



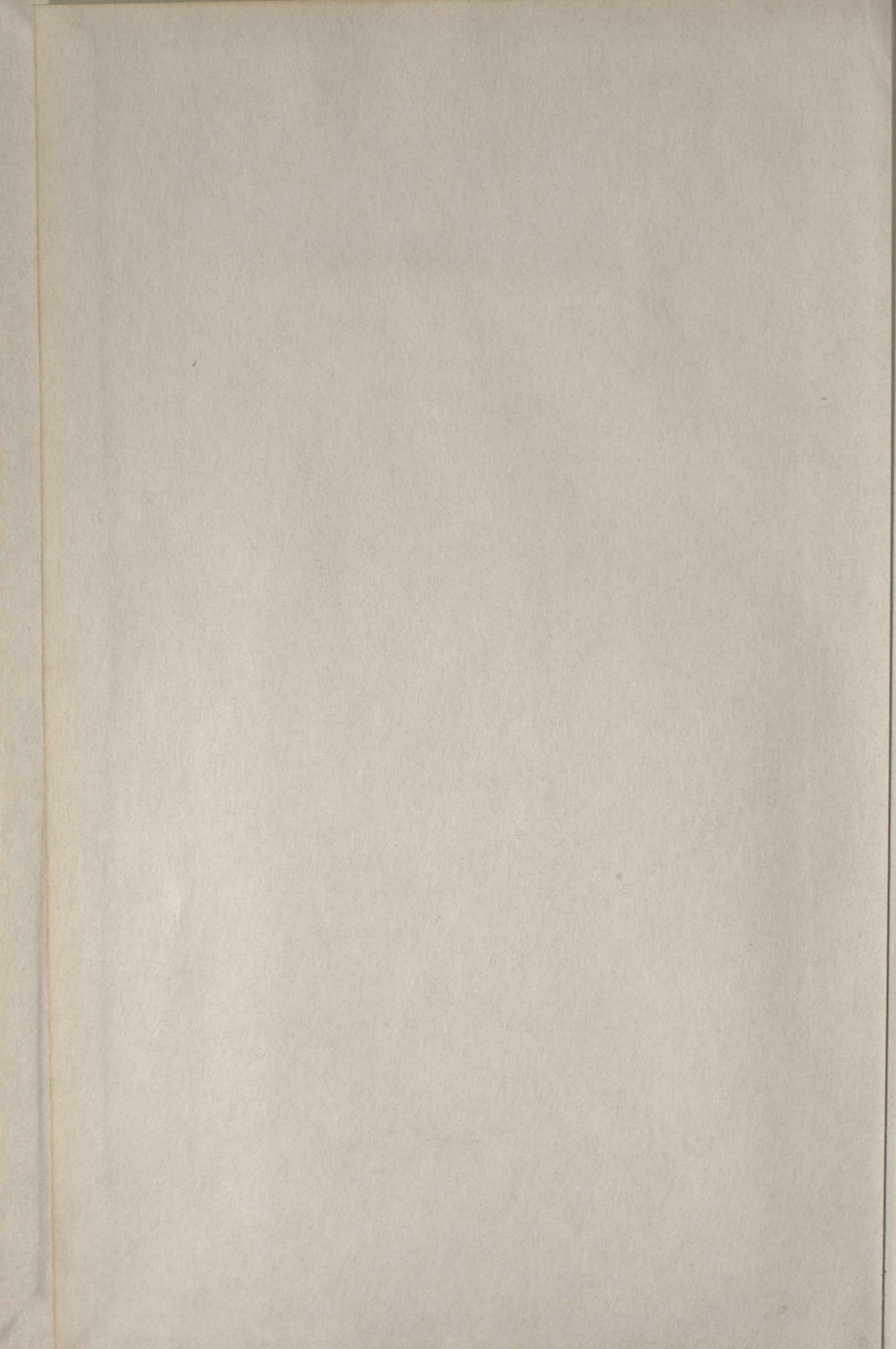
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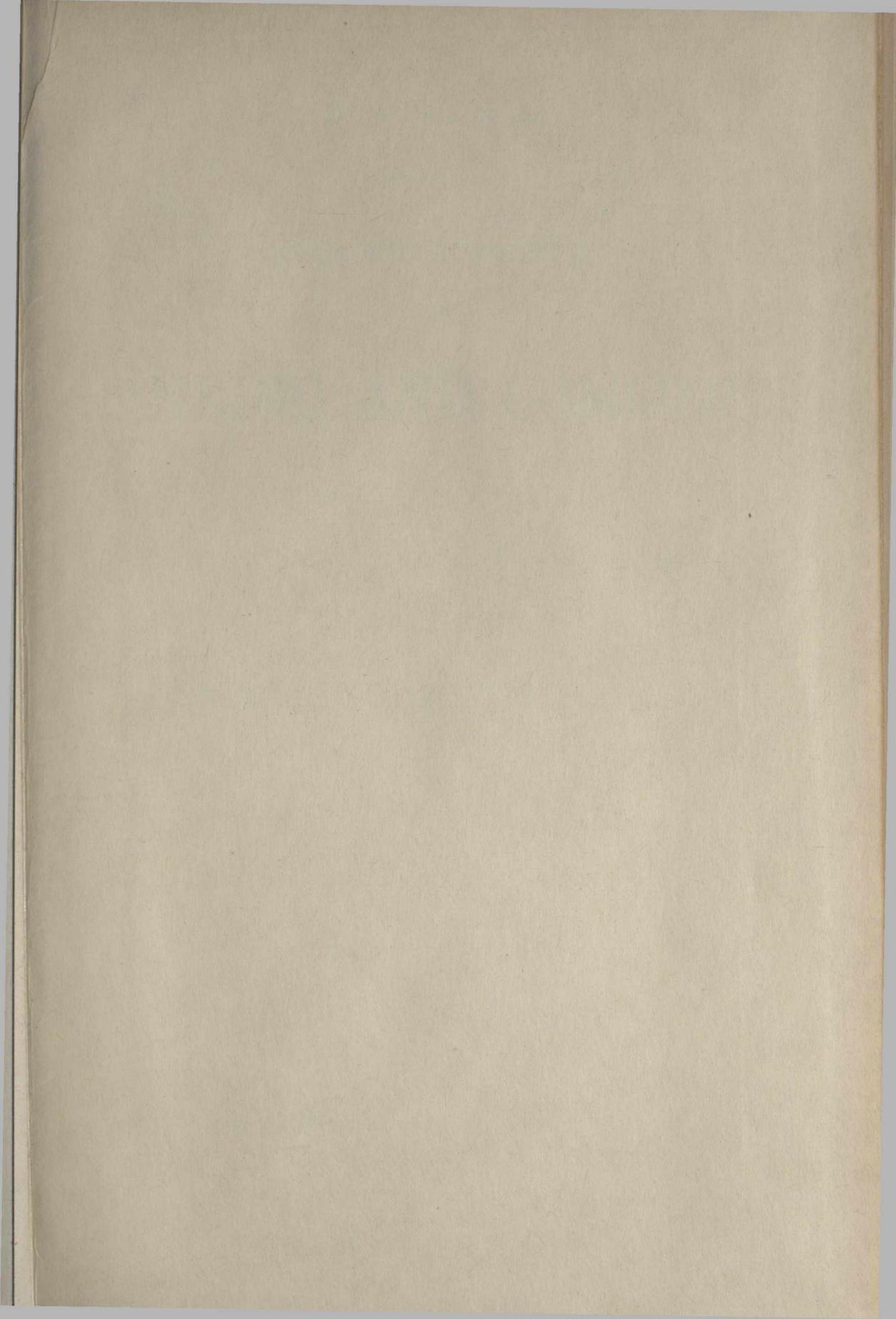
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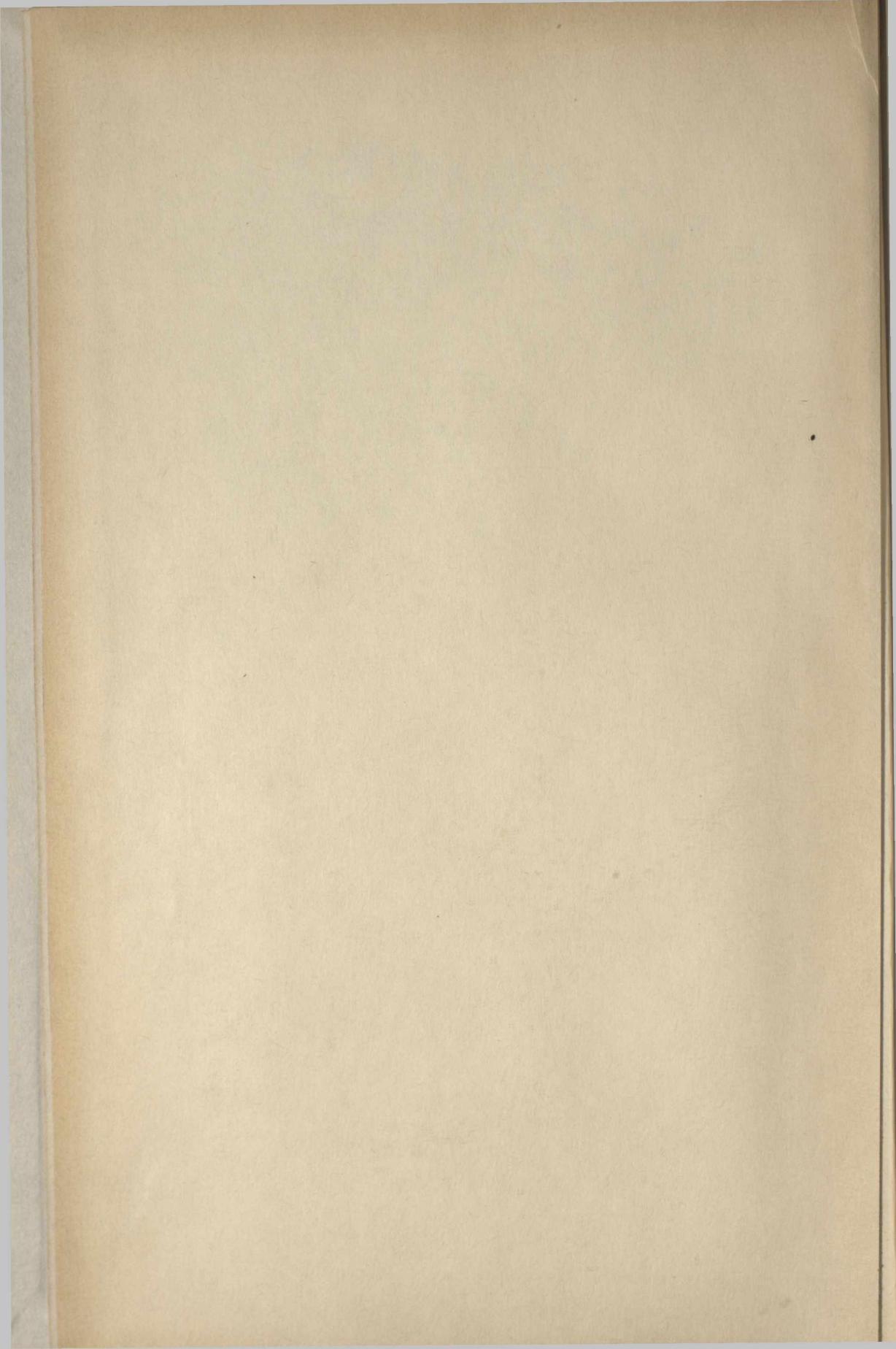
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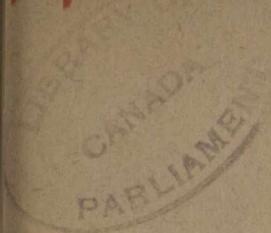






1938

1938



SESSION 1938
HOUSE OF COMMONS

No. 1
to No. 14
1 Copy

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 1

THURSDAY, FEBRUARY 17, 1938

WITNESS:

Mr. G. D. Finlayson, Superintendent, Department of Insurance, Ottawa

MEMBERS OF THE COMMITTEE

Mr. W. H. MOORE, *Chairman*

and

Messieurs

Baker,	Howard,	Malette,
Bennett,	Hushion,	Martin,
Cahan,	Jacobs,	Maybank,
Clark (<i>York-Sunbury</i>),	Jaques,	Moore,
Cleaver,	Kinley,	Perley,
Coldwell,	Kirk,	Plaxton,
Deachman,	Lacroix (<i>Beauce</i>),	Quelch,
Donnelly,	Landeryou,	Raymond,
Dubuc,	Lawson,	Ross (<i>Middlesex East</i>),
Dunning,	Leduc,	Rutherford,
Edwards,	MacDonald	Stevens,
Euler,	(<i>Brantford City</i>),	Thorson,
Fiset (Sir Eugène),	Mackenzie	Tucker,
Fontaine,	(<i>Vancouver Centre</i>),	Vien,
Fournier (<i>Hull</i>),	McGeer,	Ward,
Fraser,	McLarty,	White,
Harris,	McPhee,	Woodsworth—50.
Hill,		

R. ARSENAULT,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,

MONDAY, February 7, 1938.

Resolved,—That the following Members do compose the Standing Committee on Banking and Commerce:—

Messieurs Baker, Bennett, Cahan, Clark (*York-Sunbury*), Cleaver, Coldwell, Deachman, Donnelly, Dubuc, Dunning, Edwards, Euler, Fiset (Sir Eugène), Fontaine, Fournier (*Hull*), Fraser, Harris, Hill, Howard, Hushion, Jacobs, Jaques, Kinley, Kirk, Lacroix (*Beauce*), Landeryou, Lawson, Leduc, MacDonald (*Brantford City*), Mackenzie (*Vancouver Centre*), McGeer, McLarty, McPhee, Mallette, Martin, Maybank, Moore, Perley, Plaxton, Quelch, Raymond, Ross (*Middlesex East*), Rutherford, Stevens, Thorson, Tucker, Vien, Ward, White, Woodsworth—50. (Quorum 15.)

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House

Ordered,—That the Standing Committee on Banking and Commerce be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House

MONDAY, FEBRUARY 14, 1938.

Ordered,—That the following Bills be referred to the said Committee:—

Bill No. 7, An Act respecting Industrial Loan and Finance Corporation.

Bill No. 8, An Act respecting Central Finance Corporation and to change its name to Household Finance Corporation of Canada.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

MONDAY, February 14, 1938.

Ordered,—That the Standing Committee on Banking and Commerce be instructed to enquire into the practice of individuals, partnerships and companies in making small loans on personal security and to consider the maximum rate of interest and charges which should be permitted for such loans.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MONDAY, February 21, 1938.

Ordered,—That the said Committee be given leave to print, from day to day, 500 copies in English and 200 copies in French of its minutes of proceedings and evidence, and that Standing Order 64 be suspended in relation thereto.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORT TO THE HOUSE

FRIDAY, February 18, 1938.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIRST REPORT:

Your Committee recommends that it be empowered to print, from day to day, 500 copies in English and 200 copies in French of its minutes of proceedings and evidence, and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

W. H. MOORE,
Chairman.

THURSDAY, February 17, 1938.

The Standing Committee on Banking and Commerce met at 11 o'clock a.m. The Chairman, Mr. Moore, presided.

Members present: Messrs. Cleaver, Coldwell, Donnelly, Dunning, Edwards, Fontaine, Hushion, Kinley, Lacroix (*Beauce*), MacDonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Tucker, Vien, Ward.

In Attendance: Mr. G. D. Finlayson, Superintendent of Insurance.

The Committee had under consideration the following Order of Reference issued by the House on February 14, viz:

Ordered,—That the Standing Committee on Banking and Commerce be instructed to enquire into practices of individuals, partnerships and companies in making small loans on personal security and to consider the maximum rate of interest and charges which should be permitted for such loans.

On Motion of Mr. Vien,

Resolved,—That the Committee request permission to print, from day to day, 500 copies in English and 200 copies in French of its minutes of proceedings and evidence, and that Standing Order 64 be suspended in relation thereto.

The Honourable Mr. Dunning, Minister of Finance, made a brief statement.

Mr. Finlayson also made a statement on the activities of his Department since the last Session of Parliament, with respect to small loan companies.

General discussion followed.

Mr. Cleaver having moved that the Committee request permission to reduce its quorum from 15 to 10, the motion was allowed to stand until next meeting.

On motion of Mr. Cleaver,

Resolved,—That a sub-committee consisting of the Chairman, and Messrs. Coldwell, Martin, Tucker, and Vien be appointed to prepare an agenda and report at the next meeting.

On motion of Mr. Tucker,

Resolved,—That the Provinces be invited to make representations before the Committee on the subject matter of the reference.

Mr. Finlayson laid on the table the Report of the Superintendent of Insurance for the year ending December 31, 1936, with respect to small loan companies, and copies were distributed to members of the Committee.

On motion of Mr. Donnelly the Committee adjourned to the call of the Chair.

R. ARSENAULT,

Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,

FEBRUARY 17, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m. Mr. W. H. Moore, presided.

The CHAIRMAN: Gentlemen we have with us this morning the Minister of Finance. I suggest we have a statement from him to open the proceedings.

Hon. Mr. DUNNING: Mr. Chairman, I believe every member of this Committee is familiar with the matters that were before us last session. I see nearly all of the members who took a particular interest in the subject matter at that time here this morning. Since that time the report of the Superintendent of Insurance with respect to small loan companies for the year ending December, 1936, has been printed. Included in that report is a great deal of the relevant information which was secured by the committee last session, and which it was thought would be of use to the committee this session in further developing this subject. I understand there are sufficient copies available, Mr. Finlayson, for every member of the committee, and I am quite sure that all will agree that the information contained in this blue book is well worth studying in order to reach any appreciation at all of the nature of the problem with which we have to deal.

The committee has now before it two bills, and also a general reference. I suggest to you, Mr. Chairman, that the first thing for the committee to decide is as to its order of proceeding. Personally, I am of opinion it would be quite useless to attempt to deal with the bills which are before us before dealing with the general reference on the whole subject of small loans. That, however, is my personal view. It is entirely for the committee to decide. It seems to me that we would be in rather a peculiar position if, after having decided pro or con with respect to the bills we then found it necessary to recommend something different with respect to the general law.

Developments during the year in relation to the problem will come up in due course. Mr. Finlayson is here and will be present at all the meetings of the committee for the purpose of giving information; and I presume the committee will be glad to hear from anyone who can contribute any information on the subject. As to whether the committee will from time to time call any person is for the committee to consider in the light of the discussion as it develops.

Since we last met the province of Ontario has become interested in this matter from one of its angles, which is not strictly under dominion jurisdiction. As was developed at the last session of parliament, during the committee's proceedings it became very clear that a large proportion, a proportion which could not be accurately determined, of small loans abuse was outside of dominion jurisdiction entirely, inasmuch as the business was being carried on in several of the provinces by provincially incorporated companies, not amenable, therefore, to our general small loans law, but amenable to such laws as might exist within the province; also the great bulk of lenders of small loans is, of course, individuals who are not registered, not incorporated, and difficult to find. I believe that the Attorney General of Ontario is endeavouring to take steps in that regard. There was an interview some two or three weeks ago between the Attorney General of Ontario and officers of the Department of Justice here. The Department of Finance was not concerned with that matter; but it might be desirable as the committee work proceeds, Mr. Chairman, to hear from the Department of Justice with respect to that phase of the matter. It might also be desirable—again I say in the judgment

of the committee, inasmuch as Ontario is the province most affected by this class of business, more affected than any other at any rate—to ask officers of the Ontario government to come before the committee. Inasmuch as it is pretty generally conceded that the subject is one of—I can hardly use the correct word here. I suppose duplicate jurisdiction is hardly correct; overlapping jurisdiction is not correct; confused jurisdiction is certainly correct—very much confused jurisdiction, we have a very difficult task, largely because of that factor in the situation.

I believe that is all, Mr. Chairman, I have to say this morning. I presume that your object at this meeting is to lay down lines of procedure and endeavour to decide from what angle the committee wishes to attack the subject first. Possibly you might have in mind some person whom you might like to call before the committee. The best suggestion I can make is that every member of the committee read again this blue book and also the record of the proceedings of the committee of last session with regard to the whole question.

The CHAIRMAN: Thank you, Mr. Dunning. Is it your pleasure to have a statement from Mr. Finlayson?

Some Hon. MEMBERS: Yes.

Mr. G. D. FINLAYSON: Mr. Chairman and gentlemen, I did not bring with me any prepared statement as to what has been done since last session's committee; but possibly the committee would be interested in knowing just what has developed since we last met. In anything that we have done since last session we have been guided very largely by what I thought was the sense of the committee in its sessions last year. There were several suggestions made at that time as to what the department might have done with a view to clearing up some of the difficulties that are involved in this subject. One of the suggestions was that the department might have done something to find out exactly what were the powers of the small loan companies incorporated by dominion legislation. I agreed that it was in our power to do something of that kind, although I thought that the proceedings would probably be very prolonged.

There are three of the small loan companies incorporated by parliament. The special acts of all of them make them subject to certain provisions of the Loan Companies Act. One of the applicable provisions is that one requiring companies to obtain a licence from the Minister of Finance; and those three companies have obtained licences under that Act.

There is a provision under that Act for issuing limited or qualified licences, with such limitations or qualifications as the minister deems proper. There is provision for an appeal against the report on which a limited or qualified licence may be issued, and that report is equivalent to a ruling which may be the ground of the appeal.

Now, you will recall that one of the questions discussed last year was as to whether these companies are justified in charging against borrowers a chattel mortgage fee of \$10 or less when they make no actual disbursements to outsiders in respect of the chattel mortgage. That was one of the questions. The other question was whether they were entitled to charge against the borrowers two per cent of the amount of the loan for expenses when they could not account for that expense having been incurred on a particular loan.

I thought there was a possibility of having that question cleared up, and I recommended to the minister that one company which seemed to be typical and which seemed to present all the questions at issue should receive a limited, qualified licence; the limitation or qualification being this: that the company should not charge to borrowers a chattel mortgage fee if the expense in connection with the chattel mortgage had been paid only to their own employees, or to a company which was incorporated or formed by that company for the purpose of doing the chattel mortgage business. That licence was issued on May 15th last.

[Mr. G. D. Finlayson.]

The company took an appeal against that report and I certified to the ruling, and it was filed in the Exchequer Court and proceedings commenced. The Act provides that if the appeal is taken and diligently prosecuted by the company the ruling is suspended, pending judgment. The company took the appeal and thereafter the limited or qualified licence—which was issued for only two weeks—was renewed without qualification. That appeal has not yet reached a hearing. In fact I think the papers, the statement of facts to be agreed upon, may not yet be filed. I believe they will be filed any day now. It has been a great disappointment to me that the proceedings have been so long drawn out; but we do not appear to be able to do anything to expedite them. That is where it stands at the present time.

Mr. TUCKER: Mr. Finlayson, was there anything in that about their right to charge interest by way of discount? There was a suggestion they were entitled to charge interest at the rate of seven per cent per annum, and they were charging that by way of discount and were not earning it by way of interest.

Mr. FINLAYSON: No. In the case of that particular company the question of interest did not arise, Mr. Tucker, because the company got an amendment to its Act of incorporation in 1934 which, I think, clears up that point.

Mr. TUCKER: What about the others?

Mr. FINLAYSON: The other two companies did not get such an amendment so it does arise with regard to them. But the reason I did not think it necessary to deal with that question by ruling is that there were actions pending in the court which were likely to determine that point. I was going to refer to those actions. You will recall that one of the companies, the Industrial Loan and Finance Company, had obtained an adverse judgment at the end of 1936 in the Circuit Court of Montreal—that is the Kellie case. Another action involving very much the same points came before the Superior Court in Montreal in January last, January 1937. That was the Jackson case. The decision practically reversed the decision in the Kellie case, and an appeal was taken against it by the borrower.

There have been delays in getting the appeal heard. I understand it was on the rolls for last September or October, but quite far down and it was not reached. I am not sure that it has been reached yet. However, I believe when that appeal is heard it should clear up with fair finality the question of interest.

There was a suggestion made last year also that we should look more closely into companies, incorporated by the dominion under the Companies Act, which were supposed to be doing small loan business. I had knowledge at that time of only one of these companies, and I said to the committee that I thought it was complying fully with the legislation of 1934 imposing the two and one half per cent limitation; although I felt quite sure that it was not complying with the Money Lenders' Act, the twelve per cent limitation. However, I thought I should check up on that and I wrote to that company, and after some delay I found that they were not complying with the act of 1934. That was a company in the province of Saskatchewan doing a small loan business, very largely automobile small loan business, I believe.

Mr. COLDWELL: What company was that?

Mr. FINLAYSON: That was a company in Regina, the Crescent Finance Corporation.

Mr. VIEN: Under letters patent of the Secretary of State?

Mr. FINLAYSON: It was incorporated by letters patent under the Dominion Companies Act.

Mr. VIEN: With powers to lend money?

Mr. FINLAYSON: It had powers to lend money, yes.

Mr. DONNELLY: General powers under this legislation?

Mr. FINLAYSON: General powers but not under this legislation.

Mr. VIEN: Would not that enter into conflict with the Money Lenders' Act or the Loan Companies Act?

Mr. FINLAYSON: Yes, that is what I have told them. I told them that they are subject to the Money Lenders' Act because any company incorporated by letters patent comes under the Money Lenders' Act. Parliament can override the Money Lenders' Act, but letters patent cannot override the Money Lenders' Act. However, I understand they were not only contravening the Money Lenders' Act, but were also contravening the legislation of 1934; that is, they were charging more than the 2.5 per cent interest on small loans. Their rate of interest went up to 4 per cent per month.

Mr. VIEN: Did they have a licence from your department?

Mr. FINLAYSON: Oh, no. They are under no obligation to take licences. You see, licences are obtained only under the provisions of special Acts.

Mr. VIEN: Loan company Acts.

Mr. FINLAYSON: Yes, which make the Loan Companies Act applicable.

Mr. VIEN: Yes.

Mr. FINLAYSON: It is under the Loan Companies Act that they are required to get licences. Well, this company declared it was not aware of the 1934 legislation, and the officers immediately said that they would revise their rates, and they have done so, to a maximum of 2½ per cent. They have also agreed to make adjustments of all outstanding loans so that the borrowers will have ultimately the benefit of a maximum rate of 2.5 per cent.

Mr. COLDWELL: Are there any other companies in Regina in the same class, Mr. Finlayson?

Mr. FINLAYSON: Not that I know of.

Mr. VIEN: Are there any other such companies in Canada?

Mr. FINLAYSON: I have been informed that is the only one in Regina doing that kind of business.

Mr. COLDWELL: There was a company a few years ago called the Atlas, which was charging a fairly high rate of interest.

Hon. Mr. DUNNING: Our difficulty there is that we have no way of finding out where these companies are.

Mr. FINLAYSON: That is the point about which I am speaking. We are trying to find out what other companies there are. We are going further and we are trying to find out the extent of the business of provincially incorporated companies. There is no register of these companies in the dominion or in the provinces. The provinces for the most part have no accurate knowledge. However, we did compile an unofficial list from advertisements and such information as came to us, and we circularized the Attorneys-General of all the provinces and asked for co-operation in getting a questionnaire sent to these provincial companies. Some of the provinces, I may say, were not very anxious to have anything to do with it, but ultimately I think they all distributed our questionnaire; although some of them have asked us to get the returns direct from the companies and not to trouble them in the matter. We sent out in all 145 questionnaires. I am perfectly sure that a great many of these companies are not doing this business at all, but their names seemed to indicate that they were and we sent the circulars to them. These circulars went out two or three months ago. They have been very slow in coming back. We have only got in 28 of them to date. Of these 10 did not do a small loan business, so that leaves about 18 companies from which we have reports doing a small loan business. I do not think we have got the larger ones, but the figures that we have received so far would seem to indicate that the volume

[Mr. G. D. Finlayson.]

of that unregulated business has been very greatly exaggerated. I do not think anyone has ever tried to make an exact estimate of that business. The most complete and the most authoritative statement I have seen was that included in Mr. Forsyth's memorandum submitted to the Senate committee in 1936. He said on page 8 of that memorandum, which is on the record of last year—any members of the committee can find it for themselves—

At best one can only guess at the relative volume of business transacted by the chartered companies and by others, and it would possibly be safe to say that the chartered companies do not do 10 per cent of the total amount of the business done.

That is, that the total business would be ten times what our own three companies do. Now, our own three companies I think at the present time make about \$7,000,000 or \$8,000,000 of loans a year; that their outstanding balances will be in the neighbourhood of about \$4,000,000 at the present time; if this estimate is correct, the total for Canada would be \$80,000,000 of loans made and \$40,000,000 of outstanding balances. The figures I have been able to get as yet would seem to indicate that that is a very great overstatement, although I cannot even form an estimate from the partial returns we have received.

Mr. MARTIN: It is obviously difficult to determine anything about the loans made by companies not operating under either a federal or provincial charter.

Mr. FINLAYSON: Yes, it is difficult for us to get such information. We cannot compel companies to give it, and most of the attorneys-general tell us that they have no power to get it if the companies do not want to give it. I am inclined to think that some of the companies are waiting to give us the 1937 figures. We asked originally for 1936, but we have told them that we will accept the other figures. Some of them may be able to give us the figures for both.

Mr. MacDONALD: Then there would be a lot of companies operating under neither a dominion nor a provincial charter?

Mr. FINLAYSON: Of course, there will be individuals and partnerships.

Mr. MacDONALD: Yes.

Mr. FINLAYSON: What the extent of that will be—I think there will be quite a number of them, but I should not think that the volume would be very great.

Mr. VIEN: There are provincial charters still in operation?

Mr. FINLAYSON: I think most of these are provincially incorporated companies.

