

*Consumer Credit Controls*

define provincial and federal jurisdiction with more certainty in the consumer credit field. Mr. Speaker, in anticipation of such argument which I shall not likely have an opportunity to rebut, I would point out that the British North America Act, section 91, class of subject No. 18, gives exclusive legislative authority to the Parliament of Canada to make laws for the peace, order and good government of Canada in relation to all matters concerning bills of exchange and promissory notes; and further that class of subject No. 19 of the same section 91 gives similar exclusive authority to the federal Government in all matters concerning interest.

Mr. Speaker, this bill is only concerned with bills of exchange and promissory notes, and the interest rates that may be charged or chargeable in connection therewith if they be used as collateral security in credit-sales transactions. If a purchaser gives a vendor a promissory note as sole security for the goods sold and delivered to him, then this bill would not apply.

It only applies where a bill or note purporting to be a negotiable instrument under the Bills of Exchange Act is taken as collateral security to a conditional sale agreement or similar device that is designed to keep the property in the goods vested in the vendor until payment in full, despite delivery of possession to the purchaser.

Some hon. Members may wonder that I have not sought to amend the Bills of Exchange Act and the Interest Act rather than introduce a new bill called the Collateral Bills and Notes Act. I considered such a course thoroughly, but arrived at the conclusion that a separate and distinct measure was needed in the interests of merchants, financiers and credit buyers.

This measure alters the form or make-up of all collateral promissory notes that are used in the credit-sales field as distinct from those customary forms of notes that would continue to be used in the cash loan and banking fields. I concluded that it would be easier to publish and distribute information to merchants and others concerning the changes in the law and form of collateral bills and notes if there be a new and separate bill, and also that the whole change in this confusing field would be better understood by the public if the bill were a separate one.

Mr. Speaker, I would like to make clear at the outset that this measure does not attempt to control the interest rate on all credit-sales transactions. It does, however,

[Mr. Ryan.]

limit the interest rate chargeable on a time purchase of a car, refrigerator or any other goods, if the vendor wishes to additionally secure his contract with the device of a collateral promissory note. I would thus expect that passage of this bill would tend to discourage the use of collateral promissory notes among those anxious to charge exorbitant interest rates. On the other hand, where notes are signed under this statute all parties to the transactions would be likely to have a sounder, fairer and better understood bargain in each case.

You will notice that the bill does not in any way prohibit the making or taking of collateral bills and notes, if they conform. It, in fact, recognizes that there is some merit in the device that has evolved over the years in our wholesale and retail sale practices, but it does endeavour to correct the abuse of the device. Preservation of the device as controlled by this bill will still permit merchants, third parties and holders in due course to obtain quick default judgments in proper cases—it usually being much easier to sue and obtain judgment on an assigned promissory note than on an assigned conditional sale agreement or other type of deferred payment contract.

How did the device of the collateral promissory note evolve, and how is it being abused? Well, bills of exchange and promissory notes were originally designed to facilitate cash and credit transactions in the banking field. Indeed, most bank notes themselves are but promissory notes payable to the bearer on demand. Notes other than demand notes, to be valid, must have ascertainable due dates. A characteristic of any bill or note is that it is readily negotiable.

A note can be assigned by the promisee putting his signature on the back of it. This endorsement is known as "backing" the note. It may be endorsed in blank or to a stated assignee. It may be backed many times and eventually the original maker of the note or promisor, if he fails to pay, may be sued by one even as far removed as the tenth holder.

The law of bills and notes is clearly understood in banking and merchandising circles and the remedy for non-payment is swift.

Under our Bills of Exchange Act no defence can succeed against an unconditional promissory note for a sum certain that is proper in form when it is sued upon by a holder of the note in due course, that is, one who obtained the note for value in good faith