators who bring disrepute to any business but they operate largely outside or without benefit of legal control and are in no way representative of the great majority of ethical firms doing business in this country.

Mr. MacKinnon was not alone in commending 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 business establishments 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 Home Economics Association, testified similarly and criticized only—

> The few who, in one disguise or another, cloak excessive charges and advertise in glowing terms so that the uninformed person is not able to distinguish between the legitimate costs and padding, so to speak.

CREDIT UNIONS NOT COMPARABLE

Even the distinguished Senator from Wisconsin, a cosponsor of the bill, recognizes the unfairness of comparing the credit charges of retail merchants or commercial lenders with those of cost-free and tax-exempt credit unions. 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 they do not operate on the same basis as the commercial loaning operation.
>
> They do not have the same charges at all, have all kinds of privileges that the commercial operation does not have. And the competition, therefore, is really not very fair.

DOLLAR 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 enforcible. The truth is that consumers are uninterested in annual percentage rates and could not use the information if it were provided. In this connection, I cite 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 thousands 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 what the 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 how their dollar expenditures 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 which is the better buy if given 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 1960 brand X 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 arithmetic—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 2 weeks of intensive 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 which the bill projects is not 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. Its 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 would lead instead to suppression of 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-blown Federal 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 will 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 and the Korean war and the burdens 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 take care 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 the antitrust laws, is aimed at preserving 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 is by adding to it provisions which either fixed maximum cash prices, and compelled a separate statement of the charges for time sales, or which compelled the disclosure, in addition to credit charges, of the merchant's wholesale costs and his selling expenses for the goods he retails. I do not think anyone here would want to see the 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 prices so as to avoid any separate credit charges. And this could easily be done. As I have said, it would only be necessary to absorb credit costs 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 know 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 these, 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 similar problems 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 already acted in this field. In fact, 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, but in dollars or monthly rates of service charge. 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 paperwork every time a credit sale was made. "Simple" sounds simple, but it is not.

It would be, if all contracts were to run for an even year, 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 or longer 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 first and larger 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 Friday, which is his payday. He is paid every other week, so he makes four biweekly payments of $5 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 proportion 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 118.9 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 125.33 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 love truth enough to learn it by trying to figure one of these so-called "simple" problems for themselves as I did last year.

RATE BOOKS NO SOLUTION

Let me point out also that rate books offer no solution. Because of the infinite variety of retail prices and credit terms, such books would have to assume 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 sponsorship 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 every town and crossroads 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 annoyance 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 sales girl 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 is of 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, the conference report on which is now pending before this body. This bill goes much further than that measure. If verification is needed, I cite the statement of the Chairman of the Federal Trade Commission, during last year's hearing on the bill. In his words:

> The bill goes far 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 least year's hearings, politely declined the honor. Even the distinguished Senator from Pennsylvania, whose name appears on the bill, is aware of the dismaying 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 salesmen made 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 these were cases of plain fraud and 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 dominion 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 deal severely with this type of fraud. 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? Have the States ignored their responsibility? The record is clearly the opposite. The truth is that many States have already dealt realistically and effectively with various phases of this problem, including maximum rates and disclosure, and others can be expected to follow. 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, seven States have already passed laws, 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 1940, only three States—Indiana, Michigan, and Wisconsin—had special legislation covering installment credit. Three more joined this group between 1941 and 1945—California, Maine, and Maryland. In the 1946–50 period, Michigan basically changed its statutes; and four new States passed installment credit laws—Connecticut, 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 1956–59, 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. In fact, State laws protect 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 ROBERTSON that—

> This is a field of activity that should be appropriated 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 ought not inflict the business community of America with any legal liability on the basis of a measure so unrealistic, so unnecessary, and so uncertain in its application and requirements.

If this proposal is based on the interstate commerce clause of the Constitution, it extends this clause 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 which, however amended, 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 of law like the late and unlamented NRA of the early 1930's.

If rigid enforcement of S. 1740 were attempted, it would burden the taxpayer with the heavy cost of a super-snooper agency, bring both weakness and chaos to our credit-based system of retail distribution, and lessen, rather than increase, the consumer's knowledge of truth in lending. On these issues I hope Senators DOUGLAS, PROXMIRE, and NEUBERGER 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 and thorough 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 programs 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 rather 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 fact 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 part of the reason for his 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 at that time that the Federal 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. They shrank in horror 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 to write up 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 at the time, or without asking them finally whether they would accept the responsibility.

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

Mr. BENNETT. Yes.

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 question of the impracticability 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. Is that correct?

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 growth. We speak of rate of progress. We speak of rate of speed. We speak of rate of this, that, and the other, but we do not talk about merely a rate. 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—forced the author of the bill to take the word "interest" out; and being eager to hang on to the basic concept—and, believe me, he hung on to it—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 annual interest."

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 locations who 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 taken a long time to get the courage 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 such charges together.

If the bill were passed, all that progress would be lost and we would be back in the situation that a man who paid cash would be paying, without knowing it, for a great variety of credit privileges introduced 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, completely conceal the truth which is 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 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 important thing, 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. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service 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 Senator is correct.