Mr. VIEN: All right.

Mr. FINLAYSON: Of these 145 companies there may be a few partnerships and individuals, but most of them are provincially incorporated companies.

Mr. VIEN: They are not regulated, are they?

Mr. FINLAYSON: No. That is one of the questions we asked, as to whether they were under regulation or not and invariably they say that they are not under regulation.

Mr. WARD: Did I understand you to say, Mr. Finlayson, that many of these companies operate without a provincial charter?

Mr. FINLAYSON: I think there are some partnerships and individuals in the business.

Mr. VIEN: Not some, a great number.

Mr. FINLAYSON: And they are not incorporated at all.

Mr. VIEN: There are a great many of them.

Mr. FINLAYSON: I think there will be a good many of them, but I think the volume of the business done by these individuals and partnerships will not be found to be very large.

Mr. DONNELLY: It has been a great problem all over the country and it will be very difficult to regulate them.

Mr. MARTIN: You simply cannot do it.

Mr. FINLAYSON: Yes. The minister has referred to the action taken in the Ontario courts. I will just read to members of this committee reports of cases that have been investigated. I am not sure that these are the ones in which action has been taken, but they are the ones which figured in the press reports of the provincial activities. The one thing which strikes me about these loans is that they are all comparatively small. I have a list of them here. We have taken the trouble to compile the rate of interest on the basis of the information contained in the press. The first one was a loan by which the borrower received \$9.50. He promised to pay \$10 a week hence. Now, you can see he was paying 50 cents on the \$9.50 loan for one week's accommodation. That amounts to the rate of 5.26 per cent per week. If you convert that into an annual effective rate, that is by accumulating the rate of interest weekly, you get an annual rate of 1,339 per cent per annum. The second one was for \$45; \$8 a month for seven months; \$4 at the end of the eighth month; so that the lender was going to get \$60. That is \$15 on a loan of \$45 for eight months. That works out at 7.27 per cent per month, or at 132.1 per cent per annum. The third one was for \$50 and works out at \$3.07 for two weeks; a rate of 119 per cent. The fourth was for \$28.70 and the interest works out at 12 per cent every two weeks. I will just give you round figures on these. Then a \$36 loan and the rate of interest is 11 per cent for two weeks. The next was a loan of \$15 and the rate of interest works out at 10 per cent for two weeks. The next is a loan of \$9 and the interest works out at the rate of 11.11 per cent for two weeks. Now, here is a good one: a \$10 loan, which works out at 30 per cent for two weeks; or an annual rate of 91,634 per cent per annum.

Here is a bigger one: \$102 of a loan, and the interest works out at a rate of 2.02 per cent for two weeks. That is equivalent to an effective rate of 68 per cent per annum. Then, a loan for \$18 which works out at an effective rate of 1,447 per cent per annum.

Mr. VIEN: How many cases have you just referred to? Are these replies to your questionnaire?

Mr. FINLAYSON: This is not material supplied in reply to our questionnaires. It is a record which we have made up from material which we have taken from the press.

Hon. Mr. DUNNING: These are the Ontario prosecutions.

Mr. FINLAYSON: I think probably some of them are involved in the Ontario actions.

Mr. VIEN: Do you know how many cases of litigation have been instituted by the province of Ontario?

Mr. FINLAYSON: I think there are 7 or 8 cases.

Mr. VIEN: Then, they are only typical cases taken at random.

Mr. FINLAYSON: I think so. I think you will find that nearly all of these cases are comparatively small loans; loans of the type referred to as "pay day" loans.

Hon. Mr. DUNNING: Is there any indication, Mr. Finlayson, in connection with these typical cases, of the volume of business being done by the lenders?

[Mr. G. D. Finlayson.]

Mr. FINLAYSON: None at all; that is what we are trying to get. This is what we know as unregulated business.

Hon. Mr. DUNNING: There is no possibility of finding that out?

Mr. FINLAYSON: We could not get anything at all on the question from the provinces; we have had the co-operation of the provinces in getting this information for a list compiled from unofficial sources.

Mr. MARTIN: That was my thought on the question, that there is no way of determining whether the business they do is large or small.

Mr. FINLAYSON: Perhaps the only other thing I need do, gentlemen, is to refer to this report (Report of the Superintendent of Insurance re Small Loan Companies). There were so many questions raised last year that I thought I should try to set out the legislative background of these various Acts, and also to give a little of the history of interest regulation in Canada from the beginning.

Mr. TUCKER: Before you pass on, will you tell us how far the prosecutions have gone?

Mr. FINLAYSON: Our latest information was that none of them had come to a hearing. I am told that some of them will be reached for hearing on the 19th of February. That is my latest information.

Mr. TUCKER: These prosecutions, I understand, are under the Money Lenders' Act.

Mr. FINLAYSON: I think they are under the Money Lenders' Act, yes.

Now, this report has been circulated; other copies are available. Perhaps I might just indicate the makeup of the report. I give first the statement of the three companies for 1936 and then certain summaries for the years during which they have been operating; and then, in appendix B, commencing on page 35, you will find a review of the legislation enacted regarding interest, usury and money lending; first, before confederation, and then, since confederation; and you will find here legislation referring to interest and also the Money Lenders' Act.

Mr. VIEN: The Loan Companies Act has not been given here; at least, the sections applicable through the Loan Companies Act?

Mr. FINLAYSON: No, but we have copies of the Loan Companies Act available.

Mr. VIEN: I think it would be good for us to have that.

Mr. FINLAYSON: I will have that here for the use of the committee.

Mr. VIEN: All right.

Mr. TUCKER: On page 41 will be found "An Act to amend the Loan Companies Act."

Mr. FINLAYSON: That is the Act of 1934. I think Mr. Vien refers to the provisions of the main Act which is made applicable to these companies by the other Acts.

Mr. VIEN: I refer to chapter 28 of the Revised Statutes of Canada.

Mr. FINLAYSON: Quite. Then, the question arose last year as to the origin of these special Acts, the Acts of these three companies, and commencing at page 47 of the report I have tried to get back to the first company of the kind which came to parliament. That was a company called "Morris Plan (Loan Company of Canada)." I have found out since that the bill was sponsored by the Morris Plan Loan people in the United States, but after undergoing various transformations that bill did not pass and it never came before parliament again. You will find in that bill some of the features which have entered into the special acts of the three small loan companies. Then, you will find the record of the bills of our companies through parliament; certain proceedings in the com-

mittee; and then the Act of 1934—as Mr. Tucker has stated—is shown at page 41—the Act to amend the Loan Companies Act. Then there is a record also of the proceedings in parliamentary committees in 1936 and 1937. In 1936 the proceedings were in the Senate. You will find there a copy of a memorandum I submitted to that committee.

Mr. VIEN: At what page?

Mr. FINLAYSON: That is at page 64.

Hon. Mr. DUNNING: Have you got an index in this report?

Mr. FINLAYSON: Yes, there is one.

Then, later on, there is a record of the decisions in the courts which we discussed last year. You will find that on page 76.

Then, there are certain rulings that have been made. On page 115 you will find certain loans of the companies re-made and extended over a considerable period. That was one of the questions which arose in the later stages of the committee last year. Then, there is a note on the jurisdiction problem. Now, with a view to trying to get something definite on the question of jurisdiction we have discussed the matter with the Department of Justice to see if there was an possibility of getting a reference to the Supreme Court of Canada which would help. The department considered it very carefully, and were in touch with the Attorney General of Ontario; but they had to tell us at the end that they could see no way of getting the question before the Supreme Court of Canada in such a way as to be of assistance to us; that any answer we might get from the Supreme Court of Canada would be so full of reservations and qualifications that we would still have to depend on the decisions of the courts in actions coming before them; if that is the case we might as well rely on the courts without a reference to the Supreme Court of Canada. However, I think the suggestion of the Minister to have someone from the Department of Justice here to explain the intricacies of the problem is one which should be adopted.

Now, I am prepared to answer any questions you may care to submit after this very hasty sketch of what we have been doing. I have not got my files here but if you will say what you would like for the next meeting of the committee I shall be glad to have them here.

Mr. COLDWELL: In these general discussions of the small loan business will the committee have the power or the opportunity of including in its investigation automobile loans and small loans of that type.

Hon. Mr. DUNNING: That is not comprehended in the reference.

Mr. COLDWELL: Oh, it is not? I had hoped we might have some opportunity of going into that.

Mr. FINLAYSON: I think the term small loans limits the investigation to companies whose business is the making of small loans, direct from lender to borrower. I think there is a distinction between the small loan companies and companies whose business is the financing of commercial paper. I think the latter come in another field.

Hon. Mr. DUNNING: That would open up the whole field of instalment buying, a very attractive field; but I am afraid we would lose ourselves in the woods if we got away from the specific thing which we can deal with.

Mr. VIEN: It would be altogether too much involved for the committee to deal with it concurrently with small loans and the Companies Act. That is a totally different field.

Hon. Mr. DUNNING: You get into the field of chattel securities and mortgages, a provincial question. It is a business which is quite widespread throughout the country.

Mr. COLDWELL: Very high rates of interest are charged, and it is comparable to the small loan business in some respects.

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Hon. Mr. DUNNING: In basis they are similar.

Mr. COLDWELL: Yes.

Mr. WARD: Mr. Chairman, I recall that the Minister of Finance, Mr. Dunning—whom we are all very pleased to have with us this morning I am sure—did make a statement, I think, something to this effect, that the government was considering bringing down general legislation to deal with the whole question of small loan companies. I do not remember whether or not he qualified that by saying in so far as it was within the jurisdiction of the federal parliament.

Hon. Mr. DUNNING: I think it was.

Mr. WARD: Yes. Do I understand by Mr. Finlayson's statement that no move has been made yet in the direction of bringing down general legislation or effecting co-operation with the provinces to deal broadly with this whole question of small lending or the making of small loans and these very high rates of interest being paid?

Hon. Mr. DUNNING: I can perhaps answer that best by saying, Mr. Chairman, that Mr. Finlayson's detailed report of what has been done is an indication of the approaches which have been made in that regard. There is no doubt in the minds of any of us who have been studying this question for the last number of years that, were it not for the jurisdictional difficulty, we could deal constructively with this whole matter. We are faced, so it seems to me, with the question of determining whether the dominion shall have legislation affecting small loans at all. If it does, it may make of that legislation whatever it wishes; but of course it cannot compel those engaged in the small loaning business to remain under its jurisdiction, under the dominion jurisdiction, if the terms of that jurisdiction are less favourable to their business than the terms of any legislation which may be in existence or may come into existence in any of the provinces. That is qualified only, of course, by the existence of the Money Lenders Act—the control of the rate of interest. That gets us into the constitutional question as to what is interest, as to whether interest can be made to include charges other than the actual rate of interest—charges for expenses and so forth—which have been referred to this morning by Mr. Finlayson. We did make an effort, as Mr. Finlayson has indicated, to get the matter before the courts in order to determine definitely our jurisdiction. We thought it could be gotten before the courts by way of a reference, the other cases having failed to come to a hearing; but when the Department of Justice set out to try to create the kind of reference which would bring the kind of answer upon which we could base action, the qualifications involved were so broad—the nature of the charges, the entry of the chattel mortgage aspect, of property and civil rights and half a dozen other things—that they found it impossible to cover it adequately in a reference. It may be—but I do not want to speak too positively at this stage of the proceedings, because of the tangled legal and constitutional nature of the matter—that the only way to settle the matter may be either, on the one hand, to assert dominion jurisdiction and leave it for attack by those who are opposed, who believe that we have not got it with respect to the charges other than interest; or, on the other hand, to say frankly in view of the dominion's inability to completely control this business: we will maintain the Money Lenders Act and we will have nothing further to do with the small loan business at all. It seems to me, offhand, that those are two courses which might offer themselves. On the other hand, I do not want to give up, without an effort—and I do not believe this committee wants to give up without a real effort and a real study—the possibility of getting some nation-wide control over this type of business.

Some Hon. MEMBERS: Hear, hear.

Hon. Mr. DUNNING: But when I say that, I am very deeply conscious, as I was last session, of the very grave difficulties in dealing with that situation. It is for that reason that it comes before this committee in the shape that it does, by way of a general reference, so that you will have the opportunity of getting to know all that there is to know about the subject. But I can say for myself, and I think Mr. Finlayson will agree, that but for the jurisdictional aspect of the matter we would have no difficulty.

Mr. FINLAYSON: That is right.

Hon. Mr. DUNNING: But in drafting anything we must have regard to it. Oh, we can, if we wish, put on the statute books a small loans Act in which we say the rate of interest charged for these loans shall not exceed half of one per cent a month, if we like. But that does not mean that we are thereby controlling the small loan business of this dominion; because we know as a fact that companies not satisfied with such a rate would simply not take out dominion incorporation, but could operate in any province in Canada under the laws of that province and subject to the Money Lenders' Act. Being subject to the Money Lenders' Act involves prosecution on the part of the Attorney-General of a province for infractions of that act. So that you see, there is the machinery. If we assume for a moment that the dominion is out of the small loan business except for the Money Lenders' Act, then the machinery for enforcement is the ordinary machinery for the administration of justice, the provincial Attorney-General's department in each province. I think any lawyer here will confirm that. I am just trying to sketch the breadth and nature of the problem. If it were easy of solution, we would not be here. It is very, very difficult. So that we have the broad general question as to what is a reasonable way of doing this business. That is one question. Then, secondly, there is our ability to enforce that reasonable way of doing business, once we have arrived at what it is. It seems to me those two things set out pretty much what the job before this committee is.

Mr. TUCKER: Mr. Chairman, first of all I would like to compliment Mr. Finlayson on getting this report out. I am sure it will be very valuable to the members of the committee. I have thought something, in the time I have had left from worrying about drought and so on out West, about this matter since last year's meetings of this committee; and it seems to me that the situation comes down to this—and it was emphasized again by Mr. Finlayson this morning. The suggestion seems to be that, because individual lenders and corporations incorporated by provinces are lending money at exorbitant rates of interest, we are thereby constrained to agree to the rates of interest asked for by the small loan companies who are applying to the parliament of this country for incorporation; otherwise they will go and carry on business in an unrestrained fashion under provincial jurisdiction. That seems to be the argument that is put up to us continually. They say to us: "You may think that our charges are high, but our charges are much less than the charges that will be charged by these other uncontrolled companies." That raises the whole question. I certainly appreciate the way the Minister of Finance has handled this matter. It raises the whole question of what we are going to do about it. In other words, the suggestion is that we should choose the lesser of two evils. I am not prepared to adopt that view at the present moment. In the first place I am quite satisfied that the question of overcharging—it does not matter whether you call it interest or for service charges or for drawing documents; it does not matter in what way you put it—can be handled. If you charge more than is conscionable for the use of money, that can be made a crime. I have no doubt about that at all. But, of course, I think that we should have the opinion of some official of the Department of Justice and also some opinion from the different Attorneys-General departments of the provinces. But I am satisfied that the over-

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charging for the use of money, in whatever way it is done, whether you call it interest or otherwise, can be made a crime. So that I would suggest that the first thing we should direct our minds to is this, the possibility of enacting into the Criminal Code some legislation which would make it a crime to charge, on any ground whatsoever, more than a certain stated amount for the use of money; in other words, putting some teeth into what we have tried to do under the Money Lenders' Act.

As I understand it, Ontario says that their difficulty in prosecuting is this, that the Money Lenders' Act only purports to deal with interest and they are going to be faced with the claim that they may charge for other than interest. I think the way to get around that is to put it right in the Criminal Code.

On the question of enforcement, I realize that if it is put in the Criminal Code, there is a question of enforcement by the provinces; and one of the things that we should bear in mind is the extent to which we can expect co-operation from them. But there is also this, that our Excise Act and other acts are enforced by our mounted police; and if we set up a crime, and we, representing the people of Canada, think that this is worthy of being set up as a crime, we can actually have our mounted police lay charges, and perhaps cut this down. It seems to me that deals with the problem raised by Mr. Finlayson. We are told that if we do not incorporate these companies with very high rates of interest, we will have these individuals lending money uncontrolled. If you make it a crime, and find they are loaning money uncontrolled like that at higher rates of interest, it seems to me you have got better control over them than you have in any other way, because you can put them in jail for doing so. Having cut down rates to the limit that we think is fair to charge for the use of money, then we can attack the whole problem of controlling these other companies; because if they cannot actually lend at high rates of interest without running the risk of going to jail, then we do not run the risk of driving them away from this parliament when we actually put a restriction on rates and ask them to submit to supervision.

It seems to me that our first duty should be to inquire into the whole question of how far we can go in amending the Criminal Code and the Money Lenders' Act under the dominion heads of jurisdiction of interest and criminal law, to set a definite limit to this alleged evil. If we find that we can go to any length there, it may put a different face on the claim of these companies that they must have two or two and a quarter per cent a month, otherwise others will take the business away from them and they will be forced to simply do business under provincial jurisdiction. It seems to me, and I would so suggest, that our first step should be to ask for an official of the Ontario Attorney-General's Department to come in and tell us how he has got along with these prosecutions, and what he thinks should be done to enable him to really control this evil in Ontario; and also get an official of our own Department of Justice to tell us what he thinks of it.

Mr. VIEN: Mr. Chairman, I think that we are face to face with a condition that we must consider. Everybody, I think, agrees that if we could cut down the rate of interest in an efficient way, in a practical way, that should be done. This matter has been studied not only in Canada, but has been studied in other countries as well—in the United States, in Germany and in Great Britain.

The CHAIRMAN: Pardon me a moment, Mr. Vien. The minister has to leave to attend council, and I wanted to ask one question following on Mr. Tucker's suggestion. What would be the form of invitation to the provinces? Would it come through the government or through the committee, or what would you suggest?

Hon. Mr. DUNNING: I think a formal notification from the chairman of the committee, a committee of parliament looking into this matter that he would appreciate having available an official who could give information on this and that is the usual course.

The CHAIRMAN: May I ask another question? Is this matter properly before the Dominion-Provincial Relations Commission that is now in session?

Hon. Mr. DUNNING: Well, it is not. They have not called you, Mr. Finlayson, have they?

Mr. FINLAYSON: There has been no representation made on the subject of small loans.

The CHAIRMAN: The reference refers in a general way to overlapping jurisdiction.

Hon. Mr. DUNNING: The Rowell Commission, of course, could investigate that phase of overlapping jurisdiction. The committee might desire to have it brought to the attention of the commission. There is no objection. Perhaps the province of Ontario, as a result of the difficulties they are now encountering, may intend to include it in their representation. I do not know that. I never thought of it from that point of view, because it has not anything primarily to do with dominion-provincial economic relations. It is just a matter of overlapping of jurisdiction, not involving much expense on either side. It is an overlapping which affects the public rather than the cost of government, and for that reason has not been specifically included. But there is nothing to prevent it. Judging from some of the things the Rowell Commission are hearing, I am quite sure this would not be outside of their scope. I am sorry I have to go, Mr. Chairman. I only want to suggest to the committee that if it could plan its work so that it could deal with specific phases and clean up specific phases as it proceeds, it might be advisable. Mr. Tucker, of course, proceeds to a conclusion with great rapidity; but that conclusion, may I suggest to him, rests upon a particular view of the jurisdictional matter, that view being that the dominion can include any charge within the term "interest" and be within its constitutional powers, which refers specifically and directly to interest and to interest only. That is the whole nub. As a lawyer, he is of opinion that any charge which is characterized as other than interest is really interest and therefore comes within dominion jurisdiction.

Mr. TUCKER: Or can be dealt with as a crime. If you overcharge a person for the use of money, you are doing something wrong and therefore you can make it a crime.

Hon. Mr. DUNNING: Of course, the claim would be made that they are not charged for the use of money at all, but that they are charged for preparing documents or charged for chattel mortgages or charged for something else—that for the use of the money they are charged so much, but the other charge is for another thing altogether. However, you are a lawyer and I am not. But I know that most lawyers with whom I have had occasion officially to talk about the matter are not nearly so positive as you are that we can do it in that fashion. It may be that might be the way out. I do not know.

Mr. TUCKER: I am inclined to accept your suggestion that we assert that jurisdiction.

Hon. Mr. DUNNING: I did not suggest that. I did say that was one course that was open to us. I hope that is clearly understood. In my own thinking, I can see two courses. That is one. The other, of course, is the opposite one, to leave our regulation just where it is under the Money Lenders' Act and let the provinces control it. I do not want, at this stage, to suggest to the committee what its decision should be, but I think you will come to one of those conclusions before you get through.

[Mr. G. D. Finlayson.]

The CHAIRMAN: Thank you, Mr. Dunning. You will pardon my interruption, Mr. Vien.

Mr. VIEN: Yes, Mr. Chairman. The legislatures of the various countries, as I was saying, have had to deal with that problem. They have dealt with it most extensively. Within the last ten years the parliament of Great Britain had to deal with it. I think we should make available to this committee a copy of the proceedings before the committee of parliament in Great Britain, where very much similar language was used and similar discussions took place to those which took place last year before this very committee on Banking and Commerce. After a very searching study, the Parliament of Great Britain came to the conclusion of authorizing a rate of four per cent per month.

In the United States the Russell Sage Foundation have appropriated millions of dollars for the purpose of dealing with what they consider to be a great evil, namely, the exorbitant rate of interest charged to borrowers of money. After a great deal of study they went from state to state, and legislation was enacted in the various states of the Union granting rates of interest ranging from a minimum of two and a half per cent to a maximum of three and a half per cent to four per cent. I am not suggesting that these rates should be enacted in Canada, and I am not suggesting that we have at all reached a proper conclusion as to what the rate of interest should be, but in discussing rates of interest we must take into consideration the yield which the money lender is entitled to look forward to as one factor. Then we must also take into consideration the services rendered, the charges and the expenses incurred by the company in carrying on its business. All these things have to be considered reasonably. I believe these are elementary principles and they are present in the minds of all concerned.

I am sorry the minister had to go, because I wanted to address myself to the line of procedure which he suggested to the committee. I would suggest, Mr. Chairman, that it would be helpful if the bills that have been referred to the committee were dealt with first. Mr. Dunning in his concluding remarks mentioned that we should deal with specific facts and try to find specific remedies. In my opinion it would be more helpful if this committee dealt with the private bills that have been referred to it first. Representatives of the companies could come and give us their expenses and requirements for doing business. There would be before the committee a vast volume of information from which the committee could very easily find what is the proper course to follow with respect to general legislation. With regard to general legislation I believe that a suggestion along this line has some merit. When general legislation is enacted it should overrule and override any inconsistent provision in a private act. The acts should be dealt with on their merits and general legislation could then override the inconsistencies that appear in the general legislation and the private acts. Therefore, Mr. Chairman, I would suggest that it would be a good thing to have representations or representatives of the Minister of Justice and representatives of the department of the Attorney-General of Ontario and other provinces invited to come and tell us how the matter stands in so far as they are concerned. The committee could then go into the applications made to parliament by the private companies by way of a private bill and after that has been done the committee would be in a better position to find out what other evidence it would be necessary for them to hear in order to reach a reasonable conclusion on the whole matter.

In the first place I would suggest also that records of the last year's proceedings, if they are available, be distributed to the members of the committee. If that were done the members of the committee could then familiarize themselves with what took place last year, and it would not be necessary to run over all that territory again. If that were done it would eliminate a lot of work for the committee. I would also point out that these bills were introduced last

year, and on account of the shortness of the session the work of parliament could not be concluded. I would suggest it would be rather unfair to have the proceedings of this committee protracted and thereby prevent parliament from expressing an opinion on the merits of the bills. I know that is not in the mind of any member of the committee, and when I say that I am not attaching any blame to anyone for what happened last year. I believe it would be a reasonable suggestion to make to this committee that due and reasonable expedition be brought about in dealing with these matters. I believe if, after hearing representatives of the Department of Justice and the Attorney General of Ontario, we took up these bills and invited the companies to lay before us all the material that they have for the committee to consider in respect to these matters we would make much more headway than we would if we approached them in the other way suggested. If we proceed in that way I am sure we would proceed in an orderly manner.

Mr. DONNELLY: Mr. Chairman, I should like to ask one question, for my own information. Mr. Finlayson referred to the fact that his department investigated several of the small loan companies, and he referred to the chattel mortgages and the fee which they charge when they draw the chattel mortgage. He also said that this question was before the courts at the present time. I should like to ask him, arising out of that, if in his investigation he found that many of these chattel mortgages were never drawn up at all and never registered, and a man who is borrowing money is charged for the chattel mortgage just the same as if it had been drawn up and registered.

Mr. FINLAYSON: I think I can say, Mr. Donnelly, that the chattel mortgages are, in all cases, drawn up, but in a great many cases they are not registered. The company does not expect to enforce that mortgage. They take it only as a moral security rather than a legal security and they do not, in many, many cases, register the chattel mortgage.

Mr. DONNELLY: Do they charge the same fee as if they were registered?

Mr. FINLAYSON: Yes.

Mr. REID: No.

Mr. FINLAYSON: They do not charge the registration fee. They charge for the drawing up of the mortgage, which is the greater part of the expense. But if they do not register naturally they do not charge the registration fee.

Mr. CLEAVER: Mr. Chairman, may I suggest that we should take the necessary steps to reduce the quorum of this committee? I think that should be done so that we can carry on when we have ten members present. May I also suggest that we should profit by the rather unfortunate experience of last year. I believe that the suggestion of the Minister of Finance is a good one. I believe we should proceed with our work at this time in an orderly fashion, taking up one phase of the problem at a time and carrying it to its conclusion. Last year we more or less traversed the whole subject over and over again. Some members who were unable to be present at one meeting would come along a week or two after a certain matter had been discussed and go into the whole matter again. In that way we lost a tremendous amount of time. I suggest that we should consider designating a small group of this committee to go informally into these questions and bring to us an agenda as to how we should proceed. I believe one of the first problems we should tackle is the problem as to what is a fair cost and a fair charge for the small loan services, dividing it perhaps into groups of less than \$100 and then in several other groups above that. On this committee we have several rather forceful members who feel that perhaps the rates are entirely out of all proportion to the service rendered. In dealing with the question of rates I believe these men should be given every opportunity to present their views and to call witnesses to substantiate their views. If that

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were done I would hope that we could agree unanimously on what is the actual cost of supplying this service to the people of the country. If we attempt to railroad these things through, or go too fast, or become disorderly in our investigation we shall wind up with some of my friends feeling that they have not had full opportunity to present their views. If we proceed orderly I am sure my friends will be just as satisfied as I am.

I would move, Mr. Chairman, that we take the necessary steps to reduce our quorum to ten, and I would move further—

The CHAIRMAN: Will you put one motion at a time, Mr. Cleaver.

Mr. TUCKER: What is the quorum now?

The CHAIRMAN: Fifteen. What is your pleasure gentlemen? Shall we ask for a reduction in the quorum?

Mr. MARTIN: I second the motion.

Mr. TUCKER: Mr. Chairman, before we reduce our quorum I believe we should find out whether or not we have any difficulty in getting a quorum.

The CHAIRMAN: We have had difficulty this morning.

Mr. CLEAVER: There are to be two or three special committees sitting, one in regard to the Civil Service Commission, and there will be great overlapping. People who are interested when the agenda is drawn up, will be able to skip some of the other committees and be present at this committee when the subject in which they are interested is being discussed.

Mr. TUCKER: I agree, if we cannot get a quorum, we should reduce it.

The CHAIRMAN: It is not within our power. We have to ask the house or the Standing Orders Committee.

Mr. MARTIN: I suggest we leave that matter in abeyance, and if we have any trouble—

The CHAIRMAN: We had trouble this morning.

Mr. TUCKER: This is the first meeting.

Mr. MARTIN: I think the motion should be withdrawn.

The CHAIRMAN: Do you withdraw your motion, Mr. Cleaver?

Mr. CLEAVER: No; my motion stands, Mr. Chairman. I feel very strongly on this. I do not think members of the committee who are here on time should have to stand around for three-quarters of an hour waiting for other members. I believe we should have a quorum low enough to ensure the committee starting its work at 11 o'clock or 10.30 o'clock, or whenever the committee is called.

The CHAIRMAN: Do you second the motion?

Mr. MARTIN: I second the motion, if Mr. Cleaver wishes to proceed with it.

Mr. VIEN: How would it be if Mr. Cleaver let this matter stand for a while. I think the motion should be tabled and not withdrawn until the next meeting. I sympathize with the mover and seconder of the motion because we did have a great deal of trouble last year, not through the fault of any member of this committee but because the time of members was taken up in other committees.

Mr. CLEAVER: I am content that the motion shall stand until the next meeting of the committee. I have no desire to rush anything. My second motion is this: I move that a small committee be nominated to draw up an agenda and submit it for our opinion at the next meeting. For this committee I would suggest Mr. Tucker, Mr. Coldwell, Mr. Martin and Col. Vien.

Mr. VIEN: And yourself or the Chairman.

Mr. CLEAVER: The Chairman would be a member *ex officio*.

Mr. TUCKER: The thought I had in mind is this: the quorum is set up by the rules of the house, and if we at our first meeting immediately ask for a reduction in the quorum I am sure the house would wonder what it is all about.

The CHAIRMAN: The motion stands.

Mr. TUCKER: In regard to the other matter, it seems to me we can very well discuss this morning, without having a small committee, exactly what we are going to do. In that connection I would suggest our first move should be to get in touch with the governments of Ontario, particularly, and Quebec. These provinces are interested. We could tell them that we are investigating this matter and we welcome their co-operation. We would like them to make their most qualified officers available for questioning in regard to the whole question of small loans. That should be done before we call our own department officials, because they may make suggestions that we would want to deal with before we question them.

The CHAIRMAN: Saskatchewan seems to be interested.

