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99th Congress Unlikely to Be 'Rubber Stamp' for Anti-Consumer Moves

by Gene Kimmelman, Legislative Director

There's bad news and good news for consumers in the 1984 election results.

The bad news is that President Ronald Reagan's landslide victory, the defeat of pro-consumer House challengers, and the reelection of implacable consumer foes in the Senate may well fuel the fires of anti-consumer legislation. Make no mistake. These reelected officials are likely to continue their assaults on consumers.

Senators Rudy Boschwitz (R–MN), Thad Cochran (R–MS) and Jesse Helms (R–NC), with respective lifetime CFA voting records of 22, 14 and 7 percent, were all reelected. So were all CFA-opposed House incumbents with an average consumer voting record of 14 percent. Representative Phil Gramm (R–TX), whose lifetime consumer voting record is 10 percent, moved to the Senate to replace retiring Senator John Tower, whose record was 6 percent.

The Bright Side

The good news is that the addition of five consumer allies to the Senate and continuing consumer support in the House could thwart administration efforts to weaken health, safety and pro-competitive federal policies.

Across the nation, key consumer leaders were given a clear stamp of approval by the voters. Senators and Representatives who most consistently vote to protect consumers' health and safety, as well as their pocketbooks, were reelected to Congress by overwhelming margins in most cases.

A similar shift occurred in Iowa where Republican Roger Jepsen, with a 13 percent consumer voting record, was defeated by Democratic Representative Tom Harkin, whose House record is 78 percent.

Senator Charles Percy (R–IL) was replaced by Democratic Representative Paul Simon, whose consumer voting record of 75 percent is 25 points higher than Percy's 50 percent.

Pro-Consumer Freshmen

Retiring Senators Jennings Randolph (D–WV) and Paul Tsongas (D–MA) are both being succeeded by well-known and vocal consumer advocates—West Virginia Governor John D. (Jay) Rockefeller IV and Massachusetts Lt. Governor John Kerry. Both are Democrats.

When added to the pro-consumer shift evidenced in the 1982 election, the 1984 results strengthen consumers' ability to challenge the anti-consumer policies of the Reagan administration. Those Senators and Representatives who led the consumer defense against telephone rate increases, product liability legislation and natural gas deregulation are not only back, they have reinforcements in the 99th Congress. They will be stronger as they continue to battle for generic drugs, toxic waste clean-up and health and safety regulation.

"Across the nation, key consumer leaders were given a clear stamp of approval by the voters."

Of the 71 pro-consumer House incumbents endorsed by CFA, 68 were victorious. Only Representatives James McNulty (D–AZ), Joseph Minish (D–NJ) and William Ratchford (D–CT) were defeated.

Senators Joe Biden (D–DE), Carl Levin (D–MI) and Claiborne Pell (D–RI) were all reelected by landslides. Their lifetime consumer voting records are 81, 84 and 79, respectively.

Retiring Senate Majority Leader Howard Baker (R–TN), whose lifetime consumer voting record is 12 percent, is being replaced by Democratic Representative Albert Gore. He enters the Senate with a House consumer voting record of 78 percent.

No Cause for Complacency

Despite his personal popularity, President Reagan's anti-consumer agenda is not likely to be rubber stamped by the incoming Congress. But anticipation of political stalemate between the White House and Congress is no cause for complacency among consumer activists.

The hard fact is that Walter Mondale and many pro-consumer House and Senate challengers were unable to convince the majority of voters that important health, safety and pro-competitive policies are indeed in jeopardy.

Whether the message or the messengers were at fault is irrelevant. Unless anti-consumer proposals are identified quickly and their implications clearly communicated to citizens everywhere, consumer allies in Congress will be unable to combat effectively the power that special interest groups now wield over federal policy.

