

Anti-Consumer Protection Agency forces are deluging the Senate with letters in opposition to the CPA Bill, S. 707. Please write your Senator today to support this vital legislation.



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consumer federation of america

WASHINGTON, D. C.

MAY, 1974

## Awards dinner to honor Patman, Marshall, Angevine

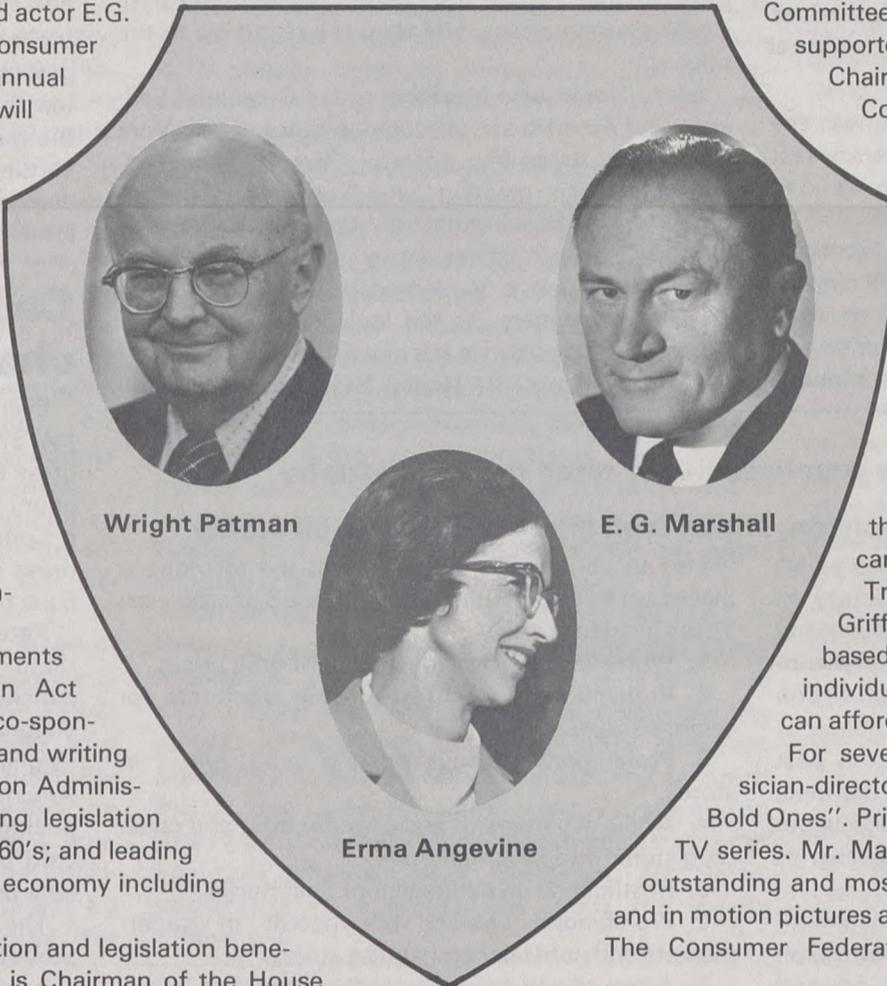
Congressman Wright Patman of Texas and actor E.G. Marshall will share the spotlight when the Consumer Federation of America holds its Fourth Annual Awards Dinner on June 4. A special award will also be presented to Erma Angevine for her five years of exemplary service as CFA's executive director from 1968-1973.

Mr. Herb Wegner, managing director of the Credit Union National Association will present the award to Representative Patman. Mr. Frederick O'Neal, president of Actors and Artists of America, Associated will pay tribute to E. G. Marshall.

Representative Patman, elected in 1928, is now serving his 23rd consecutive term in Congress. In his 46 years as a legislator, he has consistently displayed leadership and dedication on behalf of the American consumer.

