

# CFA NEWS



## CONSUMER FEDERATION OF AMERICA

WASHINGTON, DC

JUNE, 1980

# CFA Presents Annual Awards

Consumer Federal of America will present its highest honors to five individuals who have made outstanding contributions in the area of consumer protection, at its 10th Annual Awards Dinner to be held at the Capital Hilton on Monday, June 16.

### *Philip Hart Service Award* Senator John Culver

It takes a man of strong principle to remain loyal to his commitments under pressure. Senator John Culver (D-IO) is such a man. While many of his colleagues in Congress, with far less at stake, have abandoned consumers, Culver has remained an active proponent of consumer interests, compiling one of the highest voting records in the Senate last year.



Senator Culver vigorously opposed efforts to gut the Federal Trade Commission. He has introduced legislation to clean up hazardous wastes, and is the co-sponsor of a bill to set standards for Medigap insurance. In the Administrative Practice and Procedure Subcommittee, which he chairs, Culver has played a key role in promoting the Public Participation bill to provide funds for consumers and other citizens to present testimony before federal agencies.

John Culver has the reputation of being one of the most effective members of the Senate. His unique combination of strong beliefs and political skills has made Culver a vital and powerful consumer ally on Capitol Hill. The consumer movement owes Senator Culver a debt of gratitude for his loyalty and his courage.



### *Philip Hart Service Award* Congressman Parren Mitchell

Those who know Congressman Parren Mitchell (D-MD) best say that he's always on the side of what's right. His advocacy is broad: he champions the rights of Blacks, women and consumers against more powerful special interests. His lifetime consumer voting record of 93% during nine years of Congress places him high on the list of Heroes.

Mitchell worked long and hard against the decontrol of natural gas in the 95th Congress and is currently co-sponsoring a bill to lower the prices for natural gas allowed under the Natural Gas Policy Act. He also fought against the decontrol of domestic crude oil in this Congress and has spoken out articulately for the Federal Trade Commission's funeral industry rule, and against the windfall profits tax.

Raised in a family tradition of political involvement and strong support for human rights, Parren Mitchell is an enemy of discrimination wherever it exists. He speaks often of "The spirit to struggle, the power to prevail." It is a motto he feels applies not only to minorities but to the consumer movement as well.

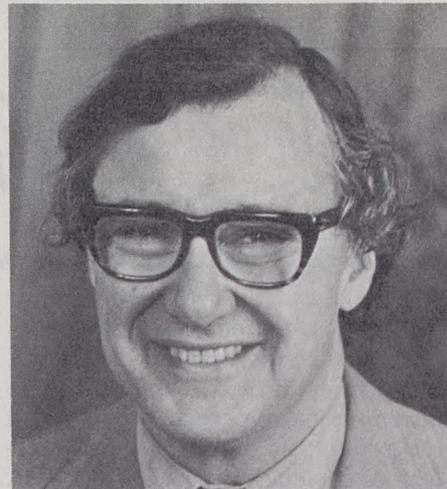
### *Philip Hart Distinguished Consumer Service Award* Michael Pertschuk

In the minds of many Mike Pertschuk symbolizes the committed Washington consumer activist. A veteran of more than a dozen years as Chief Counsel of the Senate Commerce Committee where he was instrumental in framing much of the landmark consumer legislation of the '60s, Pertschuk assumed the leadership of the Federal Trade Commission in 1977. During his tenure on Capitol Hill, Pertschuk helped write legislation requir-

ing health warnings on cigarette labels, banning cigarette advertising on television, and establishing no-fault insurance and truth-in-packaging. Since he became Chairman of the FTC, the agency has taken on used-car dealers, real estate brokers, physicians, Ford Motor Company and the TV advertising industry.

More recently, when Congress aimed its anti-consumer, anti-regulatory guns at the FTC, it was Pertschuk who assured staff members that "what we're doing is right," and that in the end the agency would survive.

Until recently the FTC was considered the "little old lady on Pennsylvania Avenue," churning out rulings on the price of fruit pies in Salt Lake City and the mislabeling of weasel coats. Since he assumed



the leadership of the FTC, Pertschuk has turned his energy and talents to transforming the Commission into "the best public interest law firm in the country."