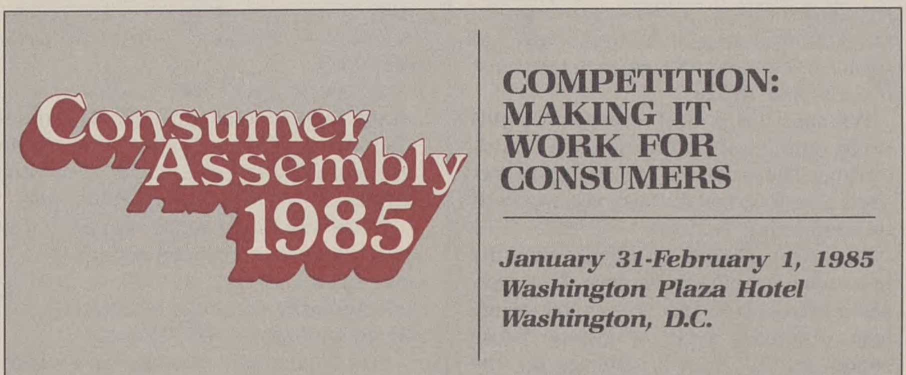
CFA Election Analysis Shows Pro-Consumer Gain in Senate

Turnarounds in three states—Illinois, Iowa and Tennessee—sent three strong consumer allies to the U.S. Senate. All three served in the House of Representatives and all three replace senators with lower CFA voting records.

SENATE

Pro-Consumer Freshmen	CFA Voting Record	Retiring Members	CFA Voting Record
Paul Simon (D–IL)	75%	Charles Percy (R–IL)	50%
Tom Harkin (D–IA)	78%	Roger Jepsen (R–IA)	13%
Albert Gore (D–TN)	78%	Howard Baker (R–TN)	12%

Senate pro-consumer ranks will also be reinforced with the addition of West Virginia Governor John D. (Jay) Rockefeller IV and Massachusetts Lt. Governor John Kerry, both of whom won their races for open Senate seats.



Bank Branch Closings Hit Disadvantaged Hardest

by Stephen Brobeck, Executive Director

In the next several years, bank branches serving hundreds of urban and rural communities throughout the nation will close. As a result, hundreds of thousands of consumers will lose their only convenient means of obtaining essential banking services.

The costs of closings will be borne disproportionately by the poor, by the disabled, and by the elderly because members of these groups are most likely to reside in older communities which will lose branches. Many lack the mobility to enable them to bank outside their neighborhoods, for they are more likely than the rest of the population to be confined to their homes or be without a car.

The substitution of automatic tellers for branches does little to meet the most pressing banking needs of the least affluent. ATMs cannot cash social security or welfare checks, write money orders, or function as a safety deposit box. In any event, most closed branches are not replaced by ATMs.

"The costs of closings will be borne disproportionately by the poor, by the disabled, and by the elderly. . ."

Bankers argue, wtih some justification, that the marketplace is forcing them to reassess the profitability of all their operations and either terminate or drastically change those which are unprofitable. Banking deregulation has triggered this reassessment. As banks face increasing competition from firms such as J.C. Penney and Merrill Lynch, it is inevitable that they will place new emphasis on the "bottom line" at the expense of meeting community needs.

What banks must remember is that the public and its elected representatives still expect some attention to these needs. That is the quid pro quo for such government protections as federal or state programs insuring consumer deposits.

Because of this expectation, banks shutting down branches risk unfavorable publicity and community ill will. Branch closings not only aggravate customers; they are often seen as the bank's rejection of a whole community. Closings provide a fertile ground for community activists to organize citizens and expose the issue through the media.

Whether this protest emerges depends partly on the way banks approach branch closings. There will be little effective opposition if banks adopt the following approach in considering closings.

First, they should be certain that the branch is not profitable. Because of relatively low overhead costs on old branches, many may continue to generate revenue. Banks cannot justify branch closings on the grounds that other operations earn a higher rate of return.

Second, when branches are not profitable, banks should attempt to restructure them to increase profitability. Options include reducing the number of tellers and limiting hours of service. An effort should be made to balance the needs of the community with those of the bank.

Third, when profitability cannot be restored, banks should assist customers in evaluating alternatives. Customers should receive notice several months before the closing. This mailing could include information on service options. Also, banks should offer free counselling and special privileges at other branches, where possible.