Some of his major legislative accomplishments include co-authoring the Robinson-Patman Act of 1936, a key protector of small business; co-sponsoring the Federal Credit Union Act of 1934 and writing the bill which created a National Credit Union Administration; sponsoring all of the major housing legislation which has passed Congress since the mid 1960's; and leading the fight for Congressional initiatives on the economy including the Economic Stabilization Act of 1970.

A consistent champion of rural electrification and legislation benefiting the family farmer, Mr. Patman, who is Chairman of the House



Wright Patman

E. G. Marshall

Erma Angevine

Committee on Banking and Currency, has been a major supporter of plentiful credit on reasonable terms. As Chairman of the Joint House-Senate Economic Committee, he has consistently opposed high interest rates and tight money policies imposed by the Federal Reserve System and has fought to make the System more responsive to the people.

The second honoree, E.G. Marshall, has been an eloquent and dynamic spokesman for National Health Insurance. He has been a member of the Committee of 100 for National Health Insurance since its founding. Mr. Marshall appeared before numerous physician, student, legal and lay audiences to present the case for basic reform of America's health care system.

Traveling extensively on behalf of the Kennedy-Griffith bill, his commitment and activism are based upon a personal philosophy and belief in the individual's right to the best medical care his county can afford to give him.

For several years, Mr. Marshall starred as the physician-director of the Craig Institute on television's "The Bold Ones". Prior to that, he was the star of "The Defenders" TV series. Mr. Marshall is recognized as one of America's truly outstanding and most versatile performers on the theatrical stage and in motion pictures and television.

The Consumer Federation on America's Fourth Annual Awards  
(Continued on p. 4)

### CFA delays Holcomb FCC nomination

The Consumer Federation of America has succeeded in temporarily delaying confirmation of the Rev. Luther Holcomb to membership on the Federal Communications Commission. In an April 10 letter to Senator John O. Pastore, Chairman of the Senate Subcommittee on Communications, CFA released copies of a letter in which Rev. Holcomb declared his "total commitment to President Nixon for re-election". The letter served to raise doubts about Dr. Holcomb's qualifications to fill a Democratic vacancy on the Commission, and Senate sources said there is a possibility that the Commerce Committee would ask the Senate Communications Subcommittee to reopen hearings on his nomination.

In her letter to Senator Pastore, Carol Tucker Foreman, CFA's executive director states, "As you are aware, federal law prohibits any more than four members of the same political party from serving on the FCC. Mr. Holcomb has been nominated to fill a non-Republican seat. It is clear that the purpose of this statutory provision is to assure the existence of the reality as well as the appearance of non-partisanship on the Commission. No president was to be allowed to "pack" the FCC, which is an arm of Congress, with his supporters. For reasons which by now

do not even require mention, it is particularly essential that at this juncture in our history even the appearance of improper partisan considerations be avoided if public trust in government is not to be further eroded.

"In the next few months, the FCC may be called upon to rule on the fairness of the broadcast media's coverage of President Nixon's possible impeachment and even trial in the Senate. It will be difficult enough for the American public to have faith in the judgments of the FCC with a Republican majority on the Commission, three of whom were appointed by President Nixon and the fourth of whom is seeking reappointment by him. But with even the "non-Republicans" being men who actively worked to support the President's re-election, it will be impossible for the public—no matter which way the Commission rules—to have faith in the integrity of its determinations. The President is, of course, also entitled to impartiality before the Commission, and his appointees should not be at pains to rule against him to prove their independence and integrity."

The letter that was enclosed with Ms. Foreman's was written on stationery of the Equal Employment  
(Continued on p. 4)

### CFA endorses FTC's "line of business" as vital consumer program

The omnipresent flow of money from the pockets of poor consumers to the wallets of rich stockholders may get a serious setback if the FTC's line of business program is put into effect. CFA has endorsed this program as one of the most significant consumer programs undertaken by any federal agency in many years. It would require the nation's 500 largest manufacturers to submit financial data for each of their individual industries, rather than the company-wide totals that are presently required.