Mr. TUCKER: Certainly.

The CHAIRMAN: Do you think we should limit it?

Mr. TUCKER: No. We should get in touch with all the provinces, particularly those that are trying to rectify these matters.

The CHAIRMAN: Is it your wish that we should have invitations sent to the other provinces?

Mr. MARTIN: Let me say first of all that this is a very complex problem. We can spend hours discussing whom we should call and whom we should not call, and that would get us nowhere. My own personal opinion is that to call the Attorneys General now would be to beg the question. They could not tell us anything other than that at the present time prosecutions have been undertaken and that the trials are about to be heard. They have not gone into this Act as thoroughly as this committee. To question them at this time would be a waste of their time and ours. I think they should be called ultimately but I think the suggestion made by Mr. Cleaver, in the interests of order, is a very sound one.

The CHAIRMAN: May I interrupt. I do not think there is any idea that we are going to do that. All that we intend to do is simply to give them notice that we desire to hear them or that we are asking them to attend.

Mr. MARTIN: The main thing is Mr. Cleaver's suggestion about preparing an agenda. It seems to me that what occurred this morning indicates that we are reaching the stage we did last year, and that we are going to proceed in the same fashion. I believe we should have a small group prepare an agenda so that we may proceed in an orderly fashion.

The CHAIRMAN: You are seconding Mr. Cleaver's motion.

Mr. MARTIN: I think that is very important.

Mr. WARD: Mr. Chairman, on the question of procedure I notice we are asked this morning to deal with these bills. These bills were before the committee last year.

The CHAIRMAN: What bill is that?

Mr. WARD: Bills 8 and 9.

The CHAIRMAN: They are not before the committee this morning.

Mr. WARD: No; but the notice that came to me indicates that we are to discuss these bills. I should like to say with regard to Mr. Vien's suggestion that I think he has the cart before the horse. It does seem to me, if we are going to proceed to a general discussion of the whole question, with the ultimate hope of bringing down general legislation, we should deal with the whole question first. I do not believe we will be fair to the private companies who are presenting these bills if we proceeded with the private bills first and then deal with general legislation afterward. First of all we should reach a decision as to what we intend to do ultimately in connection with this whole question of high interest rates and so on. I feel we should proceed with that now. In that way we could

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arrive at a general policy in regard to the whole matter. If the dominion parliament has not jurisdiction over these things and cannot enforce them as we believe they should be enforced, then let us resign ourselves to that fact. Let the provinces deal with the question. I should think that, as someone has suggested, we should bring the Attorneys General officials here and in that way we can arrive at the conclusion that the Minister of Finance spoke about last year. I believe that should be done first. I believe we should put first things first. I believe we should go ahead with these bills. The session may last six months, and if we do not go ahead with these bills the discussion may drag on for six months or more and at the end we would be in the same position that we were last year at the end of the session. I am referring now to the chartered companies who appeared before us last year.

Mr. MARTIN: Well, there is a motion before the committee, Mr. Chairman.

The CHAIRMAN: Yes, there is a motion. You are not objecting, I take it, to our giving notice to the provinces of the committee and its work, Mr. Ward?

Mr. WARD: Not at all.

The CHAIRMAN: Is it carried, that we should send notices respecting this committee and its work to the provinces?

Motion carried.

The CHAIRMAN: It is understood, of course, that we are simply going to give notices to the provinces of the references made to this committee and ask the provinces if they desire to be represented.

Mr. FINLAYSON: That is it.

Mr. TUCKER: You will invite them, I take it, to make representations, either in writing or viva voce.

Mr. MACDONALD: Was there not another motion by Mr. Cleaver in regard to a sub-committee?

Mr. VIEN: That is carried. Has the motion that a notice should be sent to the several provinces been carried?

The CHAIRMAN: Yes. The second motion which Mr. Cleaver made, was that a small committee to be composed of the members whose names he mentioned, should be formed for the purpose of laying out a plan of procedure. Now, what is your pleasure in regard to that?

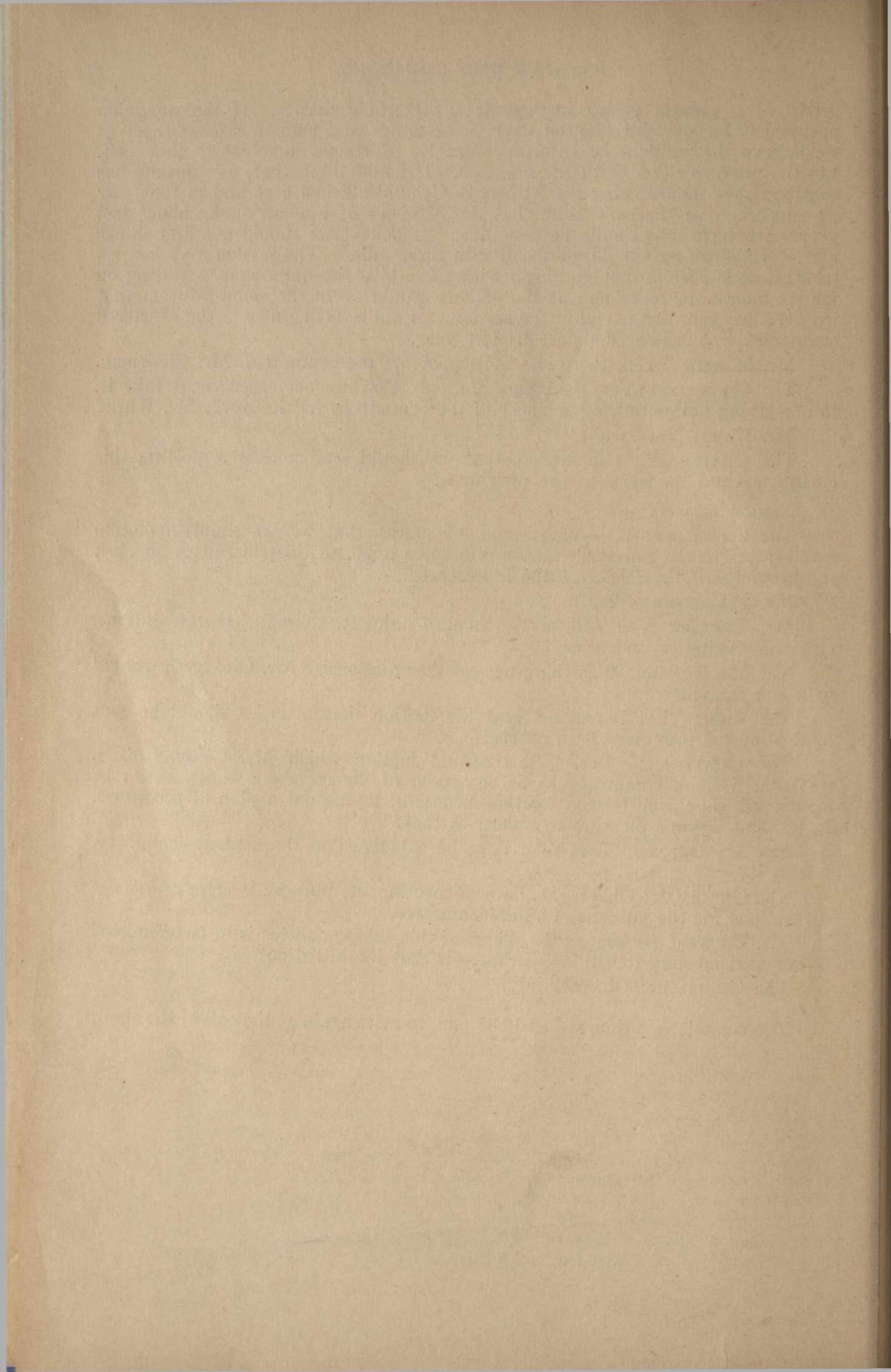
Mr. MACDONALD: That plan is to be submitted to the general committee, I take it?

The CHAIRMAN: Oh yes, at the next meeting; its purpose is merely to make suggestions for the guidance of this committee.

Mr. TUCKER: As long as the report of this sub-committee is to be submitted at our next meeting it will be all right—is that the intention?

The CHAIRMAN: Oh, certainly.

The committee adjourned at 12.35 p.m. to meet again at the call of the chair.



SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

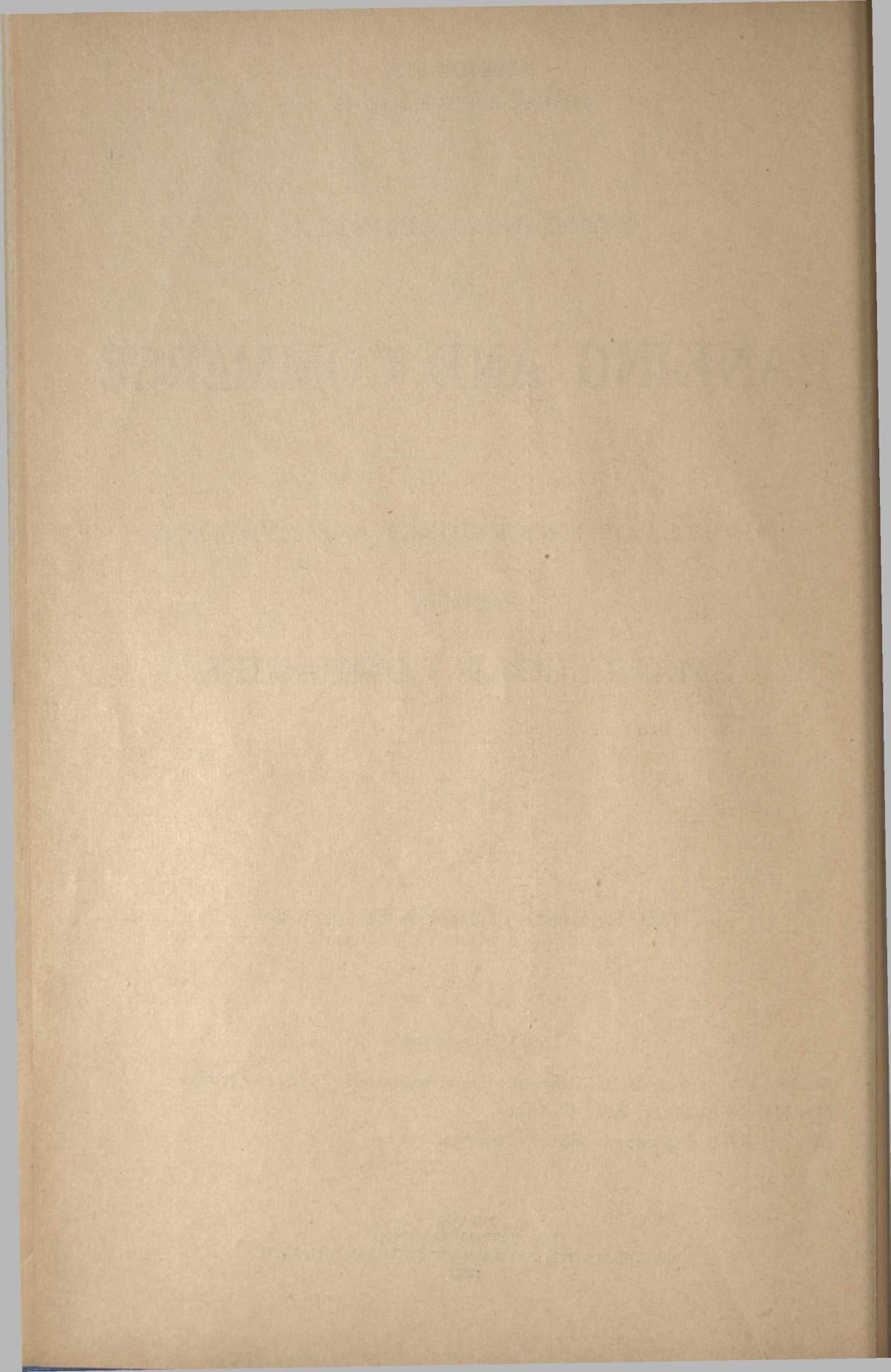
No. 2

THURSDAY, FEBRUARY 24, 1938

WITNESSES

Mr. F. P. Varcoe, K.C., Counsel, Department of Justice, Ottawa.
Mr. Harold Walker, K.C., Toronto.
Mr. H. Fred Parkinson, K.C., Toronto.





MINUTES OF PROCEEDINGS

THURSDAY, February 24, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Deachman, Donnelly, Dunning, Fiset (Sir Eugene), Fournier (Hull); Harris, Hushion, Jaques, Kinley, Landeryou, MacDonald (Brantford City), McPhee, Mallette, Martin, Moore, Perley, Plaxton, Quelch, Tucker, Vien, Ward, White, Woodsworth.

The Chairman submitted the following report on behalf of the sub-committee on agenda:—

Your Committee appointed to consider the procedure to be followed to assure, as far as possible, a methodical inquiry into the questions referred to this Committee, begs leave to report as follows:

In accordance with the suggestion endorsed by the Committee at its initial meeting, your sub-committee has agreed that the question of jurisdiction as affecting the federal and provincial governments be first established by a representative of the Department of Justice, and representatives of the different provinces. To this effect, Mr. Finlayson has been requested to communicate with the Department of Justice, and the Chairman has communicated with the provinces in order to ascertain if they desire to make any representations.

Your sub-committee also recommends:

1. That Mr. Rolf Nugent or another expert of the Russell Sage Foundation of New York, be invited to appear before the Committee.

2. That Professor A. B. MacDonald, Extension Department, St. Francis Xavier University, Antigonish, N.S., be invited to express his views before the Committee.

3. That representatives of the Civil Service Co-operative Credit Society, of Ottawa, be similarly invited.

4. That the Bankers' Association be informed of the reference before this Committee and requested to advise if they desire to make any representations.

5. That, as far as possible, representations made before the Committee be submitted by way of a written statement to be printed in full in the Record and on which the witnesses may be afterwards examined.

All of which is respectfully submitted.

W. H. MOORE,
Chairman.

Consideration of the report followed.

On motion of Mr. Mallette,

Resolved,—That the report be amended by adding the following paragraph:

“That a representative of *La Caisse Populaire* operating in the province of Quebec, be invited to appear before the Committee.”

On motion of Mr. McPhee,

Resolved,—That with respect to paragraph 5 of the report, written statements submitted for incorporation into the record be first referred to the sub-committee.

On motion of Mr. Woodsworth,

Resolved,—That the report of the sub-committee be adopted as amended.

On motion of Mr. Cleaver,

Resolved,—That the sub-committee on agenda continue to function and that its membership be increased by adding to it the names of Messrs. Landeryou and Lawson.

Mr. F. P. Varcoe, K.C., Department of Justice, gave evidence with respect to federal jurisdiction in the matter of small loan companies.

Mr. Harold Walker, K.C., Counsel for Central Finance Corporation, Toronto, and Mr. H. Fred Parkinson, K.C., representing a group of provincially incorporated Finance Companies, were invited to express their views, and were briefly examined.

At 1 o'clock the Committee adjourned to the call of the chair.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

House of Commons, Room 429,

FEBRUARY 24th, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m. Mr. W. H. Moore, presided.

The CHAIRMAN: Gentlemen, I think we should start out by reading the report of the sub-committee which was appointed to outline a program for our investigation. I will ask the clerk to read the report. (See Minutes of proceedings.)

The CHAIRMAN: What is your pleasure in respect to the report of this sub-committee?

Mr. WOODSWORTH: I would move its adoption.

The CHAIRMAN: What is your pleasure, gentlemen?

Carried.

The CHAIRMAN: Now, I may say, gentlemen, that members of the committee found it was a highly desirable procedure to have a sub-committee of that kind; and it has been suggested that we have a committee permanently appointed, a sub-committee in the form of or for the purpose of a steering committee, if you like, without any derogation from the rights of this committee. The procedure would be something as follows: after this meeting is over the sub-committee would meet to decide as to the next step, and then of course make a report to this committee; or the sub-committee would proceed to discuss how to carry out any of the recommendations made by this committee. Personally, as chairman, and I think I can say with Mr. Finlayson, who has co-operated in the work, we would welcome some kind of a sub-committee of that kind. The trouble with our present sub-committee is, if I may make any suggestion, that it does not represent all of the political parties within the House, and it might be well to begin over again and have a new sub-committee or add to the present one. I would like to have some suggestions from the committee in regard to that matter. Mr. Cleaver, you moved the appointment of the first sub-committee; you might have some suggestions to make in that regard.

Mr. CLEAVER: Yes, Mr. Chairman. I moved the appointment of the previous sub-committee; and may I say that they have taken their task very seriously, and done the job very well. I would move that the existing sub-committee carry on and that we should add to their number representatives from the Social Credit group, and also from the official opposition; and while they might prefer to choose their own I would suggest a name from each, and if they are not satisfied I presume we will hear from them. I would suggest the name of Mr. Landeryou, from the Social Credit group, and either Honourable Mr. Lawson or Mr. Baker from the official opposition. Mr. Lawson took a great interest in the work last year.

The CHAIRMAN: Now, Mr. Cleaver, will you just name all the committee, if you remember the names; or, I will ask the clerk to read the names.

Mr. CLEAVER: I think I can remember them; they were Mr. Coldwell, Mr. Vien, Mr. Tucker, Mr. Martin; and then there will be the two new members, Mr. Landeryou and either Mr. Lawson or Mr. Baker. I would suggest Mr. Lawson.

The CHAIRMAN: What is your pleasure, gentlemen? Do you wish to discuss the principle or shall we accept the principle of a sub-committee of that kind? What is your pleasure?

Motion carried.

The CHAIRMAN: There are some matters arising out of the report of this Sub-committee. Do you wish to discuss them, gentlemen? I will give you the recommendations.

(Report considered, amended as recorded in minutes of proceedings, and adopted as amended.)

The CHAIRMAN: Now, gentlemen, we have Mr. Varcoe here from the Department of Justice. As this meeting is largely called to hear Mr. Varcoe's report or statement as to jurisdiction, I will now call on Mr. Varcoe.

F. B. VARCOE, called.

WITNESS: Mr. Chairman, I have not prepared any statement to make to the committee, because I was not advised as to precisely what questions the committee desired an expression of view upon. I do not know whether you would like me simply to proceed by answering questions that might be asked—I assume I could answer them—or just what your pleasure would be.

The CHAIRMAN: I would suggest that you make a statement, a general review of the situation; and when you have concluded, we should be free to ask questions.

WITNESS: Very well, sir, I understand that the main problem, from a constitutional point of view, that faces this committee is the problem of dealing with the various charges that money lenders make in connection with these small loans which are capable of being disguised—where interest very often is capable of being disguised as other charges—for commissions, premiums and so on. It appears that the necessity of regulating these charges presents these constitutional problems, that these charges relate to contracts between the lender and the borrower, which are lending contracts and therefore within the provincial legislative field; and the difficulty of regulating the interest charge by the dominion and the service charge by the province must result in a great deal of confusion and uncertainty. I take it that is the problem that is before the committee; and the question on which the committee, I presume, require to be advised is whether there is any solution of that problem. We in the Department of Justice—and I think I can speak for the Deputy Minister as well as for myself—have come to the conclusion that the only practical solution of this problem is legislation by parliament—assuming, of course, that parliament desires to go that far—under the heading of the so-called ancillary powers which are vested in the dominion. We think that the regulation of these charges which are in many cases almost indistinguishable from interest and are very often interest charges, as I said, disguised as service charges, can be said to be reasonably necessary or even indispensably necessary for the proper regulation of the interest rate. The work of this committee for the last two or three years and the examination of the decisions of the courts over a great many years in this country and in England does show that it is futile to attempt to regulate the interest charged if, at the same time, we cannot control these certain service charges. Of course, I am speaking now of service charges which are charged by the lender against the borrower and are not necessarily a disbursement made by the lender to investigate title or otherwise.

Hon. Mr. DUNNING: You are familiar with the subterfuge of creating a third entity, are you?

[Mr. F. P. Varcoe, K.C.]

The WITNESS: Yes. That, of course, does present a difficulty that we have not perhaps worked out to our own satisfaction; I mean, as far as this recommendation goes. I do not know that I can say any more just at the moment about these matters than that, except to mention the question of the working out by means of subsidiary companies. As I understand it, the practice is for the lending company to organize a subsidiary and disburse money to that subsidiary which falls in this category of service charges, and which in the ordinary way of carrying on business would go to the lender, and which we suspect actually do go to the lender in substance. We do not think that that would present an insurmountable difficulty in preparing a bill which would purport to regulate these charges. It would be necessary to find what charges can be made apart from the interest charge, setting them out possibly in greater detail than has been attempted in the Money Lenders Act; and we just have to take our chance, I think, on that, that the courts will hold that in a proper case that subterfuge should not be permitted to defeat the scheme of the act. I think Mr. Chairman, that is all I have to say by way of a general statement.

Mr. CHAIRMAN: Are there any questions?

Mr. TUCKER: As I understand it, you suggest that we define interest as including certain charges; that is, that if we have not power to define interest including these other charges then our right to control interest is purely an illusory right?

Mr. VARCOE: Yes, sir.

Mr. TUCKER: Assuming, as I understood you to say, that we would act under the ancillary clause, then, of course, if you mean by that the right to legislate in regard to peace, order and good government, we would fall to the ground when we came to property and civil rights.

Mr. VARCOE: No, I will give you an example of what I mean. Take the case of radio broadcasting. That has been held by the Privy Council to fall into the enumerative field; that is the interprovincial works 92-10 of The British North America Act, which means, of course, that it is the same as if it were under 91. It is the enumerated powers. You set up a radio-telegraph system under dominion legislation and then you find that is being interfered with by local electrical apparatus. The question arises then whether the dominion can regulate that local electrical apparatus, which certainly is an invasion of the provincial field. But it has been held over and over again—I think you know it very well—that once you have got the main subject matter, once you have found it among the enumerated powers, then you can invade the provincial field to give effect to your dominion scheme.

I must admit that the ancillary doctrine has never been fully explored nor defined. You find such expressions as these in the cases: "What is reasonably necessary." "What is indispensably necessary." "What is obviously necessary." Also "What is proved should be necessary."

Then you have the contracting-out case in 1907 in which the privy council said, "the mere intention is sufficient." At least, that is the way I read it in Lord Dunedin's judgment. Even though the very scheme that was in question might be proved to be inefficacious, nevertheless he seemed to say that the mere intention was sufficient.

Mr. MARTIN: The aeronautics case is something of the sort you have in mind.

M. VARCOE: Yes, sir.

Mr. TUCKER: You are of the opinion, I suppose, basing this question on what you have just said, that we could define interest probably as including service charges and charges for drawing documents and so on; that we could do so legally?

Mr. VARCOE: Yes, sir. I had not thought of it in quite that way. I do not know that you could define interest in that way, prohibiting the making of any charges, whether disguised or not. I mean, getting away from any question of having the courts decide on whether there has been a disguise. I think probably we would proceed by way of definition, although I had not reached any conclusion as to the actual form in which any legislative scheme might be put.

The CHAIRMAN: May I ask a question arising out of Mr. Tucker's question? Do you hold that it is within the power of this parliament to name a rate of interest per month? I understand that that rate can be charged if there are no other charges.

Mr. VARCOE: Well, perhaps I would put it this way: that no charge can be made other than that. We have decided that that is the best advice we can give the committee from a practical point of view. I think we will never get anywhere by trying to engage in some kind of a dual legislative scheme with the provinces. You will never get anywhere with it in a practical way. If you proceed to define interest with the idea of following the line of one bill that was prepared somewhere recently to include certain things on the assumption that they were interest, or if the court held they were interest, or something like that, that is not practical either. That is too vague, and would leave the borrower at the mercy of the moneylender, I should think.

The CHAIRMAN: Will you state definitely, Mr. Varcoe, what you think we can do.

Mr. VARCOE: I have not attempted to put this in any formal language; but that we can, either by definition or perhaps by some prohibition in a bill, restrict the total charges which a lender can make against a borrower, exclusive of necessary and proper disbursements, but including items which might on examination turn out to be proper service charges.

Mr. BAKER: Could we possibly base it on an exclusive maximum rate?

Mr. VARCOE: Yes, absolutely.

Mr. BAKER: And leave out any discussion as to whether they are legitimate or not?

Mr. VARCOE: Yes, sir.

Hon. Mr. DUNNING: The question of disbursements bothers me. Of course, your suggestion, Mr. Varcoe, would leave the question of legitimate disbursements for a court decision in every case. I think unless we close that gap, we will accomplish nothing.

Mr. VARCOE: I would enumerate those, Mr. Dunning. I would enumerate, insofar as it is possible. I think Mr. Finlayson would probably agree that it is possible to enumerate charges that may be legitimately disbursed, whether they are paid to a subsidiary company or an absolutely independent—

Hon. Mr. DUNNING: Third party.

Mr. CHAIRMAN: My point was this. You hold that the parliament of Canada can say that the lender may charge, we will say, 2½ per cent interest per month but nothing more for any other charges?

WITNESS: Outside of proper—

Mr. CHAIRMAN: No, no, outside of nothing.

WITNESS: I do not think there is any necessity for imposing that restriction, because there are legal disbursements for example, in connection with a loan.

Mr. CHAIRMAN: But you think that is within our jurisdiction to do so?

Mr. VARCOE: I think so, yes.

Mr. LANDERYOU: Is it our intention to contact the provinces in regard to this question?

[Mr. F. P. Varcoe K.C.]

The CHAIRMAN: We have already done that.

Mr. LANDERYOU: As I understand it, this witness is giving us his opinion as to the legality of the charges that can be made by these corporations?

Mr. CHAIRMAN: Yes.

Mr. LANDERYOU: Supposing the provinces are not agreeable to accepting the interpretation of this gentleman and desire to take the matter to court, then the issue would be decided in the court?

Mr. VARCOE: Yes.

Mr. LANDERYOU: But without the consent of the provinces nothing can be done?

Mr. VARCOE: No.

The CHAIRMAN: No.

Mr. LANDERYOU: Unless we go to the courts.

Hon. Mr. DUNNING: If we adopt his suggestion and attempt to legislate, then it is competent for anyone to contest the validity of that legislation.

Mr. LANDERYOU: It would not be in the best interests unless we had the consent of the provinces.

The CHAIRMAN: We do it every day.

Hon. Mr. DUNNING: We would never get anywhere if we did that.

Mr. CHAIRMAN: Any act we pass is subject to the same objection.

Mr. CLEAVER: Mr. Varcoe, you were speaking a moment ago about legal disbursements as opposed to legal fees. I think perhaps the chairman and the Honourable Mr. Dunning were under the impression, when you referred to legal disbursements, that you were including in that item legal fees. I understood your remarks to restrict it to purely legal disbursements, such as registration fees.

Mr. VARCOE: There might be a legal fee payable; there might be some occasion for the lender to seek legal advice. I do not think that parliament would endeavour to prohibit that, if it were a proper charge.

Hon. Mr. DUNNING: As a matter of practice today, we know that in some cases the charges for disbursements are made for monies which are actually disbursed by the lenders but disbursed through a subsidiary of their own and constitute profits by that subsidiary which return in due course to the parent company. Unless we can close that gap, I am personally of opinion that our efforts would not be practicable, even going to the full length that Mr. Varcoe thinks we can go. Apparently there is hope that even that gap can be closed; but so long as they are charging for disbursements which have the effect of increasing the effective interest rate in a manner which our law does not effectively control or limit, then the evil remains, or, at least the possibility for those who want to do evil remains just as it is today. That is the point I have in mind.

Mr. COLDWELL: The Minister has practically answered the question I was going to ask.

Hon. Mr. DUNNING: A great deal of study must be given to that point, otherwise you will do a lot of work and get nowhere.

Mr. TUCKER: What Mr. Varcoe has in mind is whether it is fair or not to say that they cannot charge when they have to register a chattel mortgage, for instance. But I do not think he would suggest that if we, under the general head of interest, have the right to say that for the use of money so much shall be charged, and that that charge is interest. We do not care whether the lender, in order to protect himself, spends some of that money to register securities, and so on. It does not matter at all to us. I think that we could do that.

Mr. VARCOE: We could do that?

Mr. TUCKER: Yes, the ultimate charge for the use of your money. If you want to spend some of that for registration fees, or anything else, we are not concerned. What is paid by the borrower, that is interest, and you can only take so much under any head whatever.

Mr. VARCOE: I do not quite go that far.

Mr. TUCKER: It seems to me that to be logical you would have to say that you define interest as what the borrower pays and it does not matter what the lender does about it.

Mr. VARCOE: Well, I do not know. I do not think I would go as far as you do. I am dealing with cases where charges are made which can be, whether they are or not, disguised as other charges. That is not true of a proper registration fee or a proper legal fee.

Mr. TUCKER: Yes, but it is what the borrower pays when he is getting the money.

Mr. VARCOE: That is true. You are going further than I would go.

Mr. TUCKER: I would like you to look into it because, as the Minister said, if we leave the slightest opening for disbursements, we might as well leave the door wide open.

Mr. VARCOE: I was thinking upon that point that the disbursements which would be permitted would be enumerated. No matter whether there is a subsidiary company or not, there would be an enumeration of permissible disbursements.

Mr. TUCKER: If you can enumerate and exclude others, then you can exclude them all. What we are dealing with is a question of jurisdiction, and if you enumerate some and exclude others, I presume you can exclude them all.

Mr. VARCOE: I do not think I made myself quite clear. Supposing you want to fix the rate of 12 per cent, supposing that is the maximum rate, and I think it is under the Money Lenders' Act. Now, you are not going to be defeated in trying to maintain that rate of 12 per cent by permitting the lender to make an addition to that charge for legitimate disbursements as, for example, registration fees, because they are clearly not interest. But on the other hand, if he comes along and attempts to charge a bonus or a premium or a commission, or something of that kind, which is the border-line sort of thing, it may be interest or it may not be interest; and you might have to go through the court to find out. There, it seems to me, you are properly in what is called the ancillary field.

