

found in the CONGRESSIONAL RECORD, volume 113, part 26, page 35716, is a bill which will receive the support of a majority of the Senate and will be found acceptable by a majority of the House, once its provisions are fully understood. Despite the fact that there were sufficient votes in the Senate Judiciary Committee to report that bill in the last session, those of us who support it were obstructed in our efforts to achieve passage last year by those who wish to hold it as a hostage, which can be ransomed only through acceptance of their own theories of crime control, all of which, apart from the question of merit, are totally irrelevant to the focus and substance of this bill. I am hopeful that with the President's personal backing for our approach, we will now be able to break the logjam in the Judiciary Committee and report the clean bill with dispatch. I would point out that if we are not successful in obtaining action in this committee, there are other committees considering related legislation to which the addition of safe streets would be most appropriate, especially since much of this measure has been passed by the House and since this bill has been in the Judiciary Committee for nearly a year now.

Much the same can be said for the State Firearms Control Assistance Act, designed to help control the largely unfettered flow of deadly firearms which contributes so much to crime and violence in the Nation. Here, too, I am hopeful that we can achieve prompt and effective action in the Judiciary Committee, but if the traditional obstructionist attitude fostered by certain interests—or should I say self-interest—groups continues, we shall have to seek other avenues to assure that the Senate will be allowed to work its will on this subject.

I can be much more optimistic about the progress of the Juvenile Delinquency Prevention Act. We are polishing this bill right now in the Manpower Subcommittee, and we expect to meet next week in executive session to report the bill to the full committee, where I am sure it will receive immediate consideration.

I have not yet seen the text of the antiriot bill mentioned in the President's message, and I will examine it with great care and interest. It was my own conclusion that the hearings we had in the Judiciary Committee on this subject demonstrated that there was no real need for Federal legislation in this field, that State and local governments were fully empowered and willing to punish rioters, arsonists, and looters, and that there existed a real danger that the passage of such legislation would mislead the American people by representing that we had dealt adequately with the riot problem when in fact we were doing nothing of substance. Perhaps, after we have passed a strong civil rights bill demonstrating our continued dedication to equality and justice for every American, and after we have passed the two bills which really hold hope for helping to prevent and control riots; namely, the safe streets and gun control bills, and after we have considered and passed bills providing new programs and new appropriations to deal with the

real problems of our urban areas, the poverty, ignorance, disease, and deprivation which lead to the tensions and hostility that lie at the root of riots, perhaps then we consider an antiriot bill. But I have serious doubts that such a measure, even if its passage can ultimately be justified, deserves any priority in the 90th Congress.

Again, Mr. President, I want to express my congratulations and respect for President Johnson's approach to the crime problem. When the history of this decade is written, I think his leadership in the fight against crime will be well noted by a grateful nation.

### 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:

SECTION 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) Title I of the Federal Reserve Act is amended by changing "Act", wherever that word is used with reference to title I of the Federal Reserve Act (as so designated by subsection (a) of this section) to read "title".

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

#### "TITLE II—CREDIT TRANSACTIONS

##### "DECLARATION OF PURPOSE

"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 consumers. It is the purpose of this title to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms 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 trans-

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

"(d) 'finance charge' means the sum of all the mandatory charges imposed 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 amounts collected by a creditor, or included in the credit, for

"(A) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or 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

"(B) taxes; and

"(2) where credit is secured in whole or in part by an interest in real property, the term does not include, in addition, to the duly itemized and disclosed costs referred to in clauses (A) and (B) of paragraph (1) the costs of

"(A) title examination, title insurance, or corresponding procedures;

"(B) preparation of the deed, settlement statement, or other documents;

"(C) escrows for future payments of taxes and insurance;

"(D) notarizing the deed and other documents;

"(E) appraisal fees; or

"(F) credit reports.