Since these 500 companies include many huge monopolistic conglomerates which gross over \$60 billion per year, a full disclosure of sales, costs and profits for each line of business would lay the facts bare. No longer will these conglomerates be able to conceal data on unprofitable lines or declare bankruptcy when the time for profit is at a maximum.

In an April 15 letter to the U.S. Comptroller General who is reviewing the program, CFA & Consumer's Union, noted that collection of this information would greatly improve the FTC's power to act against "deceptive acts or practices in commerce."

## Regional meetings spur consumer action



Kay Pachtner (center), director of San Francisco Consumer Action, meets with representatives of consumer groups at CFA's first regional meeting in April.

Citizen involvement for consumer action was the theme of Consumer Federation of America's first two regional meetings held this month in San Francisco and Cleveland.

A public meeting sponsored by San Francisco Consumer Action brought together over 125 citizens and representatives of community groups on April 1. Beginning with discussions of the energy crisis and product safety, the agenda included presentations

on programs that consumers groups can implement to help deal with these major problems. Possible courses of action include getting involved in organized efforts to stop Pacific Gas and Electric from getting its latest hike request of a half a billion dollars; urging the media to carry counter-advertising which presents the consumer's position on the energy crisis; and developing a consumer committee to check San Francisco retail stores for potentially unsafe products and reporting their findings to the Consumer Product Safety Commission for legal action.

Keynoting the meeting was John Bryant, consumer reporter for KGO-TV. Mr. Bryant commented that, "We in the media can help raise consumer consciousness, and then the rest is up to the public."

Eileen Hoats, vice president of the Consumer Federation of America and executive director of New York Consumer Assembly added, "The CFA is co-sponsoring this meeting, and I am attending, because we in Washington fully realize that the only way we can effectively lobby for important consumer legislation is to demonstrate an active concern by consumers, at the local level, about their second-class position in the marketplace."

Halfway across the United States, consumers in



Speaker's table at the Cleveland regional meeting included (l to r) Shirley Noak, WERE radio; Esther Shapiro, CFA president; Dea Walker, Better Business Bureau; Solomon Harge, Consumer Protection Association executive director; Robert Weaver, Consumer Education and Protection Association.

the mid-west met to discuss their similar consumer problems in Cleveland on April 18. Assembled by the Consumer Protection Association of Cleveland, the regional conference gave consumers from Wisconsin, Michigan, Minnesota, Illinois, Ohio and Indiana a chance to meet each other and discuss issues of mutual concern.

## Cash and carry—cheaper than charge

Everytime you purchase something from one of the 87,000 businesses which honor American Express cards, ask the clerk if you are entitled to a discount for paying cash. An out-of-court settlement of a Consumers' Union suit against the American Express Company may entitle you to savings of 3 to 6 per cent.

Peter Shuck, Consumer Unions' Washington director and a director of Consumer Federation of America has termed the settlement a landmark victory for consumers. He said the agreement would "significantly alter the purchasing patterns of American Consumers," by leading to a two-levelled pricing system in many stores — one price for credit card users and another, lower price for customers who pay cash.

The CU suit stemmed from a charge that contract provisions between American Express and its subscribing merchants constituted illegal price fixing, by forbidding discounts for cash and requiring merchants to pass on credit card service charges to cash customers.

The important thing for consumers to note is that the settlement does not require American Express to notify its card holders that discounts may be available. Nor do businesses have to prominently display the terms of the settlement. *Therefore, consumers must ask for discounts.* The settlement does not force merchants to grant discounts, but CU hopes that when consumers become aware of their availability, they will request them and stores, to gain competitive advantage, will give them.

Four consumer groups in Virginia, Maryland and the District of Columbia have begun a "model consumer initiative" on discounts, Mr. Shuck reports. DCPIRG, Maryland PIRG, the Virginia Citizens' Consumer Council and the Maryland Citizens' Consumer Council will ask merchants to offer discounts, publish lists of those who will and those who refuse and try to get local business associations to endorse the idea.

