

## Small Loans Act

of interest, suggests that it is appropriate for this legislature to pass a law respecting the field of advertising.

My hon. friend has referred to advertising in some other lines of business. In doing so, he was referring to the general question of *caveat emptor*. He said that laws have been passed dealing with advertising in the field of dispensing liquor. He indicated that there were certain fair trade laws under which misrepresentation or anything misleading in the field of ordinary merchandising was prohibited. He referred to certain laws with respect to the driving of cars and other things. I point out to my hon. friend that in every instance to which he referred with respect to existing laws relating to advertising, those laws were passed within the federal system, operating in this country, by provincial legislatures under the general jurisdiction of the provinces for legislating in the field of property and civil rights.

This question, as I say, has been constantly in the mind of anyone who has been giving careful consideration to the small-loan field. The superintendent of insurance, both the gentleman I quoted, Mr. Finlayson, and later the present superintendent of insurance, Mr. MacGregor, after consultation with the Department of Justice, have expressed some doubts as to whether or not it would be proper for this parliament to legislate with respect to the style of advertising permitted in the small-loan field. When they considered this problem, of course, they have always pointed out that while it is open for the Department of Justice to give an opinion and it is open for the superintendent of insurance to act upon that opinion in the advice he gives to the government with respect to the sponsorship of any government legislation, the final decision on the legality or otherwise of action of this kind would have to be made by the courts.

I have pointed out that there was some doubt in the late thirties as to how far in the legislative authority over interest it was possible to go and define interest as inclusive of all forms of charges on borrowing. The house is aware that subsequently the legislation in the small-loan field has been tested in the courts with respect to this matter of all charges. It was established that mortgage costs, legal costs and anything else associated with these loans were properly to be considered as in the federal jurisdiction as something in the nature of interest in the borrowing of money. But I would suggest to the house that we are going to have an excellent opportunity to examine something that was

not examined as carefully as it might have been in the late thirties, namely, regulations respecting advertising. I am quite sure the banking and commerce committee would be able to call as witnesses officials of the Department of Justice. Of course, an essential witness in any committee meeting considering the Small Loans Act will be the superintendent of insurance. I think hon. members will have an opportunity of forming an opinion as to whether or not we are going a step farther than the courts might support if we were to accept the legislative proposal advanced by the hon. member for Saskatoon (Mr. Knight). If this parliament goes farther than the courts will uphold, then of course the danger is that the base legislation, as worth-while as the Small Loans Act has proven to be, might as a whole, be termed *ultra vires* and we would not have legislation at all.

My hon. friend has referred to certain types of advertising that have been made by companies operating in this field.

**Mr. Knight:** Might I ask my hon. friend one question. Does he remember the action that was taken here under federal jurisdiction in regard to the striped packages for bacon, and the prohibition put upon the people in the bacon trade?

**Mr. Benidickson:** But that was with respect to a special statute on the marking of goods under the jurisdiction of the Department of Agriculture. That is something my hon. friend will have every opportunity of examining the deputy minister of justice upon.

Now, falling short of placing on the statute something that might weaken the act itself and the whole basis of our legislative action, the superintendent of insurance has from the very beginning of the administration of this act gone as far as he thought he could go in the matter of advertising. I see I have not the time to give the full details of his memorandum to small loan companies to the house, but I could quickly give the reference to it and the hon. members will be able to look it up for themselves. I refer to the introduction to the 1940 report on small loan companies at page 11. There is a memorandum there indicating the direction, which is of long standing, from the superintendent of insurance to the people in this field and it says what would be and what would not be regarded by him as offensive in this field.

On motion of Mr. Benidickson the debate was adjourned.