Not at all the wild-eyed zealot his enemies try to portray, Pertschuk is most often described by associates as "rumpled" and unassuming, but politically astute and adept at inspiring those who work with him. His commitment to give consumers a fair shake and to make the marketplace more competitive has, over the years, resulted in far-ranging consumer legislation and regulations designed to protect consumer interests.

### *Outstanding Media Service Award* Don Hewitt

Getting the word out on consumer issues is often a difficult task, but consumer interests have a strong voice in CBS's "60 MINUTES." Every Sunday evening the program reaches millions of viewers with reports on the Federal Trade Commission, the Fort Pinto, or chemical dumping. "60 MINUTES" is the brainchild of executive producer Don Hewitt,

who created the concept, assembled the staff, and after 11 years remains the driving force behind the show.



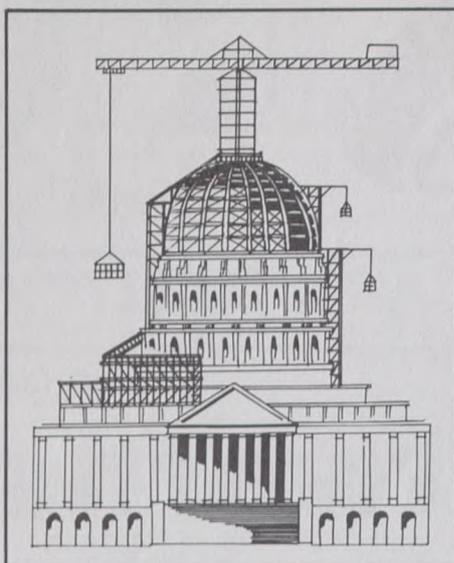
Hewitt spent 17 years as director, producer and executive producer of "CBS Evening News" before "60 MINUTES" was born, and he brought a talent for aggressive investigative reporting to the show. Under his direction, correspondents Mike Wallace, Morley Safer, Dan Rather, and Harry Reasoner have provided viewers with exposes of falsely labelled meat and crooked real estate schemes, and reports on corporate crime. Not only have these reports informed viewers about consumer frauds, they have often led to corrective action by the courts or government agencies.



### *Special Recognition* Kathleen F. O'Reilly

Since Kathleen F. O'Reilly was elected Executive Director of Consumer Federation of America in 1977, her name has become synonymous with outspoken and courageous consumer advocacy. Lawmakers, government officials, and the national media turned to Kathleen first for trenchant assessments of the consumer

continued on page 2



Part One of a Series

The recent successes of corporate lobbies reflect, in large measure, the growing effectiveness of their "grassroots" networks. The largest and most powerful of these is managed by the Chamber of Commerce; other influential business networks are coordinated by the National Association of Manufacturers, the National Federation of Independent Business, and hundreds of large trade associations.

In size and in resources these organizations dwarf Washington-based consumer advocacy groups. The staff size and budget of the Chamber alone are each more than 50 times larger than those of CFA, Consumers Union (D.C. Of-

## Washington Perspective: Challenges For The Eighties: I. Grass-Roots Networking

by Stephen J. Brobeck, Executive Director

fice), and the National Consumers League combined.

Corporate groups developed their networks largely as a response to Washington-based public interest advocacy beginning in the mid-1960s. Because of their great success, a major challenge for the consumer movement in the 1980s is the expansion of its own grassroots networks. Fortunately, there is a tremendous potential for meeting this challenge by linking up consumer groups with trade unions, credit unions, coops, and neighborhood-based organizations at the state and local level.

During the 1970s, this potential was created by the organization of thousands of state and local consumer-citizen advocacy organizations. These included:

- Several dozen state or local consumer groups now affiliated with CFA.
- More than 170 Public Interest Research Groups on college and university campuses.
- A couple dozen Congress Watch locals.
- More than 40 Common Cause Chapters.
- Hundreds of food cooperatives and other consumer coops.
- Hundreds of tenant unions.
- Hundreds of groups concentrating on utilities, food, health care, and other issues.
- Thousands of neighborhood-based groups ranging from bloc clubs to state-wide organizations like Mass Fair Share to national networks like ACORN.