"(e) 'creditor' means any individual, or any partnership, corporation, association, cooperative, or other entity, including the United States or any agency or instrumentality thereof, or any other government or political subdivision or agency or instrumentality thereof, if such individual or entity regularly engages in credit transactions, whether in connection with the sale of goods and services or otherwise, and extends, or arranges for the extension of, credit for which the payment of a finance charge is required.

"(f) (1) 'annual percentage rate' means, for the purposes of sections 203(b), 203(c), and 203(d), the nominal annual rate determined by the actuarial method (United States rule).

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

"(3) For the purposes of section 203(d), the term 'equivalent annual percentage rate' means the rate or rates computed by multiplying the rate or rates used to compute the finance charge for any period by the number of periods in a year.

"(4) Where a creditor imposes the same

finance charge for all balances within a specified range, the annual percentage rate or equivalent annual percentage rate shall be computed on the median balance within the range for the purposes of sections 203(b), 203(c), and 203(d).

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

"(h) 'installment open end credit plan' means an open end credit plan which as one or more of the following characteristics: (1) creates a security interest in, or provides for a lien on, or retention of title to, any property (whether real or personal, tangible or intangible), (2) provides for a repayment schedule pursuant to which less than 60 per centum 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.

"(i) 'organization' means a corporation, government or governmental subdivision or agency, business or other trust, estate, partnership, or association.

"(j) 'State' 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);

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

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

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

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

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

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

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

"(10) 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 may be attained by disclosing such information in the contract or other evidence of indebtedness to be signed by the obligor. Where a seller receives a purchase order by mail or telephone without personal solicitation on by a representative of the seller and the cash price and deferred payment price and the terms of financing, including

the annual percentage rate, are set forth in the seller's catalog or other printed material distributed to the public, the disclosure shall be made on or before the date the first payment is due. Where a creditor mails or otherwise transmits monthly or other periodic bills or statements in connection with any sale to which this subsection is applicable, each such bill or statement shall set forth, to the extent applicable, the items described in subsection (d) (3) of this section, except that if the credit is extended for a period of five years or more, the items described in subsection (d) (3) need not be set forth more than once in each calendar year. If a credit sale is one of a series of credit transactions made pursuant to an agreement providing for the addition of the deferred payment price of that sale to an existing outstanding balance, and the person to whom the credit is extended has approved in writing both the annual percentage rate or rates and the method of computing the finance charge or charges, and the creditor retains no security interest in any goods sold as to which he has received payments aggregating the amount of the sales price including any finance charges attributable thereto, then the disclosure required by this subsection for the particular sale shall be made on or before the date the first payment for that sale is due.

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

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

"(2) all 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 may be attained by disclosing such information in the note or other evidence of indebtedness to be signed by the obligor. Where a creditor receives a request for an extension of credit by mail or telephone without personal solicitation by a representative of the creditor and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, the disclosure shall be made on or before the date the first payment is due. Where a creditor mails or otherwise transmits monthly or other periodic bills or statements in connection with any extension of credit to which this subsection is applicable, each such bill or statement shall set forth, to the extent applicable, the items described in subsection (d) (3) of this section, except that if such credit is extended for a period of five years or more, the items described in subsection (d) (3) need not be set forth more than once in each calendar year.

"(d) (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 the person to whom credit is to be extended—

"(A) the conditions under which a finance charge may be imposed, including 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 method of determining the amount of the finance charge (including any minimum or fixed amount imposed as a finance charge), the annual percentage rate of the finance charge to be imposed, if any, and, in the case of an installment open end credit plan, the equivalent annual percentage rate;

"(D) 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 to secure the payment of any credit extended under the plan, and a description of the interest or interests which may be so retained or acquired.

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

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

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

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

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

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

"(F) the balance on which the finance charge was computed and statement of how the balance was determined. If such a balance is determined without first deducting all payments during the period, that fact and the amount of such payments shall also be disclosed;

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

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

"(4) If a creditor adds to this billing under an open end credit plan one or more installments of other indebtedness from the same obligor, the creditor is not required to disclose under this subsection any information which has been disclosed previously in compliance with subsection (b) or (c).