Your consumer group may want to start a similar project. The key to success lies in spreading the word. Tell your members to ask for cash discounts where they shop, and to patronize merchants who cooperate.

## Disease: Anti-competitive practices in the retail drug industry

### Rx: Take one Federal court decision, shake well and distribute to 50 states

The Virginia Citizen's Consumer Council, an active CFA member, has won a substantial victory in Federal Court. A three-judge panel in Richmond recently reversed a state statute prohibiting prescription drug advertising. This is the first such action by a Federal court.

Several state courts and legislatures in the past few years have forbid anticompetitive drug statutes, and it is expected that the new ruling will accelerate the national trend toward allowing pharmacies to advertise prices.

"It is a tremendous victory for the consumer," notes Raymond Bonner, an attorney with Ralph Nader's Public Citizen organization, legal counsel representing the plaintiff the Virginia Citizens Consumers Council. VCCC president Lynn Jordan hailed the Federal court action as "a landmark decision for the right of consumers." She also expressed hope that the Virginia decision will have positive effects for other states. The defendant in the suit was the Virginia Board of Pharmacy.

Appeals Court Judge Albert V. Bryan stated in his opinion, "The right to know is the foundation of the First Amendment; it is the theme of this suit. Consumers are denied the right by the Virginia statute." The decision also noted that "prices vary tremendously throughout the state." It cited evidence of variations up to 650% in price for brand name prescription drugs.

The Consumer Federation of America, in a 1972 report *Prescription Drug Pricing — an almost total absence of competition*, found that 25 states prohibited retail prescription advertising by law or regulation. Although no precise current figures are available, indications are that in the 18 months since CFA's study was published, a strong decline in advertising prohibition has occurred.

With the Virginia decision as ammunition, state and local groups have strong, well-substantiated arguments to use in the fight to repeal all anti-drug advertising laws and regulations. We urge our af-

filiate to continue to work against the restrictions placed on free competition by registered pharmacies. These include:

1. Prohibition against advertising of drug prices.
2. Prohibitions against advertising discounts for senior citizens.
3. Prohibitions against posting drug prices in stores.
4. Artificial barriers of entry for discount and chain drug stores into new markets.
5. Restrictions on ownership of pharmacies.
6. Prohibitions against pharmacies in supermarkets and general merchandise stores.
7. A ban of any other device that strives to impair the ability of consumers to obtain health supplies.

Further, since restrictions against price competition usually originate within state boards of pharmacies, CFA urges our members to work for strong consumer representation on pharmacy boards.

The recent Virginia decision appears to be in conflict with a 1969 ruling by another three-judge panel. No decision has been made on whether to appeal the recent ruling to the United States Supreme Court. Favorable rulings, such as the Virginia decision at state levels can only work toward the consumer's cause if a prescription drug advertising case does proceed to the Supreme Court in the future.

### CFA News

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## Editorial

## NY State legislature attempts PIRGicide

PIRGicide. You won't find it in Webster's dictionary. Recent attempts by the New York State Legislature, however, have necessitated that a definition be created for a horrendous new crime. PIRGicide is the attempted murder of the New York Public Research Interest Groups.

The intent is clear. Anti-public interest forces in the New York legislature want to do away with PIRG. But by what method will the deed be done? They have tried suffocation and strangulation to no avail. In desperation they have discovered the only possible way to kill PIRG—they will cut off its source of funds.

NY PIRG, like PIRGs throughout the country, is funded by college students at registration. Each student is given the opportunity, via a box on the tuition statement, to make a \$2.00 donation to PIRG. The types of boxes differ in various states. Some require a student to make a positive check mark if he or she wishes to contribute; some indicate a donation will be made unless the student marks his box to the contrary; and in others, donations are automatic unless the student requests a refund. Most New York colleges are funded by the refund method. Whatever the specifics, the money raised at college registration accounts for roughly 98% of PIRGs operating expenses.

