

*Small Loans Act*

Toronto, knocking on the doors and asking people to open charge accounts and to go more into debt every month. So I say let us remember that there are two sides to this story, even on the question of these credits and on the question of debts.

I for one hope that when we get this Bill No. 51 into the banking and commerce committee we can have competent witnesses there first of all to show us how much the effective interest rate is and, second, to show us whether or not this advertising which is being used in showing the amount of repayment per month is deceptive. I submit that this is a big and complicated question, intertwined and involved with all the question of merchandising and time payments in Canada over which this federal parliament has little if any control. I submit that you might be putting our whole small debt legislation in jeopardy if you were to take an unwise step which would be held to be invalid.

**Mr. Argue:** Are you for or against the bill?

**Mr. J. M. Macdonnell (Greenwood):** Mr. Speaker, I have listened with interest and pleasure to the hon. member for Saskatoon (Mr. Knight) because I observe that he discussed this problem and the men who carry on the business on the basis that they were honourable men carrying on a business which is under supervision and which honourable and decent men could carry on. It seems to me that the idea he has in this measure is sound and that no fair-minded man should object to it. I will therefore vote for the measure. I am impressed, however, by the difficulty which has been outlined by the hon. member for Vancouver South (Mr. Philpott). I think there will be difficulties. However, I shall not spend time in discussing them now because I think we can do that to much better advantage before the banking and commerce committee. But when we are considering this measure I suggest that we do not overlook the fact that the problem is perhaps not as easy to solve as it appears to be on the surface.

**Mr. Speaker:** Is the house ready for the question?

**Some hon. Members:** Question.

**Mr. W. M. Benidickson (Parliamentary Assistant to the Minister of Finance):** Mr. Speaker, as the sponsor of this bill has indicated, we have had several debates recently in the broad field related to small loans legislation. This is a fairly recent proposed amendment. It was introduced after the Easter recess. I was much interested to hear the sponsor say that, having regard to the fact that a government bill had received second reading by this house this session and was soon to receive the attention of the

[Mr. Philpott.]

banking and commerce committee, he surmised it might be appropriate not to press this particular legislation at this time prior to the intensive type of review that all hon. members know is available when a bill is referred to a parliamentary committee.

As I have said before in discussing this subject in a broad way, this legislation in this small-loan field is of relatively recent origin. It had its beginning as a result of activities in parliamentary committees which examined private bills in the first instance seeking incorporation for small loan companies. From those discussions it finally appeared to be desirable to attempt to legislate in this field under the authority of the section in the British North America Act which gives the federal parliament certain rights with respect to the subject of interest. Early in these parliamentary inquiries, not only to the parliamentarians who were giving this subject attention but to the officials in the department of insurance to whom the administration of any of our legislation was likely to be referred, it became evident that very possibly there could be a legal difficulty owing to the possibility of a rather thin legal line between the rights of the provinces under section 92 of the British North America Act and any rights that were extended to the federal parliament on the subject only of interest. Very early in these discussions the superintendent of insurance was sufficiently impressed with this factor that, in his annual report, he commented upon this matter of legal jurisdiction. I refer to appendix B to his 1936 report on small loan companies, page 117. There the superintendent of insurance, who at that time was Mr. Finlayson, had this to say:

It will be apparent from the foregoing that there may be question as to the relative jurisdictions of parliament and the provincial legislatures in regulating the total charges for loans of money to borrowers. Section 91 of the British North America Act assigns "Interest" to the exclusive legislative authority of the parliament of Canada, but there is nothing in that act to say what charges, other than interest so-called, are to be regarded as interest in disguise. Section 92 of that act assigns to the exclusive legislative authority of the legislatures of the provinces "property and civil rights in the province" and it is conceivable that the regulation of some class or classes of charges in connection with loans of money may fall within that heading.

I am referring to this matter in order to show that, even with respect to any imposition of a cost or charge to a prospective borrower, there was some considerable uncertainty as to whether or not all costs could be placed within the definition of interest. My hon. friend, in the legislation he proposes, would go further than that and, under the guise of dealing with the subject