Mr. COLDWELL: What about legal fees?

Mr. VARCOE: That is the point I am trying to explain, that legal fees are not interest, and there is no use trying to contend they are.

Mr. COLDWELL: You leave a very wide gap.

Hon. Mr. DUNNING: That is precisely the place the Department of Finance reached with the Department of Justice this summer. Had it not been for that point, I would have had government legislation brought down.

Mr. VIEN: In the minds of the members of the committee which studied this question last year there seemed to be some definition as to what is included in legal fees. I do not believe any member of the committee suggests that legal fees, in the sense that we are trying to define them, should be included in the maximum rate of interest to be charged. They do not include, for instance, the legal fees that would be spent by a small loan company to collect a note. For instance, if they have to go to court to collect a note, certain legal fees are disbursed which are entirely in a different position from the legal fees to which Mr. Coldwell refers, the legal fees involved in drawing up a chattel mortgage,

[Mr. F. P. Varcoe, K.C.]

which is a necessary instrument of the loan. That legal fee is included in the terms of the maximum rates of interest of the two private bills which have been referred to the committee.

I believe I am interpreting Mr. Tucker's question properly, but I speak subject to correction, when I say that he is asking Mr. Varcoe if he finds any constitutional difficulty in arriving at general legislation somewhat along the lines of the legislation of 1934. At that time parliament stated that if small loan companies or money lenders charged more than a total rate of interest amounting to two and one-half per cent per month, inclusive of all service charges, their licences would be cancelled. Parliament did not at that time legislate with respect to interest but it said if any small loan company or money lender licensed under the laws of the Dominion of Canada lends money at a rate of interest exceeding two and a half per cent per month the licence will be cancelled.

The CHAIRMAN: I think you are missing the objective of the committee. The penalty of the 1934 legislation was as you state, cancellation of the federal licence. But that did not prevent such companies from doing business otherwise. What we are trying to do is to get some general control over this business.

Mr. VIEN: I am coming to that point. I have that in mind. I am not confusing the two questions; but I would suggest to Mr. Varcoe that there would be no constitutional difficulty in defining interest as distinct from service charges. There would be no constitutional difficulty in stating that no money lender, whether licensed by this parliament or not, shall lend money at a rate of more than two and a half per cent per month, or three per cent per month or four per cent per month, as in England, or whatever the amount would be, and if he did so it would be against the law. A maximum rate of interest all inclusive could be passed by this parliament; and that rate of interest could include all services.

HON. MR. DUNNING: The penalty being not merely the loss of the federal charter, but an offence against the law?

Mr. VIEN: Exactly. On that point would it be impossible to suggest some legislation which would compel the money lender in Canada, whether incorporated or not, to take a licence from the proper department, and impose a penalty on any money lender loaning money at a rate of interest or remuneration without his having first taken out a licence? In that way you will bring them under the supervision of the superintendent of insurance, or whatever other department of the government would be in charge of the administration of the law. I think there are enough ancillary powers in this parliament to deal with this, as it is a matter sufficiently linked up with the question of interest to give parliament power to legislate.

Mr. VARCOE: Mr. Vien, as to that I certainly would not disagree with you. I did not think it was necessary to go that far in dealing with the matter. Speaking of disbursements, take the ordinary case of a lender being obliged to take the security of a chattel mortgage and he legitimately disburses to his solicitor a fee for drawing the mortgage and for the registering of same. If according to the provincial law he is entitled to charge these disbursements against the borrower—and under the provincial law I am not sure that he is. Under the provincial law I am not sure whether that is a charge which the lender himself should bear; but if he is entitled to charge that against the borrower—is there any objection to it? Is there any objection to it providing it is a proper and fair charge? Does that really hurt anybody? You cannot call it interest, if it is a legitimate transaction.

Mr. FINLAYSON: It may be a collusive charge between the lender and an accomplice next door.

Mr. VARCOE: If that is the case I would say you can deal with it.

Mr. TUCKER: The situation is this: we are looking at it from the standpoint of the borrower. In order to get around the law they may simply insist on a whole lot of documents to be drawn up by a firm of solicitors which were incorporated and in their pay. They may have these documents printed and everybody signs them, and then they may charge a high legal fee for the drawing of them. They may not need them, but after all they are legal documents, and they have paid lawyers for drawing them up and working on them for the company. They may control this company and may get the profits from them. What we are concerned about is our power. When we decide what power we have, whether *intra vires* or not, we can then consider to what extent we will exercise it. Looking at it from the standpoint of the borrower it seems to me we should ask ourselves how much money are we going to ask him to pay for the use of the money. What the lender wants to do with that money in the way of protecting himself against the law, whether it is by registering mortgages or not, does not matter to us. What the borrower pays as interest is what we are dealing with. If we have the power, as Mr. Vien says we have, under our power over interest, we can say nobody can charge interest on small loans of less than \$500 unless he is licensed by the Dominion government. Surely we have that power by virtue of our all-pervading power over interest. Nobody can charge interest unless he has a licence.

Mr. MacDONALD: I do not see how you can pass a general law requiring everyone to have a licence before they can loan money. That would stop everybody in Canada, absolutely, from lending money.

Mr. TUCKER: We are speaking about the jurisdiction.

Mr. MacDONALD: If I want to borrow \$500 from a friend of mine, and that friend has no licence, I would not be able to get the money.

Hon. Mr. DUNNING: The committee last year rejected any possibility of causing any individual who loaned money at that time to be registered or licensed by the department, not on legal grounds but on the grounds of practicability. We could not make it practicable.

Mr. TUCKER: All we are concerned about is whether we have the power.

Mr. MacDONALD: With regard to the question of charges we must remember this point: the charges are not always made by the lender. The lender may say: Yes I will lend you \$100 but you will have to give me a chattel mortgage. The borrower then goes to the lawyer and this lawyer charges the borrower. It is not the lender who charges the borrower at all. The Act could be got around quite easily that way. The lender is charging nothing. The borrower goes to the third party and the third party is the one who is charging him.

Hon. Mr. DUNNING: I am afraid, Mr. Tucker, if we came to an agreement that your view of the law is right, a way to get around it would still be possible.

Mr. TUCKER: As I say, we should look at it from the standpoint of the man borrowing the money and we should say that he shall not be expected to pay in any way, shape or form, directly or indirectly, more than a certain amount.

Hon. Mr. DUNNING: To the borrower?

Mr. TUCKER: To anybody in respect of the loan. Now, then, with respect to our power. There are two reasons why I suggest we have power to do that. Our first control is under legislation in regard to interest, as Col. Vien suggested, and the other control is our control over criminal law. Forcing people to pay more than a proper amount in order to get the use of these funds, looking at it from the standpoint of the borrower, can be made a crime; and whether he is forced directly or indirectly to pay more than this parliament figures is fair I submit, Mr. Varcoe, can be made a crime. Usury is one of the oldest crimes known to man. We can say that the borrower shall not be expected directly or indirectly

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to pay more than a certain amount, and if he is forced to do that the person directly or indirectly forcing him to do it commits a crime. Do you not think it would be possible for us to do that?

Mr. VARCOE: The difficulty is that you have to say the payment of a legitimate legal fee is criminal.

Mr. TUCKER: You might say up to a certain amount it was.

Mr. VARCOE: Some people might think it is.

Mr. TUCKER: We might say when a man is borrowing \$50 it might be absolutely usurious and unfair for a company to send that man to have documents costing \$20 drawn up by another company from which they were getting the profits. It seems to me that is very unfair.

Hon. Mr. DUNNING: Take a specific case under the Criminal Code. Suppose I came to you to borrow \$50 and you said to me: "Well, now, Mr. Dunning, I will lend you the \$50 but you must go and get me a chattel mortgage." Suppose I went to one of your lawyer friends and got the chattel mortgage quite cheaply and I paid the proper legal fee, do you mean to contend that that man could be convicted of the crime of usury because of that transaction?

Mr. TUCKER: I forced that man to pay more than the law of Canada provided.

Hon. Mr. DUNNING: You did not force me to do anything. You merely told me to bring in a chattel mortgage.

Mr. TUCKER: No, no. This question of usury has always pertained to the loaning of money. It is always understood that there must be two parties to the business of usury, and that when somebody seeks funds, that he should not, by the man who loans him the money, be forced directly or indirectly to expend more than a certain amount of what he has borrowed, either in the form of security or otherwise; so I am not concerned with Mr. Varcoe's opinion as to whether or not this comes under the heading of the moral question of the advisability or the disability of anyone to enforce the act. What I want to know is whether he does not think that under the heading of the criminal law—that we could look at it in that way and say, no more shall be charged directly or indirectly.

Mr. VARCOE: I was just dealing with these two points, Mr. Vien's suggestion that you can under the heading of interest require every person who charges a fee to be licensed; that is the first, and then Mr. Tucker's proposition, that the subject matter of interest might include the power to legislate with reference to all charges and the criminal law question. My present inclination would be to say that I would doubt the power—

The CHAIRMAN: Order, please; order.

Mr. VARCOE: —the power to legislate under the heading of criminal law to deal with or to prohibit what are otherwise perfectly legitimate transactions. If you are going to draw the line between what is evasive and what is genuine, that is another problem; but my understanding of Mr. Tucker's point is that he would prohibit absolutely any charge for disbursements.

Mr. TUCKER: Would you like to have my question more direct? When you say you are prohibiting legitimate transactions—

Mr. VARCOE: Perhaps I should say, otherwise legitimate transactions.

Mr. TUCKER: You can set up new crimes?

Mr. VARCOE: Oh, quite. With reference to this I think there are really two points. Quite frankly, Mr. Edwards and I discussing this matter yesterday decided—not realizing how far the committee had it in mind to go, or some members of the committee—decided that we would not express any final opinion about that; or not at this stage. That is, we would prefer to give this question a little further consideration. Well, I should qualify that by saying that we

really had not even considered Mr. Tucker's proposal now made, as to whether we could make it a crime for a lender to require a borrower to furnish documents or security which would involve the borrower expending certain moneys. Frankly, we did not think of your having in mind anything so far as that at all.

The CHAIRMAN: Mr. Varcoe, Mr. Tucker has said that usury is one of the oldest crimes, and I presume he is right; and I presume it is one of the oldest sources of legislation, isn't it?

Mr. VARCOE: Yes. I have not studied the matter very carefully.

The CHAIRMAN: Could not we have from your department a review or digest of the legislation from the distant past in other countries in reference to this matter?

Mr. VARCOE: Well, I suppose we could arrange to have such a thing done.

The CHAIRMAN: It would be a great help.

Mr. VARCOE: As to what the laws in this country are, at any rate.

The CHAIRMAN: It might be effective here.

Mr. COLDWELL: How far back do you propose to go?

The CHAIRMAN: Anything that would be effective.

Mr. LANDERYOU: At one time they used to take their heads off for usury.

Mr. DONNELLY: Do you know if they have any small loan companies in the United States which operate with state licences in the same way in which it is proposed that these companies operate here?

Mr. VARCOE: They have small loan companies. There are small loan companies operating in the States, one or two of them. I could not say whether they are under state law—

The CHAIRMAN: Order, please.

Mr. DONNELLY: Do they have companies operating under state licences and under federal licences, the same as here?

Hon. Mr. DUNNING: It is entirely under state licences in the United States.

Mr. DONNELLY: It is not under federal government control there?

Mr. VARCOE: There is no federal control at all.

Mr. DONNELLY: It is entirely state controlled?

Hon. Mr. DUNNING: It is entirely under state control.

Mr. MARTIN: May I put this question for the purpose of clarity? I do not think we have been able properly to appreciate Mr. Tucker's attitude. The important thing I think is what Mr. Varcoe said; namely, that parliament has the right to deal with companies of that sort, and we can only speak of companies, because the moment we talk of anything but small loan companies we are first of all outside of the terms of the reference to this committee, and we are dealing with a situation that no legislation could possibly comprehend. Now, I talked this matter over with Mr. Walker who is the solicitor for one of the companies that has appeared before this House and before this committee. He has given the matter a good deal of attention from this very point of jurisdiction, particularly having in mind general legislation; and I think, Mr. Varcoe being here to-day, it might be very valuable if Mr. Walker might be permitted to make a statement to which Mr. Varcoe might make a reply. I think that would pretty well clear up the confusion which seemingly exists in the minds of the members of the committee, and I for one would like to see that done.

The CHAIRMAN: You move that Mr. Walker be heard?

Mr. MARTIN: Yes.

The CHAIRMAN: What is your pleasure, gentlemen?

[Mr. F. P. Varcoe, K.C.]

Mr. MALLETT: Do you mean, right away?

The CHAIRMAN: Yes.

Mr. MALLETT: I have one short remark to make while we are on the subject; that is, if I may?

The CHAIRMAN: All right.

Mr. MALLETT: With regard to the additional charges outside of interest, these small loan companies are empowered to loan up to \$500.00. Now, in the province of Quebec, at least, in the country from which I come, \$500.00 is still a lot of money, and it very often happens that when anyone borrows from a friend or brother farmer \$500.00, besides the 6 per cent which he is called upon to pay he has to pay notaries' fees, his registration fees, and then when the mortgage is paid off he has to pay the de-registration fee; and if he wants to renew he has generally to pay a bonus to the notary again. So, if we are going to inflict a penalty upon the notaries for renewing loans I think we will start something.

The CHAIRMAN: In our province 50 cents is a lot of money.

Mr. MALLETT: Yes, on radio fees and the like.

The CHAIRMAN: Well, Mr. Walker, I think it is the pleasure of the committee to hear from you.

HAROLD WALKER, K.C., called.

Mr. WALKER: I think that Mr. Tucker is basically in agreement with the minister, and I would include Mr. Finlayson as well, as to what are the views represented by my clients. We are all agreed that it is essential to get legislation that will make it possible that the borrower pays just one clear fee and no more; no more to anybody, no more to the lender or to any other company or lawyer or anybody else; and it is my opinion and the opinion of my very senior partner, Mr. A. W. Anglin, that it is possible to do that. I make two suggestions: The first suggestion I make is this, that this parliament has unquestionably the right to authorize the charging of a rate of interest. Now, it is becoming obvious from the cases, as Mr. Varcoe has pointed out, that it is impossible to prevent the evasion of such a privilege unless parliament goes further than that, and it is therefore my suggestion that it is good ancillary legislation to provide that that privilege of charging x- per cent per month interest is to be given only upon certain conditions, and that if the privilege is exceeded then it is taken away and that can be surrounded by criminal sanctions as well. Therefore, I suggest that by not defining interest but by defining the cost of the loan to the borrower you can then say that if the cost of the loan to the borrower exceeds so much money then that privilege is taken away and it is followed by criminal penalties and civil penalties as well. My suggestion would be that once you have established that in order to prevent the lenders from charging x plus y per cent you have got to prevent these evasions by tackling it from the borrower's angle. A borrower must not be called upon to pay more than x per cent. If he is called upon to pay more than x per cent then the lender has breached his privilege and he suffers whatever penalties the legislation provides. Then, I have this further suggestion to make: that it would be possible to have a sliding interest scale, that is, to start with a maximum rate of x per cent; then, you see, if the lender charges in the nature of fees which are not at law interest, then the rate of interest goes down as the charges go up, until the interest disappears altogether. It is not difficult to draw a clause, the wording of a clause, to accomplish that; and in that way, if you felt the first suggestion was not sound—it is my very much considered opinion that it is sound—you could get at it the other way by having a rate of interest

that would never go higher than so much and would drop until it disappeared as the charges which in law are not interest mount up. Supposing you set your group at x per cent; then—we will call it 2.5 per cent, to keep you in a nice frame of mind—and as you get charges which are not in law interest amounting to a half per cent your interest cannot exceed two per cent; and so on, as the one mounts up. Now, in my submission, either of these two plans would work and probably you would work the licensing system to come in with them. They are workable with a licence fee. Of course, you would have to have in addition a general prohibition that would work in the same manner.

Hon. Mr. DUNNING: Are you of the opinion that in that manner definite national control could be assured? What I mean by that question is this: would it still be possible under the legislation of some of the provinces for somebody to charge more than what would be contemplated by the federal legislation?

Mr. WALKER: If it is conceivable that the lender could work a scheme whereby there was no interest charged at all, then the scheme might be defeated. Personally, I do not believe—

Hon. Mr. DUNNING: It is being done now, Mr. Walker.

Mr. WALKER: I do not think it has been done and tested by the courts.

Hon. Mr. DUNNING: No.

Mr. WALKER: I think when these schemes have come to the courts it has always been decided that some portion of that charge was at law interest. But there is no doubt on this scheme. To the extent that any part of it was interest then the whole scheme would work. It is only when you can conceive of some scheme in which there is no interest at all that it does not work.

Mr. LANDERYOU: Supposing the provinces saw fit to pass legislation limiting the charges that can be made below that which would be contained in the charter of these companies, what would the result of such action be?

Mr. TUCKER: I think the provincial law would hold, wouldn't it Mr. Varcoe?

Mr. VARCOE: Yes, I should think so.

Mr. TUCKER: If we define them as interest their law would be ultra vires; therefore, I think we should define these things as interest and take it right out of the jurisdiction of the provinces altogether.

Mr. VARCOE: Might I ask Mr. Walker a question?

The CHAIRMAN: Certainly.

Mr. VARCOE: Mr. Walker, with reference to the first of the two plans you mentioned, do you make any distinction between those charges which the company makes against the borrower and those expenses which the lender puts the borrower to; that is to say, the lender says to the borrower you must provide me with a chattel mortgage and there are certain expenses in connection with that which you will have to bear. Do you make any distinction between that and charges made directly by the borrower against the lender?

Mr. WALKER: I meet that problem from the other end. I do not attempt to define interest; I mean, something that is not interest in law; because I think that would be eventually proved unsound. So, I define the cost of the loan, and I make that definition to be just as wide as language can be made, to include everything that the borrower pays, no matter to whom he pays it or for what he pays it. It includes every conceivable type of disbursement, even registration fees, even perfectly legitimate legal fees. I make that cost of the loan to the borrower include everything that you can possibly think of; and then say that this privilege that you are going to give a selected group of people, this privilege of charging interest, shall only be given in exchange

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for a prohibition against allowing, if I may put it that way, the borrower to be required to pay, by anybody, more than X per cent.

Mr. VARCOE: You are adopting not Mr. Tucker's view but Mr. Vien's scheme. I see that.

Mr. VIEN: I was discussing the scheme that is contained in the private bills presented before the committee.

Mr. VARCOE: I have not seen those bills.

Mr. VIEN: Those private bills put the rate at 2½ per cent, all inclusive, inclusive of disbursements, interest and service charges. I was talking in terms of the suggestion made by the companies in their private bills.

Mr. VARCOE: Mr. Walker is now discussing the matter on the basis of what is a practical licensing system.

Mr. WALKER: It is obviously easier in the private bill than it is in the general bill, because we can boldly do it and we do not need to worry.

Hon. Mr. DUNNING: I think you can take it for granted that this committee would not be in existence if the question before it was merely the determining of terms on which the dominion would license this business. Unless the work of the committee is wider than that, we all recognize it is futile. That is, the mere surrendering of a dominion charter as a penalty or the forfeiture of a dominion licence is just futile in connection with the control of this business. We must look at it from a national point of view.

Mr. WALKER: It is my submission that this scheme would work in both ways. It would work as a prohibition against everybody. One clause would take the place of the Dominion Money Lenders' Act, and would make a very much more effective prohibition than has ever been on the statute books to date; and the other half of the scheme would be the penalty end of it. There would have to be the two sections. There ought to be a prohibition and there ought to be a penalty; and I say that it is possible to design a prohibition, at least on the sliding scale scheme, that will be effective.

Hon. Mr. DUNNING: As against any provincial legislation?

Mr. WALKER: Against any provincial legislation.

Mr. LANDERYOU: Does the plan which Mr. Walker has suggested not depend upon our definition of credit?

Mr. WALKER: No.

Mr. LANDERYOU: Or our definition of interest.

Mr. WALKER: No.

Mr. LANDERYOU: Why not? That is a point I would like to have cleared up.

Mr. VIEN: Mr. Varcoe could, I think, agree to state this, that no provincial legislation could defeat the purpose of the law of parliament, if it dealt with money lenders who charged a rate of interest. For instance, could not a law by this parliament be enacted which would compel all money lenders lending money for a rate of interest or remuneration to take out a licence? Let us start with this. Would it be within the powers of the dominion to pass a law compelling all money lenders in Canada lending money and charging a rate of interest to take a licence? I suggest that in my opinion—my humble opinion, subject to correction—we can, for the reason that it is a proper way of controlling the rate of interest. Under the British North America Act we have the powers to legislate on interest. Therefore if we have the powers to legislate on interest, we have the powers to regulate the charging of interest by money lenders who lend money at a rate of interest or other remuneration. Therefore my first question is: Would it not be possible to enact legislation compelling anybody engaged in the business to take out a licence from this dominion?

Mr. KINLEY: Mr. Chairman, before proceeding with that, I want to make a remark. That is a dangerous thing. There are many people in this country who borrow money from one another at five and six per cent.

Mr. VIEN: I am not suggesting that we should do it. I am simply asking whether we have power to do it.

Mr. KINLEY: If we can do it, we should not do it, even if we have power. The point is that the rate of interest fixed by us in our control, would be afterwards regarded by the public as the proper interest to be charged; and we should get away from any control of that kind unless it is absolutely necessary.

Mr. BAKER: Mr. Chairman, Mr. Parkinson is here—

The CHAIRMAN: Let Mr. Varcoe answer the question first.

Mr. VARCOE: I would be inclined to agree with Col. Vien in the proposition he has put. But I see one possible difficulty from the constitutional point of view, and that is as to whether you can stipulate as to the amount of contracts that this licensee can enter into, subject to the penalty of having his licence cancelled. In other words, I am not quite satisfied that we could provide, first, that every person must take out a licence; and secondly, that the superintendent can cancel that licence on conduct which is ordinarily falling within the provincial field.

Mr. VIEN: But your power under the British North America Act to regulate interest is not restricted by the form of the contract.

Mr. VARCOE: No, sir.

Mr. VIEN: The form of contract is absolutely ineffective to curb or to restrict the powers of the dominion to fix the rate of interest or to legislate as regards interest.

Mr. BAKER: Mr. Chairman, Mr. Parkinson is here. He is representing the Campbell Auto Finance Corporation, which is a provincial concern. He would like to express the provincial view.

The CHAIRMAN: Just a minute, please.

Mr. VARCOE: There is another practical question which I think should be mentioned in connection with Col. Vien's proposal, and that is if you prohibit the transaction, approach the thing in that way, either by criminal law or by civil law, that is much more effective than the licensing system; because how in the world is the superintendent of insurance going to know what is going on all the time? The other method, by prohibition rather than invalidating the transaction, it seems to me is much more effective because no company is going to lend money upon such a contract if the borrower can say, "Well, that was an illegal transaction; I am not going to repay it."

Mr. TUCKER: Mr. Chairman, I must leave now, and I am just wondering about a few things. Mr. Varcoe says he has not considered these questions. Some of these ideas of ours were probably so unusual that he had not thought it necessary to consider them; some of them probably he did not feel that way about. But he has not considered them, anyway. I was just wondering about this: He obviously has to have time to consider these ideas that have been brought up, to discuss them and to consider the law in regard to them. He cannot give opinions offhand. I am just wondering if it would not be a good idea to ask him to consider the items that have been brought up this morning, the questions that have been asked and any further questions that may be asked on the question of jurisdiction, in order that he may be more ready the next time he comes before us to deal with these questions that have been brought up.

Mr. BAKER: Mr. Chairman, I move we hear Mr. Parkinson. Mr. Parkinson wishes to present the provincial viewpoint.

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The CHAIRMAN: Is Mr. Parkinson speaking on the matter of jurisdiction?

Mr. BAKER: Right on the point we have before us.

Mr. VIEN: On the question of jurisdiction, I am trying to follow up the objections which the minister has just pointed out. Could any provincial legislation defeat the purpose of any legislation that we could enact? I agree with Mr. Kinley and with Mr. Varcoe that the question of licensing may present serious difficulties. I am not addressing myself to the advisability, for the time being, of imposing a licence; but only with respect to our powers. I would be inclined to agree that the difficulties that have been pointed out are serious. But if we enacted legislation to the effect that service charges are part of the interest or are to be considered as such, and fixed a maximum that could not be exceeded and such maximum could be all-inclusive, then if we put on penalties by way of amendment to the Criminal Code or penalties by way of fines, no provincial legislation could defeat that purpose, could it?

Mr. VARCOE: Not if our legislation is good. That is certain.

Mr. KINLEY: Mr. Chairman, I think we should be definite on one thing and we should hold ourselves to that, and that is that we are dealing only with organized money lenders. I do not think we should invade on the man who carries on a business on his own responsibility and who is not protected by some form of company legislation. I realize that this form of money lending is in a class by itself. They are different from the banks. The banks have privileges that they do not have. The banks have the cream of the trade, in the first place; in the second place, they have the privilege of issuing currency, and they have check credits and they charge for this money. They hire your money for 1½ per cent, I believe, and they have the privilege of borrowing other people's money and hiring it out. These people are in a different position. They put up the money and they loan it. They are just the same as the business man who puts his goods on the shelf. Their goods is their money. As a business man, I am bound, no matter what I think of interest rates, to judge them on the same basis as I judge my own or any other business.

Hon. Mr. DUNNING: But there is a federal law controlling what they may charge.

Mr. KINLEY: I know there is.

Hon. Mr. DUNNING: The Money Lenders Act.

Mr. KINLEY: I know there is. But I think that the question before us now is whether they are not charging too much or whether the law should not be such that they shall charge less. I want to say that the possibility is to say that they are charging too much and that nobody should charge that much for money in this country. Well, I think we should look at it in the light of the facts; that is, that they have money to sell. They must create an organization the same as a business man, to sell that money, and on other businesses in this country it runs from twenty-five to fifty per cent on the overhead. I think you would find the dry goods business runs up to fifty per cent on the overhead. Very few businesses in this country would run at less than twenty-five per cent on their overhead. These people must create an organization and they must sell their money in the market the same as a man must sell his goods. You might say, "Oh well, if you sell a man a can of beans, you give him the beans and he pays for them. These people give you money and when they want it back they charge you interest." It seems to me it is a different aspect of the situation from that of the bank, when you consider the little man who goes to his neighbour who is not an institution. The neighbour says, "Give me your note, and I will lend you \$100." Then he asks, "How much interest do you want?" Well, if he is a friend, he may do it for four or five or six per cent. We do not want to invade on that. It

seems to me that we should look on this situation on its merits as organized money lending, which comes to us from other countries, which must be sound because it is carried on in other countries, and for which there must be a field because of the amount of business they do and which, if uncontrolled, is infinitely worse than if you control it. The best thing we can do is to control what might become an evil if we do not control it at all. It is like the sale of liquor. People are against it. Everybody wants to be temperate but they realize it is an evil that must be controlled, and therefore you have government sale. It seems to me that the same thing applies to this situation and we should control it in an intelligent and fair manner, especially in this Banking and Commerce committee, and not try to control it with the idea that something would be popular, by saying that because the interest rate is so much, that is something that should not be allowed in this country.

The CHAIRMAN: Mr. Parkinson, do you wish to speak on jurisdiction?

Mr. BAKER: Jurisdiction provincially.

Mr. H. F. PARKINSON: Mr. Chairman, I come before the committee with considerable trepidation, and if anything I may say may appear to be possibly slightly in conflict with anything which my old classmate Mr. Varcoe has said I will be sorry. But I do represent a group—I am here today representing one corporation, but I have been in consultation from time to time with a group of provincial corporations lending money. Now this committee will have observed that a company organized for the purpose of lending money, with a federal charter, is under the direct control of federal legislation. The 1934 legislation provided that if any company, presumably a federal company, despite regulations laid down, loaned any money for a total return in excess of 2½ per cent a month, it then could be controlled by cancellation of their charter. But I submit to the committee that such a power does not exist with respect to either provincial corporations carrying on business or that type of company which carries on business largely in the provinces, namely registered partnerships. That, of course, brings us to a consideration of what legislative jurisdiction parliament has to regulate as to total cost of the loan. I was very interested in what Mr. Tucker was saying because his mind was directed to the total cost of the loan to the borrower as distinguished from what interest might be.

The companies which I have been in contact with are anxious for legislation. They realize that in the province there are possibly two types of money lenders carrying on business. There is the one type of company which is anxious to render service; that is, they are anxious to carry on the business of money lending at a cost which is fair to the borrower and at the same time yields a fair return to the lender, considering the risks involved, the cost of doing business and all those incidental items. As I say, that type of company wants regulation. There is the other type of company or money lender, commonly called sharks. That is the type of money lender who pays no attention to what is proper or right or regulations or anything else. They are going to make loans and they are going to make all the traffic will bear. I venture to submit to this committee that that type of lender does not want regulation at all. Now, we should, it seems to me, keep in mind the fact that in the States where these standard money lending statutes have been passed, the jurisdiction rests wholly within the state; and secondly, that the states are enabled to enact in their statutes a definition of interest and they have legislative jurisdiction to say that interest in this Act shall include every type of charge—even, if necessary, a charge paid out for legitimate conveyancing and registration expenses. But what is troubling the people with whom I am in contact is that effective and legal regulation may not be accomplished unless it is gone at in a very similar way; and the point which I would like to address the committee

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learned counsel and with every deference in the world. It strikes me that the dominion body being limited to the simple word "interest" might be transgressing on provincial authority when they legislate that other charges exacted by virtue of local contract in the province between two free and educated individuals shall be deemed to be interest; that is really what is troubling the people for whom I am speaking.