Fourth, when satisfactory alternatives do not exist, banks should take the initiative to develop options. They can provide technical assistance, even low-cost capital, to thrifts or credit unions that wish to continue serving the community.

If banks ignore such efforts, the consequences may not be to their liking. In New York, an influential state senator has urged the State Superintendent of Banking to declare a moratorium on branch closings and has called for legislation requiring banks to meet stringent criteria before shutting down branches. Another approach being considered is taxing the financial service industry to ensure service to all communities.

Branch closings are part of the broader problem of the denial of services to the least affluent. The escalation of fees on small accounts, the growing imposition of minimums to earn interest, and the elimination of such services as check-cashing had a similar effect. Despite these trends, recent surveys show that most citizens expect banks to continue serving the most disadvantaged. Banks ignore this public expectation at their own peril.

Reprinted from the Detroit Free Press.

Trade Groups Propose Partial Sulfite Ban

Sulfite-sensitive consumers won a partial victory in late November when the National Restaurant and Produce Marketing Associations called for a ban on the preservative's use in salad ingredients and pre-cut potatoes.

The trade associations' action comes at a time when the Food and Drug Administration is investigating reports of four deaths, allegedly linked with sulfite consumption in restaurants, and 300 other consumer complaints also associated with the preservative.

FDA has been reexamining the Generally Regarded as Safe (GRAS) status of sulfiting agents since 1982, when it first began receiving reports of suspected reactions to sulfites in foods. The agency now estimates that five percent of the nation's asthmatics may be hypersensitive to sulfites. That means 450,000 people are potential victims of reactions which can range from hives to severe respiratory problems inhibiting breathing.

The trade associations proposed the partial ban at a meeting of the ad hoc panel of the Federation of American Societies for Experimental Biology (FASEB), the organization which FDA commissioned to review the scientific literature on sulfites and help reexamine their GRAS status. The proposal calls for elimination at both retail and wholesale levels of those sulfite uses most often linked with allergic reactions.

While salad ingredients and pre-cut potatoes are in that category, they are not the only products containing sulfites. The preservative is also used in dried fruits, soups and salad dressings as well as in wine and beer. Ingredient labeling of the latter two products has been consistently fought by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms.

FDA is currently considering a sulfite labeling proposal for foods, a course recommended in a tentative FASEB report, issued in October, which concluded that sulfites may cause "acute allergic-type" reactions in certain individuals, particularly asthmatics.

The two trade associations maintain that sulfite labeling "cannot adequately protect the public." They are joined in that conclusion by the Center for Science in the Public Interest which is urging FDA to ban all unnecessary uses of sulfites.

With Utilities

Consumers See Continued Difficulties

An autumn Joint Consumer Affairs Conference, attended by consumer advocates and consumer affairs representatives of electric utilities, heard consumer spokespeople caution that difficult relations between the electric industry and consumers will persist into the next decade as utilities endeavor to pay their $200 billion construction budgets with consumers' utility payments.

Stressing the need for rapid decisions, Dr. Mark Cooper, Energy Director of CFA, pointed out that carrying charges on construction funds already spent equal almost $1 billion per month. He noted that many consumer groups had asked, early on, that construction be stopped on many plants that were abandoned much later at much greater cost and that this experience had stiffened consumer determination to resist inclusion of full costs in the rate base.

"Difficult relations between the electric industry and consumers will persist into the next decade as utilities endeavor to pay their $200 billion construction budgets with consumers' utility payments."

The conference was the second to be cosponsored by Consumer Federation of America and Edison Electric Institute and was attended by 40 consumer advocates and 90 representatives of utilities. With a theme of "Beyond Dialogue. . .The Next Step," the conference focused on three of the most difficult problems facing the utilities industry—the inability of some consumers to pay their utility bills, the question of whether to finish power plants under construction and who should pay for them, and acid rain.

The consumer point of view on inability to pay was represented at the overview session by Steve Ferrey and Carol Werner of the National Consumer Law Center. Cooper spoke for consumers in the session on paying for power plants. David Hawkins of the Natural Resources Defense Council was consumer spokesman in the session on acid rain.