"(5) Any creditor under an open end credit transaction shall furnish any party to the transaction with a written estimate of the approximate annual percentage rate of the finance charge on the transaction determined in accordance with regulations issued by the Board, if the party making the request specifies or identifies the repayments schedule involved and such other essential credit terms as may be prescribed in the regulations issued by the Board.

"(e) In the case of any extension of credit in connection with which a security interest is to be retained or acquired in any property which is used or is expected to be used as a residence by the person to whom credit is extended, the disclosures required under this title shall be made at least three days before the transaction is consummated or before any agreement to consummate the

transaction is entered into by the party to whom the credit is extended, whichever is earlier. The Board may, if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of this requirement to the extent and under the circumstances set forth in such regulations.

"Notwithstanding any other provision of this Act, written acknowledgment of receipt by a person to whom a statement is required to be given pursuant to this paragraph shall provide only a rebuttable presumption of proof of delivery thereof.

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

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

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

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

"(j) If a creditor, in order to aid, promote, or assist directly or indirectly, any consumer credit sale, loan, or other extension of credit subject to the provisions of this section, other than an open end credit plan, states or otherwise represents in any advertisement

"(1) the rate of the finance charge, the advertisement shall state the rate of the finance charge expressed as an annual percentage rate; or

"(2) the amount of an installment payment or the dollar amount of finance charge, the advertisement shall state:

"(A) the cash price or the amount of the loan, as applicable;

"(B) the downpayment, if any;

"(C) the number, amount, and due dates or period of payments scheduled to repay the indebtedness if such credit were extended; and

"(D) the rate of the finance charge expressed as an annual percentage rate.

The provisions of this subsection shall not apply to advertisements of residential real estate except to the extent that the Board may by regulation require.

"(k) No creditor, in order to aid, promote, or assist, directly or indirectly, the extension of credit under an open end credit plan may state or otherwise represent in any advertisement any of the specific terms of that plan unless the advertisement clearly and conspicuously sets forth

"(1) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended may be repaid without incurring a finance charge;

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

"(3) the method of determining the amount of the finance charge (including any minimum or fixed amount imposed as a finance charge), and the annual percentage rate; and

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

"(1) No creditor may state or otherwise represent in any advertisement

"(1) that a specified periodic credit amount or installment amount can be arranged, unless the creditor usually and customarily arranges credit payments or installments for that period and in that amount; or

"(2) that a specified downpayment is required, unless the creditor usually and customarily arranges downpayments in that amount.

"(m) For the purposes of subsections (j), (k), and (l), a catalog or other multiple-page advertisement shall be considered a single advertisement if the catalog or other multiple-page advertisement clearly and conspicuously displays a credit terms table on which the information required to be stated by subsections (j), (k), and (l) is clearly set forth.

"(n) The prohibitions and requirements of subsections (j), (k), (l), and (m) of this section shall apply only to a creditor or his agent directly or indirectly causing the publication or dissemination of an advertisement and not to the owner, employees, or distributors of the medium in which the advertisement appears or through which it is disseminated.

"(o) The provisions of this section shall not apply to

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

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

"(3) credit transactions other than real property 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;

"(2) prescribing procedures to insure that the information required to be disclosed under section 203 is set forth clearly and conspicuously; and

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

"(2) The use of rate tables or charts may be authorized in cases where the total fi-

nance charge is determined in a manner other than that specified in paragraph (1). Such tables or charts may provide for the disclosure of annual percentage rates which vary up to 8 per centum of the rate as defined by section 202(f). However, any creditor who willfully and knowingly uses such tables or charts in such a manner so as to consistently understate the annual percentage rate, as defined by section 202(f), shall be liable for criminal penalties under section 206(b) of this title.

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

"(4) In order to simplify compliance where irregular payments are involved, the Board may authorize tolerances greater than those specified in paragraph (2).