Increasingly these groups, recognizing the interdependence between national and local issues, have organized national networks or affiliated with national groups. Hundreds of community groups have joined such networks as ACORN, National People's Action Coalition, and the new Citizen Action Coalition. Tenants unions have been organizing a national lobbying office. And during the 1970s, the number of grassroots consumer groups affiliated with CFA increased from fewer than 20 to nearly 60.

In the same period these citizens organizations have formed alliances with other pro-consumer forces, most notably the labor movement. Grassroots groups have worked closely with international unions and the AFL-CIO in coalitions such as the Consumer/Labor Energy Coalition and the Progressive Alliance. And those state and local organizations joining CFA became part of a federation that included trade unions, credit unions, cooperatives, and national consumer groups. In the future there is a great potential for the consumer movement to form similar alliances with progressive church, neighborhood, and minority groups.

Clearly organizing grassroots networks is essential to redressing the balance of power in Washington. These will emerge, however, only if a wide variety of progressive state and local groups recognize the importance of such alliances and the need for adequate funding. Specifically, the better-established groups must be willing to seek small contributions from their members for the support of grass-roots advocacy. The contribution of a mere \$1.00 from five million labor union or credit union families, for instance, would permit the establishment of networks rivalling that of the Chamber of Commerce.

Organizing and funding these networks represent a top CFA priority for the 1980s. As a coalition of state, local, and national consumer groups, trade unions, cooperatives, and credit unions, it is uniquely situated to do so.

Pressure in the 96th Congress to reduce the regulatory authority of government agencies continues at a high level. The pressures stem from an anti-government mentality raised in recent months that is politically pursued without consideration for the reasons the government passed laws and regulations in the first place.

Consumers need laws and regulations to protect them in literally millions of daily marketplace transactions that run the gamut from product safety, warranties and price fixing, to food inspection, health services, prescription drugs and the environment. Without exception, workers (consumers also) need viable and enforceable on-the-job safety protection and fair and uniform coverage.

The Schweiker amendments to the Occupational Safety and Health Act (OSHA) is anything but an "Improvement Act" as the title states. The bill pursues the type of anti-consumer philosophy practiced by much of the medical profession—treatment after the fact instead of preventative medicine. The amendment would remove the employer incentive to prevent accidents by exempting over 90% of the workplaces from general inspections. The exemptions would be implemented based on state workers' compensation data. The formula is based on an allowable number of accidents, including disabling injuries, per 100 employees. The number of allowable accidents must be exceeded before an inspection can occur in the following year, unless a fatality occurs. Additionally, the amendment does not take into account accidents that occur, whether or not they



by Kenneth S. Kovack, Legislative Representative, United Steelworkers of America

are serious, in which no personal injury results. Thus, the numerical exemption provides employers with a legislative incentive to rig their reporting of accidents and remain free of general inspections. It is a prevent the lost time report technique rather than prevent the accident. And, the preventative mission of OSHA would be rendered dead in all but 10% of the workplaces.

Pennsylvania's workers' compensation law provides an example of the incentive to apply the technique. In Pennsylvania, no worker becomes eligible for workers' compensation benefits until the 14th day of disability. In some instances, injured workers may lose days of work but may not apply for workers' compensation benefits if they do not have enough lost work days to qualify. The Schweiker bill would not require a record of such lost time accidents. Secondly, if no workers' compensation is paid after 14 days absence because the employer funds the employee out of a sick and accident fund, the Schweiker bill would not require a record of the accident. Thirdly, if after a few days off, but not 14, the employer reassigns the injured worker to a lesser or non-demanding job using full pay as an incentive for the worker to return to the workplace, the Schweiker bill again would not require a record of the accident. The employer, successfully

## Consumers Support Worker Safety

safety violations;

—the elimination or reduction of already moderate penalties for violations of safety standards.

The Labor Department is already doing what Senator Schweiker contends needs to be done, that is, targeting the worst offenders. This administrative activity does not strait-jacket OSHA as the Schweiker bill does. It does not represent a withdrawal of the federal commitment to assure workers of safe working conditions as the Schweiker bill does.