In New York, a bill has been introduced to make the use of student fees for public interest lobbying illegal. If passed, it will effectively kill NY PIRG.

The advantage of student funding, in addition to a reliable and steady source of money is total autonomy and independence for PIRG. They are free to investigate whatever and whomever they choose and are not accountable to any special interest group that provides the funds. PIRG's sphere of interest covers anything from rent control to health care to political reform. They act in the public interest by researching, talking to people, digging for

facts and publicizing their findings. By spreading the word and initiating lawsuits when the conclusions are supportive, they very often set the machinery of positive change into operation.

The students who fund PIRG get a great deal for their \$2.00. Taking part in an investigation of the sanitary conditions of campus restaurants; of their own state's Blue Cross administration—provides a "hands-on" experience that is rarely possible in a classroom. Course credit can be gained for PIRG work and as an alternative to musty term papers, research projects take on a vital and useful role. In addition, the PIRG staff is usually made up of a group of professionals with college teaching credentials who are accessible to the students and eager to lend individual guidance.

If a student does not wish to actively work for PIRG, he can still be satisfied that his \$2.00 is going to a good cause. If student assessments are allowed for football games why not for a group that is protecting the interests of the student consumer. In fact, any person should be allowed to fund any damn thing that he wants.

In many college communities, PIRGs perform a watchdog function ensuring fair and equitable treatment from local landlords, merchants, banks and businesses. Since students are a low-income group as a whole, the benefits that PIRGs gain for them readily apply to other segments of the larger community.

PIRGicide. We must not let it happen in New York or anywhere else. What are these legislators afraid of? Let's face it, PIRGs are only a nuisance to those that are abusing the public. In these days of Watergate and zero credibility in government, any attempt to harm PIRGs can only be interpreted as stemming from a very real fear that these legislators or the business interests they represent, are doing something they would not want the public to discover.

## SPEAK OUT!

This month's guest editorial is by Rodney E. Leonard, founder and executive director of the Community Nutrition Institute in Washington, D.C.

If consumers begin to question whether their government always has their best interest at heart, the food policies—or lack of policies—of 1973 and 1974 are good cause for skepticism.

In 1973 the Nixon administration shifted farm policy from abundance to scarcity for consumers, and food prices rose 22 percent between the two Januarys.

In 1974 the administration and the Congress agreed that price and wage controls had been badly misused, and were nearly useless. As a result, the restraints which had prevented retailers from increasing profit margins are now being dropped. The result will be continued increases in food costs.

The U.S. Department of Agriculture publicly admits that food prices will increase 12 percent in 1974 compared to 1973, and USDA economists privately fear the actual increase will be much larger — as much as 25 percent.

It is difficult for both farmers and consumers to understand why the price of food is skyrocketing. The farmer knows that 1973 was the greatest year on record for food production, and 1974 is shaping up to be even greater. Consumers understand that abundant domestic food supplies keep food costs from soaring.

During 1973, however, the available supply of food at home was smaller than in 1972. The Nixon administration sold everything it could to foreign buyers for cash, including more wheat than was available for domestic consumption. Smaller food supplies, together with a growing population, automatically produce higher prices.

Most of the increase in food prices in 1973 can be traced to higher farm prices, with the remainder due to higher wages, taxes and transportation costs. Little or no part was caused by higher retail margins. Had the supermarket not been subject to price controls which allowed retailers to only pass along increased prices and costs, food prices would have been even higher in 1973.

That picture will change. The Cost of Living Council April 15 lifted price and wage controls on food retailers and wholesalers. This segment of the food distribution system is clearly monopolistic. It is divided into regional market areas which are controlled by relatively few sellers who engage in oligopolistic sales practices.

