

*Bills of Exchange Act*

not the complete answer to faulty performance on time payment contracts. I want to emphasize that it is not the complete answer, and that we should pass this legislation in full knowledge of that fact. It will be of great value, but the action we are proposing to take today needs to be supplemented by remedial action by the provincial legislatures. This is because a conditional sales contract itself may contain, and often does contain, many clauses which impair the right of the consumer or the purchaser under the contract. Since the regulation of contracts is clearly under provincial jurisdiction, co-operative action by the provinces is essential if the effect of Bill C-208 is to be as complete as all of us would like it to be.

There is a standard clause in most conditional sales contracts in which the purchaser binds himself not to raise any defences against an assignee of a promissory note. This is another technique designed to isolate the finance companies from any arguments about the quality of the goods or performance under the sales contract. Similarly, there are the so-called disclaimer clauses by which the purchaser waives any common law protection he might have relative to the fitness of the goods. This means that the guarantees and warranties in the contract, which are usually limiting, replace any other legal rights of the consumer respecting the quality and performance of the goods he buys.

There have been extensive discussions between the federal and the provincial governments on this range of issues. The federal-provincial conference of officials on consumer affairs in October, 1968 explored the problem in detail and concluded that remedial action was highly desirable. The matter was again discussed at the later federal-provincial conference of ministers on consumer affairs which I hosted in Ottawa in April, 1969 and informal discussions have been carried on with the provinces since that time.

I have been confidentially advised that some provinces have already developed detailed proposals to support the federal initiative that we are taking today. The Bills of Exchange Act, as it now stands, discourages the introduction of reforms by the provincial legislatures. There is little point in changing the provincial laws relating to contracts if the changes can be frustrated, as they are, by the holder in due course provisions of the Bills of Exchange Act.

The changes proposed in the present amendment, Bill C-208, are overdue and I am

[Mr. Basford.]

confident that if they are achieved, supporting action will be taken by the provinces. This will pave the way to offering consumers in general more meaningful guarantees and warranties and the kind of protection under the various sales of goods acts and conditional sales acts of the provinces which they have been denied for so long.

When this Bill C-208 is passed by this Parliament and becomes law, the door is open to all the provinces to reform or, revise completely their laws relating to the sale of consumer goods, their sales of goods acts and their conditional sales acts. I hope, as I am sure all hon. members of the House hope, that when this bill is passed, the provinces will take advantage of that doorway, will go through it and revise their legislation applying to consumer purchases.

The Bills of Exchange Act is a formidable piece of legislation which constitutes part of the fundamental law of the country and we are making a fundamental amendment in the law. Any amendment to it must, therefore, be carefully formulated in order to avoid unintended effects on the law respecting negotiable instruments in general.

The amendment today is confined to promissory notes and bills of exchange "issued in respect of a consumer purchase" and by definition does not apply to business transactions—those transactions between traders as a matter of trade. Although a cheque is a bill of exchange, cheques and near-cheques—near-cheques are those issued by trust companies and certain savings associations—are only covered by the amendment if they are post-dated by more than 30 days. The inclusion of post-dated cheques and other bills of exchange is designed to prevent the evasion of the intent of the amendment by the substitution of these instruments—cheques or post-dated cheques—for promissory notes.

The first substantive provision of the amendment is that consumer bills and notes shall be prominently and legibly marked with the words "consumer purchase" on their face. If this is not done, if the notes are not marked in this way, the note or bill or post-dated cheque becomes void except under special circumstances where the holder is a holder in due course without notice. In addition, it is an offence to transfer such an instrument if its character is known; that is to say, if its character of being a consumer note or a consumer purchase is known to the transferer.

The second and main feature of the amendment is that the right of a holder of a con-