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SENATE

REPORT
No. 392

TRUTH IN LENDING—1967

REPORT

OF THE

COMMITTEE ON
BANKING AND CURRENCY
UNITED STATES SENATE

TO ACCOMPANY

S. 5

TOGETHER WITH INDIVIDUAL VIEWS

LAW LIBRARY
BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

JUNE 29, 1967.—Ordered to be printed

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90th Congress, 1st Session | SENATE | Report No. 392

THE TRUTH IN LENDING ACT OF 1967

June 29, 1967.—Ordered to be printed

Mr. Proxmire, from the Committee on Banking and Currency, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 5]

The Committee on Banking and Currency, to which was referred 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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

Purpose of the Bill

The basic purpose of the truth in lending bill is to provide a full disclosure of credit charges to the American consumer. The bill does not in any way regulate the credit industry nor does it prescribe ceilings on credit charges. Instead, it requires that full disclosure of credit charges be made so that the consumer can decide for himself whether the charge is reasonable.

By providing full and comparable disclosure of information, the bill will permit consumers to compare the cost of credit among different creditors and to shop effectively for the best credit buy. The committee also believes the bill will promote the wiser use of consumer credit by consumers when they know the full cost of credit.

The committee believes the credit industry has made and is making a vital contribution to our growing economy. It is not the purpose of the bill to impede or retard the growth of consumer credit. Adequate knowledge of the full cost of credit, however, should make it possible for many families to manage their credit in a more satisfactory way. Personal bankruptcies are now at an alltime high and additional

consumer information in the consumer credit field should have beneficial effects both to consumers and to creditors.

For millions of other families the principal effect of the bill would be to permit them to shop efficiently for credit. In this way the committee believes the disclosure of credit costs together with the annual percentage rate will gradually bring about more effective price competition on the part of different segments of the credit industry. Banks, small loan companies, credit unions, retail merchants, savings and loan associations, and other creditors all compete for the consumer credit dollar. However, each of these segments of the industry follow somewhat different practices with regard to disclosing the cost of credit. By providing a uniform system of disclosure, the bill permits the average person to compare the cost of credit from all of these alternative sources of credit.

Although the bill is entitled "The Truth in Lending Act," the committee does not imply or infer that most creditors have been deliberately untruthful. The bill contains no assumptions that consumer credit is bad or that the vast majority of those who extend consumer credit are engaged in deceitful practices. The bill contains no indictment of the credit industry as a whole.

There have been examples, however, in the voluminous testimony presented before the committee, to indicate that there are some unscrupulous creditors who prey upon the poor through deceptive credit practices. The bill would protect the honest businessman from this form of unethical competition by requiring all creditors to disclose the cost of credit in a uniform manner. In this way, the honest merchant is not penalized if he states the full cost of his credit in dollars and as an annual percentage rate. Experience with truth in lending legislation in Massachusetts has confirmed the belief that full disclosure of credit charges is beneficial to business as well as consumers.

In reporting out the truth in lending bill, which was originally pioneered by former Senator Paul H. Douglas, the committee believes it has retained the essentials of the original Douglas bill but has made a number of changes to make the bill more practicable and workable to creditors. Past opponents and past proponents of the bill have always agreed upon the central objective of providing full information to consumers. The principal points of contention dealt with the workability of the legislation and whether it was a bill with which the average creditor could comply.

In reporting a truth in lending bill after 7 years of committee discussion, the committee believes it is recommending a reasonable bill which will be practicable and workable to the credit industry while at the same time providing consumers with the most important information about credit charges.

Present Disclosure Practices

Today the consumer is faced with a number of credit disclosure practices, none of which is directly comparable to one another. With respect to rate, some creditors employ an "add on" rate, which is measured on the original balance of the obligation as opposed to the declining balance. This has the effect of understating the simple annual rate by approximately 50 percent.

Other segments of the credit industry, such as credit unions and small loan companies employ monthly rates. Although it is a simple

matter to multiply the monthly rate by 12, the evidence seems to indicate that many people are not aware of the true cost of credit when it is expressed on a monthly basis.

Other creditors add a number of additional fees or charges to the basic finance charge. This permits a creditor to quote a low rate while actually earning a higher yield through the additional fees and charges.

Other creditors make no disclosure of a rate. In this case the consumer would have to compute the actual rate himself if he desired to compare the credit with other alternative sources of credit. Although most creditors do disclose the dollar cost of credit, testimony before the committee has revealed that there are some who quote only the monthly payments. When this is done the consumer has absolutely no idea of the amount of the finance charge or the rate.

The end result of these inconsistent and noncomparable practices is confusion in the public mind about credit. A recent survey asked 800 families to estimate the rate of finance charge they were paying on their consumer debts. The average estimate was 8.3 percent. The actual rate paid was 24 percent or nearly three times higher.

In large part, these different practices have arisen out of historical circumstance. Failure to measure consumer credit in terms of a simple annual rate was originally justified as necessary because of restrictive State usury statutes. Each segment of the industry evolved a somewhat different way of getting around the usury problem. For example, small loan companies relied upon a monthly rate. Although many of these early difficulties with laws have been overcome, the devices originally designed to get around the usury problem have now become imbedded in industry practice. No one segment of the industry can afford to reform itself by disclosing the simple annual rate without incurring a competitive disadvantage. Clearly, the only solution is to require by legislation that all creditors use the same method in computing and quoting finance charges including the statement of an annual percentage rate.

The committee believes that by requiring all creditors to disclose credit information in a uniform manner, and by requiring all additional charges incident to credit to be included in the computation of the annual percentage rate, the American consumer will be given the information he needs to compare the cost of credit and to make the best informed decision on the use of credit.

Size of Consumer Credit

The growth of consumer credit since 1945 has been at a rate of 4½ times greater than the growth rate of our economy as a whole. At the end of 1945 consumer credit amounted to $5.6 billion, whereas in March of 1967 the total amount had climbed to $92.5 billion. Thus, the size of total consumer debt is nearly 17 times as great as it was in 1945.

Of this $92.5 billion, $73.6 billion is represented by installment credit. The largest single element consists of over $30 billion in automobile paper, which accounts for over 30 percent of consumer credit.

Another rapidly growing form of credit consists of open-end or revolving credit. Approximately $3.5 billion in revolving credit was outstanding in March of 1967. The great bulk of this is represented by department store revolving credit charge accounts, although re-

cently a number of commercial banks have moved into the revolving credit field.

Currently, American families are paying approximately $12.5 billion a year in interest and service charges for consumer credit. There is about as great as the Federal Government pays itself for interest on the national debt.

