

Bank Act

In this regard I would say that the proposals announced today with regard to certain taxes on banking profits under the guise of deposit insurance could run up against this particular case. I am just making an observation at this stage, Mr. Chairman, that I think the legislation may be in for a rough passage. I should like to conclude this stage of my remarks by referring again to what the Privy Council had to say in connection with the Alberta reference.

The question, therefore, is whether operations of this sort fall within the connotation of "banking" as that word is used in section 91 of the British North America Act. Their lordships entertain no doubt that such operations are covered by the term "banking" in section 91. The question is not what was the extent and kind of business actually carried on by banks in Canada in 1867, but what is the meaning of the term itself in the act. To take what may seem a frivolous analogy, if "skating" was one of the matters to which the exclusive legislative authority of the parliament of Canada extended, it would be nothing to the point to prove that only one style of skating was practised in Canada in 1867 and to argue that the exclusive power to legislate in respect of subsequently developed styles of skating was not expressly conferred on the central legislature. Other illustrations may be drawn from section 91 as it stands: take, for example, head 5, "Postal Services". In 1867 postal services in Canada were rendered by the help of land vehicles, but nobody could contend that the modern use of aeroplanes for carrying mail is, on that account, not within the phrase. The concept of banking certainly includes the granting of credit by banks; "a banker," as Chief Justice Duff said in dealing with the Alberta legislation reference, "has been defined as 'a dealer in credit'." Whether the expansion of credit now effected by bankers' advances is regarded as wise or unwise, as just or unjust, as economically desirable or economically unjustifiable, does not, in the view of their lordships, affect the point here at issue at all. If it is fairly included within the conception of "banking" it is a matter exclusively reserved for the legislature of Canada.

● (5:00 p.m.)

I apologize to hon. members of the committee for making these rather extensive references to judicial definitions of banking. I do so because there have been so many arguments advanced as to the difficulty of a statutory definition of banking and as to the wisdom of incorporating within the Bank Act a definition of banking. For this reason I felt constrained to say that those arguments have no basis and it would have been far more preferable for the government to have defined banking within section 2 of the act and not leave it to one of the anterior sections to simply say that one must not use the terms "bank" or "banking" and that is the only prohibition. Therefore the act could have been constituted differently and we could have had proper control of banking practices

in this country where it belongs, under the aegis of the parliament of Canada. Any institution that wanted to enter this particular field would then have had to submit to proper control. It is only in this way that the Minister of Finance will be able to control the monetary destiny of this country.

Mr. Wahn: Mr. Chairman, a comparison of this bank bill with the 1964 Porter report on banking and finance establishes that the bill will mark a major step toward the more creative, competitive and efficient banking system which was the objective of the Porter recommendations.

This revision of the Bank Act was originally introduced in May, 1965 by the former minister of finance. It was reintroduced in substantially the same terms earlier this session by the present Minister of Finance. The basic principles have been fully discussed at the resolution stage and on second reading, and a particularly thorough and helpful review was conducted by the standing committee on finance, trade and economic affairs which met under the able gavel of its chairman, the hon. member for Essex West, and its vice chairman, the hon. member for Québec-Montmorency.

Tributes have been paid from all sides of the house to the effective and non-partisan work of the finance committee. I will not repeat them except to say that I believe that most members of the finance committee are convinced as a result of their experience that the new committee system can perform a most valuable function in helping to make parliament an effective instrument of action and reform, which is the objective of all members of the house. In the course of the prolonged committee hearings there was an almost complete lack of active partisanship, and throughout the hearings the issues were examined in a rational and constructive manner by committee members of all parties.

This bill has reached its present stage after a very long process of careful consideration. Indeed, the hon. member for Perth has complained about the delay. The time has been well spent. Banking is basic and vital to our economy. We were wise to proceed with care.

The hon. members for Perth and Edmonton West have attacked the bill because it does not cover near banks. The near banks could not be dealt with in this decennial revision for practical reasons which I will mention a little later. My personal opinion is that they