Prices in such markets will always be higher than if more competitors were selling food products. Oligopolistic conditions allow the few competitors to exert tighter control and provide more options for decisions to increase profits. For example, inner city markets which are less profitable can be dropped because volume can be built elsewhere.

At this stage in 1974, food prices are running about 20 percent higher than a year ago. Supply conditions are uncertain, and will remain so until August when the shape and size of the harvest is clear, and the actual volume of exports becomes more visible.

The decisions to create scarcity and to unleash the one segment of the food system with the strongest monopolistic power hardly seems to reflect food policies designed to assure access to adequate food supplies at stable prices. With that kind of policy the consumer doesn't need Watergate to become cynical about his government.

## CFA welcomes two key personnel

CFA has filled two key staff positions. Elizabeth Langer, has been named legislative director and Nicholas Apostola, program director for the state and local assistance project.

Ms. Langer, a graduate of Barnard College and the Rutgers University School of Law, was most recently legislative assistant to Congresswoman Bella S. Abzug of New York. She has also been a clerk for the Newark-Essex Joint Law Reform Project and an aide to Leonard Weinglass, attorney for the defense in the "Chicago Seven Conspiracy Trial". Editor-in-Chief of *Women's Rights Law Reporter*, the Rutgers' Law Journal of Women's Litigation, she has also published a booklet on tenant's rights for Newark Legal Services.

Mr. Apostola is a graduate of the University of Massachusetts at Amherst. Most recently, he served as president of the Student Government Association where he was responsible for coordinating programs dealing with legal services, food cooperatives, mass transit, loans and educational research.

He has been selected to direct CFA's new program of informational, technical and organizational assistance to state and local consumer groups. In the new project, he will work closely with a Steering Committee appointed by CFA president Esther Shapiro, and made up of Chairman Eileen Hoats, executive director of the New York Consumer Assembly; Helen E. Nelson, CFA past president; Bill Fasse of the Missouri Association of Consumers; Kay Pachtner of San Francisco Consumer Action; Sol Harge of the Consumer Protection Agency in Cleveland; Don Ross of NY PIRG, and Sandy DeMent of National Consumers Congress.

Using the information gathered from the member interest questionnaire published in last month's CFA news, Mr. Apostola hopes to establish priorities and begin by compiling case studies in those areas where there is the most interest.



Ms. Langer



Mr. Apostola

## House passes CPA bill - defeats gutting amendments

The House of Representatives on April 4, passed H.R. 13136, the Holifield-Horton-Rosenthal Consumer Protection Agency Bill, by a vote of 293-94. Prior to passage, the House rejected a series of gutting amendments, most of which had been considered and rejected in the Government Operations Committee.

CFA members and staff bombarded members of the House with arguments for the CPA and against proposed weakening amendments. Representatives from CFA organizations in Arkansas, Michigan, California and New York were instrumental in persuading members from their states to oppose the gutting amendments. Legislative representatives from CFA member groups contacted many House members on behalf of a strong bill. They included Evelyn Dubrow of ILGWU, Arnold Mayer of the Amalgamated Meatcutters and Butchers Workmen, Shelby Southard of the Cooperative League, June Kraft of NRECA, Ken Kovack of United Steelworkers and Don Bedell of the UAW. Ken Peterson of the AFL-CIO joined with them.

In the Senate, the CPA Bill has been approved by the Government Operations Subcommittee on Reorganization, Research and International Operations and by the Commerce Committee. The bill should come to the floor by June 7, and while no plans for a filibuster have been announced, we would not be surprised to see one emerge, particularly since the Bill was filibustered to death in 1972.

The other major roadblock to passage of a strong, viable CPA Bill is, of course, a possible veto by President Nixon. On April 2, Ralph Nader disclosed a

White House memorandum dated March 8, in which White House legislative liaison William Timmons berated Roy L. Ash, Director of the Office of Management and Budget, for supporting an objectionable CPA Bill, and directed him to clean it up or risk a veto.