Sir, they are not coming here opposing the idea that the business should be regulated. These companies are coming here urging on the committee that they desire that the business should be regulated for the benefit of everybody concerned. I am not going to address the committee on the question of whether or not the English system is desirable, which provides that a rate charged over 4 per cent per month is deemed to be unconscionable and under that rate the onus is on the borrower to show that such rate is unconscionable. Over 4 per cent per month the onus rests on the lender to show that the rate is not conscionable. Under 4 per cent per month the onus is on the borrower to show that the rate was conscionable. Nor am I assuming to address the committee on the question of whether the New York State law, recommended as the most advanced at the moment, is the proper law for this country. But I do desire to suggest to the committee that constitutionally this committee might be exceeding its power—and I am suggesting this with the greatest deference—by suggesting legislation that that type of contract which individuals are certainly entitled to enter into shall be deemed to be interest regardless of what the true facts are. If I may illustrate my point, I should like to say that the true definition of interest, as distinguished from any statutory or legislative definition, is the return or recompense which one party has to pay to another party for the retention of money. Now, under the civil law, I submit that a man and another man may agree that the rate of interest upon a loan shall be 7 per cent, and that that is a matter of contract; also that that is a matter of a purely local and private nature within the provinces. It is established, I submit, by a judgment of the Privy Council, in the case of *London Western vs. Meagher* that the parties can agree on a collateral advantage. So that the borrower says to the lender, "I would like to borrow \$500 from you; for the sake of my credit I do not want the note bearing a high rate of interest, such as 7 per cent, so therefore we will make a valid and binding agreement between us that the rate shall only bear 7 per cent." The borrower says, "I desire it so." The lender says, "I cannot be bothered with the business of overhead, and so on, but if you will give me some collateral advantage, I will make the loan." The collateral advantage may take almost any form. It may take the form of money. And my submission is that where parliament steps in and attempts to say that by virtue of an ancillary power, I mean, power to go beyond legislation directly affecting interest, and legislate on local matters as ancillary, but interest, that may be going beyond their jurisdiction.

Mr. VIEN: Would you not say it is disguised interest, in the case you have urged as an example? Would you not say that such an agreement would be disguised interest?

Mr. PARKINSON: Under certain circumstances, certainly; if it was purely a disguising of a money consideration for interest.

Mr. VIEN: According to the terms of the British North America Act, would you say that parliament would not have the right to legislate on such disguised interest?

Mr. PARKINSON: If it was disguised interest and the courts have so found, Mr. Vien, I would certainly agree with you. But I am pointing out that in some of these transactions there are collateral advantages which are not really interest. The point Mr. Tucker was discussing was where a lender says to a borrower, "You go to a solicitor and pay him his fee for preparing a chattel

mortgage and bring it to me and I will make you the loan." I submit that is not disguised interest and could not possibly be classified as such.

Mr. VIEN: But it is recompense with respect to the lending of an amount of money.

Mr. PARKINSON: Yes, it is.

Hon. Mr. DUNNING: I suppose you two lawyers would agree there is only one real way to find out.

Mr. MACDONALD: What was the case you cited, Mr. Parkinson?

Mr. PARKINSON: London, Western vs Meagher. It cited the Privy Council case which says there is nothing in this law which prevents a mortgagee coincident with the making of the mortgage to stipulate for a collateral advantage. I can give you the citation.

Mr. MARTIN: That is hardly helpful in this matter.

Mr. PARKINSON: No, it is not. The only point I want to make is that these money lenders in the provinces who are trying to carry on a legitimate business at a fair cost desire regulation. They desire regulation. But they hope that the regulation, when it comes, will be legal and effective so that the business will be benefited.

Hon. Mr. DUNNING: You see what our object is. Our object is national and effective regulation. You say your clients want that?

Mr. PARKINSON: Yes, that is true.

Hon. Mr. DUNNING: Can you suggest to us any way in which the parliament of Canada can, for the whole nation, and effectively, regulate the whole cost of money to the borrower. That is the essence of our problem.

Mr. PARKINSON: I would have to answer your question with very great trepidation.

Hon. Mr. DUNNING: That is what we are looking for.

Mr. VIEN: Then trepitate and let us have it.

Mr. PARKINSON: I am of opinion that there must be co-operation between the federal authority and the provincial authorities to bring about effective regulations.

Hon. Mr. DUNNING: There must be legislation in both spheres, in your opinion.

Mr. PARKINSON: Interlocking legislation. It would be very simple if the provinces would co-operate because the federal authority could legislate as to the maximum rate of interest.

Hon. Mr. DUNNING: I suppose there is no use me asking you how we are going to get all of them to agree.

Mr. CLEAVER: Mr. Parkinson, have you seriously considered Mr. Walker's suggestion which I take to be that the parliament of Canada has the right to enact legislation, that the right to impose any interest rate in excess of 1 per cent might be withdrawn from a lender who permits his borrower to pay charges in excess of a certain percentage of the loan?

Mr. PARKINSON: The answer at the moment is that these provincial companies are not under federal jurisdiction. The company which Mr. Walker represents and others are federal companies.

Mr. CLEAVER: Forget about that and turn to the general question. I take it the question is this: that having the right to legislate in regard to interest rates, this parliament would have the right to say to a money lending company, "you shall not charge any interest rate in excess of 1 per cent, if you permit your borrowers to pay charges and all that kind of thing in excess of a certain amount."

[Mr. H. Fred Parkinson, K.C.]

Mr. PARKINSON: With every deference to what Mr. Walker has said, does it not strike you that as soon as parliament says—that is a collateral contract you are talking about—you shall not lend money in excess of 1 per cent, if you do something else, then that something else is a civil contract which is solely within the jurisdiction of the province.

Mr. VIEN: It is being done in many pieces of legislation. Take, for instance, the Bankruptcy Act. The British North America Act gives parliament the right to legislate on bankruptcy, and we assumed the duty of determining the ranks of creditors under the Bankruptcy Act, which was purely a matter of civil right, and the Privy Council held that it was an ancillary power to the powers of the dominion in legislating over bankruptcy. Would you say it would be an ancillary power to the powers of parliament in legislating on interest to legislate also on such civil contracts so intimately linked up with interest that they really form part of it directly or indirectly?

The CHAIRMAN: May I make a suggestion? Will you allow Mr. Cleaver to get through his examination first, and then we may have interruptions.

Mr. CLEAVER: Mr. Parkinson, if you have not considered the question, I am not pressing for an answer to-day; but I was simply asking you the question as to whether, in view of the fact that the dominion parliament has jurisdiction as to interest rates, in order to effectively carry out our power with respect to interest rates, we might have the right to say to a company, "you shall not have the privilege of charging an interest rate in excess of 1 per cent. if you permit your borrower to be mulcted in these other charges?"

Mr. PARKINSON: I would like to have time to answer that question, Mr. Cleaver. Just offhand it strikes me it is a case of legislating on interest and overstepping away beyond interest and interfering with the right of contracts within the province. Answering Mr. Vien, I point out that the right to interfere with property and civil rights in the provinces was an absolute essential part of the bankruptcy legislation. The parliament could not possibly legislate with respect to bankruptcy legislation without interfering with property and civil rights.

Mr. CLEAVER: Is that not equally true in regard to interest?

Mr. PARKINSON: I would like to consider before answering further on that point. The point is that I came to express an opinion to the committee that this class of moneylender in the province is desirous of regulation if it can be accomplished legally and enforceably. If it is within the jurisdiction of the dominion, and the dominion does take the obligation of enacting such legislation, the company for whom I am speaking will naturally be pleased.

Hon. Mr. DUNNING: You cannot advise us with certainty how we can do it?

Mr. MARTIN: I do not want to take your unawares, Mr. Parkinson, but you have stated that your considered opinion was that Mr. Varcoe's exposition of the law was, with great respect, as you put it, wrong. I put this question to you having in mind a number of circumstances; that this committee is charged with the responsibility, not of considering the question of loans in all its aspects, but simply the question of the small loan companies—a specific and well-defined kind of business. Having in mind that your business does not really come within the terms of our reference, let me ask you this question, also having in mind, as Mr. Cleaver put it, that the federal government has exclusive powers with respect to interest; what is to prevent the parliament of Canada from enacting such legislation? Surely that is a question which you being a lawyer can answer. Surely the parliament of Canada has the right to say that no company engaged in the small loan business—assuming that we define that accurately in any proposed legislation—shall impose upon the borrower a rate greater than that determined by parliament,

and that that would include companies not now federally incorporated as well as companies with provincial charters and units that have neither a provincial nor a federal charter.

Mr. PARKINSON: My answer to that, Mr. Martin, is this—and I give it with a great deal of nervousness for although I have been thinking about this matter for many years I realize other lawyers have diametrically opposite views—my opinion has always been that where the lender actually stipulates for a collateral advantage—may I give an example of that?

Mr. MARTIN: You are getting out of it. I am just putting a simple question to you. Suppose, as Mr. Coldwell has stated, a full disclosure of what the borrower shall pay is given, and parliament having these circumstances before it says: you shall not impose upon a borrower a rate of interest beyond the definite amount set by parliament.

Mr. PARKINSON: Yes. And that rate of interest shall include all fees and charges.

Mr. MARTIN: I did not say anything about that.

Mr. PARKINSON: You see, Mr. Martin, my suggestion to the committee is this, that the stipulation for a collateral advantage coincident with the making of the loan has been recognized as something outside of interest. I am stating that with the greatest deference, of course, to the committee. I believe if parliament stated interest shall include all collateral advantages that might in any way be stipulated for by the lender at the time of making the loan, that section of the act might be *ultra vires*.

Mr. MARTIN: My question is not that. Parliament will say nothing about collateral security. Parliament will simply say: You shall not charge over a certain amount by way of interest. The act will say nothing else. Assuming that, what would you say?

Mr. PARKINSON: I do not see that that would in any way, shape or form regulate the service charges which might be coincident with the making of the loan, for this reason: the lender says, I will lend you \$300 at seven per cent per annum and coincident with the making of that loan I stipulate for a collateral advantage.

The CHAIRMAN: Gentlemen, we are approaching 1 o'clock. Mr. Parkinson, we are very much interested in what you have to say and we should like to know if you will be available at another session of the committee?

Mr. VARCOE: I have just one question I should like to ask Mr. Parkinson. You stated to Col. Vien in reply to a question of his that these collateral charges might or might not be interest, that they might be disguised interest or a purely independent charge, an honest charge. You will admit, I suppose, that it is difficult to say in any case what such a charge would be. I am thinking of the cases. You know, a great many cases have gone to the courts of this country in which the dispute has been as to whether collateral charge was or was not disguised interest.

Mr. PARKINSON: Yes.

Mr. VARCOE: And you know that in every case that has gone to the courts, the courts have held it was disguised interest.

Mr. PARKINSON: Unless, Mr. Varcoe, there were charges not expressly stipulated to the borrower.

Mr. VARCOE: Never mind about the stipulation. The courts have held over and over again you cannot call a thing commission when it is really interest, or bonus when it is really interest, and get away with it. That has been the result of all the cases. The courts have held that these charges are interest. If that is the case, if it is difficult to distinguish between what is a

[Mr. H. Fred Parkinson, K.C.]

legitimate service charge and what is disguised interest charge, would you or would you not say that it is reasonably necessary for parliament to deal with the whole subject and say that it should be all treated as interest? Would not it be reasonably necessary in order to maintain your stipulated rate of twelve and a half per cent, or whatever it is? That is the whole case.

Mr. PARKINSON: Just so long, Mr. Varcoe, as the collateral advantage is actually acceded to, you see.

Mr. VARCOE: No, don't get away from that.

Mr. PARKINSON: As long as it is interest disguised, certainly parliament has jurisdiction.

Mr. VARCOE: Now, you are speaking of two things and they are difficult to separate. Would it not be reasonable for parliament to say we are going to ignore the distinction and prohibit all things; if we do not do that our regulation of the interest rate is a mere futility? That is the case for the ancillary powers.

Mr. COLDWELL: I was going to ask what company this gentleman represents. I understood he was representing some automobile loan companies. If that is so, do these automobile loan companies come under this reference?

Mr. PARKINSON: There are two types of loan companies. There are two types of automobile companies. There is first of all the original finance company which finances the car when it is first sold, and then there is what is called in slang language the refinance company. This company refinances automobiles by means of individual chattel mortgages. That is done at the time the purchaser finds himself either unable to meet his first payments or desires to raise money for some other purpose.

Hon. Mr. DUNNING: The latter is a class of small loan company.

Mr. PARKINSON: Yes.

Mr. FINLAYSON: That is the one you represent.

Mr. PARKINSON: All of them. Mr. Chairman, it will be plain on the record I have come in a spirit of co-operation, and the companies for whom I speak desire to say that if it is the desire that they be regulated, they hope it will be effective regulation.

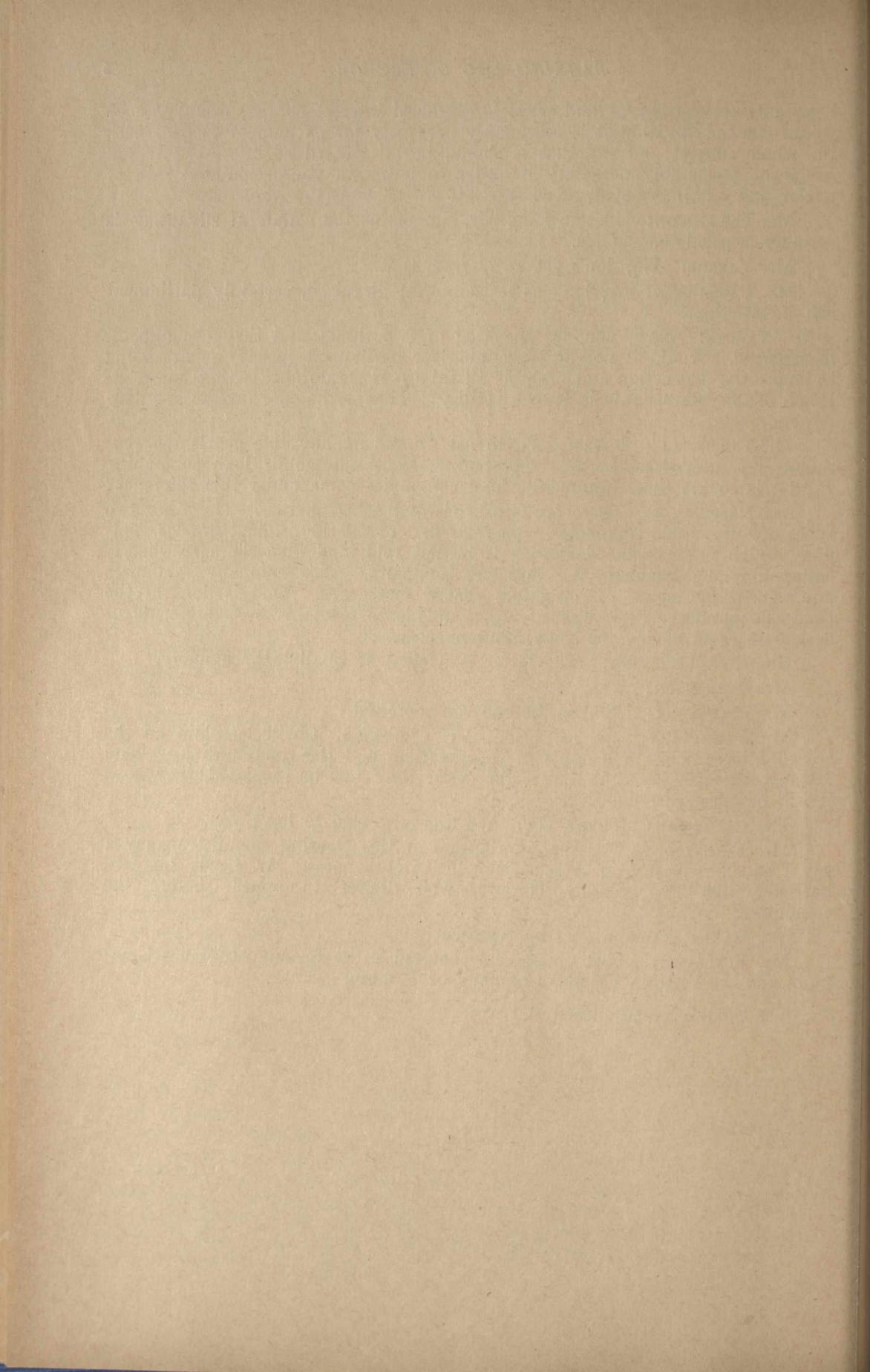
The CHAIRMAN: Thank you. We are very glad to have you.

Mr. FINLAYSON: For the information of this steering committee, may I say I had a request from a gentleman in Toronto named Mr. Lewis Samuels, barrister, 465 Bay Street, Toronto, who desires to appear before the committee.

Mr. BAKER: Whom does he represent?

Mr. FINLAYSON: Two small loan companies, the Economy Finance Company and the Victoria Finance Company of Toronto.

The Committee adjourned at 1 p.m.



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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 3

TUESDAY, MARCH 1, 1938

WITNESSES

Mr. F. P. Varcoe, K.C., Counsel, Department of Justice, Ottawa.
Mr. H. Fred Parkinson, K.C., Toronto.
Mr. Harold Walker, K.C., Toronto.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

ORDER OF REFERENCE

TUESDAY, March 1, 1938.

Ordered,—That the quorum of the said Committee be reduced from fifteen members to ten members.

Ordered,—That the said Committee be given leave to sit while the House is sitting.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORT TO THE HOUSE

TUESDAY, March 1, 1938.

The Standing Committee on Banking and Commerce begs leave to present the following as a

SECOND REPORT

Your Committee recommends:

1. That the quorum of the committee be reduced from 15 members to 10.
2. That the committee be given leave to sit while the House is sitting.

All of which is respectfully submitted,

W. H. MOORE,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, March 1, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Jaques, Kinley, Kirk, Macdonald (*Brantford-City*), Mackenzie (*Vancouver-Centre*), McGeer, McPhee, Martin, Moore, Quelch, Ross (*Middlesex East*), Thorson, Tucker, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance; Mr. F. P. Varcoe, K.C., Counsel, Department of Justice; Mr. Howard Walker, K.C., Counsel for the Central Finance Corporation; and Mr. Fred Parkinson, K.C., representing a group of provincially incorporated Finance Companies.

On motion of Mr. Cleaver,

Resolved,—That the Committee request permission to reduce its quorum from 15 to 10.

Mr. F. P. Varcoe, K.C., was recalled and further examined.

Witness retired.

Mr. H. Fred Parkinson, K.C., was recalled and examined.

Witness retired.

Mr. Harold Walker, K.C., was recalled. He read a statement, submitted a draft bill, and read an opinion given by Mr. A. W. Anglin, K.C., on the said draft bill.

On motion of Mr. Vien,

Resolved,—That the draft bill entitled "An Act respecting Interest on Small Loans" submitted by Mr. Walker be printed into the record. (*See Appendix.*)

The Chairman submitted a letter received from Messrs. Marler and Marler, Montreal. It was agreed to have this letter incorporated in the Minutes of Evidence.

The Chairman read a telegram from Professor A. B. MacDonald, of St. Francis Xavier University, Antigonish, N.S., asking if it would be convenient to appear before the Committee at a later date than March 8.

The Committee agreed that it would be preferable to hear Professor MacDonald on March 8, if it could be arranged.

On motion of Mr. Vien,

Resolved,—That the Committee request permission to sit while the House is sitting.

At this stage of the proceedings, the Chairman announced that Mr. Rolf Nugent, of the Russell Sage Foundation, New York City, had been unable to accept the Committee's invitation to appear before the Committee, but that Mr. Leon Henderson, an associate of Mr. Nugent, had just arrived and would be at the disposal of the Committee at its next meeting.

At 1 o'clock the Committee adjourned until to-morrow, Wednesday, March 2, at 11 a.m.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,
MARCH 1, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., Mr. W. H. Moore, presided.

The CHAIRMAN: Order, gentlemen. To-day we are going to hear from Mr. Varcoe, Mr. Parkinson and Mr. Walker, on jurisdiction. I would suggest that we allow each of the experts to complete his statement, and then ask such questions as may arise out of the statements. I will call on Mr. Varcoe.

Mr. CLEAVER: Before you proceed with the business of the committee, Mr. Chairman, may I re-introduce my motion in regard to the quorum. I would again move that we ask leave to reduce the quorum of the committee to ten.

The CHAIRMAN: Have you a seconder?

Mr. MARTIN: I second that.

The CHAIRMAN: Mr. Martin seconds it. What is your pleasure, gentlemen? (Carried.)

The CHAIRMAN: Mr. Varcoe, please.

Mr. F. P. VARCOE, K.C., recalled.

The WITNESS: Mr. Chairman, since the discussion on Thursday last on the question of jurisdiction, I have had an opportunity of discussing the matter with Mr. Finlayson and with the Deputy Minister of Justice, and we reached two conclusions: first, that a project for the regulation of these money lenders which would go anyways short of a complete control would probably be inadequate and almost useless perhaps; and, secondly, Mr. Edwards and I finally concluded to advise the committee as to the powers in a form which I have reduced to writing, in the interests of precision. This statement which I propose to read to the committee contains, first of all, a short statement of the project, anything short of which we think would not be much good; then a further statement as to the arguments which may be made in favour of this project from a constitutional point of view; and finally an opinion as to its constitutional validity. First, as to a description of the project—and, of course, I am not attempting to reduce this to legal length; it is just a bare outline of what we think would be necessary if anything were to be done. We submit as follows:

No sum in excess of X per cent of the principal sum loaned shall be exacted from the borrower as:

1. Interest, that is to say compensation for the use of money and for the risk of its total or partial loss; and

2. Service charges, whether genuine or interest disguised as such; and

3. Disbursements, real or fictitious;

and any sum exacted in excess of such per cent shall be deemed oppressive and usurious, exposing the lender to criminal proceedings and invalidating the contract.

Furthermore, if the lender requires the borrower to make any expenditure—that is, imposes an obligation on the borrower to obtain a chattel mortgage, let us say, or make any expenditure to a third person

—in connection with the loan as a result of which the cost of the loan exceeds the aforesaid X per cent, the lender shall likewise be guilty of an offence and the contract invalidated.

Dealing with the items of charge mentioned in paragraphs 1, 2 and 3, viz., interest, charges and disbursements of the lender, the projected provisions are justifiable constitutionally, first, as being legislation in relation to interest, or as being indispensably or reasonably ancillary to interest legislation.

The differentiation between true interest charges and service charges is so difficult (they are in many cases probably indistinguishable) and the possibility of disguising interest as other charges is so great that it becomes indispensably or reasonably necessary to regulate or fix these charges in order to make good the interest restriction and there appears to be no reason why the ancillary doctrine may not be relied on notwithstanding that the restriction of the rate of interest and the ancillary restriction of the service charges are contained in one and the same restrictive regulation.

Further, the principal ingredient in the gross sum charged the borrower is interest and if parliament fixes a maximum gross charge, it must be presumed that if the sum is exceeded an excessive interest charge is being made; therefore, the fixing of a gross maximum charge constitutes a limitation of the rate of interest.

The imposition of a gross maximum charge would have this effect, that in each case the interest ingredient therein would be fixed by reference to the other ingredients. It is arguable that by this means there would be a fixing of the interest charged in each case.

Then again, it is to be borne in mind that interest is not only compensation for the use of money but also compensation for accepting the risk of loss. The service charges, for example chattel mortgage expenses, are, theoretically at any rate, made to protect the lender against loss. Parliament, therefore, in restricting certain of the charges which the lender can make against the borrower is limiting the compensation for accepting the risk of loss and so is legislating in relation to interest or at the worst is enacting legislation necessarily ancillary to interest legislation.

It is noteworthy in this connection that, in England, parliament, when legislating respecting loan societies and money lenders, found it necessary to prohibit the making of charges for expenses (Money Lenders Act, 1927, s. 12, and Loan Societies Act, 1840, s. 23), and in the Money Lenders Act of 1900, excessive interest charges and excessive expenses were treated as equivalent grounds for setting the contract aside.

Secondly, the projected legislation already referred to may be justified as being in relation to criminal law. The charging of an amount in excess of a maximum gross might be regarded as oppressive and usurious.

Thirdly, there is the power to regulate trade and commerce. The lending by money lenders of money at interest is a business which falls in the dominion field of regulation. The combined effect of the assignment of the subject of the regulation of trade and commerce and the assignment of the subject of interest to parliament would seem to enable parliament to deal with all the activities of money lenders.

This analysis leaves to be considered expenditures made by the borrower on the demand or requisition of the lender, e.g., legal fees for chattel mortgages, etc. If the lender imposes an obligation or requirements on the borrower to make an expenditure which raises the cost of the loan to a point in excess of the maximum gross fixed, the result, it would seem, is

indistinguishable from the case where the lender himself makes the expenditure and claims to be reimbursed. After full consideration, it would appear that, for the reasons mentioned in connection with direct charges by the lender, parliament has the power to fix the maximum gross cost of the loan including expenditure by the borrower on demand of the lender.

If the views expressed are correct there would seem to be no doubt that the money lenders might be required by parliament to be licensed.

The CHAIRMAN: Is there any discussion? If not, is it the pleasure of the committee that I should call upon Mr. Parkinson?

Mr. MARTIN: Mr. Chairman, do you not think it would be more complete, as Mr. Parkinson perhaps is going to sort of clean-up, if we had a statement from Mr. Walker covering the general proposition?

The CHAIRMAN: I do not know whether Mr. Parkinson intends to clean-up. I will call on Mr. Parkinson.

Mr. TUCKER: Before Mr. Parkinson proceeds, I would like to express the appreciation of the committee for the clear statement which has just been presented by Mr. Varcoe. I think it shows very great care and was very nice in manner of presentation.

H. FRED PARKINSON, K.C., recalled.

The WITNESS: Mr. Chairman and gentlemen of the committee, at the first meeting of the committee I was expressing the suggestions to the committee that possibly parliament has not jurisdiction to enact what I like to think of as an all-inclusive charge in connection with small money matters—and when I use the expression “all-inclusive charge” I mean by that every item of expense to which the borrower is put, whether in the nature of service charge, investigation or anything of that nature, shall be included in the all-inclusive charge—and that such legislation is necessary to accomplish anything like satisfactory regulation of the small loan business.

I would also like to say, before beginning with my statement, that the three or four companies which I represent are here in a friendly spirit and they have sent me in that manner; that is, if my suggestions can be of any help to this committee in arriving at a true conclusion, then we will be content. In other words, the companies for whom I am speaking believe that regulation is desirable and they believe that it will be the intention of this committee in dealing with the question of rate—if the question of a rate is arrived at—that such a rate shall be fair, having regard to the necessity of the business rendering a fair return to the lender. At the end of my remarks, Mr. Chairman, I will have a concrete suggestion, which may be right or wrong, to make as to how the object in view can be accomplished.

Now, taking my suggestion which was advanced at the last meeting, that satisfactory regulation cannot be accomplished without provincial co-operation and my suggestion that parliament has not the authority to enact all-inclusive legislation, it is necessary to remember that section 91 of the British North America Act gives to parliament the power, the exclusive power, and attached to the exclusive power the ancillary power, to legislate with respect to interest. Interest has been defined by statute in so many jurisdictions that it is difficult to find what is the true definition of interest from a legal or business point of view as distinguished from a statutory point of view. The best definitions which I have been able to locate, after considerable reading, are as follows. The shortest definition of all is, of course, “a sum of money paid for the use of money.” In the United States of America a more exact definition has developed, and it may be stated as follows: “Interest is, in fact, the return, consideration or compensation

paid or suffered as the result of one person having received, retained or not repaid the money of another." A third American definition in common use in the literature of the day is: "compensation upon the loan or forbearance of money." A consideration of what is truly interest from the point of view of federal jurisdiction to enact an all-inclusive regulation, therefore, becomes of paramount importance. In approaching the question, Mr. Chairman, I think it is quite appropriate to consider what is interest from the point of view of large loans secured to large corporations for the purpose of use in their enterprise; because, after all is said and done, interest in a large loan is identically the same thing as interest in a small loan. In considering how a large corporation goes about the business of borrowing money for its enterprise, there are three features which have to be considered. In the first place, a corporation seeking to borrow money for the purpose of its enterprise approaches an underwriter and the underwriter contracts to take the securities. The underwriter, therefore, is truly the lender and the corporation is truly the borrower. The second thing to remember is that in large loans to corporations the evidence of the loan are the bonds, and these are really promissory notes, although they are in fact passed from hand to hand. The third matter to keep in mind is that the security in the case of such a large loan by a corporation is usually in the form of a trust deed and mortgage granted by the borrower to the trustee for the purpose of better securing the bonds or, if I may use the words, the promissory notes.

Now, as a first step, the underwriters require the company to supply extensive statements covering the nature of the business, its past experience, its future prospects, and many other matters. Such statements may be prepared by experts and may cost large sums of money. Such expenses are unquestionably part of the cost of the loan to the borrower, but I do not think anyone would suggest that those costs are interest in any sense of the term.

The second feature, Mr. Chairman, is that the underwriter will undoubtedly demand evidence of the identity of the borrower, the propriety of its incorporation and organization, its right to do business, the validity of its title to its assets and franchises and many other matters. Such evidence may be expensive to obtain. Such expenses are invariably borne by the borrower as an incident to the activities of the lender. Such expenses are certainly part of the cost of the loan to the borrower, and again I suggest that such expenses cannot be considered to be interest within the definition.

