

*Interest Act*

some changes, with which we are not very impressed. Section 10 in its present form purports to allow a person to prepay a mortgage on the payment of a three-month interest penalty after the mortgage has been in effect for five years. Essentially, that is what Section 10 does. The penalty was put in there to reimburse the lender or the mortgagor for expenses he may have to meet as a result of prepaying the mortgage after the five year period. A number of my colleagues who have been in the legal profession for a number of years and bankers and others who have dealt with mortgages whom I have consulted have told me that this was not always the case. I discussed this matter with an old-time bank manager, and he said that they did not always collect that three-month interest. If the client was a good customer of the bank, in many cases the bank waived that interest. Many of my friends in caucus who are in the legal profession have told me the same thing, that it would depend upon the individual, the circumstances, the amount, and the terms. But in many cases if the person was going to remortgage with the same institution, the three-month interest was waived.

What we are doing now is sort of institutionalizing this matter. We are saying that the penalty is now going to be the interest differential between the new rate and the old rate. That is the part that has upset many of us. I should point out at the outset that the Standing Committee on Regulations and other Statutory Instruments has had a look at Bill C-36, particularly at Clause 11.1. Clause 11.1 reads:

● (1600)

Sections 10 and 11 do not apply in such circumstances as are prescribed by regulation.

This enabling power does not indicate in general terms when the operation of Section 10 and Section 11 will be suspended. Given that the power being delegated is effectively that of amending an Act of Parliament by regulation—and that is what it does—I do not think that we as a responsible political Party can allow that to happen. We did not come to Parliament to pass legislation which would be subsequently amended by Order in Council. That is not the purpose of Parliament. The Standing Committee on Regulations and Other Statutory Instruments has raised this matter. It will be pursued within that committee. Certainly we will pursue it if the Bill is passed on to committee for consideration, the calling of witnesses and all that that entails. The major portion of the Bill before us, the section which the Government wants to amend, is under attack.

I should like to refer to the conduct of some people in the mortgage business over the past few years. On numerous occasions I have risen in the House on this entire matter. I directed questions to the Minister of Finance (Mr. Lalonde), to the Minister responsible for housing and to the Minister of Consumer and Corporate Affairs (Mrs. Erola). I asked them what they would do about interest differential charges. In my wildest dreams I did not believe that they would institutionalize them or that they would put them in a statute and say that the mortgagor must pay the interest differential charges. I just

could not believe that would happen, but that is the way I read this Bill.

The reason I become interested in this subject matter is that numerous constituents wrote to me about it. As I said, I raised it with the Minister of Consumer and Corporate Affairs, the Minister of Finance and others. They replied by indicating that they were very upset and concerned about it and that something should be done. The Minister of Finance said that he had spoken to the financial institutions. He did not like the way in which they were operating and indicated that there should not be an interest differential charge. He said that a three-month interest penalty was adequate, and the Minister of Consumer and Corporate Affairs said the same.

I also brought to the attention of the House the fact that 750,000 Canadians across the country were trapped into mortgages with interest rates as high as 22 per cent. I also brought to the attention of the House the fact that 30 per cent of the homes were on the Hamilton real estate market—and I do not know about the other markets—in late 1982 and early 1983 as a result of foreclosures because of high interest rates. I was looking for confirmation of the comments of the Minister of Finance, the Minister of Consumer and Corporate Affairs and the Minister responsible for housing and CMHC. In their compassionate way they implied that they would do something for home owners, for people caught in high interest rate mortgages. When I saw this legislation, I saw nothing for them at all. All they are doing is saying to the mortgage companies that they can charge penalties on the differential in the interest rate between the new and the old rate. In effect, that is what they are saying, and they made it law. I cannot believe that we should sit here and allow this to happen.

I had hoped that they would come before the House and say that they would make Section 10 of the Interest Act work. Half a dozen of the large trust companies are the main offenders, but everyone else follows suit. There is a herd instinct when it comes to making a buck. I thought they would say that if those fellows wanted the legislation regulating trust companies to be amended and to be allowed to enter into other fields of finance, to expand their operations, to be given more leverage and to obtain everything else they were requesting, they would have to abide by the rules of the land. I expected them to say that trust companies would have to abide by Section 10 of the Interest Act and by the provincial statutes in place in Ontario and Manitoba which cover the same circumstances as Section 10. That is what I expected to see, but I do not see it at all. I am disappointed that that initiative was not put forward by one of the three Ministers who have been questioned over a period of time on this matter.

In order to understand the full impact of what has been happening, we should examine how these people found a way around Section 10 of the Interest Act. We should see the way in which they manoeuvred and manipulated. First, they attacked the five-year period in that section. When a person went in for a mortgage renewal, they were led to believe that the renewal document was in effect starting the clock on the five-year period all over again. That is what people were told;