"(c) Any regulation prescribed under this section may contain such classifications and differentiations and may provide for such adjustments and exceptions for any class of transactions as in the judgment of the Board are necessary or proper to effectuate the purposes of section 203 or to prevent circumvention or evasion of, or to facilitate compliance by creditors with, section 203 or any regulation issued under this section. In prescribing exceptions, the Board may consider, among other things, whether any class of transactions is subject to any State law or regulation which requires disclosures substantially similar to those required by section 203.

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

"(e) The Board shall establish an advisory committee, to advise and consult with it in the exercise of its functions with respect to section 203 and this section. In appointing the members of the committee, the Board shall seek to achieve a fair representation of the interests of sellers of merchandise on credit, lenders, and the public. The committee shall meet from time to time at the call of the Board, and members thereof shall be paid transportation expenses and not to exceed \$100 per diem.

#### "EFFECT ON STATE LAWS

"SEC. 205. (a) 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 disclosure of information in connection with credit transactions, except to the extent that such laws are inconsistent with the provisions of this title, or regulations issued thereunder, and then only to the extent of the inconsistency. This title shall not otherwise be construed to annul, alter or affect in any manner the meaning, scope or applicability of the laws of any State, including, but not limited to, laws relating to the types, amounts or rates of charges, or any element or elements of charges, permissible under such laws in connection with the extension or use of credit, nor to extend the applicability of such laws to any class of persons or transactions to which such laws would not otherwise apply, nor shall the disclosure of the annual percentage rate in connection with any consumer credit sale as required by this title be evidence in any action or proceeding that such sale was a loan or any transaction other than a credit sale.

"(b) The Board shall by regulation exempt from the requirements of section 203 any class of credit transactions which it determines are subject to State law or regulation substantially similar to the requirements under that section, with adequate provision for enforcement.

"(c) Except as specified in section 206, section 203 and the regulations issued there-

under do not affect the validity or enforceability of any contract or obligation under State or Federal law.

#### "CIVIL AND CRIMINAL PENALTIES"

"SEC. 206. (a) (1) Any creditor who, in connection with any credit transaction, knowingly fails in violation of section 203 (except sections 203(i), 203(j), and 203(k)), or any regulation issued thereunder, to disclose any information to any person to whom such information is required to be given shall be liable to such person in the amount of \$100, or in any amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is the greater, except that such liability shall not exceed \$1,000 on any credit transaction. Any action which may be brought under this subsection against the original creditor in any credit transaction involving a security interest in real property may be maintained against any assignee of the original creditor where such assignee, its subsidiaries, or affiliates were in a continuing business relationship with the original creditor either at the time the credit was extended or at the time of the assignment, unless the assignment was involuntary, or the assignee shows by a preponderance of evidence that it had no knowledge of any reasonable likelihood of violation by the original creditor and that it maintained procedures reasonably adapted to apprise it of the existence of any such violations.

"(2) In any action brought under this subsection in which it is shown that the creditor disclosed a percentage rate or amount less than that required to be disclosed by section 203 or regulations prescribed by the Board (after taking into account permissible tolerances), or failed to disclose information so required, there shall be a rebuttable presumption that such violation was made knowingly. The presumption is rebutted if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. A creditor has no liability under this subsection if within fifteen days after discovering the error, and prior to the institution of an action hereunder or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account as are necessary to insure that the person will not be required to pay a finance charge in excess of the amount or percentage rate so disclosed.

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

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

"(c) No punishment or penalty provided for a violation of section 203 or any regulation issued under section 204 applies to the United States, or any agency thereof, or to any State, any political subdivision thereof, or any agency of any State or political subdivision.

"(d) No person is subject to punishment or penalty under this section solely as the

result of the disclosure of a finance charge or percentage which is greater than the amount of such charge or percentage required to be disclosed by such person under section 203, or regulations prescribed by the Board.

