

*Financial Institutions*

which the Minister is to be kept informed of action taken by the regulator. The Bill allows the regulator to take control of an institution for seven days or longer and to make business decisions for that institution if "there exists any practice or state of affairs which may be materially prejudicial to the interests of policyholders or creditors". Obviously this is a serious action which would not be taken lightly.

I was surprised, however, to hear the Minister say in committee that he is not contemplating any specific guidelines or criteria under which the regulator would assume control of an institution. Although the Bill requires the Minister to be informed within seven days of the regulator taking over an institution, there is no requirement to do so at the outset. The Minister stated that he is comfortable with that and with reliance on convention and practice rather than a built-in legislative requirement that he be kept informed.

Members will recall that in the aftermath of the bank failures, we spent a great deal of time trying to determine the extent to which Ministers had requested and received information from their officials, and attempting to find out exactly what information the Ministers used as the basis of their decision. In light of all that, I am surprised that the Minister is not taking every opportunity to formalize the principle that he should be kept fully informed of his Department's operations. It seems logical, since it is the Minister who is accountable for those operations.

Turning now to Bill C-42's proposals with respect to the Canada Deposit Insurance Corporation, I would like to refer briefly to a matter I raised in my speech at second reading. That is the CDIC Board of Directors and the practice that has been followed there of sending substitutes to board meetings. This is unheard of in the private sector. Indeed, in committee we were told that no substitution will be accepted with respect to the private sector representatives of the CDIC board. That is nice to know, even though there are no private sector people on the CDIC board. The enabling legislation was passed last year but the Government has not yet made any appointments.

My concern is directed at the public sector members and with keeping some continuity. There can be no continuity if these Members can designate a different substitute every time the board is scheduled to meet. We have some reason to think that this was a factor in the lack of knowledge of the precise state of the Canadian Commercial Bank a couple of years ago.

Of course, the optimal situation would be to have no substitution. However, the proposal put forward in committee seems an acceptable compromise. It is to designate for the public sector members permanent substitutes through order-in-council or ministerial letter.

Bill C-42 gives CDIC powers to terminate deposit insurance coverage and to levy penalties or fines on institutions deemed not to be carrying out sound business and financial practices. The phrase "sound business and financial practices" appears in the Bill but is not defined. I am advised that a definition is to

appear in the CDIC by-laws which are to be made public before being enforced.

My concern, which was expressed by other members of the Finance Committee, was for the consequences if the fact that an institution had paid a premium penalty, or even been threatened with a premium penalty, became public knowledge. It would be a signal that the institution had engaged in questionable practices and would probably spell the death of that particular institution. Then we were told the assessment of premium penalties is not intended to be public knowledge. As pointed out in committee, records are kept so the likelihood is there.

Perhaps it should be made public. Payment of a premium penalty might be something that an institution's auditors would have a duty to report to the shareholders.

It is a real dilemma. If it became known that an institution had had its knuckles rapped, so to speak, obviously that would lead to a loss of public confidence and a run on that institution which might very well force it into failure. On the other hand, keeping it secret is probably not justifiable on ethical grounds because if an institution is engaging in unsound business practices, its customers and shareholders have been put at risk and information should not be withheld from them.

In committee I asked the Minister how he would resolve this dilemma. He said that the matter of premium surcharges was not intended to be made public and he was reluctant to have a situation where one "transgression", as he put it, would result in permanent damage or collapse of an institution. He used an analogy of headmaster and school child which, in my view, falls far short of the complexity of the situation we are actually dealing with.

Granted, the power to assess penalties is one that may not be exercised often. The fact of its being there may be all the disincentive that is needed for institutions that might be tempted to questionable practices. However, there really is a certain amount of pious hope in this.

An alternative which was not accepted by the Minister was that of not using inflammatory words like "unsound business practices", but perhaps having different premiums for institutions that were doing high risk business. This was not accepted by the Minister. I must say that I do not find his solution very satisfactory.

With respect to the Canada Deposit Insurance Corporation deficit, I raised the question in committee why the Government had not chosen in Bill C-42 to deal separately with CDIC's ongoing function of providing deposit insurance coverage, and with retiring an accumulated deficit which is not closely related to CDIC's core function. By that I mean that significant portions of the CDIC's deficit are due to policy decisions of the Government. Since the Bill does not provide for a separation, we are left with a situation where the retirement of the CDIC deficit, which is still hovering at about a billion dollars, is very much tied to the future health of