Subsequently, Mr. Ash attempted to induce the House Government Operations Committee to adopt a series of pro-business amendments, raising the question of a possible veto if Mr. Ash is equally unsuccessful in pressing his amendments in the Senate.

The propaganda campaign which effectively halted Congressional action on the CPA over the past five years is beginning again. It is being led by the National Association of Manufacturers, whose president, Douglas Kenna issued a statement full of all the old propaganda tools on April 4. Two days later, *Business Week* printed an editorial in support of CPA which pointedly took issue with many of Mr. Kenna's statements. Excerpts follow:

*Mr. Kenna:* The end result of this legislation will prove anti-government and anti-public. Therefore, it is anti-consumer.

*Business Week:* By equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it should help restore public confidence in the regulatory process.

*Mr. Kenna:* Business could be faced with a new adversary in every government proceeding.

*Business Week:* . . . it is also possible that the new agency could help speed the regulatory process

cause of my contact with this particular group, I think there are ways I can be helpful. I would appreciate you or Deke (DeLoach) calling him and indicating that I am going to be in touch with him and would like to have a brief chat. I am not under Hatch Act. . . . Devoted regards, Luther."

Although several Democratic leaders have endorsed the Holcomb nomination, CFA and other consumer groups have opposed it, not only because of his questionable role as a member of the "loyal opposition," but because he has been widely known as a businessman's representative on the EEOC. His past record indicates that he can hardly be expected to be an effective consumer advocate on the FCC.

by improving input and clarifying issues. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are.

It is not too early for consumers in every state and every Congressional district to contact their Representatives and Senators to express their support of a strong Consumer Protection Agency.

### *Free enterprise for sale*

Consumer Federation of America has denounced the Nixon Administration's decision to use Government purchasing power to bail out the cattle industry and drive up the price of beef.

"We find it ironic that Secretary of Agriculture Earl L. Butz and an Administration that loudly proclaims its reliance on the free enterprise system is eager to intervene in the marketplace to help the cattle industry," explains Carol Foreman, CFA's executive director. "By purchasing \$45 million worth of beef for school lunch programs, President Nixon is reversing free enterprise, helping a special interest group and emptying the pocketbooks of American consumers."

This latest move, which officials admit is insignificant as a real aid to producers, serves to further undermine consumer confidence in the Government's resolution to fight inflation. An editorial in *Business Week* magazine sums it up this way: "At best, the timing of the USDA move was bad, since it coincided with the close-out of wage controls. At worst, it was a blatant contradiction of stated federal policy. Once again, Secretary Butz seems to have forgotten that his department is supposed to serve the public and not just the farmers."

### *Awards dinner (Continued from p. 1)*

Dinner will be held at the Mayflower Hotel in Washington, D.C., on June 4. It is not only an opportunity to pay tribute to a deserving government official and to an outstanding consumer advocate from the private sector, it is also CFA's annual fund raising event. Last year, the Awards Dinner provided CFA with operating expenses for three months. Tickets are \$60 per person, and your support will enable CFA to continue its many activities on behalf of the American consumer. For further information contact CFA, 1012 14th Street, Suite 901, Washington, D.C. 20005, (202) 737-3732.

### **Holcomb** (Continued from p. 1)

Opportunity Commission, of which Rev. Holcomb is currently vice chairman. It is directed to Donald M. Kendall, chairman and chief executive officer of Pepsico, Inc., and contains the following paragraph, which caused the controversy regarding the Holcomb nomination:

"While mentioning the business community, I want to tell you of my total commitment to President Nixon for re-election. It is more than a political matter with me. It will take at least another four years to bring any sense of balance to our country. It is my understanding that Paul Kaiser is working with the Committee for re-election of the President. I assume his responsibility is with businessmen. Be-

**FLASH:** As the result of CFA efforts, Luther Holcomb withdrew his name from nomination to the FCC on April 25th, 1974.



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