At working sessions led by representatives of the Program on Negotiation of the Harvard Law School, efforts were made to devise approaches to solving these problems outside the regulatory arena. One of the primary concerns expressed by consumer advocates was the need for fair representation in the negotiation process and the need to have a more even distribution of resources for research and analysis.

CFA Presses Indoor Air Campaign on Many Fronts

Consumer Federation of America's campaign against indoor air pollution—a vital segment of its "Agenda for the '80s"—is moving ahead on a variety of fronts simultaneously.

CFA is expanding its strategy to bring the issue to the attention of Congress, is preparing petitions to regulatory agencies to obtain specific consumer protections, and is engaged in education and information exchanges to focus public attention on the problem.

In view of the Consumer Product Safety Commission's refusal to make indoor air quality a priority issue, and widespread expectations of deep budget cuts at both CPSC and the Environmental Protection Agency, CFA is also exploring the feasibility of separate legislation to address indoor pollution problems.

"Energetic lobbying efforts for adequate CPSC and EPA appropriations in this area must continue," says Mary Ellen Fise, CFA Product Safety Director, "and pressure needs to be brought on the agencies, and concomitant funds allocated, to assure that needed indoor air programs are initiated and/or continued."

To assist in these efforts, CFA is developing a white paper summarizing the problems and conflicts which surround indoor air pollution. Fise says she expects the paper to be a valuable educational tool in the lobbying campaigns.

In other action, CFA is bringing together all interested parties to discuss various facets of indoor air pollution and its consequences. November's CFA-sponsored conference in Washington, D.C., attracted 100 federal regulators, scientists, consumer advocates and industry representatives to assess health and safety issues arising from the use of formaldehyde in consumer products.

Anne C. Averyt, CFA's former Product Safety Director, noted that while industry has made some strides in reducing formaldehyde emissions, a strong voluntary standard is needed to assure reduced levels of off-gassing. Averyt also said the Department of Housing and Urban Development's standard for formaldehyde in manufactured housing—an ambient level of 0.4 parts per million—"does not adequately protect the American public from potentially adverse health effects from formaldehyde exposure."

Dr. Betty Anderson, Director of EPA's Office of Health and Environmental Assessment, called for further research on irritation and sensitization levels. Other research targets she cited are the development of accurate personal monitors; the reversability of formaldehyde-caused cellular changes; whether or not formaldehyde causes serious impairment of pulmonary function, and the significance of benign tumors resulting from exposure to the substance.

Dr. Norton Nelson, professor at New York University Medical Center's Institute of Environmental Medicine, also cautioned conference participants not to ignore formaldehyde's sensitization effects. "We cannot ignore the health and economic costs to people suffering such effects," he said. Instead of trying to find a quick fix for a biochemical problem, Nelson said "we should go back to the drawing board to achieve source control."

A second conference, this one a major interdisciplinary meeting focusing on present and future directions of indoor air quality research, will be hosted by CFA, in cooperation with EPA, on January 9 and 10 in Washington. Steve Brobeck, CFA's Executive Director, says the conference is "the first step in establishing institutional arrangements to assure continuing communication between the research community and public interest groups on this vital issue."

The conference, which will be attended and addressed by representatives of the research community, government, industry and consumer groups, is open to the public. For more information, contact Erika Landberg at (202) 387-6121.

Congress Finally Passes Compromise Cable TV Bill

The waning hours of the 98th Congress finally brought passage of hotly-debated cable television legislation with provisions which benefit consumers as well as industry and localities.

It wasn't easy.

What began as an industry-sponsored effort to deregulate cable ended by establishing a national policy for local cable franchises and assuring public participation in all franchise renewal proceedings. The Cable Communications Policy Act also mandates service to all parts of a city, including low-income areas, and forbids disclosure of information about individual subscribers without prior permission.

Other pro-consumer provisions expand the Federal Communications Commission's powers to enforce its equal employment guidelines and prohibit local television and telephone companies from ownership of local cable franchises. Cable systems with 36 channels or more will be obliged to lease channels to other commercial entities, free of the cable company's editorial control.

