states. By way of illustration, a state statute governing interest rates on contracts may impose an 8 percent simple interest ceiling on such transactions. If we assume that there is a special installment loan law or small loan law in that state which expressly permits lenders to calculate and disclose interest charges on a $6 per $100 add-on or discount basis, it may be seen that a Federal Act requiring an annual percentage rate disclosure would produce a rate of charge in excess of 11 percent under the formula contained in the proposed Federal Act.

Some State courts may interpret the disclosure requirement of the Federal Act as preempting or superseding the disclosure requirement of the special loan statute which would otherwise govern disclosure. The result would be that the rate required to be stated under the Federal Act would supersede the rate permitted under the special loan law and would exceed the 8 percent rate ceiling under the applicable state usury statute. It is acknowledged that the Senate Committee report on S. 5 and the bill itself do state that the disclosure provisions of the Federal Act are not intended to precipitate actions under the usury statutes of the several states. Although this is a commendable statement of legislative intent, it is clearly not binding on the judgments of the courts of the fifty states with respect to whether or not an action for usurious charges may exist.

The constitutions of some states present special problems with respect to the implementation of the Federal Act. Some state constitutions contain express limitations on interest charges and also provide that the state legislatures may not enact special legislation on this subject. In some instances, dollars per hundred add-on of discount finance charge disclosure methods historically have been employed to produce rates which, because of the accepted method of quotation, do not conflict with the simple interest ceiling imposed by the state constitution. The annual percentage rate disclosure requirement under S. 5 may produce serious problems in these states. It is probable that constitutional amendments would be required in several states where special problems of this or a similar nature exist.

It is for these reasons that the A.B.A. has urged that any Federal credit disclosure legislation should permit charges to be expressed in terms of a dollars per hundred rate. S. 5. and H.R. 11602, in transactions where an annual percentage rate is required to be disclosed, permit such rate to be expressed *either* as a percentage rate per year *or* as a dollars per hundred per year rate of the average unpaid balance. Similarly, under these two bills a monthly percentage rate in the alternative may be expressed as a dollars per hundred per period rate. Under the Senate bill and H.R. 11601, the dollars per hundred rate disclosure alternative is permissible until January 1, 1972.

Although the A.B.A. is indeed gratified that the Senate Banking and Currency Committee recognized the importance of a permissible dollars per hundred rate alternative until January 1, 1972, we are not fully convinced that the legislatures of the several states will be able to enact amendatory legislation by January 1, 1972, or to amend the constitutions of several states, by that date in order to bring applicable state laws into line with the requirements of the Senate bill and H.R. 11602.

We are convinced that the continued smooth flow of credit to consumers requires that a dollars per hundred option be permitted under any Federal finance charge disclosure law.

THE $10 FLOOR ON RATE DISCLOSURE

The disclosure provisions in Section 4(b)(7) relating to sales and in Section 4(c)(5) relating to loans in both S. 5 and H.R. 11602 require that the finance charge be expressed as an annual rate ". . . if the amount of such charge is $10 or more. . . ." Thus, the Senate bill exempts from the disclosure requirement installment sale and loan transactions in which the finance charge is less than $10. When S. 5 was under consideration, The American Bankers Association recommended that the rate disclosure provision relating to loans be amended to incorporate a $10 floor for disclosure purposes.

From the point of view of the consumer lending industry, the $10 floor on rate disclosure in the case of loans is essential if banks are to continue to make "accommodation" loans. These are relatively high-cost loans of small amount which are made for the convenience or necessity of borrowers such as teachers, farmers and salesmen who have irregular incomes or borrowers who may be in marginal economic circumstances. Such loans usually are in amounts under