CONSUMER CREDIT PROTECTION ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair lay before the Senate the amendment of the House of Representatives on S. 5.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 5) to assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extension of credit, which was, strike out all after the enacting clause and insert:

SEC. 1. This Act may be cited as the "Consumer Credit Protection Act".

TITLE I—CREDIT TRANSACTIONS

SEC. 101. (a) The Federal Reserve Act is amended by striking the first sentence and inserting:

"TITLE I—THE FEDERAL RESERVE SYSTEM"

"SECTION 1. SHORT TITLE AND DEFINITIONS"

"This title may be cited as the Federal Reserve Act.";

(b) The Federal Reserve Act is amended by adding at the end:

"TITLE II—CREDIT TRANSACTIONS"

"SECTION 201. Extension of purpose of credit"

"Sec. 201. The Congress finds that economic stabilization would be enhanced and that competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumer. It is the purpose of this title to assure a meaningful disclosure of credit terms so that the consumer may compare the various rates available to him and avoid the uninformed use of credit.

DEFINITIONS"

"Sec. 202. For the purposes of this title—"

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

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

(c) "consumer credit sale" means a transaction in which credit is granted by a seller in connection with the sale of goods or services, if such seller regularly engages in credit transactions as a seller, and such goods or services are primarily for personal, family, household, or agricultural purposes. The term does not include any contract in the form of a bailment or lease except to the extent specifically included within the term "consumer credit sale";

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

(1) if itemized and disclosed under section 203, the term 'finance charge' does not include any finance charge prescribed by law which actually are or will be paid to public officials for determining the existence of or cost for perfecting or releasing or satisfying any security related to a credit transaction, or the premium, not in excess of those fees and charges, payable for any insurance in lieu of perfecting the security; or

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

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

(c) "consumer credit sale" means a transaction in which credit is granted by a seller in connection with the sale of goods or services, if such seller regularly engages in credit transactions as a seller, and such goods or services are primarily for personal, family, household, or agricultural purposes. The term does not include any contract in the form of a bailment or lease except to the extent specifically included within the term "consumer credit sale";

(d) "finance charge" means the sum of all mandatory charges directly or indirectly by a creditor, and payable directly or indirectly by an obligor, as an incident to the extension of credit, including loan fees, service and carrying charges, discounts, interest, time price differentials, investigators' fees, costs of any guarantee or insurance protecting the creditor against the obligor's default or other credit loss, and any amount payable under a point, discount, or other system of additional charges, except that—"
finance charge for all balances within a specification; each such period, or equivalent annual percentage rate shall be computed on the median balance within the range for the purposes of sections 205(b), 205(e) and 206 of this title.

(2) Open end credit plan means a plan prescribing the terms of credit transactions which obligates the creditor to extend credit to the consumer from time to time under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time thereunder.

(3) Installment open end credit plan means an open end credit plan which, as one of the following characteristics: (1) creates a security interest in, or offers for a lien on, or retention of title to, any goods or services (real or personal, tangible or intangible), (2) provides for a repayment schedule pursuant to which less than 60 per cent of the unpaid balance at any time outstanding under the plan is required to be paid within twelve months, or (3) provides that amounts in excess of required payments under the repayment schedule are applied to future payments in the order of their respective due dates.

(4) Organization means a corporation, government enterprise, government agency or agency, business or other trust, estate, partnership, or association.

(5) Puerto Rico means any State, the Commonwealth of Puerto Rico, or the District of Columbia.

DISCLOSURE OF FINANCE CHARGES

ADVERTISING

"Sec. 203. (a) Each creditor shall furnish to each person to whom credit is extended and upon whom a finance charge is or may be imposed the information required by this section in accordance with regulations prescribed by the Board.

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

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

(2) the sum of any amounts credited as downpayment (including any trade-in); and the sum of any amounts set forth in paragraphs (1) and (2);

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

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

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

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

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

(8) a description of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates. Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance with the requirements of this section shall be determined by issuing such information in the note or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates.

Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance with the requirements of this section shall be determined by issuing such information in the contract or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor and the cash price and deferred payment price and the terms of financing, including the annual percentage rate, are set forth in the seller's brochure, the seller shall distribute the public, the disclosure shall be made on or before the date the first payment shall be due. This subsection shall not apply to the extent applicable, the items described in subsection (d) (3) need not be set forth more than once in each calendar year.