#### "ADMINISTRATIVE ENFORCEMENT"

"SEC. 207. All of the functions and powers of the Federal Trade Commission are applicable to the administration and 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 or threatening to violate any provision of this title or any regulation in implementation of this title is subject to the penalties and entitled to the provisions and immunities provided in the Federal Trade Commission Act, except as follows:

"(1) The exceptions stated in section 5(a)(6) 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 this title if the bank or institution is subject to section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)), section 407 of the National Housing Act (12 U.S.C. 1730), or section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818). The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) shall enforce this title and regulations in implementation thereof with respect to banks and other institutions under their respective jurisdictions.

"(3) No common carrier subject to the acts to regulate commerce is subject to the jurisdiction of the Federal Trade Commission or to the provisions of the Federal Trade Commission Act with respect to this title. The Interstate Commerce Commission shall enforce this title and regulations in implementation thereof with respect to such carriers.

"(4) No air carrier or foreign air carrier subject to the Federal Aviation Act of 1958 is subject to the Federal Trade Commission or to the provisions of the Federal Trade Commission Act with respect to this title. The Civil Aeronautics Board or the Federal Aviation Administration, as may be appropriate, shall enforce this title and regulations in implementation thereof with respect to any such carrier.

"(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 subject to the Packers and Stockyards Act, 1921, is subject to the jurisdiction of the Federal Trade Commission or to the provisions of that Act with respect to this title, and

"(B) the Secretary of Agriculture shall enforce this title and regulations in implementation thereof with respect to persons, partnerships, and corporations subject to the Packers and Stockyards Act, 1921.

#### "REPORTS"

"SEC. 208. Not later than January 3 of each year commencing after the effective date of this title, the Board of Governors of the Federal Reserve System and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, reports of the Board of Governors of the Federal Reserve System shall include the Board's assessment of the extent to which compliance with the provisions of this title, and regulations prescribed thereunder, is being achieved.

#### "EFFECTIVE DATE"

"SEC. 209. The provisions of this title shall take effect on the first day of the ninth calendar month which begins after the date of enactment of this title, except that section 204 shall take effect immediately."

SEC. 102. (a) The Congress makes the following findings:

(1) Organized crime is interstate and international in character.

(2) Organized crime is engaged directly in interstate and foreign commerce, as well as intrastate commerce, in loaning money and other valuable things at excessive rates of interest, often in conjunction with the use of force, violence, and fear. This so-called loan sharking business of organized criminals and other criminals involves billions of dollars each year.

(3) The stability of the Nation's economy is affected by loan sharking activities.

(4) The use of legitimate credit channels would be enhanced by the prevention of loan sharking activities.

(5) The production and flow of goods in the Nation's economy is hindered by the diversion of money into excessive and confiscatory credit payments.

(6) Federal programs designed to aid the poor in the United States are rendered less effective by loan sharking activities.

(7) The diversion of money and assets into organized crime nullifies the purposes and benefits of a free enterprise economy and hinders the operations of Federal statutes and regulations designed to preserve that economy.

(8) In order to protect commerce, benefit the national economy and assure the full effects of Federal programs designed to aid the poor and maintain a free enterprise system, it is the purpose of this Act to prohibit loans at excessive and prohibitive rates of interest.

(9) Loan sharking activities directly impair the effectiveness and frustrate the purposes of the laws enacted by the Congress on the subject of bankruptcies.

(10) Loan sharking activities impair the stability of the national economy and thereby interfere with the regulation of the value of money.

(b) (1) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce by loan sharking or attempts so to do shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) (A) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with the intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of loan sharking, and (B) thereafter performs or attempts to perform any act described in the preceding clause, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(3) As used in this section —

(A) The term "loan sharking" means the lending of money at a rate of interest prohibited by the statutes of the State where the loan transaction takes place.

(B) The term "commerce" means commerce within the District of Columbia, or any territory or possession of the United States; all commerce between any point in a State, territory, possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(4) Whoever knowingly participates in any way in a wrongful use of actual or threatened force, violence, or fear in connection with a loan or forbearance in violation of subsections (1) and (2) of this section, or attempted violation thereof, shall be fined

not more than \$10,000 or imprisoned not more than twenty-five years, or both.