A recent survey of 1,203 worker deaths indicated that 489 deaths—41% of the total—occurred in workplaces which would have been exempt from general inspection under the Schweiker bill. The bill does not improve the 1970 Occupational Safety and Health Act. Workers in general industry oppose the bill which is deserving only of a quiet death.

Finally, (1) consumers recognize the social and moral responsibility to include the cost of worker safety in the overall cost of a product; and (2) we are all workers, each deserving of equal treatment under laws to protect the public interest over the vested interest.

### Annual Awards

*continued from page 1*

position—assessments delivered in a forceful speaking style that leaves no doubt that she is a reformer to be reckoned with. On all the most important social and economic issues of the 1970's— inflation, energy, consumer protection— Kathleen has led the battle in Congress, in the Courts and in Federal agencies, for a fairer, more just society.

The Congress is also in a kick-the-red-tape mood. However, the Schweiker bill, which has 20 co-sponsors, would require the additional paperwork of assessing lost time accidents under fifty state compensation laws which differ in degree and in the definition of a lost-time accident. According to Secretary of Labor, Ray Marshall, enactment of the bill would assure a dramatic increase in unproductive litigation and paperwork. "Employer affidavits that the bill envisions would entail processing and verifying as many as four million new pieces of paper each year," Marshall said. By contrast OSHA administratively has initiated steps which the Paperwork Commission has estimated will mean a savings to business of over \$100 million annually by eliminating unnecessary paperwork.

The Schweiker bill is bad for other reasons, including:

- the loss of a workers right to request and obtain a special inspection;
- the incentive for employers to form plant safety committees which may enable the employer to avoid penalties for

# Legislative Wrap-Up

## Energy Antimonopoly Act

This bill, which would prevent the giant oil companies from using their windfall profits to acquire other companies was approved by the Senate Judiciary Committee on November 20, 1979. The bill, which was introduced by Senators Edward M. Kennedy (D-MA) and Howard Metzenbaum (D-OH) enjoys the enthusiastic support of CFA as well as the backing of other consumer and labor organizations.

At this time, a threatened filibuster is stalling full Senate action. The Senate leadership, however, favors prompt consideration as soon as the necessary 60 Senators are willing to sign a cloture petition.

## Severance Taxes

The House Energy and Power Subcommittee will soon begin consideration of Representative Phillip Sharp's (D-IN) bill (HR 6625) to put a cap on coal production severance taxes charged by states. The intent of the bill is to restrain one source of energy price increases—heavy taxes charged by producing state governments seeking to exploit the general rise in energy prices.

CFA supports this bill but feels its scope should be broadened to include oil and gas severance taxes.