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

(2) Before opening any account under an open end credit plan, the creditor shall, to the extent applicable, disclose to every person to whom credit is to be extended—

(A) the conditions under which a finance charge may be computed for the time period, if any, within which any credit extended may be repaid without incurring a finance charge;

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

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

(E) the conditions under which the creditor may retain or acquire any security interest in any property transferred to the creditor in connection with the payment of any credit extended under the plan, and a description of the interest or interests which may be so retained or acquired.

For each bill of which there is an outstanding balance under any such account, the creditor shall disclose, to the extent applicable:

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

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

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

(4) the amount of the finance charge;

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

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

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

(8) a description of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates. Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance with the requirements of this section shall be determined by issuing such information in the note or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates.

Except as otherwise hereinafter provided, the disclosure required by this subsection shall be made before the credit is extended. Compliance with the requirements of this section shall be determined by issuing such information in the note or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor and the cash price and deferred payment price and the terms of financing, including the annual percentage rate, are set forth in the seller's brochure, the seller shall distribute the public, the disclosure shall be made on or before the date the first payment shall be due. This subsection shall not apply to the extent applicable, the items described in subsection (d) (3) need not be set forth more than once in each calendar year.
transaction is entered into by the party to whom the credit is extended, whichever is earlier. The Board may, if it finds that such section (a) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended under such finance charge shall be paid in full, without incurring a finance charge;

(b) the method of determining the balance at which a finance charge will be imposed;

(c) the method of determining the annual percentage rate; and

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

(3) No statement or representation shall otherwise be included. So substantially the same language or terminology as prescribed by the Board may be used in advertisements when such language or terminology in any required advertisement or any regulation issued under this section may contain such classifications and differentiations and may provide for such classifications as are necessary or proper to effectuate the purposes of this section, including, but not limited to, the extension or use of credit, the laws of any State relating to the disclosure of information, the laws of any State relating to the extension or use of credit, and the laws in connection with credit transactions, in which the total amount to be financed exceeds $25,000.

REGULATIONS

Sec. 204. (a) The Board shall prescribe regulations to carry out section 203, including provisions:

(1) describing the methods which may be used in determining annual percentage rates under section 203, including, but not limited to, the use of any rules, charts, tables, or devices by creditors to convert to an annual percentage rate any add-on, discount, or other method of computing a finance charge; and

(2) prescribing procedures to ensure that the information required to be disclosed under section 203 is set forth clearly and conspicuously and in the amount required to be disclosed, and

(3) establishing reasonable tolerances of accuracy with respect to determining information under section 203.

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

(1) The annual percentage rate may be reduced by an amount that is not more than one-half of 1 percentage point for each 1 percentage point of the annual percentage rate on credit transactions payable in substantially equal installments when a consumer credit sale is made to the extent that such laws would not otherwise apply, nor shall the disclosure of the annual percentage rate under section 203 be required except as specifically required by this title.

(2) The Board shall by regulation exempt from the requirements of section 203 any class of credit transactions in which the consumer credit sale is subject to State law or regulation substantially similar to the requirements under that section, with adequate provision for enforcement.
under do not affect the validity or enforceability of any contract or obligation under State or Federal law.

Section 206. (a) (1) Any creditor who, in connection with any credit transaction, knowingly fails in violation of section 206, subsections (f) and (k), or any regulation issued thereunder, to disclose any information to any person to whom such information is required to be disclosed by such person under section 203 or regulations prescribed by the Board.

ADMINISTRATIVE ENFORCEMENT

Section 207. All of the functions and powers of the Federal Trade Commission are applicable to the enforcement of this title to the same extent as if this title were a part of the Federal Trade Commission Act, and any person violating any provision of any regulation of this title or any regulation in implementation of this title is subject to the penalties and procedures provided in the Federal Trade Commission Act, except as follows:

(1) The exceptions stated in section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6)) are not, as such, applicable to this title.

(2) No bank or thrift institution is subject to the jurisdiction of the Federal Trade Commission or to the provisions of the Federal Trade Commission Act with respect to violations of any regulation of the model code of fair credit reporting under this subsection against the provisions of any such code.