(5) Whoever knowingly possesses, maintains, or exercises control over any paper, writing, instrument, or other thing used to record any loan or forbearance or any part of such transaction in violation of subsections (1) and (2) of this section shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(c) The provisions of subsection (b) of this section do not apply to any extension of credit by a creditor which is both—

(1) licensed or chartered as a banking or lending institution by the United States or any State, and

(2) regulated and supervised as a banking or lending institution by the United States or any State.

(d) Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of this section, or any conspiracy to violate such section, is necessary to the public interest, such United States attorney, upon the approval of the Attorney General, or his designated representative, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except prosecution described in the next sentence) against him in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

(e) This Act shall not be construed as indicating an intent on the part of Congress to occupy the field in which this Act operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the Act shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this Act.

#### TITLE II—RESTRICTION OF GARNISHMENT OF WAGES

SEC. 201. The Congress finds that garnishment of wages is frequently an essential element in predatory extensions of credit and that the resulting disruption of employment, production, and consumption constitutes a substantial burden upon interstate commerce.

SEC. 202. (a) Except as provided in subsection (b) of this section, not more than 10 per centum of the excess over \$30 per week, or its equivalent for any pay period of a different duration, of any wages, salary, or earnings in the form of commission or bonus as compensation for personal services may be attached, garnished, or subjected to any similar legal or equitable process or order. No court of the United States or of any State may make, execute, or enforce any order or process in violation of this section.

(b) The prohibition contained in subsection (a) of this section does not apply in the case of any debt due—

(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. (a) 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 attachment, 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.

SEC. 204. 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, where such laws—

(1) prohibit such garnishments or provide for more limited garnishments than are provided in section 202(a) of this title, or

(2) prohibit the discharge of any employee by reason of the fact that, on any occasion, wages or other compensation due the employee for personal services have been subjected to attachment, garnishment, or any similar legal or equitable process.

#### TITLE III—COMMISSION ON CONSUMER FINANCE

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

SEC. 302. MEMBERSHIP OF THE COMMISSION.—(a) 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 persons not employed in a full-time capacity by the United States appointed by the President, one of whom he shall designate as Chairman.

(b) A vacancy in the Commission does not affect its powers and may be filled in the same manner as the original appointment.

(c) Five members of the Commission constitute a quorum.

SEC. 303. COMPENSATION OF MEMBERS.—(a) 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.

(b) Each member of the Commission who is appointed by the President may receive compensation at a rate of \$100 for each day he is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 304. DUTIES OF THE COMMISSION.—(a) The Commission shall study and appraise the functioning and structure of the consumer finance industry, as well as consumer credit transactions generally. The Commission, in its report and 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 regulatory measures.

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

SEC. 305. POWERS OF THE COMMISSION.—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote

(1) to require, by special orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions 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 order issued under paragraph (a) of this section to invoke the aid of any district court of the United States in requiring compliance with such subpoena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under subparagraphs (3) and (4) above; and

(6) 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 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 deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish 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 other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff. The Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

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

individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

**SEC. 306. ADMINISTRATIVE ARRANGEMENTS.—**  
 (a) The Commission is authorized, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or to classification and General Schedule pay rates, to appoint and fix the compensation of an executive director and the executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 under the General Schedule.

(b) The executive director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed \$100 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on

behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds shall apply to appropriations of the Commission. The Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 304(b), the Commission shall cease to exist.

**SEC. 307. AUTHORIZATION OF APPROPRIATIONS.—**There is hereby authorized to be appropriated such sums not in excess of \$1,500,000 as may be necessary to carry out the provisions of this title. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 306(e).

**TITLE IV—SEVERABILITY**

**SEC. 401.** If any provision of this Act is judicially held to be invalid, that holding does not necessarily affect the validity of any other provision of this Act.