## Credit Bills

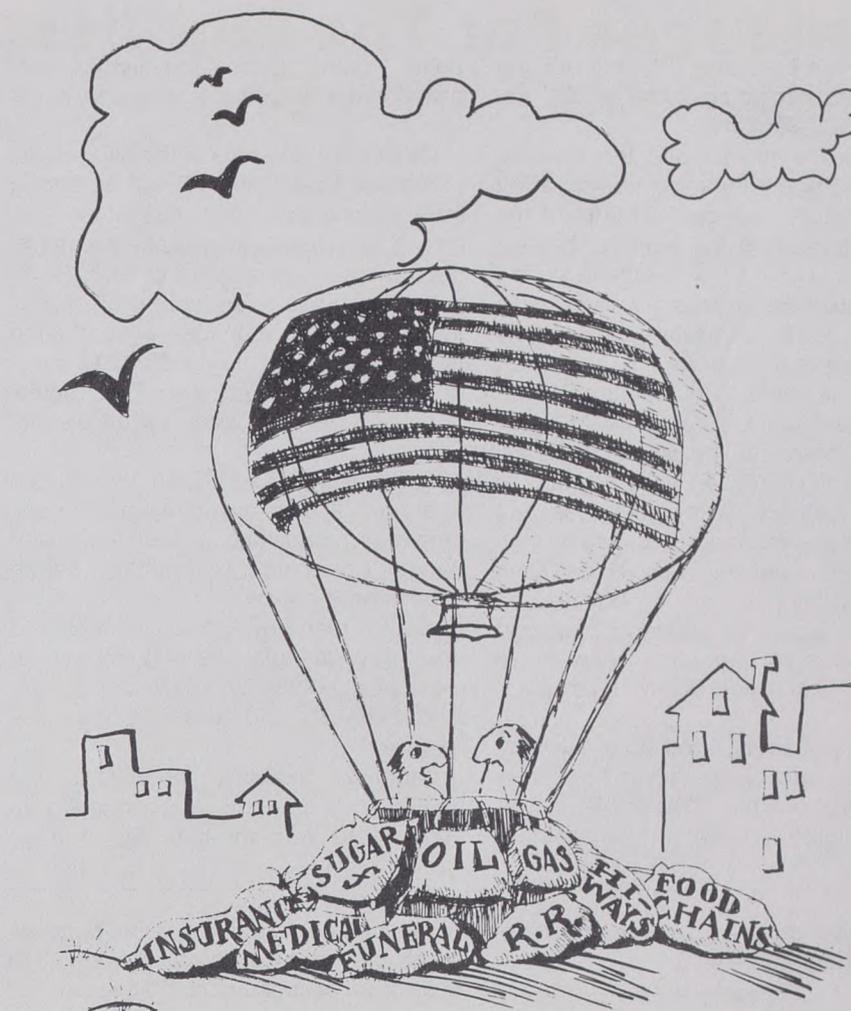
A House Banking Subcommittee passed legislation overturning provisions of the Federal Reserve Board's anti-inflation rules that allow lenders to impose new finance charges and other requirements on existing balances for consumer credit card accounts. CFA supports the bill (HR 7038) which would require 60 days notice of terms of credit changes instead of the 30-day notice approved by the Fed.

The Subcommittee also approved a bill (HR 6928) eliminating Truth in Lending Act provisions which currently limit discounts for cash purchases to five percent.

Full House Committee consideration of the bills has not yet been scheduled. The White House, whose support of the bills was crucial to their passage, expects concerted lobbying efforts by lenders.

## Food Stamp Funds

A cut-off of food stamps which provide essential food assistance for 21 million people was narrowly averted when Congress voted an extra \$2.6 billion to keep the program operating through fiscal 1980. The vote came on May 15, the day the Agriculture Department said it would be forced to announce a halt to the food stamp program effective June 1. Many fear, however, that the new funding will be insufficient to pay full benefits through September 30, the end of fiscal 1980. Because of increasing unemployment and continued inflation, the program may need more emergency appropriations, but food stamp critics have already set a limit on the amount of such



"If you ask me, we've got too many PACS!"

aid. CFA believes food stamps are a right and supports appropriation of the full amount necessary to continue the program.

## Trucking Deregulation

CFA actively supported the Senate bill (S 2245) which was passed April 15 removing many of the federal restrictions on the trucking industry. Before passage, the Senate rejected amendments which would have weakened the bill by retaining regulation of processed food, and making entry into the trucking business more difficult.

The House version of the bill (HR 6418) was adopted May 19 by the House Public Works Subcommittee after members rejected attempts to water it down. The final version comes close to the Senate bill by allowing new freedom to set rates and making entry into the trucking industry easier. Full committee action is expected soon.

## Low Income Weatherization

The Senate has authorized \$2.2 billion over the next three years to help low-income families "weatherize" their homes to conserve energy. CFA supports the legislation, but called for the program to be administered by the anti-poverty Community Services Administration (CSA) rather than by the Department of Energy. Weatherization assistance to the poor began in 1973 and was run first by OEO and its successor CSA before being transferred by President Carter to DOE in 1978.

The Senate committee which reported out the current bill said the rate of low-in-

come weatherization fell by half after DOE took over and endorsed the program's return to CSA, although it did not have the authority to eliminate DOE's program. The full Senate did not vote to transfer the program but did adopt an amendment to have only one program in operation, leaving the decision of which agency would run it up to the Carter administration.