(3) No common carrier subject to the jurisdiction of the Federal Trade Commission or to the provisions of the Federal Trade Commission Act with respect to violations of any regulation of the model code of fair credit reporting under this subsection shall enforce this title and regulations in implementation thereof with respect to banks and other institutions under their respective jurisdictions.

(4) No air carrier or foreign air carrier under section 406 of the Civil Aeronautics Board Act of 1938, 38 U.S.C. 686 (1938), or section 109 of the Federal Aviation Act of 1958, 49 U.S.C. 1686 (1958), or any other regulatory agency, is subject to the provisions of this title and regulations in implementation thereof with respect to such carriers.

(5) Except as provided in section 406 of the Act of August 15, 1921 (7 U.S.C. 227), (A) no person, partnership or corporation shall be subject to the Packers and Stockyards Act, 49 U.S.C. 601, unless it is subject to the Federal Trade Commission or to the provisions of the Federal Trade Commission Act with respect to this title, and (B) the Secretary of Agriculture shall enforce this title and regulations in implementation thereof with respect to any such carrier.

REPORTS

Section 208. Not later than January 3 of each year commencing after the effective date of this Act, the Federal Reserve System and the Attorney General shall, respectively, make reports to the Congress on the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, the Board of Governors of the Federal Reserve System shall include the Board's assessment of the extent to which compliance with the provisions of this title, and regulations prescribed thereunder, is being achieved.
(1) under the order of any court for the support of any person; or
(2) for any State or Federal tax.
(c) The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this section.

SEC. 203. No employer may discharge any employee by reason of the fact that, on one occasion, wages or other compensation due the employee for personal services have been subjected to garnishment, or any similar legal or equitable process.

(b) The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this section.

(c) Whoever willfully violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than one year, or both.

This title shall not be construed to annul, alter, or affect, or to exempt any creditor from complying with, the laws of any State relating to the garnishment of wages, salary, or earnings in the form of commission or bonus, as compensation for personal services in connection with credit transactions, or in connection with any transaction, (1) prohibit such garnishments or provide for more limited garnishments than are provided for in section 202(a) of this title, or (2) require or permit the garnishment of wages, salary, or earnings in the form of commission or bonus, as compensation for personal services in connection with credit transactions, or in connection with any transaction, by reason of the fact that, on any occasion, wages or other compensation due the employee for personal services have been subjected to garnishment, or any similar legal or equitable process.

TITLE III—COMMISSION ON CONSUMER FINANCE

SEC. 301. Establishment. There is established a biennial National Commission on Consumer Finance (referred to in this title as the "Commission").

SEC. 302. Membership of the Commission. The Commission shall be composed of nine members, of whom—
(1) three are Members of the Senate appointed by the President of the Senate;
(2) three are Members of the House of Representatives appointed by the Speaker of the House of Representatives; and
(3) three are individuals appointed by the President, on the recommendation of the President of the United States, to constitute a quorum.

SEC. 303. Compensation of Members. Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

SEC. 304. Duties of the Commission. The Commission shall study and appraise the functioning and developments of the consumer credit industry, as well as consumer credit transactions generally. The Commission, in its recommendations to the Congress, shall include treatment of the following topics:

(1) The adequacy of existing arrangements to provide consumer credit at reasonable rates.

(2) The adequacy of existing supervisory and regulatory mechanisms to protect the public from unfair practices, and insure the informed use of consumer credit.

(3) The desirability of Federal chartering of consumer finance companies, or other Federal or State forms of regulation.

(b) The Commission may make interim reports, and shall make a final report of its findings and recommendations to the President and to the Congress by December 31, 1969.

SOURCE:
Power of the Commission—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States, and may receive expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote to (1) require, by subpoena, from general orders, corporations, business firms, and individuals to submit in writing such reports and recommendations as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;
(2) to administer oaths;
(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;
(4) in the case of disobedience to a subpoena, or the refusal to answer questions, to impose a penalty of not more than $500 or imprisonment for or on account of any transaction, not exceeding one week, or both.

(e) To pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpoena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court shall be punished and may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information concerning the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission in furnishing all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports and special studies, or for the performance of other services necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it in the public interest would give an unfair competitive advantage to any person, it is authorized to publish such information in a form suitably adapted for public use, except that data and information which would separately disclose the business transactions of any person shall not be so published. All communications between the Commission and its customers shall be held confidential and shall not be disclosed by the Commission or its staff. The Commission shall make such reports, issues, or guidelines as it deems necessary to aid or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as may be necessary.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated

References:
(1) Wages or other compensation due the employee for personal services have been subjected to garnishment, or any similar legal or equitable process.