And amend the title so as to read: "An Act to safeguard the consumer in connection with the utilization of credit by requiring full disclosure of the terms and conditions of finance charges in credit transactions or in offers to extend credit; by restricting the garnishment of wages; and by creating the National Commission on Consumer Finance to study and make recommendations on the need for further regulation of the consumer finance industry; and for other purposes."

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 amendment of the House 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

Presiding Officer appointed Mr. SPARKMAN, Mr. PROXMIRE, Mr. MUSKIE, Mr. BENNETT, and Mr. HICKENLOOPER conferees on the part of the Senate.

**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.

**ADJOURNMENT**

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.

The motion was agreed to; and (at 5 o'clock and 24 minutes p.m.) the Senate adjourned until tomorrow, Thursday, February 8, 1968, at 12 o'clock meridian.

**CONFIRMATION**

Executive nomination confirmed by the Senate February 7, 1968:

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

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

**EXTENSIONS OF REMARKS**

**U.S. Dilemma in Vietnam**

**HON. THRUSTON 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., returned after 2 years' service in Vietnam. His impressions of that service, as related to Dr. M. David Orrahood, were contained in an article published in the Owensboro, Ky., Messenger and Inquirer of February 1, 1968.

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

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

**MUHLENBERG DOCTOR SPEAKS ON U.S. DILEMMA ON VIETNAM**

(By Dr. M. David Orrahood)

"The U.S. dilemma (in Vietnam) stems from a rice-growing peasant who make \$1.00 a month in a country that has been at war for 20 years or more and who is thus fiercely indifferent to his plight."

So stated Dr. James S. Brashear, a Muhlenberg County physician who completed two years of active duty with the Army Medical Corps January 29.

Dr. Brashear, a captain in the Medical

Corps, finished a year of duty in Vietnam in September, 1967. He finished his active duty at Ft. Campbell and has returned to Central City to resume general practice.

The physician said the U.S. government is confronted in South Vietnam with three main problems:

Unsolvable weakness in the central government in Saigon.

Tough guerrilla forces in rural areas. Aggression and support of guerrilla forces from Hanoi.

The government weakness and the effect of the war extend into and disrupt all facets of civilian life in Vietnam.

For instance, a prostitute makes several times as much money as a college professor, physician, soldier or government official.

**WON'T WORK ON WEEKENDS**

"The Vietnamese lack personal pride and respect for life," explains Dr. Brashear. "The Viet Cong can severely beat a South Vietnamese Army unit on Friday noon, but come Saturday, they (the South Vietnamese) still take off for the weekend and do no work or fighting until Monday."

Dr. Brashear pointed out that the village chief, as the only arm of authority for the Saigon government, collects the taxes and pays his own expenses by taking a "cut", which could average as much as \$700 a month, a veritable fortune there.

With this money, the chief buys loyalty for himself, the Saigon government and the U.S. government. And, according to the Muhlenberg physician, the more ruthless and corrupt a village chief the more effective he is.

"A virtual dictator," Dr. Brashear explained, "the chief is able to keep power so long as he is not killed by a rival, V.C., or what is worse, becomes so corrupt and so overbearing that he is rounded up by the Viet Cong and killed in the village square to the hand clapping of every peasant in the district."

**INNOCENT SUFFER**

The chief, if he is effective, keeps the Viet Cong population down by offering a bounty to informers—The going rate was reported as high as \$150 per Viet Cong. The problem here was identifying the V.C. Thugs were known to take advantage of this situation and who was to say whether the people they killed were Viet Cong or not?

Most of Dr. Brashear's time in Vietnam was spent at the 12th Evacuation Hospital at Cu Chi district about 30 miles northwest of Saigon. Considered a model example of the U.S. pacification 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 situation in the rest of the country.

**FRUSTRATION COMPOUNDED BY SNIPERS**

Seeing comrades fall as a result of 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