The following tables will illustrate the present size of consumer credit and its growth over the last 30 years:

Total consumer credit

[In millions of dollars]

End or period	Total	Installment						Noninstallment			
		Total	Automobile paper	Other consumer goods paper	Repair and modernization loans [1]	Personal loans	Total	Single-payment loans	Charge accounts	Service credit
1939	7, 222	4, 503	1, 497	1, 620	298	1, 088	2, 719	787	1, 414	518
1941	9, 172	6, 085	2, 458	1, 929	376	1, 322	3, 087	845	1, 645	597
1945	5, 665	2, 462	455	816	182	1, 009	3, 203	746	1, 612	845
1960	56, 028	42, 832	17, 688	11, 525	3, 139	10, 480	13, 196	4, 507	5, 329	3, 360
1961	57, 678	43, 527	17, 223	11, 857	3, 191	11, 256	14, 151	5, 136	5, 324	3, 691
1962	63, 165	48, 034	19, 540	12, 605	3, 246	12, 643	15, 130	5, 456	5, 684	3, 990
1963	70, 461	54, 158	22, 433	13, 856	3, 405	14, 464	16, 303	6, 117	5, 871	4, 315
1964	78, 442	60, 548	25, 195	15, 593	3, 532	16, 228	17, 894	6, 954	6, 300	4, 640
1965	87, 884	68, 565	28, 843	17, 693	3, 675	18, 354	19, 319	7, 682	6, 746	4, 891
1966	94, 786	74, 656	30, 961	19, 834	3, 751	20, 110	20, 130	7, 844	7, 144	5, 142
1967 (March)	92, 519	73, 591	30, 527	19, 369	3, 648	20, 047	18, 928	7, 769	5, 809	5, 350

[1] Holdings of financial institutions; holdings of retail outlets are included in "other consumer goods paper."

NOTE.—Consumer credit estimates cover loans to individuals for household, family, and other personal expenditures, except real estate mortgage loans. For back figures and descriptions of the data, see "Consumer Credit," sec. 16 (new) of "Supplement to Banking and Monetary Statistics," 1965, and May 1966 Bulletin.

Installment credit

[In millions of dollars]

End of period	Total	Financial institutions						Retail outlets					
		Total	Commercial banks	Sales finance companies	Credit unions	Consumer finance [1]	Other [1]	Total	Department stores [2]	Furniture stores	Appliance stores	Automobile dealers [3]	Other
1939	4,503	3,065	1,079	1,197	132	----------	657	1,438	354	439	183	123	339
1941	6,085	4,480	1,726	1,797	198	----------	759	1,605	320	496	206	188	395
1945	2,462	1,776	745	300	102	----------	629	686	131	240	17	28	270
1960	42,832	37,218	16,672	11,472	3,923	3,670	1,481	5,615	2,414	1,107	333	359	1,402
1961	43,527	37,935	17,008	11,273	4,330	3,799	1,525	5,595	2,421	1,058	293	342	1,481
1962	48,034	41,782	19,005	12,194	4,902	4,131	1,550	6,252	3,013	1,073	294	345	1,527
1963	54,158	47,405	22,023	13,523	5,622	4,590	1,647	6,753	3,427	1,086	287	328	1,625
1964	60,548	53,141	25,094	14,762	6,458	5,078	1,749	7,407	3,922	1,152	286	370	1,677
1965	68,565	60,273	29,173	16,138	7,512	5,606	1,844	8,292	4,488	1,235	302	447	1,820
1966	74,656	65,565	32,155	16,936	8,549	6,014	1,911	9,091	(4)	(4)	(4)	490	(4)
1967 (Mar.)	73,591	65,006	32,068	16,593	8,485	5,951	1,909	8,585	(4)	(4)	(4)	486	(4)

[1] Consumer finance companies included with "other" financial institutions until 1950.
[2] Includes mail-order houses.
[3] Automobile paper only; other installment credit held by automobile dealers is included with "other" retail outlets.
[4] Not available.

See also note to table above.

Source: Federal Reserve bulletin (May 1967).

Provisions of the Bill

A complete section-by-section summary of the bill is included at the end of this report. The main provisions of each section are summarized as follows:

Section 3 of the bill provides for definitions. The definition of credit would apply to all forms of consumer credit including loans, retail installment contracts, retail revolving charge accounts, second mortgages, and other forms of credit. The bill would cover credit extended to consumers but would not cover credit extended to organizations or credit extended primarily for business or commercial purposes. In addition to consumer credit, the bill would also cover agricultural credit when the credit was extended to a person as opposed to a corporation or other organization.

By limiting the bill to the field of consumer credit, the committee believes it is providing disclosure requirements in the area where it is most essential. Most businesses or corporations are in a good position to judge the relative worth of alternative credit plans and by and large do not require the special disclosure protections provided by the bill.

Section 4 contains the principal elements of the bill and sets forth the various disclosure requirements on consumer credit transactions. The disclosure would have to be made before the credit is extended. In most cases it would amount to providing the required information on the installment contract or other evidence of indebtedness which the consumer would sign in order to complete the transaction. A creditor could also furnish the information on a separate document, providing the information was given before the consumer actually agreed to the credit transaction.

All installment creditors would be required to disclose the total cost of the credit in terms of dollars and cents and in terms of an annual percentage rate. In addition, all other charges incident to the transaction would be required to be set forth such as taxes, official fees, or insurance.

The annual percentage rate would be determined on the delining balance of the obligation. For example, assume a person borrowed $100 with a finance charge of $6, and repaid the total indebtedness of $106 in 12 equal monthly installments. Since the debt would have been gradually repaid over a 12-month period, the consumer would actually have had the use, on the average, of approximately one-half of the original amount of credit. Therefore, the annual percentage rate would be measured not against the original amount of credit but against the amount of credit actually in use over the period. The example given would come to approximately 11 percent per year. The bill provides the rate be computed in accordance with the actuarial method, or such other comparable methods as the administering agency may prescribe.

Under section 5, the admistering agency, which is the Federal Reserve Board, would be given the authority to provide for rate tables, charts, or other methods to assist creditors in compliance with this provision. Many creditors already use rate charts in the ordinary course of business in order to compute the amount of the finance charge and the size of the periodic payments for a given credit transaction. In such cases, the additional requirement to disclose the annual percentage rate can be complied with by merely adding one additional column to the rate charts now in use.

Under section 5, the Federal Reserve Board would also be given the authority to prescribe a built-in tolerance for such rate charts. The bill would provide for tolerances of about 1 percentage point if the cost of credit was at the rate of 12 percent a year. Correspondingly greater and lesser tolerances would be provided if the rate were higher or lower. This provision should simplify compliance with the bill and avoid the necessity of using cumbersome and extensive rate charts.

