and the deposit insurance which is essential for the protection of depositors.

This principle was clearly and well enunciated in the report of the Royal Commission on Banking and Finance of 1964, known as the Porter Commission. This commission set out its proposal which was that the so-called near-banks—I do not like this expression —those who were undertaking banking operations, should fall within federal regulations. I think this was the basis of the commission's recommendation and report. At page 363 the commission said the following:

> However, our view is that it should be less arbitrary than the present legislation, which applies only to 10 named institutions, and should encompass all financial institutions issuing demand liabilities, transferable and short-term deposits, and other short-term banking claims (subject to limited exceptions to be specified later). It would thus include the present chartered and savings banks, many trust and loan companies, some other deposit-taking institutions and such sales finance companies as issue banking claims not exempted by the legislation.

Farther down the page it goes on to say:

> An alternative approach would be to make federal regulation voluntary while offering inducements to institutions to submit themselves. Unfortunately, however, those few institutions which are now virtually unregulated are precisely the ones which are likely to remain outside the regulatory framework. In fact, the inducements of coming under good regulation and of using the name "bank"—

—this last clause does not apply to what we are discussing—

> —are probably not strong enough to lead all banking institutions to accept federal charters or licences. Many such institutions are already free to undertake most phases of banking business, in addition to some business from which the banks are excluded. They do not feel the need of central bank borrowing privileges because the chartered banks have served them effectively as lenders of last resort; they are unlikely to be attracted by the offer of a federal deposit insurance scheme because most of them believe they do not need it, while those for whom it might in fact be desirable are quite likely to have their own reasons for refusing it and the regulation it would entail; improved or cheaper clearing arrangements for their deposit accounts might tempt some institutions, but most would no doubt continue to be able to come to terms with chartered banks for this service. Thus while there is some attraction in a voluntary approach it is not likely to improve the present unsatisfactory state of affairs.

This dealt with banking, but as the passage indicates, it applies directly to the legislation on deposit insurance. If you are making it voluntary, the people who do not use it may be the people whose deposits ought to be insured and who ought to be regulated. They may be the ones who will step away from it. I say to the minister he has the power to regulate all those who carry on these banking operations.

• (5:00 p.m.)

Now, the hon. member for Edmonton West has expressed his views on the constitutional issue, and I venture to do the same thing. Although the question of what is included in the word "banking" under head 15, section 91, of the British North America Act is a very large question which I could not attempt to answer, because the courts have not yet given any final answer to that question, I say there is little doubt that an institution that has deposits which can be insured under this legislation, these loan and trust corporations, whether incorporated in a province or by the federal authority, are quite clearly carrying on banking operations. I feel that the federal responsibility for dealing with them is clearly set out in the British North America Act. If the provinces claim jurisdiction and say they have the right to incorporate these companies, they have the right to give them certain functions, then I say the moment they carry on banking arrangements, honouring cheques and so on, they bring themselves within federal jurisdiction. The moment they do that, then I suggest that in the interest of depositors, in the interests of the protection of our financial institutions, this parliament should not shelter behind constitutional arguments.

Supposing the minister is advised by less forthright and more timid lawyers that the law is not clear, then I suggest it would be quite easy to draft this bill in two parts. One part would apply clearly to banks and financial institutions incorporated federally and the other would apply to those trust and loan companies provincially incorporated. If anybody had any doubt about the validity of the second part, then that part could be referred to the Supreme Court of Canada, which exists for this very purpose, for an opinion as to its constitutional validity. The court would have the obligation of saying whether or not this legislation was intra vires. I would have very little doubt that the legislation would be ruled to be intra vires. If I turned out to be wrong, then the only recourse would be to go to the provinces and say: We want you to join with us in making regulations and insurance of these deposit institutions obligatory. Let us not take refuge in half-hearted legislation in that it is compulsory for some and voluntary for others. In my submission, this is no way to deal with something that is supposed to be for the protection and benefit of the ordinary investors of this country.