Industry, Localities Benefit

But the cable industry did not come away empty handed. The new law deregulates rates after the next two years, establishes national standards for franchise renewals, and prohibits localities from requiring cable operators to provide specific video or information programs. The industry also won the right to challenge local franchise and renewal decisions in court.

The power of local governments to grant and renew cable franchises is confirmed in the legislation. It also allows localities to charge a franchise fee of up to five percent of the cable company's local gross revenue, and permits them to demand channels for public, educational and governmental use.

The national renewal standards replace a state and local procedural patchwork. The five percent ceiling on franchise fees sets aside the FCC's previous fee restrictions.

The compromise legislation was a long time in the making. A cable bill first passed the Senate in early 1983 after the industry and local officials agreed upon its terms. But local officials changed their minds before a similar bill could be considered in the House. Negotiations between the two parties were reopened at the request of Representative John Dingell (D–MI), Chairman of the House Energy and Commerce Committee, and a new version of the House bill eventually emerged in June.

But a court ruling and industry dissension stalled its consideration on the House floor. After the Supreme Court approved FCC efforts to restrict local authority over rate regulation, many cable operators turned around and opposed the new bill. Only after local officials agreed to changes reducing their power over rates did a revised bill pass the House.

By this time it was October of an election year and the adjournment clock was running. But its ticking did not deter Senators Orrin Hatch (R–UT), Jesse Helms (R–NC) and John East (R–NC) from threatening to kill the bill unless minimum numerical standards for employment of women and minorities were deleted.

CFA, Consumers Union and Public Citizen then enlisted the support of Senator Howard Metzenbaum (D–OH), who devised a threat of his own. After Senate and House negotiators worked out a compromise on the equal employment provision, Metzenbaum held the bill hostage to a public participation amendment.

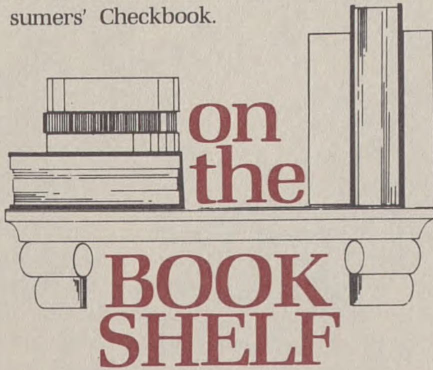
With support from Representative Tim Wirth (D–CO), author of the original House bill, Metzenbaum successfully pressured the industry, localities and the Senate into establishing a federal right for the public to participate in all cable franchise proceedings.

"Senator Metzenbaum's skill and determination gave cable viewers the tools they need to influence the franchise process," said Gene Kimmelman, CFA Legislative Director. "Without the Metzenbaum amendment, the cable bill would have established federal rights for the industry and localities at the expense of the general public."

Only time will tell what impact the new law may have on cable's content, but it is unlikely to leash the political forces which have made the local franchising process so volatile. And while it may not quicken cable expansion into new areas, the law's stabilizing effect may spur growth and improvement in existing systems.

This Phone Book's Numbers Will Save You Money

Everything you always wanted to know about phone costs, but were afraid you wouldn't understand even if you asked, is now available in book form from Consumers' Checkbook.

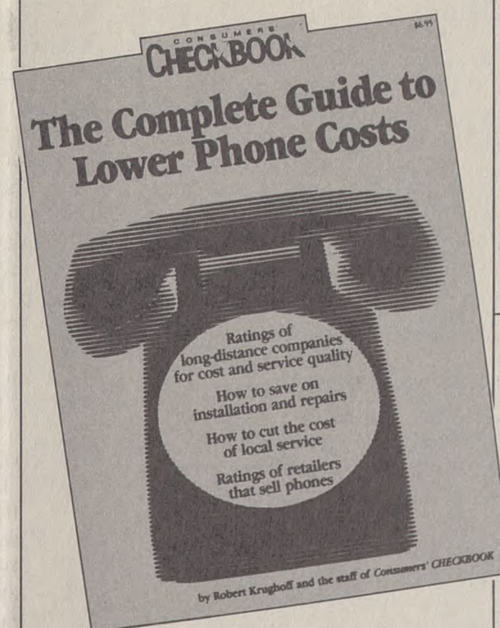


"The Complete Guide to Lower Phone Costs" gives understandable answers to all the questions you've ever thought of—and long-distance companies for both cost and quality of service and details how consumers can save on phone installation and repair costs. It also advises on how to cut the price of local phone service and assesses costs to consumers from the various retailers who sell phones.