Section 6 of the bill clarifies the relationship between Federal law and State law. The committee has made a considerable effort to indicate its intent is not to preempt the entire field of consumer credit, but rather to encourage as much State legislation in this area as is possible so that the Federal law will no longer be necessary.

Section 6(a) would establish the basic congressional policy that the bill does not preempt State consumer credit legislation unless the State provision was inconsistent with the Federal law, and then only to the extent of the inconsistency. Language has also been included to make it clear that the annual percentage rate required to be disclosed under section 4 is not an interest rate within the meaning of the various State usury laws. The definition of finance charge includes all costs incident to credit including interest and other charges incident to the extension of credit.

In many States the legal definition of interest may be substantially less extensive than the definition of finance charge under section 3 of the bill. The committee, therefore, wishes to make it abundantly clear that the annual percentage rate is not equivalent to the legal definition of an interest rate, but is instead a composite rate which includes all charges incident to credit including interest.

The committee also wishes to make it clear that nothing in the act shall be construed to alter the judicial interpretation of the time-price doctrine upon which most consumer retail credit is based. Once again, the disclosure of the annual percentage rate on retail credit transactions should not be construed to be the disclosure of a rate of interest.

Section 6(b) of the act would give the Federal Reserve Board the authority to exempt creditors from complying with all or parts of the bill if substantially similar disclosure provisions were contained in State law. The committee is hopeful that with the passage of a Federal truth in lending law the States will be prompted to pass substantially similar legislation so that after a period of years the need for any Federal legislation will have been reduced to a minimum. Several States have already enacted somewhat comparable truth in lending laws. In addition, the National Conference of Commissioners on Uniform State Laws has been working quite diligently on a proposed consumer credit code to recommend to the various State legislatures beginning in 1969. The committee applauds and endorses the worthwhile efforts of the National Conference of Commissioners on Uniform State Laws and urges that the States act favorably in adopting a uniform consumer credit code. Although this bill would be limited to the disclosure aspects of consumer credit, the proposed consumer credit code goes considerably beyond disclosure and, in fact, proposes a variety of beneficial changes in the entire consumer credit area. The committee is hopeful that these worthwhile efforts will not be hampered by the passage of the Federal truth in lending law. The committee is also hopeful that the provision under section 6(b), whereby creditors will be exempt from compliance with the Federal law if their State enacts substantially similar legislation, will serve as

an incentive to the States to act favorably upon the proposed consumer credit code. In this respect the committee believes the Federal truth in lending law and the proposed consumer credit code are supplementary rather than competing alternatives.

The enforcement of the bill would be accomplished largely through the institution of civil actions authorized under section 7 of the bill. Any creditor who fails to disclose the required information would be subject to a civil action with a penalty of twice the finance charge. However, the minimum penalty would be $100 and the maximum penalty would be $1,000. The committee has not recommended investigative or enforcement machinery at the Federal level, largely on the assumption that the civil penalty section will secure substantial compliance with the act. If, in the course of the administration of the act, it becomes evident that additional steps need to be taken to bring about enforcement, the committee will consider additional legislation. In the meantime, the Federal Reserve Board would be required to report to the Congress annually as to the extent to which the disclosure provisions are being complied with.

Although the provision for civil penalties under section 7(a) would authorize a penalty of twice the finance charge, a successful civil action against the creditor would not relieve the consumer from complying with the terms of the contract as required by State law. In other words, if a creditor failed to disclose the annual percentage rate on a loan where the finance charge was $400, the creditor would be liable to an $800 penalty. However, the consumer would still be required to repay the indebtedness including the $400 finance charge. n accordance with the original agreement and applicable State law.

The committee provided in the section on civil penalties that a creditor could defend against a civil action by proving that the failure to comply was the result of a bona fide error. However, the burden of proof would be on the creditor to prove that the error was in fact unintentional. Section 7(a) on civil penalties also provides that a creditor would be liable for reasonable attorney fees and court costs in the event the suit were decided in favor of the plaintiff.

Section 8 of the bill deals with several exceptions to the provisions which the committee has recommended:

First, the bill excludes credit transactions for business or commercial purposes or credit to organizations.

Second, stockbroker margin loans to investors would be exempt from the disclosure requirements of the bill. The committee has been informed by the Securities and Exchange Commission that the Commission has adequate regulatory authority under the Securities Exchange Act of 1934 to require adequate disclosure of the cost of such credit. The committee has also been informed in a letter from the SEC that "the Commission is prepared to adopt its own rules to whatever extent may be necessary."

In recommending an exemption for stockbroker margin loans in the bill, the committee intends for the SEC to require substantially similar disclosure by regulation as soon as it is possible to issue such regulations.

Third, the bill would exempt credit transactions when the amount to be financed exceeds $25,000. In such cases the committee felt the transaction would be considerably above the average consumer credit transaction and that the protection afforded by the disclosure requirements would no longer be necessary. The $25,000 cutoff also

provides an objective test between consumer credit and business credit which can be used to facilitate compliance with the act.

Fourth, the bill would exempt real estate first mortgage credit. The committee felt that adequate disclosure was already being made in this area of credit, however, second or third mortgages would still be subject to the disclosure provisions of the bill. Most of the abuses encountered by the committee with respect to real estate transactions were in the second mortgage area rather than in first mortgages.

The committee also intends that the disclosure provisions would not apply to life insurance policy loans which are merely component features of an overall contractual arrangement.

Revolving Credit

Since revolving credit was the most discussed subject under consideration by the committee, it is singled out in this report for separate treatment. The original version of S. 5, as introduced by Senator Proxmire on January 11, 1967, would have required all revolving credit plans to disclose, among other things, the annual percentage rate at the time the account was opened and on the periodic monthly statements. The annual percentage rate would be determined by multiplying the periodic or monthly rate by 12. For example, if the monthly rate were 1½ percent, the creditor, under the bill introduced by Senator Proxmire, would have stated the annual rate to be 18 percent.

This provision of the bill drew the most criticism from representatives of the retail industry. The retail industry contended that if the actual credit in use as measured from the time of each transaction to the time of each payment were computed, the rate would vary considerably from 18 percent, and in most cases would be substantially lower than 18 percent.

Proponents of the original bill countered with the argument that it was not proper to measure the credit from the time of the purchase but rather from the time the credit charge would actually begin.

