

Interest Act

Mr. Deputy Speaker: Is it agreed?

Some Hon. Members: Agreed.

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INTEREST ACT

MEASURE TO AMEND

Hon. Herb Gray (for the Minister of State (Finance)) moved that Bill C-36, an Act to amend the Interest Act, as reported (without amendment) be concurred in.

Motion agreed to.

Mr. Gray (for the Minister of State (Finance)) moved that the Bill be read the third time and do pass.

Mr. John Gamble (York North): Mr. Speaker, if this Bill were given its proper title, it would be called the Regulations Bill. By regulation the Government intends to allegedly correct some of the difficulties faced by people who have approached a lender for the purpose of prepaying a mortgage. If you examine the Bill in detail you will find in Clause 6:

Whenever the amount of principal money expressed to be secured by a mortgage on real property given after the coming into force of this section is greater than such amount as is prescribed by regulation,—

I think it is appropriate to ask why the Government has decided not to disclose exactly what the principle amount should be. It is also appropriate to make that same inquiry with respect to the provisions of Clause 7(1) as they presently appear in the Act. Under Clause 7(1), as amended, we find, among other things that:

—no interest is chargeable, payable or recoverable on the principal money unless the mortgage contains a statement in a form prescribed by regulation showing—

A number of things which are contained in the Act follow. I would have thought that we could have had a schedule attached to this Bill showing the prescribed form. I would also think that the information in Clause 7(1)(b) might well have been spelled out in the Bill itself. The Section would now read:

—no charge within such classes of charges prescribed by regulation for the purposes of this paragraph is chargeable, payable or recoverable unless the mortgage contains, in the form and manner prescribed by regulation—

We must remember that this Bill was allegedly designed to accomplish a very simple and specific purpose. The purpose was to permit mortgagors to prepay their mortgages, coming up with a figure which they could well understand since the majority of mortgagors are not solicitors but are average individuals in the country who, in large measure, desire to terminate the payments on mortgages secured on their own personal residences. Why is it, therefore, that we have these complicated, convoluted provisions which, I must confess, use every bit of imagination of anyone reading them to understand.

Let us continue on with provisions of the Bill. We find once again that Clause 7(3) on page 3 of the Bill states that paragraph 1(a) does not apply if the information referred to in subparagraphs 1(a)(i) and 1(a)(ii) was, prior to the execution

of the mortgage, disclosed in a form, once again, prescribed by regulation.

● (2040)

Clause 7(4) provides that paragraph 1(b) does not apply with respect to any particular charge within such classes of charges as are prescribed by regulation for the purposes of that paragraph if, prior to the execution of the mortgage, the amount of that charge was disclosed in a form prescribed by regulation.

Then we come to what is surely the most troublesome clause of this Bill. Under what will be amended Clause 11.1 of the Bill, Section 10 and 11 do not apply in such circumstances as are prescribed by regulation.

What this Bill proposes to do is repeal, by regulation, a specific provision of a statute. I submit that that is a process which is not recognized by the law. Parliament enacted Sections 10 and 11 of the Interest Act. Parliament is now providing that those sections may be restricted or eliminated in such circumstances as regulations may require. The proper course for the House is to delete, amend or change sections of existing statutes and not delegate that right to the Governor in Council. That is exactly the process that the Government is undertaking now. It is delegating the right to pass laws and amend existing statutes to the Governor in Council. I submit that that process has no legal foundation. It is improper and beyond the scope of any authority granted to the Governor in Council.

I must say that in the event that we look at the provisions of Section 12.2 as they would be amended, a section which allegedly provides the relief that this Bill is supposed to provide to those people who wish to prepay their mortgages, we find spelled out exactly what the mortgagor must do in order to obtain a discharge. He must pay a number of amounts. The amounts spelled out in the Bill are “(a), the amount of principle money due at the time of the tendering of the payment or such lesser amount of principle money as is allowed by regulation”. What are they talking about? When a draftsman prepares such a specific insert in a statute, what does the ordinary home owner calculate as being the principal amount of the mortgage that he must pay when he tenders a payment for the discharge of his mortgage? While he can determine exactly what is the principal amount due under the mortgage, what is this other lesser amount of principal money as is allowed by regulation?

He also must pay the interest on the principal amount. That is the normal, logical and sensible procedure that has taken place since mortgages were invented.

Now comes the crunch. The other amount he must pay is the prepayment charge provided by the regulations, calculated in the manner prescribed by regulation or any other agreed or prepaid charge if it is less than the prepayment charged provided for by the regulations. I do not know what that is and I want to say that neither will the home owner who tenders an amount for payment know what that means.

Obtaining a discharge of a mortgage is a very important facet in the lives of home owners. Let us take the case of