The third feature of corporative borrowing is that such a method of dealing usually sets up an intervening trustee for the purpose of keeping the records incidental to the loan, for the purpose of collecting interest and principal payable from time to time, for the purpose of disbursing the interest and principal to the bondholders, for the purpose of auditing and many other incidental matters. The expenses of the trustee and the expenses of the security holders are almost invariably borne under the terms of the contract by the borrower. These items are undoubtedly the cost of the administration during the currency of the loan; but I do not think that any person would suggest that such costs are interest, according to any definition of interest from a legal point of view.

The fourth element of corporative borrowing is the cost of the preparation and recording of the bond mortgage and the costs of engraving the bonds and the coupons is invariably paid by the borrower and certainly cannot be considered as interest. These details of a large loan bear very close resemblance to the preparation and registration of the chattel mortgage in connection with a small loan.

[Mr. H. Fred Parkinson, K.C.]

The fifth branch has some bearing on what Mr. Varcoe has already said. It would be possible that as an incident of the bond mortgage security, such premiums are to be paid by the borrower in respect of insurance of various types and also by way of insurance to protect the investors against loss of capital, and that such expenses are to be borne by the borrower. Undoubtedly such insurance would constitute part of the cost of the loan to the borrower, but I think, and I venture the suggestion to this committee, that such costs are not interest.

The sixth feature is this: I have not included, as you will notice, any discussion of the discount allowed upon the sale of the bonds by the company to the underwriter. The common method of this type of borrowing, Mr. Chairman, is that the underwriter purchases—to give a simple example—a bond of the face value of \$100 from the company at 98 and resells it to the customer of the underwriter at 100. There is a discount there of 2 per cent. It reduces, of course, the profit of the underwriter; but, in fact, the borrower has received only 98 per cent, or \$98. He must pay back during the course of the security \$100. That, I submit, is probably disguised interest; in other words, no matter in what form the interest is disguised or described in the prospectus, that truly is interest although it is disguised.

Without embarking on any particularly technical examination of all of the incidents of expense to the borrower which might not be considered as interest there are the following clear-cut heads which should be examined both in connection with large loans, which I have mentioned, and small loans, which we are considering in committee to-day.

The first item of cost to a small lender is the cost of putting the business upon the books in the first instance. This item naturally falls into two heads: firstly, the lender requires an investigation of the borrower's identity; then his right to borrow, his past record, his future prospects, title to the security and the surrounding formalities, including the preparation and registration of documents. Secondly, a proper proportion of the general costs of putting the business upon the books, such as salaries, printing, transportation and a proportion of certain items of general overhead which can be properly apportioned to the business in hand, having regard to the general principles of large loaning.

My point in connection with a small money lender is that he has the cost of putting the business on the books. There is first the specific item of expense for investigation, documents and certainly a portion of the general item of overhead, having regard to these items which I have mentioned.

The second feature of expense to the small lender is the item of cost directly appertaining to the possibility of loss of capital: some apportionment of cost of protection against loss may be contracted for by the borrower. This item might, in the case of a big loan, appear in the form of insurance or guarantee of some sort. In the case of a small loan this might take the form of some apportionment of reserve for bad debts to be assumed by the borrower.

In venturing the suggestion which I have just completed, you will notice that Mr. Varcoe has given his opinion that protection against loss is interest. My opinion, Mr. Chairman, is that that is not correct; that a lender may properly stipulate by contract whereby the borrower shall incur some expense in connection with insuring the lender against loss, even if it is in the form of bearing a portion of the general overhead and general reserve for bad debts.

The third feature is the question of administration expenses. In this connection I point out that a large borrower may undertake the trustee's costs of auditing, accounting and transferring and registering the securities and in receiving money from time to time and in disbursing the same, and in many other ways. By the same token it is possible that a small loan borrower, by contract, may assume some proportion of the lender's overhead, having regard

to the comparatively excessive expense of getting in the money and of duly accounting therefor and in due course of disposing of the security upon payment in full.

In other words, there are certain elements of the expense of doing a small loan business falling within (a) costs of getting the money out, thereby putting the business on the books; and, (b) the costs of getting in the money including protection against loss. These items, if properly contracted for as an incident of the making of the loan itself, will not fall within the specific meaning of interest, but are truly matters of private contract between the parties at the time of making the loan in question.

The situation in this respect has been the cause of considerable learned discussion in the United States by virtue of the fact that in four states the rate of interest is limited by constitution. It has been suggested that it is not practicable to attempt to amend the constitution of these states so that lenders of small amounts can carry on their business at a practical return because of the political difficulties which unquestionably would arise. It was seriously contended before a committee of the American Bar Association that in those four states a lender could legally stipulate for (a) the maximum rate of interest permitted by the constitution, and (b) for agreed amounts to cover items of reasonable expenses incurred by the lender, risks assumed by the lender, and the services rendered at the request of the borrower and agreed to by him at the time the loan is made. As a safeguard it was suggested that these items must bear reasonable relation to the expenses incurred, risks assumed and services rendered.

In addition to the above it is submitted that the borrower could also agree to pay a fixed amount at the time of the loan to cover items of expense accruing to the lender and arising out of the default of the borrower provided that such items should be allowed back to the borrower in case the contract is strictly complied with according to its terms.

The conclusion to be drawn from these observations is that parliament must seek the co-operation of the provincial legislatures if a general regulation of small lenders is to be accomplished from coast to coast and if the rate to be fixed is to be all-inclusive; that is, if the rate is to include every item of cost or expense paid or to be paid or to be suffered or incurred by the borrower whether directly in favor of the lender or of any third person.

At the last meeting of the committee the question of third-party corporations was mentioned. That requires a certain amount of thought. Those third-party corporations, for the purpose of receiving conveyancing charges—and that is the type of third-party corporation that was mentioned before—are only one type which would require to be dealt with if an all-inclusive expense rate is to be secured. Without attempting to deal exhaustively with the subject it is suggested that third-party corporations might appear upon the scene for the purpose of—

- (a) investigations of all matters surrounding the borrower, his identity, title to security, etc.;
- (b) the legal expenses of a loan, including preparation of documents, registration, etc.;
- (c) insurance against fire and other incidental matters,
- (d) to incur the expense of administration, collection of payments;
- (e) to insure the lender against loss;
- (f) to render service in connection with the final payment and discharge of the securities, etc.

The point I am making is this; that if it is possible, or if it has been found that third party corporations have been set up for the purpose of receiving cash disbursements in respect of conveyancing charges, etc, other corporations might

[Mr. H. Fred Parkinson, K.C.]

appear upon the scene under provincial legislation to take care of these other things, the keeping of books, the expense of administration of the loan, making collections and distributing payments.

This question of third party corporations is merely mentioned for the purpose of illustrating some of the difficulties to be met with in providing all-inclusive satisfactory federal regulation.

The question then comes down to correlative or coincident provincial legislation. It is quite apparent that the problem cannot be bridged by any type of legislation whereby the federal authority attempts to pass on to the province the authority to legislate with respect to interest which constitutionally belongs here, and, conversely the province equally lacks the authority to pass its constitutional authority to the dominion in order to enable parliament to declare that which is not interest to be interest. *Delegatus non potest delegare.*

Interlocking legislation—

Mr. VARCOE: That is not the rule.

Mr. PARKINSON: Strike it out, then. Interlocking legislation might fail because of *ultra vires* features affecting the laws passed in both jurisdictions.

It is suggested, therefore, that to insure a satisfactory outcome parliament must legislate in the field which belongs to it, and so must the provinces.

A possible solution, for the purpose of argument, Mr. Chairman, is—and I advance it as a suggestion only, but I express my opinion that this might be a way out—that parliament might enact legislation covering the rate of interest chargeable by money lenders to be defined.

It is submitted that parliament should not attempt to define interest. Parliament might say that the maximum rate to be charged should not exceed X per cent per annum calculated on a scientific plan. In this regard it is suggested that the direct ratio method might be laid down as the rule for calculation.

On the other hand, parliament might say that a money lender, as defined, shall not lend money at a rate of interest exceeding a specified rate of X per cent per month upon the unpaid balance of principal from time to time.

On the other hand, the provinces might be invited to legislate that service charges are money paid for the use of money and in this connection the following is a very rough suggestion. This, Mr. Chairman, is a suggested form of provincial legislation advanced here by myself with a certain amount of diffidence. The wording may not be correct; it might require careful revision, but I have drafted it in a form which will at any rate illustrate the proposition I have in mind. This is a form which might be enacted by the provincial legislatures by way of correlative legislation to enable satisfactory regulation of this business to be accomplished:

In any contract between a money lender, as defined, and a borrower every return, consideration, compensation, fee, bonus, discount, commission, brokerage, expense deduction, examination, inquiry, service fine, renewal or other matter or thing of value whatsoever to be paid, parted with, suffered by or exacted, retained or deducted from the borrower, directly or indirectly, to or in favour of the lender or any other person as the result of the borrower having received, retained or not repaid any money of the lender shall, notwithstanding any agreement to the contrary, be conclusively deemed to be returned, consideration or compensation paid, payable, suffered or to be suffered by the borrower in favour of the lender in respect thereof.

With respect to the suggested form of provincial legislation I have two or three remarks which I should like to make. In the first place care would have to be taken in framing such legislation to be sure:

(1) That such legislation would not have unforeseen and unfair results, and—that would be a matter for careful examination—

(2) That such items of cost are not unwittingly included in the definition, e.g. no one would dream of including the borrower's expense in driving his automobile to the lender's place of business for examination or for the loss of his pay while he takes time off to arrange the loan.

(3) That additional provision would be necessary to bring disguised transactions, such as wage purchases and transactions of that nature within the provisions governing lender and borrower as defined.

Transactions of that nature would have to be carefully defined so as to be sure that although they are disguised transactions they are brought within the definition of money lending; that is the loan of one man to another.

In the practical working out of such a scheme it is suggested that the provinces should be invited to go no further than to enact that service charges which are part of the costs of money borrowed are in fact money paid for the use of the money having regard to contracts of lending between a money lender (as defined) and borrower.

It is suggested that service charges having been brought within what is really interest, by the provinces, in regard to such contracts, parliament would then have the authority to regulate the maximum rate and then as an ancillary power thereto, would be enabled to legislate regulations and registration provisions as to money lenders lending money at interest within the provisions of the federal statute.

The practical results of such a scheme would be these: in the first place parliament would go ahead and regulate as to regulations and maximum rate and would then have discharged its obligation to the public, if my interpretation of the jurisdiction is correct. Secondly the onus would then rest upon the provinces to bring down correlative or coincident legislation in order to make the business satisfactorily controlled within the provinces.

Then, just in passing I have this remark to make. The radio telegraph case, which is cited as authority for ancillary power to legislate federally with respect to matters which may fall within provincial jurisdiction is based upon firstly the futility of trying to split what was really one undertaking into a local; and the judicial committee there pointed out that it would be foolish to try and separate the broadcasting station which is obviously of dominion-wide import from the receiving station which is local and in the province, and also pointed out that telegraph communication is specifically excepted from the jurisdiction of the provinces.

In the aviation case it is pointed out by the Privy Council that that definitely falls within parliamentary authority because of the fact that legislation was passed for the purpose of implementing a treaty, and implementing of treaty rights is exclusively within federal jurisdiction. But I submit, Mr. Chairman, that the social legislation reference to the Privy Council last year supports my submission to this committee. In the first place the labour legislation was held not to be legislation of national concern and did not give parliament power to trespass upon the provincial jurisdiction nor the rights to contract within the province. Unemployment insurance was held to be ultra vires of parliament on the same ground. The part of the reference which is most peculiarly applicable to our problem is the Natural Products Marketing Act, in which the Privy Council said that power to regulate trade and commerce does not permit the regulation of individual forms of trade and commerce carried on and confined to the province.

With reference to the suggestion that transgressions in respect to interest rates might be created a crime in the confines of the Criminal Code there are some very relevant sections or quotations in one of the decisions of the Privy Council to which we have been referring.

[Mr. H. Fred Parkinson, K.C.]

This is one of the citations:

Parliament shall not in the guise of enacting criminal legislation in truth and in substance encroach on any of the classes enumerated in section 92.

which is the provincial jurisdiction.

I submit further the remarks of the Privy Council in the Natural Products Marketing Acts are particularly applicable to the problem at hand. Mr. Chairman, my remarks have been expressed to the committee in a spirit of co-operation. I am not here urging a case. My interest, and I hope the members of the committee understand, is not necessarily to convince the members of the committee that they have not federal jurisdiction, that parliament has not jurisdiction. My people feel that unless legislation which will stand the test is brought down it would not be satisfactory in the provinces either to the lender or to the borrower, and further trouble and difficulty will result.

The CHAIRMAN: Thank you, Mr. Parkinson. Mr. Varcoe would like to say a few words.

Mr. VARCOE: Mr. Parkinson, may I ask you one or two questions. First just for the sake of the record may I correct one statement which you made in passing, and which probably you did not intend to make in the form in which you did. You made an observation that the provinces could not confide in the dominion power to legislate because of the rule that the delegate cannot delegate. Well, that is not the rule in this case. The rule is that the powers of parliament have been fixed by section 91, and no authority can alter this except the Imperial parliament. The provincial legislature is not in any sense a delegate. That, however, is just a slight correction.

Now, Mr. Parkinson, you took issue with my statement that interest in part is compensation for accepting the risk of loss. I understood you to dispute that proposition. Now, you must have read I should think, many of the cases that were decided under the English Money Lenders' Act. In every case before the court the question to be decided was whether the interest rate was excessive. My reading of these cases leads me to believe that it was almost invariably the case that the courts were asking: what was the risk. That is to say the interest rates had a relationship to the risks. If the risk was great the court felt that a higher interest rate could be charged without it being regarded as excessive. Is that not right? Are you familiar with these cases?

WITNESS: Yes.

Mr. VARCOE: Are you familiar with these cases sufficiently to answer?

WITNESS: Yes; I would answer it in this way, that the test writers of the United States—

Mr. VARCOE: Never mind the test writers of the United States.

WITNESS: In analysing that English rule that you are talking about the point there was that the full obligations for the risk were incurred by contracts through third-party insurance; that having contracted it in that way it no longer becomes interest, but becomes a third-party case, and expenses of the loan were not interest.

Mr. MARTIN: That is not the basis of the findings of the court in England. That is just the comment of the United States commentator. The decisions are, I believe, certainly as Mr. Varcoe has stated.

Mr. VARCOE: I just wanted to bring that to the committee's attention. Now I understand your projected suggestion was that the legislature would define service charges as being compensation for the use of the money. In

other words they would provide a definition of interest to include service charges. Would not that be equally legislation in respect to interest? To say what is interest surely is interest legislation.

WITNESS: Mr. Varcoe, that question, put the way you put it, has been troubling me very seriously over the week-end while preparing my suggestion. But the conclusion which I came to is that the province has complete authority over contracts, and has a right to say, even though it is expressed in the terms of service charges, it is still return for the use of money. That is legislation with respect to the contract between the parties and is not legislation with respect to interest as in section 91. I may be wrong in that.

Mr. TUCKER: I should like to ask a question along that line. You think the province is the only one that can legislate in that field. If that is so we might as well quit, because the companies can do business in this way: they can set up a head office in Montreal and do business with the rest of the country except Quebec. They can do the business for Quebec from Toronto. The people they have in these other provinces can similarly be delegates of head office, and the deal can always be made with the head office. If it is done in that way it ceases to be property and civil rights within the province and we would have no control over it, on the basis of the decisions in regard to the power contract. Is not that correct?

WITNESS: The civil law applicable to contracts, Mr. Tucker, is a civil law where the contract is made, is it not?

Mr. TUCKER: I know; but you can only legislate with regard to property and civil rights in the province. If these deals were made between a borrower in Quebec and a lender in Toronto or vice versa can we legislate that they cannot charge more than a certain amount under property and civil rights within the provinces?

The WITNESS: That is a difficulty which I have not considered.

Mr. TUCKER: But it destroys your whole case, of course.

Mr. VARCOE: With reference to the question of the ancillary power, you mentioned the radio case and the aeronautic case. Of course, you know very well that the ancillary document was not invented by this decision. There are hundreds of decisions in which the question of the ancillary power has been considered. You mentioned also the social reference of 1936. There was no question in any of these cases of the ancillary doctrine.

The WITNESS: No; it was not mentioned.

Mr. VARCOE: I should like to ask one more question. Would you say that usury could not be made a crime by parliament?

The WITNESS: No, I do not think I would to that extent. I did not intend to go to that extent; but I went to the extent of saying this, that the matter of controlling contracts as distinguished from interest should not be made a crime merely under the guise of enacting under the Criminal Code.

Mr. VARCOE: Would there be any question of doing anything under the guise of anything if parliament decided that usury was a crime and defined what usury was? Surely no one would suggest that parliament was dealing with the question of property and civil rights in the province?

The WITNESS: The question of usury would be a question of what is usury, money paid for the use of interest and what a borrower chooses to contract for in the way of service charges. I submit that is not usury; a contract entered into in a province is not usury and therefore should not be called usury by any formal statutory enactment. That was my view.

[Mr. H. Fred Parkinson, K.C.]

By the Chairman:

Q. What is your definition of usury, Mr. Parkinson?—A. Excessive interest, I think, Mr. Chairman.

Mr. WOODSWORTH: I confess I am a bit confused with regard to this procedure. I think Mr. Parkinson has a perfect right to give us his companies' viewpoint, but I do not by any stretch of the imagination for a moment see that he is here to advise us as to the relative jurisdiction of the dominion parliament and the provincial legislatures. This may be very interesting to a very small group of constitutional lawyers. I do not see where we are going to get to. Mr. Parkinson has given us a very learned discourse on the general question of interest, but he rather confused it by trying to drag in the American practices, and also by going far afield in connection with the particular methods by which corporations borrow. I do not think that is very enlightening for us in respect to the small loan business. It may be all very well in a general way. It seems to me that we cannot settle this question of jurisdiction here in this committee. I should rather like to think that the law officers of the crown can present the case to us with sufficient warrant for the committee to go ahead.

Some HON. MEMBERS: Quite.

Mr. WOODSWORTH: And we ought to proceed by taking their advice, and then merely have the case stated for the companies; not transform this into a court by which we seek to determine jurisdiction.

The CHAIRMAN: Mr. Woodsworth, I think I can take personal responsibility for the procedure. We decided first of all that we would determine, as far as we could, jurisdiction. We have a sub-committee, and we decided that we would have as far as possible representations of the provinces, and we have written with your knowledge and the knowledge of the committee as a whole to the law officers, the attorneys-general, of the provinces asking if they should be represented. We have had communications from them. They are in session in the legislatures, very largely; and it is rather inconvenient for them to be present. In the meantime, we did ask—and I take full responsibility—Mr. Parkinson, who appeared here at the previous meeting representing certain of the companies that were operating under provincial jurisdiction, for his point of view; that he should come amply prepared to state it. As far as I am concerned I think Mr. Parkinson has made a very valuable contribution.

Mr. VIEN: I do not believe any exception can be taken to that, Mr. Chairman. It was, I think, quite necessary that the fundamental principles underlying our powers and jurisdiction should be determined, and we must be thankful to Mr. Varcoe and Mr. Parkinson for the valuable opinions they have given us. But I am inclined to believe with Mr. Woodsworth that this committee cannot determine the question of jurisdiction to any great extent. I think that is a matter which can only be determined by the Privy Council or by any other high court which may be set up if we set aside the Privy Council—if and when we set aside the Privy Council—but I believe what the honourable Mr. Dunning told us the other day is the only practical step to be taken: Let us assume jurisdiction. Let us proceed as if we had jurisdiction, and the courts are there to determine whether we have acted within the powers of the dominion parliament. It is, naturally, not advisable that we should blindly and foolishly go into somebody else's field of jurisdiction; but after receiving from Mr. Varcoe and Mr. Parkinson the opinions we have, I think members of the committee would be quite well advised—I am speaking for myself—I would suggest that we should assume jurisdiction and take it for granted that we possess such rights.

The CHAIRMAN: Our next witness is Mr. Walker. Is it the pleasure of the committee to hear further argument on jurisdiction? It is necessary to hear Mr. Walker.

Mr. VIEN: I would have liked, had it been possible, to ask just one short question of Mr. Parkinson.

The CHAIRMAN: Certainly.

Mr. VIEN: It is a very short question.

By Mr. Vien:

Q. Mr. Parkinson, you said that the provinces should be called upon to define service as being remuneration for the lending out of money?—A. Yes.

Q. Do you see any difficulty in the dominion parliament making such a definition? Why should it be more difficult for the dominion parliament to do it than for a province?—A. The point that I tried to make, Mr. Vien is this: that when parliament steps out and in these ancillary matters, these items of service charges which I tried to describe, says they are interest, they are conflicting with property and civil rights in a way that the constitution does not permit. Mr. Varcoe points out the difficulty which I think rules from the very beginning because I think parliament probably could find a solution. I have not been here presenting a case. I have been trying to find a solution of what is a business difficulty. What I say may not be sound; where the province says that this item of service charge incurred by a private party shall be deemed to be money paid for the use of money. It may be that the province is legislating on the question of interest and therefore it is going outside its jurisdiction. I do not think that is the case.

Mr. VIEN: My view on that point is that the provinces could not change the nature of an act passed by the dominion parliament. If the provinces could say that a special rate is interest it seems to me that parliament would have the same power.

Mr. MARTIN: Mr. Chairman, I do not think—

The CHAIRMAN: Just a moment, Mr. Martin; do you wish to answer that, Mr. Parkinson?

The WITNESS: Within the ambit of its powers a province can say that peas are beans and they are forthwith beans because the province has said so. I should think that the same would hold true with respect to the item of service charge. If they say that the service charge is something which is paid for the hire of money then they might consider it interest.

By Mr. Vien:

Q. It might then be within the powers of a province to shift the dominion jurisdiction in matters which under the British North America Act come within its field. I feel, so far as I am concerned, and I say this with a great deal of deference, so far as the provinces are concerned they can not shift dominion jurisdiction in anything such as this, which is set out in the British North America Act. The dominion parliament can itself invade provincial jurisdiction.—A. Well, may I answer it in this way; that it strikes me that it is possible that with the B.N.A. Act, framed the way it is, this business cannot be controlled at all without an amendment to the statutes. Now, that is a possibility; that parliament will be found not to have authority for doing part of it on the one side, and that on the other side the provinces may be found without authority for doing part of it. I am suggesting that it may be found that on constitutional grounds it might be possible that neither the federal parliament nor the provincial legislature has the power to do anything.

Q. My suggestion would be that so many of these charges for services being indistinguishable from interest parliament should so define them within the ambit of its ancillary powers?—A. Of course, my argument has been that.

[Mr. H. Fred Parkinson, K.C.]

By Mr. Kinley:

Q. Before Mr. Parkinson goes: Did I hear you state that you did not consider hazard interest? This morning on the market the bonds of one province were selling at three per cent and the bonds of another were selling at five per cent; how do you explain the difference?—A. The point that I was making was this, Mr. Kinley, that if the rate of interest varies from time to time by reason of the risk that is run then, of course, it is truly interest; and the more risk there is run the higher will be the rate of interest. My submission was that it was possible for a borrower to agree to pay more for an excessive risk as a matter of contract, and in that case it is not interest.

Q. I think you said a hazard is not interest; I think for all practical purposes it is interest?—A. Oh, I—

Q. If you do not say it is interest you destroy the whole fabric of money lending?—A. Oh, no; my argument is this, that it is possible for the borrower to stipulate a side-consideration by virtue of the extra hazard.

Q. He might get an endorsement for that extra hazard. He might get somebody else to guarantee it. Hazard is interest in the money world. With money what it is to-day all that you pay up to three per cent is interest and anything above that is hazard; at least it is so considered in this country.

MR. CLEAVER: I cannot agree with the suggestion which has been made by one or two members of the committee that the time we have taken in discussing the jurisdictional problem has been more or less lost time. It is perfectly obvious to everyone that the dominion parliament cannot obtain jurisdiction by assuming it, I think that is a sort of an ostrich-like trick, to assume jurisdiction when there is some doubt about it. For that reason, and for the reason that the constitutional jurisdiction is not a definite thing, we cannot say positively in regard to this subject that we have or have not jurisdiction. There are shades varying all the way between black and white as to our constitutional rights on this question, and I think that the time is well spent in thoroughly discussing the constitutional question so that we will bring in a report which will be legally sound and that we will not overstep our constitutional rights. The subject is a very ill-defined and delicate one and I do wish to submit with deference that we should not go ahead until we have heard from the departments of the attorneys-general to get their slant on the subject so that when we do bring in a report we will be on safe ground. Now, there is one question I should like to ask Mr. Parkinson; and it is this:—

Mr. Parkinson, you heard Mr. Walker's suggestion the other day—one branch of it—which I take it was that as the dominion parliament has jurisdiction to legislate with respect to interest as a result of that we would have the right to deny the right to collect interest to any corporation or individual that would permit its borrower to be charged excessive ancillary service charges. Now, that suggestion was a new one the other day, and I did not press you for an answer. Have you since considered that question, and have you any suggestion to offer as to that?

THE WITNESS: At the time you asked me the question I had slipped out of the room when it was answered and I was somewhat taken by surprise. I have since read the suggestion in the report of the committee and I think that the only suggestion I have to make is that such a clause would not be satisfactory, because just as soon as the service charges in toto went beyond the maximum rate prescribed by parliament, parliament has lost its jurisdiction.

By Mr. Cleaver:

Q. Do you suggest that the services charges would ever reach the point where the interest rates would be at the vanishing point?—A. Of course, Mr. Cleaver, in many cases where there are many loans made which are decidedly of an improvident nature the maximum rate would be exceeded.

Q. Then, the provincial parliament would have to step in if the legislation is to be effective. I quite agree with that, but that does not yet answer my question; do you see any legal obstacles to the suggestion, other than these practical obstacles met with in practice—do you see any legal obstacles to the suggestion?—A. In my consideration of the problem, Mr. Cleaver, you could not stop at the practical application—

Q. You become discouraged too soon?—A. I should have gone on.

Q. You see, your whole paper this morning, which has been very interesting, I take it points the way whereby we can obtain the end we desire by joint legislation, provincial and dominion. You do not make any suggestions as to any way in which we might obtain the same end by dominion jurisdiction only?—A. From the practical point of view, Mr. Cleaver, the suggestion I do not think is practicable; for the simple reason that once service charges exceed the total rate allowed the dominion legislation becomes innocuous immediately.

Mr. TUCKER: I would like to ask Mr. Parkinson a question?

Mr. MARTIN: Mr. Chairman, I have been trying to get the floor for the last ten minutes.

The CHAIRMAN: Just a moment, Mr. Martin; Mr. Tucker has the floor.

Mr. TUCKER: With further reference to the point which I brought up a short time ago, a company can be incorporated to do business and then have a subsidiary company, and this subsidiary company could agree to pay, say 50 per cent of a discount—or 20 per cent of a discount, we will say. That company might agree to investigate the borrower and guarantee against loss. Now, that alone would be 40 per cent interest return; and the same people can be in the subsidiary company; they would not be charging any interest yet they would be getting 40 per cent. Of course, that suggestion is just useless, in my opinion. As far as I am concerned, I was delighted with the brief presented by Mr. Varcoe. It seems to me, on the basis of the considered opinion of the law officers of the crown and the dominion government, we may more or less safely proceed. I do think that it would be a good thing to have the proceedings of the committee thus far, including Mr. Varcoe's evidence especially, sent to the attorneys-general of the provinces, so that they may, if they want to, make any statement in the matter that they wish, and we could consider them. As far as I am concerned, I must say I am very well pleased with Mr. Varcoe's brief. I am glad that they feel we have jurisdiction in this matter. His reasoning does appeal to me, because as I understand it, if you are given the right to legislate on interest, you have the right to legislate on anything that is necessarily ancillary to carrying out your object in legislating on interest; and if you cannot control the incidental charges such as the last witness mentioned, then your control over interest is purely illusory. The decisions of the Privy Council are that if the exercise of a power is necessary to carry out a power definitely given, then you have that power too. While the witness says that legislation in regard to the service charges is not legislation in regard to interest, it is legislation necessarily ancillary to exercising your jurisdiction in regard to interest; and I do not think there can be any doubt, so far as you can be free of doubt in regard to this constitutional question, that control over service charges and so on is ancillary to legislation in regard to interest. As I understand it, that is Mr. Varcoe's submission; and then there is the third submission that you can make it a crime. As far as I am concerned, anyway, I think we can consider that the question of jurisdiction is decided for us by the opinion of the law officers of the crown, the considered opinion, after discussing it. I think that the only suggestions we need to spend any time on now is anything that the attorneys-general may see fit to submit.

Mr. MARTIN: May I say a word, Mr. Chairman?

[Mr. H. Fred Parkinson, K.C.]

The CHAIRMAN: In order to clear up a statement which has just been made, in view of Mr. Dunning's absence, I would refer the committee to the report of the sitting on February 17 in which Mr. Tucker made the following statement after Mr. Dunning had spoken:

Mr. TUCKER: I am inclined to accept your suggestion that we assert that jurisdiction.

Hon. Mr. DUNNING: I did not suggest that.

Now, Mr. Martin, have you a statement to make?

Mr. MARTIN: Yes, as the most orderly of this committee—

The CHAIRMAN: Will you stand up so that the committee can hear you?

Mr. MARTIN: I was going to purposely sit. I think we waste a lot of time in this committee; we rise and every one of us makes a speech.

The CHAIRMAN: Then do not make one.