In effect, any revolving credit plan contains a built in "free ride" during which a finance charge is not imposed. For most department store revolving credit this "free ride" can vary from 30 to 60 days. If this "free ride" period were deducted from the computation, and if it were assumed payments would be made when due, the proponents of the original language argued that the rate would always work out to be 18 percent.

Although the committee could not come to a unanimous conclusion on this issue, the committee is convinced that if revolving credit were to be exempt from the annual percentage rate, safeguards should be made to insure that existing forms of installment credit will not be induced to convert to revolving credit merely to escape the disclosure of an annual percentage rate. The committee also felt that revolving credit commonly used to merchandise large purchases should not be given a competitive advantage over firms who sell similar items on an installment contract basis and who would be subject to the annual rate disclosure provisions of the act.

For these reasons, the committee recommends that those forms of revolving credit plans which are similar to installment contract type credit should be subject to the annual rate disclosure requirement while ordinary revolving credit plans would be exempted from the annual rate disclosure requirement.

The installment type credit plan would be defined on the basis of the maintenance of a security interest, or the time required to discharge the obligation, or the extent to which advance payments can be applied to future payments. A more detailed description of the definition of installment open-end credit can be found under section 3(h) and section 4(d)(2)(C) of the section-by-section summary.

The committee is hopeful that this distinction will provide comparability in the area of credit where it is most needed and meaningful and will prevent any wholesale conversion of installment credit to open-end credit in order to avoid disclosure of an annual percentage rate.

The committee has given considerable discussion to one of the criteria used to distinguish an installment and open-end credit plan. This criteria deals with the time required for repayment and provides that if less than 60 percent is payable in 1 year the plan should be considered to be an installment open-end credit plan subject to annual rate disclosure. This provision would exempt most short-term revolving credit plans from the annual rate disclosure provisions but would include a number of existing or potential long-term revolving credit plans. The committee recognized the 60-percent provision will require some existing forms of revolving credit to disclose an annual percentage rate. Although alternative percentage breaking points were considered, it is the best judgment of the committee that 60 percent represents a reasonable division between extended-payment and short-term revolving credit.

With the cutoff point at 60 percent, a creditor would have to require approximately one-tenth of the opening balance be repaid each month in order to avoid annual rate disclosure. If the creditor required fixed payments which were determined by their relationship to the original amount of credit, the creditor would have to require that approximately 6 or 7 percent of the original balance be repaid each month if the plan were to escape annual rate disclosure. This would provide for a payout term of approximately 19 months.

Although the amount of revolving credit outstanding is only $3.5 billion and about 4 percent of all consumer credit, it is a rapidly growing form of credit. The committee is hopeful that the provision for disclosing the annual rate on installment open-end credit plans will be adequate to provide the consumer with sufficient disclosure information in connection with any future developments in the rapidly changing field of revolving credit.

Section-by-Section Summary and Comparison With Original S. 5 as Introduced on January 11

SECTION 2. DECLARATION OF PURPOSE

Declares that the enhancement of economic stabilization and the strengthening of competition are the primary objectives to be achieved through greater awareness of credit costs. The term "consumer credit" was substituted for "credit" and "consumer" was substituted for "user" of credit to make the intent clear that the bill applies to consumer credit and not all forms of credit.

SECTION 3. DEFINITIONS

Section 3(a)—Definition of "Board".—Refers to the Board of Governors of the Federal Reserve System. No change from original S. 5.

Section 3(b)—Definition of "credit".—Credit is defined as "the right granted by a creditor to defer payment of debt or to incur debt and defer its payment." This definition was taken from the proposed Consumer Credit Code sponsored by the National Conference of Commissioners on Uniform State Laws. The original S. 5 language was deleted because it was somewhat cumbersome and sweeping and referred to various types of lease situations which might not be true extensions of credit. This original S. 5 language was based on the Federal Reserve's old regulation W, which was designed for a different purpose.

The definition also makes clear that consumer credit means debt contracted by persons for personal, family, household, or agricultural purposes. The original S. 5 would have applied only to debt contracted by persons and not by "businesses as such." It thus was not clear whether this definition applied to agricultural credit.

The definition also makes it clear that credit means those bailment lease situations described further in section 3(c).

Section 3(c)—Definition of "consumer credit sale".—This is a new definition made necessary by the revised structure of section 4 which treats lender credit and retail credit separately. The new definition defines credit sales whose disclosure provisions come under section 4(b) as opposed to direct loans which come under section 4(c). The definition makes it clear that the act covers only those creditors who regularly extend credit in accordance with Senator McIntyre's comments during the hearings.

The definition of credit sale is also limited only to those leases which are, in essence, disguised sale arrangements. The definition has been so limited because there is no way to disclose a finance charge or rate in connection with a conventional lease as Governor Robertson pointed out on page 8 of his testimony. The language covering disguised leases is nearly identical to the language used in the Uniform

Conditional Sales Act and in many State retail installment sales acts to distinguish between "true" leases and other leases.

Section 3(d)—Definition of "finance charge".—Defines a finance charge as all charges imposed by a creditor and payable by an obligor as an incident to the extension of credit. This definition has been expanded from the original S. 5 to make its meaning clearer.

The original bill was ambiguous on the treatment of official fees, taxes, and property and casualty insurance. The bill reported by the committee makes it clear these charges would not be considered part of the finance charge to be calculated in the annual rate. In addition, the definition lists those typical real estate closing costs which would be excluded. These changes meet a number of criticisms raised during the hearing and should simplify compliance with the bill.

The original bill was silent on whether credit life insurance should be counted in the finance charge or not. The bill reported by the committee would exclude such insurance from the definition of the finance charge and would not require premiums for such insurance to be included in the computation of the annual percentage rate.

Section 3(e)—Definition of "creditor".—Essentially the same language is used, but Senator McIntyre's suggestion is reemphasized by restricting the definition only to those who regularly engage in credit transactions. Thus a small retailer who extended credit and charged for it in an isolated instance to accommodate a particular customer would not be covered.

Section 3(f)(1)—Definition of "annual percentage rate".—This definition has been rewritten to achieve greater clarity. The old definition described what was essentially the actuarial method for determining an annual rate, but it did not use the term actuarial method. Many had difficulty in determining the intent. The new definition rather than describing the actuarial method, merely indicates it is the method to be followed. This is a well recognized term in the mathematics of finance and has also a long judicial history under the U.S. rule (*Story v. Livingston* (38 U.S. 359; 1839).

There are at least seven methods for computing the "simple" annual rate on the declining balance and though they all produce nearly similar results, the actuarial method is considered to be the most accurate. This method assumes that a uniform periodic rate is applied to a schedule of installment payments such that the principal is reduced to zero upon completion of the payments. The actuarial rate is such periodic rate multiplied by the number of periods in a year.