(2) The adequacy of existing supervisory and regulatory mechanisms to protect the

(3) The desirability of Federal chartering of consumer finance companies, or other Federal or State forms of regulation.

(b) The Commission may make interim reports, and shall make a final report of its findings and recommendations to the President and to the Congress by December 31, 1969.

SOURCE:
Power of the Commission—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States, and may receive expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote to (1) require, by subpoena, from general orders, corporations, business firms, and individuals to submit in writing such reports and recommendations as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;
(2) to administer oaths;
(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;
(4) in the case of disobedience to a subpoena, or the refusal to answer questions, to impose a penalty of not more than $500 or imprisonment for or on account of any transaction, not exceeding one week, or both.

(e) To pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpoena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court shall be punished and may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information concerning the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission in furnishing all information requested by the Commission to the extent permitted by law.

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(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated
February 7, 1968

EXTENSIONS OF REMARKS

U.S. Dilemma in Vietnam

HON. THRUXTON B. MORTON
of KENTUCKY
IN THE SENATE OF THE UNITED STATES
Wednesday, February 7, 1968

Mr. MORTON. Mr. President, not long ago Dr. James S. Brashear, of Central City, Ky., turned after 2 years service in Vietnam. His impressions of that service, as related to me, are printed in today's paper. They were contained in a letter to the Owensboro Messenger and Inquirer, February 10, 1968.

I commend it to all Senators, and ask unanimous consent to print it in the Extensions of Remarks.

Mr. PRESIDENT, the objection, the article was ordered to be printed in the Record.

MUHLHENDSCH DOCTOR SPEAKS ON U.S. DILEMMA IN VIETNAM

By Dr. M. David Orrahood

"The U.S. dilemma in Vietnam stems from a tree growing in a country that has been cut down for 20 years or more, and is thus fiercely indifferent to its plight." So runs an article in the Jeffersonville, Ind., News on February 12, 1968, signed by Dr. S. S. Brashear, a Muhlenberg County physician who completed two years of active duty with the Army Medical Corps January 28.

Dr. Brashear, a captain in the Medical Corps, finished a year of duty in Vietnam in September, 1967. He finished his active duty at Pt. Campbell and has returned to Central City to resume general practice.

The physician, like many good men, is concerned for the welfare of the local villages, in the Viet Cong, and killed in the hand chopping of the district.

Mr. BYRD of West Virginia. Mr. President, I call up this matter at the request of the distinguished Senator from Alabama (Mr. Sparkman). At his request, I move that the Senate disagree to the request of the Senate and request a conference with the House thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Senate proceeded to a conference with the House to consider the bill for further extension of credit to the military.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

Mr. BENNETT of California, to be Deputy Administrator of the National Aeronautics and Space Administration.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION

Executive nomination confirmed by the Senate February 7, 1968:

NATIONAL AERONAUTICS AND SPACE AGENCY

Thomas O. Paine, of California, to be Deputy Administrator of the National Aeronautics and Space Administration.

Mr. BRADY. The negotiated price he was told by a rival, V.C., or what is worse, became so corrupt and so involved that he had to kill the Viet Cong and killed in the hand chopping of the district.

Innocent suffer.

The chief, if he is effective, keeps the Viet Cong population down by informing--The going rate was a high as $150 per Viet Cong. The problem here is identifying the V.C. Thugs were known to advance that situation and who was to say whether the people they killed were Viet Cong or not.

Most of the trouble in Vietnam was spent by the 12th General Hospital at Cu Chi district about 30 miles northwest of Saigon. Considered a model example of the U.S. mobilization program, the area is designated militarily secure. Yet it was the site of a recent mortar attack that killed 20 people and wounded many others. The Viet Cong sustained no losses. Thus, despite two years of major effort, the U.S. and Saigon governments have not been able to say to the peasant: "You are safe to go about your daily affairs. It is the same old routine in the rest of the country."

Frustration compounded by snipers.

Seeing comrades fall by the side of the sniper fire or hidden land mines in relatively "secure" areas is another source of frustration to the military. This is especially true since it is impossible to tell the friendly villager.