## Energy Mobilization Board

CFA opposes the creation of an Energy Mobilization Board called for by President Carter and supported by industry. The board would have the authority to speed energy projects by "cutting red tape"—overriding certain aspects of federal, state, and local laws, and making decisions for federal agencies that don't move quickly enough. Conferees finished work on the bill (S 1030) on April 30, although the conference report has yet to be signed. The conferees accepted a House compromise on the most controversial section of the bill—waiving substantive laws—which permits Congress and the President to grant waivers of existing laws felt to hinder construction of priority projects. CFA opposes this effort to compromise the health and safety of consumers, and questions whether the result will be merely to cut red tape or to tamper with due process.

## MediGap Insurance Standards

House-Senate conferees have approved a compromise amendment put forth by Senator Max Baucus (D-MO) establishing voluntary national standards for

MediGap health insurance. Following the rejection of an earlier MediGap proposal by House conferees, Baucus, chief sponsor of the bill in the Senate, came up with a new version of the proposal which gives more authority to state insurance commissioners in the process of implementing the voluntary standards. The MediGap amendment was attached to a bill (HR 3236) to hold down costs of the Social Security disability insurance program. Final agreement on the entire bill has not yet come from the conference. (Senator Baucus discussed MediGap fraud in the March **Speak Out** column.)

## Bottling Bill

On May 15 the Senate voted 89-3 to protect soft drink bottlers with exclusive territorial franchises from antitrust challenges. The bottlers turned to Congress for exemption from antitrust laws after the FTC ruled they were guilty of restraint of competition. When the measure (S 598) came before the Senate, Howard M. Metzenbaum (D-OH) tried to attach the Illinois Brick bill (S 300) which expands the right of consumers to sue under antitrust laws. A filibuster followed, led by Birch Bayh (D-IN), chief sponsor of the bottling bill. A cloture vote ended the filibuster, but stipulated that any amendment to the bill must be germane. The Illinois Brick bill, offered by Metzenbaum after the cloture vote, was ruled non-germane and Metzenbaum's appeal of the ruling was killed in an 86-6 vote.

In the House chief sponsor Sam Hall (D-TX) has filed a discharge petition to allow the bottling bill (HR 3567) to bypass committee and be considered directly on the House floor.

CFA strongly opposes this attempt by the bottlers to exempt themselves from antitrust regulations.

## FTC Authorization

The FTC funding nightmare is over. The President signed the wide-ranging legislation (HR 2313) on May 28. Although the compromise authorization bill, which generated heated debate in conference, provides for a three-year authorization of the agency, it places certain new limitations on the FTC's authority. (See accompanying article.)

## Regulatory Reform

A number of regulatory reform bills have surfaced in both Houses during the 96th Congress, but completion of any wide-ranging legislation is considered unlikely. The Senate Judiciary Committee ordered a regulatory bill (S 2147) reported on May 7, while a different version (S 262) was approved by the Governmental Affairs Committee April 3. Although the two bills differ on many issues, sponsors hope to merge them into a single measure for floor action.

The Senate Governmental Affairs Committee passed legislation on May 8 to give Congress veto power over all major government regulations, except those

continued on page 4

The Federal Trade Commission is alive and well, having sustained only minor injuries following an assault by Congress. The anti-regulatory, anti-consumer tide in the Congress was at its peak when the authorization bill for the FTC came up for consideration. The FTC is actually one of Washington's smallest regulatory agencies, with a budget of barely \$60 million—nearly 1/3 less than the Quaker Oats Company spent for advertising last year. But Congress decided to make an example of the Commission. Special business interests mustered all their influence with Congressional members in hopes of permanently crippling the agency. Industries under investigation by the FTC had pumped more than \$5 million into congressional races in 1978, and they rattled

# Alive and Well

their change purses in the faces of the politicians, reminding them of the upcoming 1980 elections.

Despite the threats and the rhetoric, however, the compromise authorization bill that finally emerged did little of the overall damage to the agency that appeared likely only a few months ago. The special business interests walked away from this battle not having substantially altered any of the current FTC rules. But they did succeed in putting in place a mechanism—a legislative veto over Commission rules—by which similar assaults on the FTC can become routine. The bill, passed by the Congress and signed by the President, subjects all substantive FTC rulings to a two-House Congressional veto. This means industry can mount an assault over each proposed rule without waiting three years for a Congressional review of the FTC's appropriations.

President Carter lashed out at the Congressional veto clause when he signed the authorization bill. "This provision," he said, "is both unwise and unconstitu-

tional," going beyond the historic congressional oversight of a regulatory agency.