The definition also permits a creditor to simplify the computation by ignoring slight irregularities in the payment schedule, such as a deferred first payment, or one odd-sized payment. This will greatly simplify compliance while maintaining reasonable accuracy.

Section 3(f)(2)—"Other methods".—The Board is also given the power to prescribe other methods for determining the annual percentage rate. For example, the constant-ratio method, which is in the Massachusetts law, could be used for highly irregular contracts. It is possible to develop formulas or other shortcut procedures based on the constant-ratio method which would be much simpler than the actuarial method.

Section 3(f)(3)—"Annual rate on open-end credit".—The annual percentage rate on open-end or revolving credit is defined as the

periodic rate times the number of periods in a year. This is exactly equivalent to the actuarial rate.

Section 3(f)(4)—"Bracket rates".—The definition makes it clear that creditors who determine their finance charges on the basis of a bracketed amount of credit can compute the annual percentage rate on the basis of the midpoint of the bracket. For example, assume a mail-order house charges a flat $20 for purchases ranging between $140 and $150. Under the new language, a creditor could compute the rate for $145 and disclose it for all transactions within the bracket, whether they were $140.01 or $149.99.

Section 3(g)—Definition of "open-end credit".—This definition of open-end credit is identical to the original S. 5 and is similar to the language used in many State retail installment sales acts. The essential characteristics of open-end credit are that credit transactions are entered into from time to time, payments are made from time to time, and finance charges are computed on the unpaid balances from time to time. The definition is intended to include all plans permitting credit transactions from time to ti ie, such as charge accounts and credit card accounts, even though the creditor does not normally compute a finance charge on the outstanding unpaid balance.

Section 3(h)—Definition of "installment open-end credit".—This is a new definition made necessary by the committee's treatment of disclosing an annual rate on open-end credit plans under section 4(d).

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

Section 3(i)—Definition of "first mortgage credit".—This is also a new definition made necessary by the committee's recommendation that first mortgage credit be exempted from the bill. Such exemption is included under section 8. The committee felt that consumers were already receiving adequate information. In this area, second or higher mortgages would be covered under the bill.

Section 3(j)—Definition of "organization".—Defines an organization as a corporation, government or governmental subdivision or agency, business or other trust, estate, partnership, or association. Credit to such entities would be excluded from the provisions of the bill.

SECTION 4. DISCLOSURE OF FINANCE CHARGES

Section 4(a)—Requirement to disclose.—This is a prefatory section setting forth the basic requirement to disclose. It is similar to the original S. 5, except that it is made clear that disclosure need only be made to persons "upon whom a finance charge is or may be imposed." Thus, the disclosure requirement would not apply to transactions which are not commonly thought of as credit transactions, including trade credit, open account credit, 30-, 60-, or 90-day credit, etc., for which a charge is not made.

Section 4(b)—Disclosure on retail credit.—The original S. 5 covered retail and lender credit under subsection 4(a). The committee bill

splits retail and lender credit into two subsections—4(b) and 4(c). The reason for this change is to emphasize the fact that Congress recognizes the difference between these two forms of credit and does not deny the validity of the time-price doctrine upon which most retail credit is legally justified. This should prevent the act from being used as ammunition in any litigation challenging the time-price doctrine. Many retailers had expressed concern over this possibility.

Section 4(b)(1)–4(b)(3)—Disclosure of cash price and trade-in allowances.—These subsections are similar to the original S. 5 and are also common to most retail installment sales acts.

Section 4(b)(4)—Disclosure of other charges.—The new version clarifies S. 5 by restricting disclosure to those charges "which are included in the amount of the credit extended." The original S. 5 was ambiguous on this point and could have been interpreted as requiring charges not included in the credit to be listed in the total amount to be financed, which is a logical contradiction.

Section 4(b)(5)—Disclosure of amount to be financed.—This is the total amount of credit, after adding in all other charges other than finance charges. The language is similar to the original S. 5.

Section 4(b)(6)—Disclosure of finance charge.—This section sets forth the requirement to disclose the finance charge in dollars and cents. The committee bill adds a new reference to labeling the finance charge as a "time-price differential" to reinforce the distinction between lender credit and retail credit.

Section 4(b)(7)—Disclosure of annual percentage rate.—The committee bill exempts retail creditors from disclosing an annual percentage rate if the finance charge is less than $10. The original S. 5 did not provide for such an exemption. The purpose of this amendment by the committee was to simplify compliance, particularly for small retail businesses. Many retailers impose a fixed minimum charge on installment contracts, regardless of the amount of credit. It will be easier to develop rate tables if these transactions are exempted.

Section 4(b)(8)—Disclosure of repayment schedule.—The original S. 5 required disclosure of the "time and amount of payments." The committee bill requires the "number, amount, and due dates or periods." This makes it clear that a creditor can disclose "36 monthly payments of $20 due on the first of each month beginning in July" without actually listing the date of each individual payment.

Section 4(b)(9)—Disclosure of late payment penalties.—This language is similar to the original S. 5 except that the requirement to indicate the terms applicable in the event of advanced payment has been deleted. Most creditors will rebate an unearned finance charge if the debt is paid early in accordance with the "rule of 78's." This is a complicated formula which would require at least a three-paragraph explanation to be intelligible to the average consumer.

Section 4(b)—Time of disclosure.—The original of S. 5 required disclosure "prior to the consummation of the transaction." The committee bill substitutes "before the credit is extended" with a stipulation that the disclosure can be made on the contract or other document to be signed by the consumer. This obviates the need for a separate piece of paper showing the disclosure items.

Section 4(b)—Disclosure for mail or telephone sales.—This permits mail-order houses to comply with the act by disclosing prior to the first payment providing the general terms of financing are set forth

in the catalog. A similar provision is contained in the Massachusetts law. No such provision was in the original S. 5.

Section 4(c)—Disclosure on lender credit.—This is a new subsection written to distinguish between lender and retail credit. It is a residual category encompassing all credit other than retail credit or open-end credit which are defined elsewhere in section 3. Hence, no definition of loan is provided as it would fall within the general definition of credit. Financial institutions such as banks, credit unions, savings banks, savings and loan associations, industrial banks, and consumer finance companies would fall under this subsection. Similar changes, described under section 4(b) for retail credit, have also been incorporated in the lender section.

Section 4(d)(1)—Disclosure of open-end credit.—This section applies to open-end credit plans.

Section 4(d)(2)—Disclosure when the account is opened.—This section outlines the disclosures to be made when the account is opened.