The book was written by Robert Krughoff, a CFA Board member, and the staff of Consumers' Checkbook. Copies, available only by mail, are $6.95. Checks should be made payable to the Center for the Study of Services and mailed to:

Lower Phone Costs
806 15th Street, N.W.
Washington, D.C. 20005.

In addition to the guide book, the center offers a unique personalized service—an analysis of individual long distance phone bills, complete with the amount you would have paid using plans offered by each of the national common carriers, AT&T, Sprint, ITT, MCI, SBS and Western Union. The analysis includes a simple cost figure for each plan, based on a reasonably typical list of your own long distance calls from up to three months of your phone bills.



Fees for the analytical service range from $10, for those with long distance bills of some that you probably haven't. It rates $10 or less, to $75 for those with bills between $100 and $300.

For more information, write to Checkbook's Computerized Long Distance Comparison at the 15th Street address, or call (202) 347-7283.

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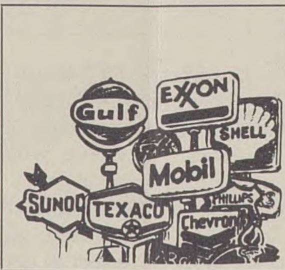
The Great Oil Price Mystery

by Mark Cooper, Energy Director

In each of the last three years, just about the time the new fall television season opens, American consumers have been treated to a real-life soap opera. "The Perils of OPEC" would be an appropriate title. The story is played out in more exotic locations, involves more money and has more plot twists than "Dallas," "Dynasty," "Santa Barbara" and "Falcon Crest" combined.



The story line goes like this. The Nigerians, who have one of the lowest per capita incomes in OPEC, complain that they cannot sell enough oil, so they lower their price. The backstage price cutting of several other poorer members of OPEC is so widespread that the price of oil starts to slump on the spot market. The rich members of OPEC then wring their hands, murmur darkly about a price collapse and openly argue about who must reduce production to accommodate the ungrateful price cutters.

Only nobody does. Somehow the price stays near $30 per barrel when it should be closer to $15. A crime has been committed against the laws of economics, if not those of man and nature. But alas, the villain, OPEC, is beyond the reach of authorities. The media, policy makers and the public tune out until the next episode.

Just like in mystery novels, the obvious villain isn't necessarily the one "who done it." For more than a decade now, some analysts have been convinced that OPEC is not the only, or even the primary, villain of the piece. They argue that its capacity to manipulate prices—especially in a soft market—is extremely limited. It has no police powers to impose production cutbacks. Its share of world production has plummeted. Excess capacity is popping up all over the free world outside of OPEC, which has relatively little refining or storage capacity and virtually no control over marketing. Someone else must be an accomplice. Someone else who has the motive, the opportunity and the capacity. The world abounds with suspects.

Oil Companies certainly have a stake in high prices. They watched the value of their assets skyrocket as prices rose. They grew to surpass all other companies in size and profitability in the past decade.

The big banks also have an interest in high prices. When the price of oil went from $12 per barrel to $35 in less than three years, drilling for oil became an incredibly profitable undertaking. The economic resources—real costs—required to find and produce a barrel of oil are much closer to $15 than to $30. If the price of oil stays up, it is astronomically profitable and the banks have loaned hundreds of billions of dollars against expensive oil. Even though they disregarded all economic reality by making loans secured by a politically set price, once the banks got themselves exposed they became committed to that price.