Other key provisions of the bill include:  
**Funeral Rule:** The FTC will be barred from issuing sweeping regulations governing the funeral industry like the one issued by the Commission in 1975. Rules will be confined to areas of price disclosures, deceptive practices, boycotts and tie-ins. States with laws affording equal or greater protection than FTC regulations provide may apply for an exemption.

**Rulemaking:** The FTC will be required to submit 30-days advance notice of any proposed rulemaking to the House and Senate Commerce Committees before publishing a notice of the rule. The Congress will then have 90 days in which to disapprove the rule. The FTC will also be required to publish an analysis of the potential benefits and adverse effects of a proposed rule.

**Insurance Industry:** The FTC is prohibited from initiating or conducting investigations into "the business of insur-

ance," unless specifically authorized to do so by either the Senate or House Commerce Committee. The Commission will, however, be permitted to participate with HEW in a study of MediGap insurance.

**Enforcement:** Criminal sanctions for failure to comply with FTC subpoenas will be subject to a compliance order by a federal district court.

**Agricultural Cooperatives:** The FTC is prohibited from investigating or prosecuting an agricultural cooperative that is exempted from antitrust laws under the Capper-Volstead Act.

**Children's Television Advertising:** Children's advertising proceedings will be suspended until the FTC publishes the text of a proposed rule. FTC actions regarding advertising will be limited to deceptive or false statements. They will not cover advertising considered "unfair."

**Trademarks:** Cancellation of a trademark on the ground that it has become the common name of a product will be prohibited. This terminates the Commission's proceeding for cancellation of the "Formica" trademark.

**Public Participation:** The program for compensating participants in rulemaking proceedings will continue, but 25% of the program funds must be earmarked for grants to small businesses.



## Legislative Wrap-Up

continued from page 3

of the IRS, the State Department and Defense Department. Under the bill (S 1945) any rule proposal with a \$100 million impact on the economy could be postponed for 60 days by the appropriate Congressional committee and vetoed by a resolution from both Houses.

The House Judiciary Committee has also started work on a comprehensive regulatory reform package, part of which includes a similar veto provision.

While CFA believes some regulatory reform may be desirable, we strongly op-

pose any bill that provides for an across-the-board legislative veto.

### OSHA

Senator Richard Schweiker (R-PA), chief sponsor of a bill (S 1253) to cripple the Occupational Safety and Health Act (OSHA), is currently reworking his proposal under pressure from both labor and his own co-sponsors of the legislation. Hearings on the bill, which would end routine job safety inspections in 90% of the nation's workplaces and alter the current OSHA complaint system, have been held in the Senate Labor Committee.

CFA feels the so-called attempts to reform OSHA are a travesty and represent

another example of industry trying to exempt itself from government regulation at the cost of consumers. (See **Speak Out** column.)

### Oil Import Fee

Congress killed President Carter's oil import fee by overwhelming majorities in both Houses on June 4. Carter has repeatedly threatened to veto any bill repealing the import fee, but the margins in the Senate and House far exceed the two-thirds vote necessary to override such a veto.

The \$4.62 per barrel oil fee, which President Carter announced in March, would have had the immediate effect of raising gasoline prices by 10¢ a gallon.

In May, a coalition of consumer and public interest groups brought suit in federal court to block imposition of the import fee, charging it is really a tax on gasoline and as such it is unconstitutional. The court ruled in favor of the consumers, but the Carter Administration appealed the decision. A federal appellate court, scheduled to hear the appeal on June 9, is expected to uphold the lower court decision.

CFA has consistently opposed the oil import tax because of its regressive nature, its meager benefits—even the Administration admits the drop in consumption will be slight, and its resulting high costs to consumers—estimated to be more than \$10 billion per year.



**Consumer Federation of America** 1012 - 14th Street NW, Washington DC 20005  
 Staff:  
 Executive Director..... Stephen J. Brobeck  
 Legislative Director..... Michael Podhorzer  
 Information Officer..... Ruth Simon  
 Assistant to the Director..... Joanne Weistling  
 Secretary..... Lydia Rivera Grogan

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