Section 4(d)(2)(A)—Disclosure of conditions of plan.—This section requires the disclosure of the basic conditions of the plan. It clarifies the original S. 5 by requiring the disclosure of the time period, if any, for avoiding finance charges. For most department store revolving accounts, this will be the time from the date of the purchase to the end of the billing period plus an additional 30 days.

Section 4(d)(2)(B)—Disclosure of billing system.—This is a new requirement not in the original S. 5 and is in accordance with Mr. Batten's recommendations when he testified for J. C. Penney's. As Mr. Batten pointed out, there is a substantial difference in dollar cost between the opening-balance method and the adjusted-balance method. This paragraph would require the disclosure of whatever method was followed.

The opening-balance method charges on the opening balance unless paid in full within 30 days. Some stores count returns as payments, while others do not. The adjusted-balance method charges on the basis of the opening balance less any payments and returns during the month. Some stores use the adjusted-balance method but do not count returns. About 60 percent of department stores use the opening balance method and about 40 percent use the adjusted-balance method.

Section 4(d)(2)(C)—Disclosure method of determining the finance charge.—This paragraph requires disclosure of the complete method for determining the finance charge including the imposition of any fixed or minimum fees. Many department stores have minimum fees while bank check credit plans often have a 25-cents-per-check charge. By requiring separate disclosure of these charges, the new version also recognizes such charges cannot be included in the rate.

The section also requires disclosure of the periodic rate. In addition, installment open-end credit plans, as defined by section 3(h), would disclose the annual percentage rate which would be 12 times the monthly rate.

This provision reflects a major recommendation of the committee to exempt open-end credit plans from the annual rate, but to include installment open-end credit plans.

Such plans are ordinarily used to finance large purchases and are distinguished from ordinary revolving credit by the extended length of time permitted for repayment and the maintenance of a security interest in the merchandise. Such plans would be covered if less than 60 percent of any amount of credit was payable in 1 year, or if the

seller maintained a security interest, or if accelerated payments are applied to future payments.

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

Section 4(d)(2)(D)—Disclosure of method of determining other charges.—This is also a new provision. It has been included in the event the Board determines the 25-cents-a-check charge on bank check credit plans or similar charges are not finance charges. In any event, they would be required to be disclosed.

Section 4(d)(3)—Disclosure on periodic statements.—This subsection outlines the disclosure which must be made on the periodic statements. It differs from the original S. 5 by explicitly not requiring a statement if there is no balance in the account.

Section 4(d)(3)(A)—Disclosure of opening balance.—Requires disclosure of the opening balance and is similar to the original S. 5.

Section 4(d)(3)(B)—Disclosure of transactions during period.—Requires a statement of credit transactions during the period and is similar to the original S. 5.

Section 4(d)(3)(C)—Disclosure of payments during period.—Requires disclosure of payments or returns during the period and is similar to the original S. 5.

Section 4(d)(3)(D)—Disclosure of the amount of finance charge.—This requires a statement of the finance charge similar to the original S. 5; however, it also requires that this charge be broken down to specify how much is due to a percentage rate and how much is due to a fixed or minimum fee. For example, the monthly charge on a revolving check credit plan would have to show how much was due to the 25-cents-per-check charge and how much due to the 1-percent monthly rate. This will insure direct comparability between the finance charge and the rate.

Section 4(d)(3)(E)—Disclosure of the balance on which the finance charge was computed.—This paragraph is similar to the original S. 5 but it adds the requirement to state the method for determining the balance. For example, stores which use the adjusted balance method might have a statement along the following lines: "You will be charged 1½ percent of your opening balance less any payments and returns during the month." Stores which use the opening balance method might indicate: "You will be charged 1½ percent of your opening balance unless paid in full within the month."

Section 4(d)(3)(F)—Disclosure of the rate of finance charge.—The committee's recommendation to partially exempt open-end credit from the annual rate is also implemented under this section. All open-end credit plans would disclose a periodic (monthly) rate on the periodic statements. In addition, installment open-end credit plans would disclose an annual rate for the reasons outlined under section 4(d)(2)(C). The original S. 5 would have required all open-end credit plans to disclose an annual rate.

Section 4(d)(3)(G)—Disclosure of closing balance.—Requires disclosure of closing balance and is similar to the original S. 5.

Section 4(d)(3)(H)—Disclosure of the time for avoiding a finance charge.—This is a new provision. The creditor would indicate, for example: "If you pay your bill within 30 days you will not be charged." It reinforces the idea of a "free ride" period for which there is no charge. This is also in line with Governor Robertson's testimony.

Section 4(e)—Acknowledgment of disclosure.—This is a new provision designed to facilitate the free flow of credit paper. It provides a bank or finance company with assurance that the original dealer has made the required disclosure and that the bank or finance company will not be liable for any failure, on the dealer's part, to make disclosure.

Section 4(f)—Method of disclosure.—This section contains four new provisions designed to facilitate compliance.

In order to reduce needless paperwork, disclosure need only be made to one obligor. For example, if two people (e.g. a husband and wife) are the obligors, only one copy of the contract with the required disclosure information would need to be furnished. A similar provision is contained in the Massachusetts General Laws (ch. 140A, sec. 4).

In order to afford greater flexibility, the required information need not be furnished in the order outlined in the act. This provision is common in retail installment acts.

In order to facilitate compliance, language different from that contained in the act can be used if it conveys substantially the same meaning. This provision will ease the compliance with both State and Federal law in a single disclosure statement.

In order to provide greater clarity, additional explanations of disclosed information is expressly permitted.

Section 4(g)—Compliance with comparable State laws is compliance with Federal law.—This is a new provision. It is intended to avoid duplication of Federal and State requirements, to leave State requirements untouched as much as possible, and to permit a creditor to avoid double paperwork. If he complies with the applicable State disclosure law, he need supply only the additional information required by the Federal act to comply with such Federal act. It also makes it clear the Congress does not intend to preempt consistent State laws but merely to build upon them.

Section 4(h)—Adjustments after the contract do not violate the disclosure made.—This is similar to the original S. 5; however, the original version only applied to adjustments through "mutual consent of the parties." The present version adds: "or as permitted by law, or as the result of any act or occurrence subsequent to the delivery of the required disclosures." A repossession permitted by State law but not mutually agreed to by both parties would affect the rate. The new language makes it clear that such a change would not violate the act.