Mr. MARTIN: I do not think I am in the habit of making speeches; but I cannot help feeling somewhat impatient. The subcommittee met the other day and we agreed upon bringing certain witnesses to this committee. I share entirely the view of Mr. Tucker that, if there is any doubt about jurisdiction, we can at any rate follow the law advisers' opinion which Mr. Varcoe has given. We have asked Mr. Walker to come here. I understand that Mr. Walker shares Mr. Varcoe's opinion substantially. I think it would be very helpful to hear someone outside the law officers corroborate that view. I now move that we hear Mr. Walker.

The CHAIRMAN: We are glad to hear Mr. Walker. May I suggest that I do not quite agree with your reasoning, Mr. Martin, that we should only hear from the people who agree with our law officers. I think it is highly desirable that we should hear both sides of every question. I will call on Mr. Walker.

HAROLD WALKER, K.C., recalled.

The WITNESS: Mr. Chairman, I think that the value of what I propose to say is considerably lessened by what Mr. Varcoe has said, but it is really almost entirely directed to an explanation of the practical suggestion that I and my associates have to make. Perhaps the time will not be wasted because it is, as I say, almost entirely directed to a form of words that will accomplish what we are seeking to accomplish.

Mr. Chairman, apparently I did not succeed in making my suggestion entirely clear last Thursday, and I very much appreciate this opportunity of going into the matter in greater detail.

I have worked on this problem so long that I do not always realize that it is comparatively unfamiliar ground for most of the members of this committee, and I am apt to forget the months (and now it is years) of effort that I have made to get the various problems and their solutions into my own head.

I think it is proper that I should remind you that as far back as 1934 my clients were trying to get general legislation. Regulation is not something that is being forced on us—we were the first to get it in 1928 in the form of a private act, and ever since 1934 we have been trying for an act of general application, and throughout that period we have been co-operating with Mr. Finlayson who is just as anxious as we are. We have only one real difference of opinion with Mr. Finlayson, and that is not under consideration this morning.

During these years I have not worked alone. I have had the assistance of a firm of lawyers in Chicago who, with their predecessors, have devoted fifty years or more to the study of these problems, and in addition I have conferred with several of my own partners including Mr. A. W. Anglin, whose opinion directly on the point of jurisdiction I purpose, with your permission, to read.

I have also had lengthy conferences with Mr. O'Connor, the law clerk and parliamentary counsel to the Senate, and with your own Dr. Olivier who is, I see, in the committee room this morning. Dr. Olivier, I believe, agrees in the main with Mr. Anglin's opinion. Mr. Varcoe may have some reservations as to the exact method we have suggested, but I believe that in the main he also agrees. When I wrote this, I was not quite sure, but it is now obvious that he does agree; and he goes the whole length that I myself would like to go. I think, therefore, that I can fairly claim that my colleagues and I have learned something of the legal problems that surround legislation of the type we are considering.

Mr. Anglin's opinion is very short because it is directed to a particular draft which my colleagues and I prepared. I thought that the surest way of getting a precise opinion was to present a definite draft rather than have Mr. Anglin generalize on the power of parliament to legislate with regard to interest. Most of the legal members of this committee will know of Mr. Anglin and his reputation as a constitutional authority. I would prefer that those who do not know him should make their own inquiries rather than that I should sing the praises of my own partner, who is one of the most modest men and most sincere and profound student I have ever met.

To Mr. Anglin's opinion is attached the draft to which he makes reference, and after I have read the opinion I shall, with your permission, read and endeavour to explain four sections which have a bearing on the question of jurisdiction. The opinion is dated January 14th, 1938, and is addressed to me. It reads as follows:—

You have asked me to express my opinion as to the power of the parliament of Canada to pass an act in the form of a draft entitled "An Act respecting interest on small loans" which you have submitted to me. I have identified the pages of this draft by my initials and hand it back to you herewith.

I have formed the opinion that it is within the legislative competence of the parliament of Canada to enact (if it sees fit) a statute embodying all the provisions of your draft, except the last sentence of section 6, sections 7 and 9, and the second paragraph of section 16. I have enclosed those parts in brackets on the draft.

As to section 7 of your draft (wage assignments), for reasons that I have mentioned to you, it seems to me that, as drawn, it is probably too wide to fall within the power of the dominion parliament to legislate in relation to "interest," and I do not know of any other head of dominion jurisdiction which would cover it.

As to section 9 of your draft, I am at present inclined to think it should (if enacted by the dominion parliament) be held valid, but do not express any definite opinion.

As to the last sentence of section 6, and the second paragraph of section 16 of your draft. I have not been able to arrive at the opinion that as drawn they should (if enacted by the dominion parliament) be held valid. Of course, if they were altered so as to deal only with "interest," I would not then think their validity open to question.

You will at once see that Mr. Anglin's opinion is, as you would expect it to be, entirely independent and as usual we lawyers do not entirely agree. I will, however, endeavour to show you that the qualifications and reservations which Mr. Anglin has made are in no sense vital to the scheme—in fact they do not refer to the four sections I propose to read. In any event I do not doubt that this committee, if it should decide to examine the draft in detail, would very quickly find ways of overcoming the comparatively minor objections that Mr. Anglin has made.

[Mr. Harold Walker, K.C.]

The draft has been framed with the intention that, save as to certain penalty sections, it should be enacted under the power to make laws in relation to interest, which power is contained in paragraph 19 of section 91 the B.N.A. Act.

Generally speaking, the object of the proposed legislation is to regulate interest charges on loans of \$500 or less, the field which the present Dominion Money Lenders' Act attempts to cover. The draft would replace the Money Lenders' Act and is quite different from it. It has been framed primarily to accomplish two objects—first to prohibit lenders generally from charging more than 12 per cent per annum on loans of \$500 and less, and second to permit lenders who comply with certain requirements to charge higher rates, but in exchange for this privilege, they are required to take out a licence under the Act and subject themselves to certain limitations.

The difficulty of drafting an effective general prohibition under the power to legislate with reference to interest arises from the fact that there are many ways of disguising the true character of a loan or the true character of an interest charge on a loan. When such attempts at concealment are resorted to, it may often be difficult and sometimes impossible to prove that the price that an individual pays for credit is in fact interest.

Mr. Anglin agrees with me that the power to legislate with respect to interest does not include the power to change, by definition or otherwise, the nature of interest. Speaking generally, interest is the compensation for the use of money loaned. It is undoubtedly exceedingly difficult in certain cases to determine what this definition embraces. For example, a charge for valuing chattels taken as security, or for drawing documents, might under certain circumstances not be interest but under other circumstances might in law be either wholly or partly interest and the line of demarcation may be exceedingly difficult to define. The power of the dominion parliament to legislate in the field of interest is unlimited, but the field cannot be broadened by determining something to be interest which in fact is not. It follows, therefore, that to regulate or limit the right of a lender to make charges which are not interest, or in any way restrict his profit on a transaction which is not a loan even though that type of charge or that type of transaction is frequently used to conceal usury, is to trench on the provincial power to legislate with respect to property and civil rights. Such legislative provisions will be within the power of the dominion only so long as they are necessary in order to make effective a legislative regulation respecting interest; that is only so long as they are properly ancillary to such regulation.

The cases in our courts, some of which are mentioned in Mr. Finlayson's very valuable blue book, make it apparent that a provision such as is now contained in the Dominion Money Lenders' Act merely prohibiting money lenders from charging more than 12 per cent per annum interest is not effective, and the subterfuges are so numerous and so ingenious that the only satisfactory way is, as Mr. Tucker and others have suggested, to place a limit on the charges of every nature and kind, and to whomsoever they are paid, that go to make up the cost of the loan.

If this is so—if it really is necessary to put a limit on the cost of the loan in order to prevent the evasion of an interest regulation which this parliament is fully empowered to enact, it seems to me that it necessarily follows that a limitation on the charges of every nature and kind making up the cost of the loan would be good ancillary legislation. The legislation must, of course, be interest legislation in the first place, but once that firm foundation has been laid parliament can take all the steps that are reasonably necessary to make that legislation effective. Of course, if you go further than is reasonably necessary you may run the risk of changing the character of the legislation—it may no longer be basically interest legislation and may instead be basically legislation for the regulation of a business rather than the regulation of interest.

Having these problems firmly in mind we have not attempted to change the nature of interest by definition, but we have thought it well to incorporate in the definition what amounts to a warning that any fees and charges may be in law interest, although in the contract of loan they may have another name. However, we do not pretend that our definition removes the difficulty of determining in special cases whether particular items entering into the cost of a loan are or are not interest, and we, therefore, approach the problem from the other end.

There is no difficulty in defining the cost of the loan—that is, what it costs the borrower to get the money and to have the use of it. At this point let me read the two definitions so that you may clearly understand the next step which is the regulation of interest in inverse ratio to the charges which are not interest. This definition of interest that we are suggesting is a combination of a lot of attempts that have been made in previous drafts and previous legislation.

Interest means the consideration, compensation, return, yield, increase, rent or price, over and above the principal amount actually loaned, directly or indirectly charged, contracted for, received or paid for in connection with any loan or forbearance of money, credit or choses in action, and without restricting the generality of the foregoing “interest” includes inter alia any charge or amount for any examination, inquiry, service, brokerage, commission, expense, fee, bonus, discount, fine, penalty, default, renewal or other matter or thing whatsoever which in fact is interest. Now you see that really all that says is interest is interest. It does not help you except that it throws out a warning that a lot of things under certain circumstances are interest even though they are called something else. The question is whether it is worth while putting that in even though we agree with the view that you cannot change the nature of interest itself.

Then we proceed to define the cost of the loan:

The cost of a loan means the whole cost of the loan to the borrower and includes inter alia all interest as above defined and all charges or amounts for any examinations, inquiry, service, brokerage, commission, expense, fee, bonus, discount fine, penalty, default, renewal or other matter or thing whatsoever directly or indirectly charged, contracted for, received or paid in connection with such loan which are not in fact interest, but excludes actually disbursed registration fees payable by law.

I should comment on that last exclusion. As far as my clients are concerned, they are perfectly content to have that put in too; in other words, force the companies to absorb even actually disbursed registration fees. But it might be unfair to ask every company to absorb an item of that kind which in the course of years may change. We cannot tell what the provinces may decide to charge for the registration of chattel mortgages and things of that kind.

I am not putting this draft forward as the last word. Even since it was revised on January 12, we have discovered plenty of scope for improvement, and I am quite sure that if this committee decides to examine it clause by clause many further changes will be found desirable; but nevertheless it does in my opinion represent the most constructive effort to solve the problem that has so far been put on paper. It is the result of a combination of ideas, taken from many different sources, and although I will no doubt have to take the blame for anything in it that is bad, I cannot claim credit for the parts that are good—they are the product of many minds.

The CHAIRMAN: May I suggest you put the draft on the record?

The WITNESS: Yes; I was going to suggest that, if I may.

(See appendix)

[Mr. Harold Walker, K.C.]

You will see from these definitions, that the definition of the cost of the loan is all-inclusive. It looks at the problem from the borrower's end—not the lender's. It would be a simple matter if we could only set a limit to the cost of the loan, and that, of course, is the way that it is done in most of the satisfactory small-loan legislation in other countries. In no other country that I know of is there the same constitutional problem that we have in Canada. In England parliament legislates with respect to money lending—not merely with respect to interest, and similarly in the United States, while the law must be a state law and not a federal law, there is no division of jurisdiction. I would be prepared to argue in favour of the bold course I have suggested—a provision limiting the rate of interest plus a further provision prohibiting any other charges, or alternatively saying that the lender must absorb all other charges, which amounts to the same thing. I would support my argument on the theory that it is reasonably necessary in order to make effective legislation regulating the rate of interest to be charged. I think that the cases in our own courts, to which I have already made reference, show that some such provision is reasonably necessary. Why then should it be ultra vires even though it does trench on property and civil rights?

In determining how far is it reasonably necessary to go to make a regulation of interest effective and to prevent its evasion, it should be borne in mind that the borrowers of such small sums will almost inevitably be persons who by force of circumstances are at a disadvantage in bargaining with lenders, and that, therefore, very special precautions may be necessary in order to minimize evasions of the Act by lenders who seek to exploit the borrowers.

The suggestion made in section 4 of the draft is more obviously *intra vires* because it is clearly interest legislation, and because it does not purport to limit charges, which in law are not interest. It does not in my opinion touch on property and civil rights. Let me read clause 4 that I failed to explain very well last time. This clause is intended to take the place of the present Dominion Money Lenders' Act. This is the general prohibition and would operate against everybody except the licensees. There is a licensing provision in the draft, so that it is designed in general terms. The section reads:—

No person shall, directly or indirectly, charge, contract for or receive in respect of any loans any interest whereby the cost of the loan shall be made to exceed the rate of twelve per centum (12%) per annum computed on the principal of the loan from time to time remaining unpaid, except as authorized by this Act and without first obtaining a licence from the Minister.

I know of the objections that you have been discussing, and I shall come to them in a moment.

In order to understand the section thoroughly you must keep in mind that the cost of the loan as we have defined it is composed of two main divisions—interest is one, and all those charges which in law are not interest make up the other.

If x is interest and y is charges other than interest, and z is the cost of the loan, then x plus y will equal z . x must never exceed twelve per cent per annum (unless, of course, a licence is obtained) but we do not say that z must never exceed twelve and a half per cent per annum. What we do say is that if any interest at all is charged z must not exceed twelve per cent per annum. No limit is placed on y , but if y increases x must decrease until when y equals or exceeds twelve per cent per annum x must disappear altogether. To put it another way, interest must not exceed twelve per cent per annum, and if it reaches the maximum there can be no charges other than interest at all, and on the other hand there is no limit to the amount of the charges other than interest, but if they equal or exceed twelve per cent per annum, it will not be possible to charge any interest. If it is possible for a money lender to work out a scheme for the

lending of money for a consideration which in law is not interest, without charging any interest whatsoever, such a scheme will not be prohibited by the proposed provision, but for reasons which I will suggest later I do not believe that the business of money lending can be carried on without some portion of the consideration paid by the borrower being held in law to be interest.

As I have already pointed out, the main feature underlying the suggested section is that it does not limit or prohibit the charging of fees which are not in law interest, but it does say in effect, "Mr. Money-lender, if you are going to pass on to the borrower legal fees, valuation fees, etc., we are going to cut down your power to charge interest—which we have a perfect right to do. If you are not prepared to absorb these charges in your twelve per cent you may not charge any interest at all, or you must take out a licence as a money-lender, in which case you will be allowed to charge higher rates but under a licensing system designed to prevent you from exceeding the permitted rate of interest."

I want to be very sure that I have made section 4 clear before I go on to section 5. Now, Mr. Chairman, if I have not made it clear I should like to do so before I go on.

The CHAIRMAN: We would like a complete statement before 1 o'clock.

The WITNESS: I have just a very little more. Section 4 is a general provision and applies to everyone except licensees. Section 5 grants a special privilege to licensees alone. This is not the time to enter into a discussion of the rate of charge. We are only dealing with jurisdiction to-day. But for the purpose of explaining section 5 I must assume that persons or companies taking out licences under the scheme which I am outlining would be allowed to charge something in excess of twelve per cent per annum. Again we do not say that the licensee may not make charges which are not interest, but we say that if he does not absorb these charges his rate of interest will be cut down. Let me read the section.

Section 5: "Every licensee may charge, contract for and receive, in respect of any loan any interest whereby the cost of the loan shall not be made to exceed a rate of x per cent per month computed on the principal of the loan from time to time remaining unpaid."

Now, this is the other half of the scheme. The first is a general section and applies only to licensees. This is just the converse of the other. No rate of interest can be charged so long as the combination of the rate of interest and what may be called service charges together exceed the maximum rate. In other words, this does not allow the cost of the loan to exceed whatever the maximum rate is.

Now, that is the scheme of the Act as far as interest legislation is concerned. There are, of course, many other provisions to complete the necessary machinery and to set up the necessary penalties, both criminal and civil for any infraction. This is not the time to go over these provisions, but if the committee sees fit to have the draft and Mr. Anglin's opinion printed it would give all of the members an opportunity to study it and we would, of course, be very happy to explain what is sought to be accomplished by each clause. The main criticism that I expect you to make is that the scheme does not cover the entire field—as I have explained, it does not purport to prohibit the lending of money for a consideration other than interest. As to that I have a few brief remarks to make. The first is this—after this parliament has gone as far as the law officers say it can go the balance of the problem is automatically shifted to the provinces. Secondly, I am advised by men of long experience in this industry that if a decent licensing system is set up it will enable efficiently managed money-lenders to make a reasonable commercial return on their investment, enough of them will take out licences to make it pretty difficult for the loan shark to remain in business. Thirdly, I am advised, and I believe

[Mr. Harold Walker, K.C.]

from my own knowledge of the cases, that if anyone should make a regular practice of lending money upon a plan by which the lender purported to charge no interest at all, our courts would be quick to find—as they have already found in similar cases—that the plan was a subterfuge and that at least a part of the consideration paid by the borrower for the privilege of getting the loan was for the use of the money itself—in other words, was interest in disguise. And lastly I say this—if you will give a scheme like the one I have suggested a reasonable trial, I can assure you that my clients will at once endeavour to form an association of personal finance companies with the definite object of policing the industry and assisting the ordinary agencies to rid this country of unconscionable and unscrupulous money-lenders.

Witness retired.

Mr. VIEN: I would like to move, Mr. Chairman, that the draft bill Mr. Walker has referred to be printed in to-day's report of our proceedings. (See Appendix.)

The CHAIRMAN: Gentlemen; we asked the Russell Sage Foundation to give evidence on the matters before this committee. The Russell Sage Foundation by its director, Mr. Rolf Nugent, has named a representative and I have pleasure in introducing Mr. Leon Henderson. Mr. Nugent says Mr. Henderson is a consulting economist for various federal government agencies. He further states that Mr. Henderson is an expert in relation to consumer credit problems in the United States and elsewhere, and will express fully the Foundation's point of view. I have pleasure in introducing to you Mr. Henderson. Mr. Henderson, unfortunately, has some engagements to fulfil. I believe he is just out of hospitalization and is going to California for a rest. He can be with us here for only a few days, and I would suggest that we study his convenience in the matter of appointment. Mr. Henderson would prefer to be heard to-morrow, if that is convenient to the committee.

Mr. VIEN: I move now that we should have from the house the privilege of sitting while the house is in session.

The CHAIRMAN: What is your pleasure?

Mr. VIEN: It might facilitate a few appointments, particularly within the next few days, if Mr. Henderson desires to make his statement as rapidly as possible. Do you second the motion, Mr. Baker?

Mr. BAKER: Yes.

The CHAIRMAN: Just while we are on this matter, I have a telegram here from Mr. McDonald of St. Francis Xavier University, in which he states:—

Leadership course in session here till March sixteenth stop Extremely difficult to be in Ottawa till twentieth stop If this date too late advise and I shall make special effort to appear on eighth.

A. B. McDonald

I would rather like to expedite this matter. Do you think we should ask Mr. McDonald to desert his students and come here on the 8th?

Some Hon. MEMBERS: Yes.

The CHAIRMAN: I have here a letter from the firm of Marler and Marler affecting the hearing. I think we will just put it on the record so that we may have the information.

W. de M. and H. M. MARLER,
Notaries.

THE ROYAL BANK BUILDING,
MONTREAL, 25th February, 1938.

W. H. MOORE, Esq., M.P.,
Chairman, Banking and Commerce Committee,
Parliament Buildings,
Ottawa, Ontario.

Sir,—As I understand that the Banking and Commerce Committee of the House is inquiring into the small loan business I wish to suggest that one aspect of the subject peculiar to this province merits special consideration. I refer to the practice of paying for a proprietor the municipal or school taxes owing on his property. Under the law of this province a person may with the consent of the proprietor pay the municipal or school taxes owing by the latter, and if he do so he becomes vested or subrogated in the rights of the municipal or school corporation securing the payment of such taxes, that is to say in a privilege or charge on the property ranking in priority to all mortgages. This practice is not inherently an evil but lends, and has lent itself, to abuses. Though the security is excellent and though the taxing corporation is usually indulgent with proprietors in arrears certain corporations and individuals advertise the fact that they make loans to pay tax arrears, and make advances which are repayable by monthly instalments at a rate of interest or on terms far more onerous than the rate of interest charged on arrears by the taxing corporation.

As many of the corporations are subject to federal jurisdiction it would seem both reasonable and practicable to require that transactions of this character between a corporation and a borrower (that is the owner of the property) be evidenced by a written instrument and such instrument should state clearly the rate of interest payable for the advance and expressed on an annual or semi-annual basis and that all service and investigation and discount charges should be included in determining the rate. Exception might be made in favour of creditors already holding a mortgage or hypothec on the property who frequently pay taxes with subrogation without securing the owner's consent (which in such case is not required) and charge a rate no higher and sometimes lower than the taxing corporation.

I have the honour to be, Sir,

Your obedient servant,

G. C. MARLER

The CHAIRMAN: We will adjourn to meet to-morrow morning at 11 o'clock.

The committee rose at 12.50 p.m. to meet again to-morrow, March 2, 1938, at 11 o'clock a.m.

APPENDIX

(Submitted by Mr. Harold Walker, K.C.)

An Act respecting interest on small loans

His Majesty, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows:

1. This Act may be cited as the Small Loans Interest Act.
2. In this Act, unless the context otherwise requires,
 - (a) "Court" means the Exchequer Court of Canada.
 - (b) "Interest" means the consideration, compensation, return, yield, increase, rent or price, over and above the principal amount actually loaned, directly or indirectly charged, contracted for, received or paid for or in connection with any loan or forbearance of money, credit or choses in action, and without restricting the generality of the foregoing "interest" includes inter alia any charge or amount for any examination, inquiry, service, brokerage, commission, expense, fee, bonus, discount, fine, penalty, default, renewal or other matter or thing whatsoever which in fact is interest.
 - (c) The "cost" of a loan means the whole cost of the loan to the borrower and includes inter alia all interest as above defined and all charges or amounts for any examination, inquiry, service, brokerage, commission, expense, fee, bonus, discount, fine, penalty, default, renewal or other matter or thing whatsoever directly or indirectly charged, contracted for, received or paid in connection with such loan which are not in fact interest, but excludes actually disbursed registration fees payable by law.
 - (d) "Licensee" means a person licensed under this Act.
 - (e) "Loan" or "Small Loan" means a loan of money, credit or choses in action, the principal or value of which does not exceed Five Hundred dollars (\$500).
 - (f) "Minister" means the Minister of Finance.
 - (g) "Person" means any individual, partnership, association or corporation.
 - (h) "Superintendent" means the Superintendent of Insurance.
 - (i) "Wage Assignment" means a sale, assignment, transfer, cession, or order for payment, of wages, salary, commissions or other compensation or remuneration for services, whether earned or to be earned, when made or given in consideration for the payment of Five Hundred dollars (\$500) or less in money, credit or choses in action.

Not applicable to Yukon

3. This Act shall not apply to the Yukon Territory.

Prohibition except as authorized

4. No person shall, directly or indirectly, charge, contract for or receive in respect of any loan any interest whereby the cost of the loan shall be made to exceed the rate of twelve per centum (12 per cent) per annum computed on the principal of the loan from time to time remaining unpaid, except as authorized by this Act and without first obtaining a licence from the Minister.

Maximum authorized rate of interest

5. Every licensee may charge, contract for and receive in respect of any loan any interest whereby the cost of the loan shall not be made to exceed the rate of _____ per centum (_____ per cent) per month computed on the principal of the loan from time to time remaining unpaid.

Method of expressing and computing charges by licensee

6. Whenever any statement, representation or reference is made by or on behalf of a licensee with regard to interest or charges for the making of loans the cost of any such loan shall be expressed as a single rate per centum per month but may, in addition, be expressed in any other way which is not misleading. Such cost shall be computed on the principal of the loan from time to time remaining unpaid for the number of days during which such principal has actually been outstanding and shall not be compounded, nor deducted or received in advance. For the purpose of expressing and computing the cost of the loan a month shall be deemed to be any period of thirty (30) consecutive days.

No further charges

No licensee shall, directly or indirectly, charge, contract for or receive any interest in excess of the interest authorized by this Act. If any interest in excess of that authorized by this Act shall be charged, contracted for or received the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever.

Wage assignments

7. The consideration for a wage assignment shall, for the purposes of this Act, be deemed a loan secured by such assignment; and the amount by which the wages assigned exceed the amount of such consideration shall, for the purposes of this Act, be deemed interest upon such loan for the period from the date of the receipt of such consideration by the assignor to the date when the wages assigned are payable.

Requirements for making and payment of loans

8. Every licensee shall:

- (a) Deliver to the borrower, at the time any loan is made, a statement in writing in the English language, or, in the Province of Quebec, in the English or French language, at the option of the borrower (upon which there shall be written a copy of sections 5 and 6 of this Act), showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the cost of the loan.
- (b) Give to the borrower on demand a plain and complete receipt in writing for all payments made on account of such loan, specifying the amount applied to charges including interest, and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of such loan;
- (c) Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply such payment first to all earned charges including interest in full, at the agreed rate up to the date of such payment;

- (d) Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower with the word "Paid" or "Cancelled", and release any mortgage, restore any pledge, cancel and return any note and cancel and return any assignment given to the licensee by the borrower;
- (e) Display prominently in each place of business a full and accurate schedule, to be approved by the Superintendent, of the charges to be made and the method of computing the same.

Onus of proof on lender.

9. In any suit or proceeding between a borrower and a lender involving a small loan, whether or not the lender shall be a licensee under this Act, the onus of proof that the rates of interest permitted by this Act have not been exceeded shall be upon the lender.

Qualifications for applicants for licence.

10. (1) Any person whose experience, character and general fitness, and that of the members thereof if the person be a partnership or association, and that of the officers and directors thereof if the person be a corporation, are such as to warrant belief that the person will honestly, fairly and efficiently lend money at interest pursuant to this Act, and who has a net worth represented by liquid assets of at least One Hundred Thousand Dollars (\$100,000) available in Canada for the making of such loans, may apply to the Minister through the Superintendent for a licence under this Act. Application for such licence shall be in writing, under oath, and in the form prescribed by the Superintendent, and shall contain the name and the address both of the residence and chief place of business of the applicant; and, if the applicant is a partnership or association, of every member thereof; and if a corporation, each officer and director thereof; and such further information as the Superintendent may require.

Investigation by Superintendent.

(2) The Superintendent shall investigate every application and find whether or not the applicant is duly qualified to make application for a licence as herein provided, and he shall report his findings to the Minister in writing within thirty days after the filing of such application for licence and forthwith transmit to the applicant a copy of such report, which report upon appeal by the applicant instituted at any time within thirty days after receipt by the applicant of such copy thereof, shall be reviewed by the Minister.

Issue of licence.

(3) When the Minister is satisfied from the report of the Superintendent or after a review of an adverse report of the Superintendent that the applicant is duly qualified to make application for a licence as herein provided, he shall issue to the applicant a licence as by this Act provided. If he shall not be so satisfied he shall not issue the licence and he shall record his decision to that effect and shall forthwith transmit a copy thereof to the applicant.

Appeal to Exchequer Court.

(4) An appeal shall lie in a summary manner to the Exchequer Court of Canada from any order of the Minister denying an application for a licence under this Act or directing the issuance or renewal of a licence subject to a limitation condition or qualification not acceptable to the applicant or licensee and thereupon that court shall have power to make all necessary rules for the conduct of appeals under this section. The decision of the Minister shall be binding upon the applicant unless the applicant shall, within fifteen days after

receipt of a copy of the decision, transmit to the Minister notice of the applicant's intention to appeal therefrom, setting forth the grounds of appeal, and within fifteen days thereafter, file such appeal with the Registrar of the Court and with due diligence prosecute the same.

Certificate of Minister

(5) For the purpose of such appeal the Minister shall, at the request of the applicant, give a certificate in writing setting forth the decision appealed from and the reasons therefor.

Form of licence

11. (1) The licence shall be in such form as may be from time to time determined by the Minister and may contain such limitations or conditions not inconsistent with the provisions of this Act as may be deemed by the Minister to be proper.

Expiration and renewal of licence

(2) The licence shall expire on the thirty-first day of March in each year but may be renewed from year to year, subject, however, to any qualification of limitation not inconsistent with the provisions of this Act which is deemed by the Minister to be expedient: Provided that such licence may be from time to time renewed for any term less than a year.

Revocation of licence

12. The Superintendent shall, upon (10) days' notice to the licensee stating the contemplated action and, in general, the grounds therefor, and upon reasonable opportunity to the licensee to be heard, revoke any licence issued hereunder if he shall find that:

- (1) The licensee has failed to comply with any demand, ruling, or requirement of the Superintendent lawfully made pursuant to and within the authority of this Act; or that
- (2) The licensee has violated any provision of this Act or any rule or regulation lawfully made by the Minister or the Superintendent under and within the authority of this Act; or that
- (3) Any fact or condition exists which, if it had existed at the time of the original application for such licence, would have warranted the Minister in refusing originally to issue such licence.

Filing reasons for revocation

Whenever the Superintendent shall revoke a licence issued pursuant to this Act, he shall forthwith forward to the Minister a written report to that effect containing findings with respect thereto and a summary of the evidence and the reasons supporting the revocation, and forthwith transmit to the licensee a copy thereof, which report may be reviewed, in turn, by the Minister and the Court, in a manner similar to that provided and within the delays limited by Section 10 of this Act for appeals thereunder.

Surrender of licence

An licensee may surrender his licence by delivering the same to the Superintendent with written notice that he thereby surrenders such licence, but such surrender shall not affect the civil or criminal liability of such licensee for acts committed prior to such surrender. No revocation or surrender of a licence shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower. Every licence issued hereunder shall remain in force and effect until the same shall have expired or shall have been surrendered or revoked, in accordance with the provisions of this Act.