Governments, too, both inside and outside of OPEC, have come to rely on the revenue stream created by high energy prices. Oil producing nations use it as a means of taxing oil consuming nations. And governments of consuming countries use the energy crisis as an excuse to raise taxes, thereby solving their fiscal problems through energy price policy. Even in this country, every time the price of oil softens, a cry goes up from Wall Street, energy analysts and revenue raisers to tax energy. "America must be protected," they say. But what we are being protected from is low energy prices, even though energy taxes are just about the most regressive way to raise revenues.

How did all this happen? It is now clear that Aramco, which is composed of four American oil companies—Exxon, Texaco, Chevron and Mobil—started the ball rolling by forcing Saudi Arabia to cut production by one million barrels a day. At the same time, it tightened the spot market with purchases to firm up the price. The British and Dutch did their part by reducing output from the North Sea by another half-million barrels per day. Several companies shifted demand into the present by rushing into the futures market. With plenty of storage space available, there was no risk that they would be stuck with oil they would have to move at bargain prices. Other nations with the capacity to cut prices and expand output were simply told there would be no market for cut-rate oil and large purchasers of oil were told not to ask for price cuts.

Governments did nothing. In fact, last year the U.S. Department of Justice dropped its investigation into Aramco. It also allowed three Aramco partners to acquire huge reserves by merging with other companies, thereby consolidating control over the market. Chevron bought Gulf, Texaco bought Getty and Exxon bought Superior Oil.

When the oil industry declares its intention to fight to keep prices high, and governments do nothing, the deed is as good as done.

Will the villains be caught and punished? Not very likely. Instead of vigorous prosecution, the public will get soothing reminders that gas is selling for "only" $1.10 a gallon when just a couple of years ago it was more than $1.40. Consumers will be sternly admonished that they wouldn't really want to go back to the era of cheap oil anyway.

But the truth of the matter is that the price would make perfect economic sense at sixty cents per gallon—a price that would save consumers at least $70 billion in oil prices in this country alone, generate hundreds of billions of dollars in increased economic output, and create hundreds of thousands of new jobs.

The real crime is that most of the actions necessary to keep prices from falling have taken place here, not in OPEC. None of this makes any sense from a public policy viewpoint, but no one will do anything about it. In fact, Washington policy makers will probably make a bad situation worse by yielding to powerful interest groups who want to give us an energy tax, reduce our commitment to the Strategic Petroleum Reserve, and seek to further extend production controls in major oil and gas producing states.

Toy Safety Act Erases 'Historical Quirk,' Speeds Recall Process

American consumers and the Consumer Product Safety Commission received a long-awaited present from the 98th Congress with passage of the Toy Safety Act of 1984—and just in time for Christmas. The legislation finally erases the statutory distinction between adult and children's products which CFA long ago labeled a "historical legislative quirk" making it more difficult to recall hazardous toys than products intended for adult use.

Sponsored by Senator Robert Kasten (R–WI) and Representative Henry Waxman (D–CA), the legislation streamlines CPSC's recall process. The agency will no longer be required either to transfer its regulatory authority or issue a final rule banning a hazardous toy before it can begin recall procedures.

Prior to passage of the new law, children's toys were regulated by the 1960 Federal Hazardous Substance Act, whose provisions allow up to three years to recall consumer products. Adult items covered by the 1972 Consumer Product Safety Act can be recalled immediately if they constitute a substantial risk of injury, or fail to comply with safety rules.

The effect of the new legislation, which passed the House unanimously after receiving similar approval in the Senate, will be to speed up and simplify recalls of children's products by placing them under the jurisdiction of the tougher 1972 law.

In testimony before both the House and Senate Commerce Committees last spring, former CFA Legislative Director David Greenberg said the procedures forced upon CPSC in the toy area "hamstring the agency and allow unnecessary inuuries and deaths to occur. This can be prevented if Congress passes, and the President signs, this simple legislation."

"Greenberg did not exaggerate," says Mary Ellen Fise, CFA's Product Safety Director. "Defective toys caused injuries to 123,000 children last year alone. The Toy Safety Act of 1984 is a giant step forward in the effort to diminish that toil."

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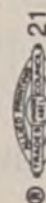

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