Mr. BYRD of Virginia. Mr. President, will the Senator yield to me?

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. I thank the Senator.

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

FEDERAL ACTION TO CONTROL PUBLIC SCHOOLS IN VIRGINIA

Mr. BYRD of Virginia. Mr. President, the Government of the United States has asked a Federal court to enjoin the State of Virginia from spending its own money in support of all public schools in the Commonwealth of Virginia for both white children and Negroes, unless one county submits to Federal demands.

The U.S. Attorney General on April 26 filed a petition in the Federal District Court for the Eastern District of Virginia, at Richmond, asking for an injunction to restrain the State of Virginia from approving, paying, or issuing warrants for the payment of any funds of the State for the maintenance or operation of public schools anywhere in Virginia for so long and during such period as the public schools of Prince Edward County are closed and a system of public free schools is not maintained within the county.

This action is so intemperate it defies belief by the parents of our children. But it is true, and it comes at a time when we are being urged to enact Federal subsidies for public school education in the name of "Federal aid to education."

If nonelected Federal officials will go to the extremes they are applying in Virginia now, who can imagine the ruthlessness of Federal bureaucrats with the power of the Federal purse to force their domination over the schools in our States and localities?

It is true that this move for Federal injunctive control over public schools in Virginia involves the Federal effort to force integration of schoolchildren, but I would remind citizens everywhere that their own school interests also are in jeopardy.

If the Central Government by Federal court order can cut off a State's financial support of its own public school system, it will not be difficult for it by bureaucratic decree to control such matters as textbooks, curriculums, teachers' salaries, and so forth.

If the precedent now sought in the Federal courts is set, and the administration's so-called Federal-aid-to-education bill (S. 1021) is enacted, the machinery for Federal domination of public education in this country will be virtually complete.

This bill, now under consideration by the Senate Committee on Labor and Public Welfare, would authorize Federal appropriations in increasing amounts over a 3-year period for subsidization of public school administration, teachers' salaries, special public education projects, and school construction.

David Lawrence, an eminent writer, deals with the double-barreled effect of the proposed Federal-aid-to-education bill and the Federal petition for injunction against Virginia schools in an editorial entitled "Conformity by Coercion" appearing in the May 8 edition of the U.S. News & World Report. Mr. Lawrence says:

> We are being told that Congress should aid the States with huge expenditures to construct more school buildings, to pay higher salaries for teachers, and to make various grants for specific educational courses needed to assist our national defense program. Will this not enable the Federal Government to complete its usurpation of the whole educational process?

As should be expected with Federal subsidies, substantial Federal controls in vital areas of public education are actually written into the bill; but even more important, enactment of the bill would open the door for further controls which would be more distasteful.

Once enacted, these Federal school subsidies would never expire; State and local taxes to replace them could never be raised high enough to finance schools in the manner of Federal profligacy which would be established; the pressure would be for more and more Federal money. We would open up a Pandora's box of spending.

If we submit to the Federal subsidy and control of public education established in this bill alone, the surrender to domination by the Central Government at Washington is certain to be permanent. Coercion by Federal injunction would be in addition, with criminal penalties.

I am aware that the bill says there shall be no Federal control over the schools which are to be subsidized, and I know that it says the 3-year appropriations shall be provided in a manner consistent with the purposes of the bill.

This language in the bill is clear, but I completely disagree with those who think it would prevent Federal domination in vital areas of public education. Those relying on these provisions as safeguards against Federal school control will be boobytrapped.

In recent years, Congress has twice denied to the Justice Department the authority to intervene in school integration cases before Federal courts as an actual plaintiff, but this is precisely what was done in Virginia last week.

Recent history in public affairs has taught us how doors are opened for Federal usurpation of State and local authority and responsibilities. This bill is a perfect example in all respects. It could reach almost any situation effectively, with or without Federal injunctions.

Provisions of the bill enumerate the areas of subsidy; they authorize the appropriations for the purpose; they specify initial controls in considerable detail; and the bill opens the way for permanent extension and expanding domination.

These are big feet in a wide door leading directly to Federal control over public education in all of its vital aspects, including all new public school construction. This control is not limited to States and school districts with integration problems.

It should be noted at the beginning that the administration bill provides, in no uncertain terms, that Davis-Bacon labor wage rates must be paid for all public school construction wherever Federal subsidy funds are used in defraying the cost of the contracts.

Davis-Bacon wage rates, almost without exception, are metropolitan rates. To apply them elsewhere for school construction means spending more money for fewer classrooms; nonessential expenditures are made mandatory; and local wage schedules are disturbed.

Public resistance to Federal subsidization of public schools would be eroded by an initial authorization for appropriations totaling $2.3 billion—$666 million for fiscal year 1962, $766 million for fiscal year 1963, and $866 million for fiscal year 1964.

This action is only the beginning. We would be opening the door for huge expenditures to follow.

The subsidy payments would be based on a federally prescribed formula which