Section 4(i)—Optional form of rate statement.—The subcommittee amended the bill to permit a rate statement either in percentage terms or as dollars per hundred per year. In all cases, however, the rate would be on the declining balance of credit. For example, if the effective annual rate, as measured by the actuarial method was 12 percent, the creditor could either disclose 12 percent per year or $12 per hundred per year. This option will terminate on January 1, 1972. After that date, all creditors would use the percentage form of expressing the rate.

The purpose of this change was to minimize any possible conflict with State usury laws in those States where the percentage form of

rate expression might cause a legal problem for some creditors. However, all creditors will be required to use the percentage form after January 1, 1972, since by that time, any such problems with the usury laws will have had ample time to be corrected.

SECTION 5. REGULATIONS

Section 5(a)(1)—Prescribing methods for determining the annual rate.—This expands upon the original S. 5 by specifically authorizing the use of rules, charts, tables, or other devices. Such express authority was recommended by the Commerce Department.

Section 5(a)(2)—Methods of disclosing.—This section gives the Board authority to prescribe methods to insure the required information is disclosed clearly and conspicuously. Similar provisions were included in the original S. 5.

Section 5(a)(3)—Tolerances.—This section gives the Board authority to prescribe reasonable tolerances. A similar provision was in the original S. 5.

Section 5(b)—Prescribing tolerances.—This is a considerable expansion of the original S. 5 which merely provided the Board authority to establish "reasonable" tolerances. Governor Robertson, in his testimony, requested a quantitative definition of "reasonable."

Section 5(b)(1)—Tolerance on single rate situations.—This paragraph covers simple situations where a creditor uses a single add-on, discount, or periodic rate to determine the finance charge. For example, a bank which uses a 6-percent, add-on rate would know immediately that the actuarial equivalent was 10.90 percent on a 12-month contract. A credit union would instantly know that 1 percent per month was 12 percent a year. In such cases a tolerance to the nearest quarter of 1 percent is prescribed.

Section 5(b)(2)—Tolerance for tables.—This paragraph covers more complex situations where the creditor determines the finance charge in a more complicated manner such as a combination of monthly rates (e.g. 3 percent on the first $300; 2 percent on the next $200; and 1½ percent on the excess); or perhaps he determines the charge by an add-on rate of 10 percent plus a fixed charge of $10. In such cases the answer would be provided by a rate table. The bill authorizes a tolerance of 8 percent to be built into the table. This does not refer to 8 percentage points, but to 8 percent of the rate. For example, if the actual rate were 12 percent, the tolerance would be 0.96 percent (8 percent times 12 percent) or almost 1 percentage point. Thus, the tolerance would vary depending upon the size of the rate. For credit at 6 percent, the tolerance would be roughly one-half of a percentage point. At 12 percent it would be 1 percentage point. At 24 percent it would be 2 percentage points and so on. A provision is added to penalize any creditor who willfully uses these tolerances so as to always understate the rate. The purpose of the tolerance is to simplify the construction of tables so that they do not have to be overly detailed. With such tolerances, the disclosed rate should, on the average, be slightly over the actual rate half the time and slightly under the actual rate half the time.

Section 5(b)(3)—Tolerance for other situations.—This paragraph authorizes the Board to prescribe other reasonable tolerances for creditors who do not wish to use tables in computing the rate.

Section 5(b)(4)—Tolerance for irregular payment situations.—This paragraph would permit the Board to prescribe even greater tolerances for irregular payment situations. It is exepcted, for example, that the Board will permit creditors to disregard a certain number of skip payments in computing the rate. In such a case, the rate computed as though the contract were a level payment contract might vary 2 or 3 percentage points from the actual rate. These irregular situations would be in excess of the slight irregularities already recognized under section 3(f)(1), for which authority is provided to disregard.

Section 5(c)—Authority to prescribe adjustments and exceptions.—This section gives the Board authority to prescribe adjustments and exceptions for any classes of transactions in order to prevent circumvention and facilitate compliance. This is similar to the original S. 5 except that the phrase "to facilitate compliance by creditors with this Act or any regulations issued hereunder" has been added as an additional authority for prescribing such adjustments or exceptions. Also "the Board may consider, among other things, whether substantial compliance with the disclosure requirements of this Act is being achieved under any Act of Congress or any State law or regulations under either" the words "among other things" were added at Governor Robertson's suggestion to make it clear these are not the only things the Board will consider. The phrase "or any State law or regulations under either" has also been added.

Section 5(d)—Consultation with other agencies.—This section indicates the Board may consult with any agency, which in the Board's judgment exercises regulatory functions with respect to any class of transactions. The original S. 5 required such consultation of all agencies which exercise such regulatory functions. Thus, the present language leaves it up to the Board as to who should be consulted. This is designed to overcome Governor Robertson's concern that the Board's regulations might be challenged because it hadn't consulted a particular agency.

Section 5(e)—Advisory committee.—This section requires the Board to establish an industry advisory committee. This differs from the original S. 5 in that the limitation of nine members has been removed and the per diem allowance is increased from $25 to $100 per day. The latter change is in line with Governor Robertson's observation that few members would be available at the lower figure. However, the section was not deleted as Governor Robertson recommended, again largely to emphasize the high importance Congress attaches to consultation with industry. The limitation of nine has been removed to overcome the objection that this might deny adequate representation to some specialized segment of the industry.

SECTION 6. EFFECT ON STATE LAWS

Section 6(a)—Relationship of Federal law to State law.—This section sets forth the basic policy that the Federal statute does not preempt State legislation.

The original version of S. 5 said the act did not annul State law unless the State law was "directly inconsistent." The committee bill drops the word "directly" and adds the further stipulation that inconsistent State laws are annulled "only to the extent of the inconsistency." The word "directly" was dropped because there is no apparent difference between inconsistent or directly inconsistent.

The added phrase makes clear that S. 5 does not preempt an entire body of State law should an inconsistency arise in one case.

A new sentence was added at the end of the section 6(a) to make the intent of Congress clear that it does not regard the annual percentage rate as an interest rate within the meaning of the usury statutes or the judicial interpretations of the time price doctrine. This language should make it difficult for anyone to cite S. 5 as evidence in any legal proceeding challenging a credit transaction under the usury statutes or challenging the interpretation of the time price doctrine. The language was supplied by the General Counsel of the Department of Commerce who recommended such a provision in the Department's report on the bill.

Section 6(b)—Exemption when State laws are similar.—This section permits the Board to exempt creditors from the Federal law if State law requires similar disclosures.

This section is similar to the original S. 5 except that the Board can exempt creditors covered by a State law which is "substantially similar" to the Federal law. The original version of S. 5 only authorized exemptions if the State law required the "same information." Also the provision was reworded to make it clear the Board is only responsible for reviewing the law and not the effectiveness of the administration of the law. These changes are in line with Governor Robertson's suggestions.

A new provision was also added requiring the Board to make a determination that the State law has adequate provisions for enforcement.

SECTION 7. CIVIL AND CRIMINAL PENALTIES

Section 7(a)—Civil penalties.—This section sets forth civil penalties of double the finance charge with a minimum of $100 and a maximum of $1,000. This section was amended by the committee to permit a creditor to defend against a civil action by proving the failure to disclose was an unintentional error. However, the burden of proof would be on the creditor, and he would have to establish, by a preponderance of evidence, that such error was unintentional. The amendment also permits a creditor to excape liability for an error if the creditor discovers it first and makes whatever adjustments are necessary to insure that the consumer will not pay a finance charge in excess of the amount or percentage rate actually disclosed. The committee also reduced the maximum penalty from $2,000 to $1,000.

Section 7(b)—Criminal penalties.—Criminal penalties of $5,000 or 1 year imprisonment or both are specified. These are identical to the original S. 5. However, the words "willfully and knowingly" were added as a condition for giving false or inaccurate information. Also, the section now makes it clear that the Attorney General will enforce the criminal penalties section. This is in keeping with Governor Robertson's testimony that the Board did not have any trained investigators or law enforcement officials.

Section 7(c)—Exemption for governments.—This section exempts the Federal Government and State and local governments from civil and criminal liabilities. Similar provisions were contained in the original S. 5.

Section 7(d)—Exemption for overstatement.—Creditors would be relieved of any civil or criminal penalty by overstating the annual percentage rate. The original bill provided for such an exemption from

civil penalties only if the overstatement was due to an "erroneous computation." There was some doubt about the meaning of this phrase. The original bill also had no such exemption under the criminal penalties section.

SECTION 8. EXCEPTIONS

Section 8(1)—Business credit.—This section contains an exemption from the act of credit for "business or commercial purposes" or to governments. The original S. 5 would have exempted credit to "business firms as such." This left an element of doubt with respect to credit granted to farmers, proprietorships, or self-employed professionals. This doubt is now clarified by the definition of credit under section 3(b) as credit for person other than an organization and "primarily for personal, family, household, or agricultural purposes." Credit for business or commercial purposes is exempted.

Section 8(2)—Stockbroker margin loans.—This section continues the original S. 5 exemption for margin loans made by stockbrokers. SEC already has the power to require such disclosure under the 1933 Securities Act.

Section 8(3)—Credit in excess of $25,000.—This is a new provision included on the recommendation of Governor Robertson. The exemption would not apply to real estate credit transactions. The purpose is to provide an objective test between consumer credit and business credit so as not to require the creditor to inquire continuously as to the purpose of the credit. If a credit transaction is under $25,000 and the creditor is uncertain if it is a business or consumer transaction, he will tend to assume it to be a consumer transaction to avoid violation. If it is over $25,000 he can safely assume it to be a business transaction without worrying about violation.

Section 8(4)—First mortgages.—The committee amended the original S. 5 by exempting first mortgage credit. The committee felt that consumers were already receiving adequate information in this area.

SECTION 9. REPORTS

Section 9—Reports.—This is a new section added by the committee requiring annual reports from the Federal Reserve Board and the Attorney General on the administration of their functions. In addition, the Board would estimate the extent to which compliance was being achieved.

SECTION 10. EFFECTIVE DATE

Section 10—Effective date.—The original S. 5 would have been effective upon 6 months of enactment.

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

INDIVIDUAL VIEWS BY MR. BENNETT

I have given my support to this measure providing standards of disclosure for consumer credit because it is the best solution that we have been able to work out over the past 7 years.

This bill bears little resemblance to that introduced at the beginning of this session and even less resemblance to the original bill of several years ago. We have come a long way in making the bill more workable while preserving the major goal of comparability as much as possible.

I feel that the consumer credit industry, bankers, retailers, and other lenders deserve a great deal of the credit for making a workable bill possible. I believe that I am safe in saying that none of them are completely satisfied with this bill, but they have given of their time; and their suggestions based on actual practical operating experience have been invaluable to the committee.

From the very beginning, I have subscribed to the principle of full and meaningful disclosure of credit costs. I don't believe that any responsible person could favor misrepresentation or willful withholding of information which could be reasonably disclosed and which would make it possible for consumers to compare alternative sources of goods and services. This is the basis on which our market system is built and has become so successful. On the other hand, one must avoid setting up rigid requirements which cannot be complied with easily by credit grantors or the result is an increase in costs which ultimately are passed on to the consumer.

Because there are many sources of credit both from lenders and sellers and credit is granted for a variety of purposes and under varied circumstances, it is completely natural that programs for granting credit developed along different lines and that credit costs were expressed in different ways. The objective of the original "truth-in-lending" proposal was to replace the many different methods of credit cost disclosure with a uniform statement as a simple annual rate.

A careful consideration of credit plans available led to the conclusion that all cannot be forced into one pattern of a simple annual rate statement in advance of the transaction without serious inaccuracies and inequities. Attempts to bring about such a statement resulted in the 7-year stalemate during which this proposal has been pending.

The bill reported by the committee has broken the stalemate with a compromise on this basic conflict. The compromise is not completely satisfactory or equitable. It requires some changes in every present credit pattern with more serious problems for some creditors than for others. Any compromise is somewhat arbitrary and this one is no exception. It has been built, however, on all of the information that was available to the committee, and while I would have preferred a solution that would have been less restrictive, less arbitrary, and less disruptive to credit practices, this is an approach to a most difficult problem.

The bill also provides that in addition to the required disclosure information, other information may be disclosed to the consumer as long as it is accurate. To me, this is a major provision. It is important, because credit plans differ in so many respects that one set of required items cannot completely show the differences which may be very important if a consumer is truly interested in making a rational decision.

I have been very concerned over the past 7 years that Federal legislation would, by moving into a field heretofore reserved to the States, preempt State laws and thus cause State legislative and administrative bodies to give up one more of their responsibilities to a central government. I do not feel that this is desirable and therefore would have preferred a uniform solution on the State level. The drafting work that has been and is being done by the National Conference of Commissioners on Uniform State Laws continues to represent the best overall solution to proper handling of consumer credit transactions. We have attempted in this proposed Federal bill to provide guidelines which the States may follow and continue to maintain jurisdiction over consumer credit transactions. I am not completely convinced that we have solved the jurisdictional problem, but it is my firm hope that the States will continue in their efforts to improve their consumer credit legislation and thus make this Federal bill both unnecessary and inoperative.

WALLACE F. BENNETT.

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