Examinations

13. For the purpose of administering and enforcing the provisions of this Act or securing information required by him hereunder, the Superintendent may at any time, either personally or by a representative, investigate and examine loans and the books, accounts, records, and files used in connection therewith of any person whether such person shall act or claim to act as principal or agent, or under or without the authority of this Act. For that purpose the Superintendent and his representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such persons. The Superintendent shall have authority to require the attendance of witnesses and compel them to give evidence on oath and to produce such documents as he may require, and may examine under oath all persons whomsoever whose testimony he may require relative to such loans or such business.

Annual examination

The Superintendent shall make an examination of the affairs, business, offices and records of each licensee at least once each year. Every licensee shall pay to the Receiver General of Canada the sum of Dollars on or before the 20th day of December in each year in respect of each office which such licensee then operates, which amount shall be accepted by the Superintendent for the purpose of defraying the costs of such examination during the next succeeding year. Every licensee shall at all times keep the Superintendent informed, in writing, of the address of every office at which such licensee makes loans. If a licensee should open any new office during the course of the next succeeding year, the said sum shall be paid to the Receiver General of Canada in respect of each such new office and accepted by the Superintendent in respect of his examination during such year. The Superintendent may maintain an action for the recovery of such sums in any court of competent jurisdiction.

Books and records

14. Every licensee shall keep and use such books, accounts and records as will enable the Superintendent to determine whether such licensee is complying with the provisions of this Act and with the rules and regulations lawfully made by the Superintendent hereunder. Every licensee shall preserve such books, accounts and records, including cards used in the card system, if any, for at least two (2) years after making the final entry on any loan recorded therein.

Annual Reports

Every licensee shall annually, on or before the fifteenth day of March, file a report with the Superintendent, giving such relevant information as the Superintendent, reasonably may require concerning the making of loans during the preceding calendar year. Such report shall be made under oath and shall be in the form prescribed by the Superintendent, who shall make and publish annually an analysis and recapitulation of such reports.

Advertising

15. No licensee or other person shall advertise, print, display, publish, distribute or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms or conditions for the making of loans which is false, misleading or deceptive.

No licensee shall make loans under this Act within any office, room or place of business in which any business not exclusively conducted for the purpose of

lending money is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the Superintendent upon his finding that the character of such business is such that the granting of such authority would not facilitate evasions of this Act or of the rules and regulations lawfully made hereunder.

No licensee shall make or collect any loan provided for by this Act under any name other than that under which he is licensed.

No licensee shall take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the cost of the loan, nor any instrument in which blanks are left to be filled in after execution.

Penalties

16. Any person, or any member, officer, director, agent or employee of any partnership, association or corporation who shall violate or participate in the violation of any of the provisions of Sections 4, 5, 6, 8, 14 or 15 of this Act, or who by any device, subterfuge or pretence whatsoever charges, contracts for or receives greater interest than is authorized by this Act for or in connection with any small loan shall be guilty of an indictable offence and shall be liable to imprisonment for a term not exceeding one (1) year or to a penalty not exceeding One Thousand dollars (\$1,000).

Any contract of loan in the making, carrying out or enforcement of which or in connection with which anything shall have been done or omitted which constitutes an offence against this Act, shall be void and the lender shall have no right to collect or receive thereunder any principal, interest or charges whatsoever.

Excepted lenders

17. This Act, except Section 4 and Section 16 so far as the said Section 16 relates to a violation of or an offence against Section 4 shall not apply to any person doing business under and as permitted by any law of the Dominion of Canada or one of the Provinces thereof relating to banks, savings banks, trust companies, insurance companies, loan companies whose principal business consists in exercising any one or more of the powers set forth in Sections 61 and 62 of The Loan Companies Act, being Chapter 28 of the Revised Statutes of Canada, 1927, and Amendments, building and loan associations, credit unions, or licensed pawnbrokers.

Regulations

18. The Minister is hereby authorized and empowered to make such general rules and regulations and such specific rulings, demands and findings as may be necessary for the due carrying out and enforcement of the provisions of this Act.

Appeal.

19. Any determination or decision by the Superintendent under the authority of this Act shall be subject to review by, and appeal to, the Minister and the Court in a manner similar to that provided and within the delays limited by Section 10 of this Act for appeals thereunder.

Interest Act

20. The Interest Act, being Chapter 102 of the Revised Statutes of Canada, 1927, shall not apply to any small loan to which a licensee hereunder may be a party.

Repeal

21. The Money-Lenders Act, being Chapter 135 of the Revised Statutes of Canada, 1927, is hereby repealed.

22. Nothing in this Act contained shall impair or affect the obligation of any contract of loan legally made before the coming into force of this Act.

23. (1) Each of the undermentioned three companies may apply for Letters Patent authorizing the company to carry on its business under Part I of the Companies Act, 1934 and Amendments thereto, subject to all the provisions of that Part, and the Secretary of State of Canada may direct the issue of Letters Patent for that purpose.

(2) Upon the issuing of such Letters Patent the special Act incorporating such applicant company shall no longer apply but the corporate existence of such company with all its rights, property and obligations shall continue as though it has been incorporated by such Letters Patent and the company shall thereafter be governed in all respects by the provisions of Part I of the said Companies Act.

(3) If any of the undermentioned three companies applies for the issue of Letters Patent under this Section, the Secretary of State of Canada may, by Letters Patent, vary the powers of such company to such other objects for which Letters Patent may be issued under Part I of the said Companies Act as the applicant desires, and vary, restrict or extend any rights, powers or capacities of the company as conferred by its Act of incorporation, provided however that in addition to the powers set out in the Letters Patent and in Part I of the said Companies Act the company shall have the power to lend money with or without security under authority of this Act.

(4) It shall not be necessary in any Letters Patent issued under this Section to set out the names of the shareholders and in such Letters Patent the directors named shall be the directors of the applicant company in office at the date of the application for such Letters Patent and such Letters Patent may be issued to such applicant company by its original name or by another name.

(5) Notice of the issue of such Letters Patent shall be published in *The Canada Gazette*.

(6) The names of the three companies referred to in this Section are as follows:—

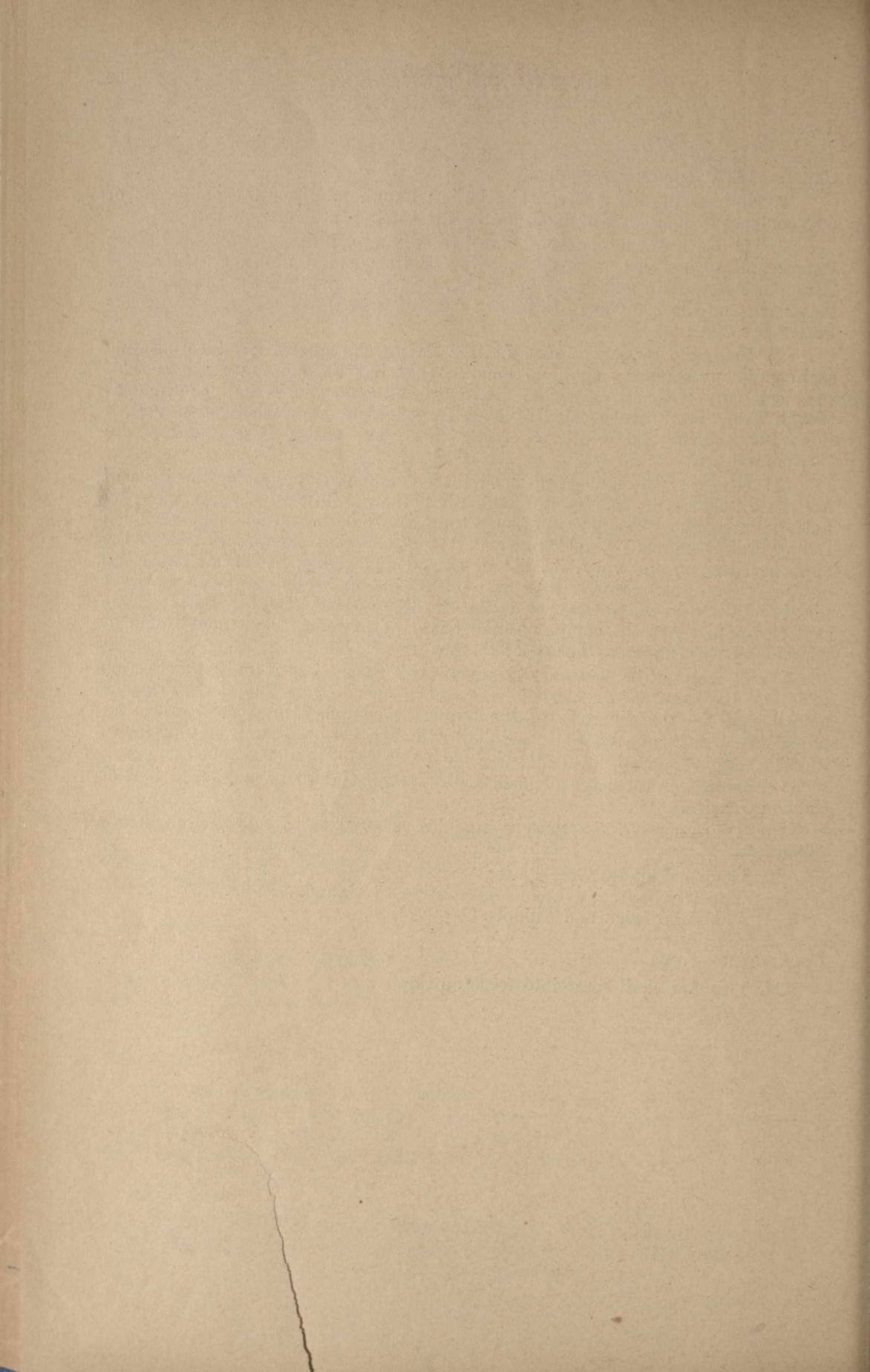
Central Finance Corporation.

The Discount and Loan Corporation of Canada.

Industrial Loan and Finance Corporation.

Coming into Force

24. This Act shall come into force on the





SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

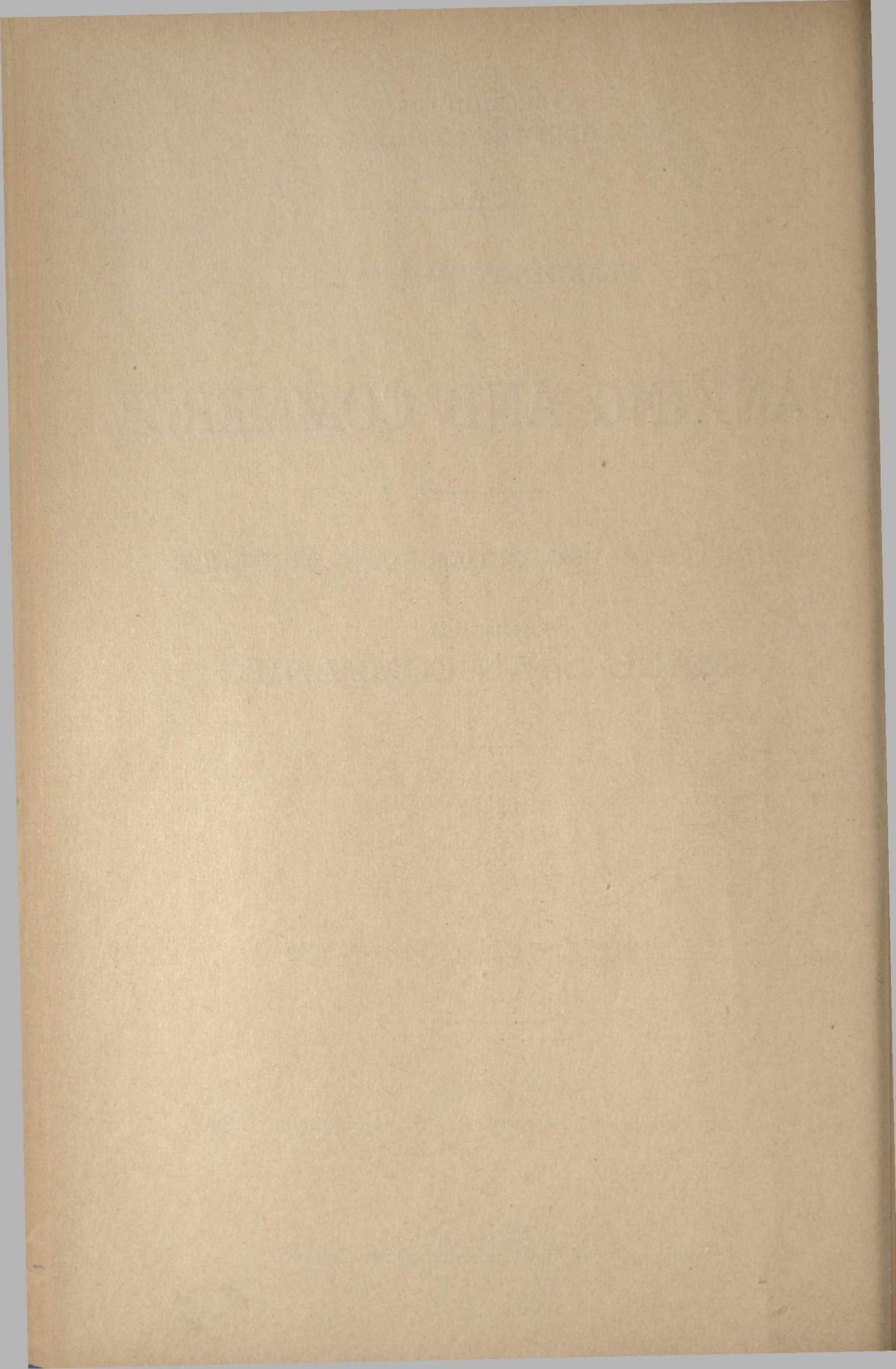
SMALL LOAN COMPANIES

No. 4

WEDNESDAY, MARCH 2, 1938

WITNESS

Mr. Leon Henderson, Economist, Washington, D.C., U.S.A.



MINUTES OF PROCEEDINGS

WEDNESDAY, March 2, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Coldwell, Donnelly, Dunning, Edwards, Fontaine, Harris, Howard, Jaques, Kinley, Lacroix (*Beauce*), Leduc, Macdonald (*Brantford-City*), McGeer, Mallette, Martin, Moore, Plaxton, Quelch, Tucker, Vien, Ward, Woodsworth.

In attendance: Mr. Leon Henderson, Economist, Washington, D.C., Mr. G. D. Finlayson, Superintendent of Insurance, Ottawa, and counsel for several loan companies.

Mr. Henderson was introduced by the Chairman and gave evidence on the subject-matter of the reference before the Committee.

At 1 o'clock the Committee adjourned until 2.30 p.m.

AFTERNOON SITTING

The Committee resumed at 2.30.

Members present: Messrs. Baker, Coldwell, Donnelly, Howard, Jaques, Kinley, Lacroix (*Beauce*), Leduc, Macdonald (*Brantford-City*), McGeer, Mallette, Martin, Moore, Perley, Plaxton, Quelch, Tucker, Vien, Ward.

Mr. Henderson gave further evidence and was examined by members of the Committee.

Witness retired.

A hearty vote of thanks was extended to Mr. Henderson on behalf of the Committee by Messrs. Coldwell and Baker.

The Committee adjourned at 4.30 p.m. to meet again at the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 277,

March 2, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m. Mr. W. H. Moore presided.

The CHAIRMAN: Gentlemen, it is my pleasure to introduce Mr. Henderson.

Mr. LEON HENDERSON called:

The WITNESS: Mr. Chairman, Mr. Minister and members of the committee. My name is Leon Henderson. My present home address is Washington, D.C. I am a consulting economist for various government agencies, such as the Works Progress Administration and the National Resources Committee; but I am also engaged in private work and work with State and local governments.

For eight years, beginning in 1925, I was Director of the Department of Remedial Loans of the Russell Sage Foundation; that is, from 1925 to 1933 inclusive, when I left to become chief economist for the National Recovery Administration in Washington. In that eight year period there was a dynamic quality to consumer credit which made it one of the most interesting phenomena, I think, of the period that we know as the boom period in the United States; and we were beginning at the Sage Foundation in research to have some vague intimation of the part that consumer credit plays in the economic process.

The Russell Sage Foundation itself is an endowed institution, and I quote part of its charter—"for the improvement of social and living conditions." It is generally thought of in the list of American foundations as the one which has devoted its research to social and welfare affairs while, for example, in a similar field, the Rockefeller Foundation has devoted its research to medicine and education. The Foundation was endowed by Mrs. Russell Sage, and it has been an independent enterprise. One of the first excursions into the causes of poverty was in this field of consumer credit, or, as it was then known, remedial loans. Mrs. Sage inherited quite a large fortune from the capitalist, Mr. Russell Sage, and she was besieged as well as beseeched by literally thousands and thousands of people to come to their rescue and aid with some part of this inheritance. As a result she set up quietly a staff of investigators and almoners, and one of those to whom I had talked at rather great length is now in charge of the United States Employment Service W. Frank Persons.

One of those investigators and almoners would go around to find out why it was that people and families were in such dire straits that they would write such pathetic letters, and he found literally hundreds and hundreds of loan shark cases. So the first investigation was begun under the general direction of two Columbia professors with two graduate students, Arthur Ham and Clarence Wassam. That work has continued fairly uninterruptedly from 1907 down to the present time. There was a break during the war period. But there have been four directors, one of whom was an acting director in that period, and it is pleasant to survey a condition stretching over thirty years and find that four directors have never had a single large disagreement as to principles involved in consumer credit. There has been this continuity and constance of opinion. I say it is pleasant because the area of conflict of ideas

in economic matters and consideration seems ever to be widening, and it is nice to find a calm place. Therefore, though I do not represent the Russell Sage Foundation today, I believe I can say that I represent their point of view and that of the other directors who have been with the Russell Sage Foundation.

Just one small observation as to the relation of credit to the economic process, which I think is worth while. I said that in that dynamic period of the United States boom of the twenties we began to feel that there was a definite relationship between the amount of consumer credit being extended—that is, instalment credit, small loans, loan shark credits, credit unions, industrial banks and bank loans for consumptive purposes—and the acceleration that was taking place in the whole credit structure. We were a bit apprehensive as to what would happen once there was a puncturing of the boom.

I must say that it was not possible until the last few years to really get any kind of measurement of the feeling as to how important this consumer credit extension is to the business cycle. But I can say most sincerely, first, that we know that its accelerating qualities in the boom are tremendous and that its aggravation of the decline is so tremendous that no industrial country which is influenced largely by credit can escape taking notice and perhaps looking towards some type of control or regulation of the various forms that this credit takes.

We estimate that the open book credit, plus the instalment credit and all forms of lending, pawnbroking and things like that, attained a status of \$11,000,000,000 in 1929, and that we had returned in the United States to that figure and perhaps would have very soon exceeded it by the middle of 1937. There is just one figure to which you might relate that. The total volume of retail sales in the United States in 1937 will be something of the order of forty billion dollars. So that you can see that this eleven billion dollars, you might say of a pre-emption of future purchasing power when it has to be liquidated in a short time, as it must by its nature and character, exercises a tremendous effect on the business cycle and tends to aggravate the amplitude of the swing.

There is one other very large factor which I will not take much time to discuss this morning, but it is of extremely high importance in the American economy at the present time. We have an imbalance as between savings and investments, which is very, very substantial—

Mr. MARTIN: What is that?

The WITNESS: The imbalance as between savings and investments—new investments. That is, we are not finding as we did in our dynamic period, an outlet for all the savings. That is partly due to the fact that our savings are concentrated in the higher brackets. Where we had, say in one high bracket in 1929, a billion dollars of income, the personal expenditure of that particular group did not exceed eighty million dollars, leaving over nine hundred million dollars available for the investment market.

The American economy has got to a stage where it is not expanding fast enough to take up this saving which in 1936 was probably in the order of about six billion dollars. Up to that time, government financing had tapped the market and the amount of durable goods, plant extension, was being paid for largely from depreciation accounts which had been unspent up until that time. And a part of the dearth of the market for plant expansion and new issues very definitely can be traced to the fact that our industrial empire is not expanding, certainly not at a rapid rate. But the more important thing is this, as it relates to purchasing power: if we assume that there is six million dollars of savings in any one year, and that is not called up by the investment market, then there is a lack of equilibrium between the purchasing

[Mr. Leon Henderson.]

power produced at the production end and the purchasing power at the consumers' end to take goods off the market. Now, in the twenties a part of the excess of savings that was not being taken up even then by our capital market was drawn into this consumer financing.

Hon. Mr. DUNNING: What we call here small loans?

Mr. HENDERSON: Small loans. But, Mr. Minister, we have extended at the Sage Foundation our definition from small loans to consumer credit. In fact, what was the department of remedial loans and what was our small loans research now have become consumer credit.

Mr. TUCKER: Would that include instalment buying?

Mr. HENDERSON: Yes.

Hon. Mr. DUNNING: Instalment financing generally.

Mr. HENDERSON: Instalment financing generally, pawnbroking, and all loans that are made for consumer purposes, the extension of credit, including open-book credit.

Now, when a part of the savings which ordinarily would go into the capital markets and would become really productive equipment is drawn off for consumers' goods and then you get for any reason, cyclical or otherwise, a diminution in general purchasing power being made available to consumers, there is this pressure to liquidate consumer credit, and you have very, very quickly the money being paid currently on instalment accounts, on small loans, and on retail credit going back into capital account. That is, it is again available for capital expenditures but since in a declining market or on the down-side of a business cycle there is no huge demand for funds for investment, there is an accentuation which may or may not account for some of the continuance of possibilities of cheap money. I have gone to some length on this because it seems to us—when I say "us" I am speaking of the labours of the Russell Sage Foundation and using their terminology—that entirely apart from the social considerations that have moved us in the past to look for regulation of lenders and protection of borrowers, there is this large cyclical matter which is bound to engage the attention of any government, particularly with the growing pressure for intervention of all kinds by government in economic affairs.

Hon. Mr. DUNNING: And because of its effects on the general economy.

The WITNESS: That is right. I had that very definitely in mind, Mr. Minister. There is this growing pressure, and if there is no control at all, then you would have left out of your scheme of reckoning something which is of high and extraordinary importance.

The general types in the United States of small loan extension entirely apart from open books and instalment credit are the institutional agencies such as credit unions and personal loan departments of banks, semi-philanthropic agencies, what would be called the *mont-de-piété* in France, and the personal finance companies which are the commercially regulated lenders. Now, the Russell Sage Foundation has spent several hundred thousands of dollars in research since 1907; but its initial aim, as I say, was to eliminate the loan shark. It very quickly found that although you might have alternative sources growing up, such as philanthropic funds—and one of the greatest pools of money that is available to poor people in New York is the semi-philanthropic fund, the public loan societies—as alternatives to the credit union there still remained a wide area that needed to have a general supervision because of its impingement on society. That was the field of commercial regulation. So the Russell Sage Foundation for a long time has been working on an analysis of the causes of borrowing and how it might best be approached in regulation. That has pretty generally been by means of the recommendation of the uniform law, which is a model law now in effect in about twenty-seven states. These twenty-seven states pretty largely include the states with the largest industrial population in the country.

HON. MR. DUNNING: Excuse me for interrupting you, but in the United States there is no question of jurisdiction. Jurisdiction is wholly state, is it not?

THE WITNESS: That is right. In fact the interest provision is written into many state constitutions.

HON. MR. DUNNING: It does not enter into the picture.

THE WITNESS: No. In the NRA we felt that there was interstate commerce of a character which would allow us to require a code for companies; but that would be mainly for purposes of getting labour standards rather than for practices; although there was a very definite drive in the NRA to establish consumer protection, particularly for a clear statement of the rates that would be charged to borrowers.

Now, the Russell Sage Foundation considered world legislation and world attempts at money lending. There were pretty generally three kinds of methods used. One was the free market, sanctioned by Jeremy Bentham and which stated pretty generally that contracts were relationships between the borrower and the lender and that they were no different from any kind of contract or relationship. There was the restraint type which assumed that the lending of money in small sums ought to be forbidden, even up to the amount of prohibition, or that it ought to be under restraint. We had consideration of freedom of contract, restraint or prohibition, and as you probably know, in England the leaning is now towards the free market and restraint. I have been through the Australian and the Straits Settlement legislation pretty generally, and I have made a study of the legislation in the entire British Empire. Their legislation has tended to be modelled on the British statement of 1900 and 1927; but it is interesting to notice that increasingly they are having to widen the area of state intervention and supervision, and also—and this relates to what I have said before—attention is being given to bring hire-purchase agreements under some sort of general supervision and regulation.

Our first draft of the uniform law required the licensing of money lenders on bond, a flat statement of the charge, and that required a dip into ice-cold water. The first rate was three and one-half per cent a month on unpaid balances, because the Russell Sage Foundation felt that very definitely the borrower ought to be put on notice as to what his charge was, and that a high charge would be a deterrent. There was provision for the keeping of records, the type of security and more than anything else, however, even in its earliest days the uniform law very definitely went towards assessing the responsibility through some public officer. That is the keystone upon which the uniform law and its succeeding draft have been built. That keystone was the public officer. Under that system we made a strict and clean cleavage and departure from the English System. We felt that there was no other way to afford a borrower that kind of protection that he needed. Now, as to that restriction and as to whether or not the rate does prevent too wide an expansion of borrowing there has been much controversy. But I checked the amount of borrowing in Minnesota, which is a loan shark territory and has no regulation, with New Jersey, one of the most industrialized populations that we have, and found that it was almost the same. In other words, whether the rate was about twenty per cent per month as in Minneapolis, St. Paul and Duluth and some of the other cities—

HON. MR. DUNNING: We are just getting our breath after hearing you mention that rate.

THE WITNESS: Twenty per cent per month is the prevailing high rate in the United States. If I might put a peg rate there I will say that in the states that have not adopted the uniform law the prevailing rate of charge is twenty per cent per month.

[Mr. Leon Henderson.]

Mr. HOWARD: Without endorsement?

The WITNESS: Without endorsement; but very frequently it involves a pretended sale of wages. It is collected—

Hon. Mr. DUNNING: They buy so much of the man's wages?

The WITNESS: Yes, any types of usury that he can get away with. The volume of business at twenty per cent per month in Minneapolis, which is the rate at the present time, is almost equal per capita to the amount in a regulated state.

Hon. Mr. DUNNING: Like New Jersey?

The WITNESS: Yes, which proved to us that, of course, the demand was there; that it arose out of the conditions of the people rather than being stimulated by the existence of the available agencies.

Hon. Mr. DUNNING: Then, to complete that picture, what is the prevailing rate in New Jersey, the regulated state, with which you are making a comparison?

The WITNESS: Two and one-half per cent per month on the unpaid balance.

Mr. PLAXTON: Is that a flat rate applicable to all classes of loans?

The WITNESS: Yes.

Mr. DONNELLY: Do you mean on a small loan, under \$500, or what do you mean?

The WITNESS: In New Jersey it is \$300. The limit of the uniform law has been \$300 and that has been kept at \$300 regardless of the fluctuation of the population, partly for constitutional reasons and partly because our experience showed that while there were a number of other agencies, this was the proper flat limit.

Mr. VIEN: Would that be inclusive of all charges, and disbursements?

The WITNESS: Yes.

Mr. VIEN: All-inclusive?

The WITNESS: Yes, excepting where there were state laws which would require some kind of registration fee which would necessarily affect different companies.

Mr. COLDWELL: What is the rate in New Jersey?

The WITNESS: Two and one-half per cent per month on unpaid balances.

Hon. Mr. DUNNING: Covering everything?

The WITNESS: Covering everything. I shall come to the discussion on the rate later. I welcome this kind of interruption, because I have been a school teacher and public speaker for years. In that way I have felt the force of heckling and interruptions. It has been rumoured that I like it. This uniform law which was adopted first by the Russell Sage Foundation in 1916 has had several modifications. I am not going to take you through the techniques of them, but simply to point out that there has been a decided shift of emphasis due to the experience of the 1920's. The Russell Sage Foundation felt very definitely that there was a place for a business to render a typical business service in this field. It felt that if it were legitimized there would be capital available. It was not, however, until the late 1920's that the ordinary facilities of the market were available to small loan companies, so great was the taint on money lending and so great was the confusion as between money lending companies under strict scrutiny and supervision and the vicious loan shark practices, amounting to rackets in many of our cities. But the Foundation had consistently been changing the nature of the public officials responsibility under sections 3, 4 and 5 of the draft, and even giving encouragement to the exchange of information among the supervisors of the various state laws. And out of that has come a decided advantage, and by the late twenties when they had begun

to meet the test which our security market puts upon the business and when we had become convinced that there were in the picture several corporations, competing corporations I should like to emphasize, whose responsibility and whose acceptance of responsibilities were equal to and higher than most of the American industries, we thought that there had come a time in which the emphasis on small loans could be shifted. I want to mark that particular point, because there has been confusion about the Sage Foundation and the small loan business. Too often it has looked as if the Sage Foundation and the small loan business might have stemmed from the same general body, and of course it was to the advantage of those who are opposed to small loan legislation to magnify that as much as they could. There has never been a time in which the Sage Foundation has not wanted to work within the existing frame-work of free enterprise and capitalistic venture, ever striving to bring about the kind of business service in this field through business agencies rather than from the angle of state subsidies, state socialism or anything like that. In all our pamphleteering and all of our appearances before legislatures there has always been that emphasis, and that emphasis still is there, mainly I think because very gratifyingly the corporations that came into this business and those that remained in this business met the test pretty well. I had an opportunity under N.R.A. to see what the code of ethics is in practically all American business. I can say unqualifiedly particularly from my close association with the lending business that if anything the lending companies exceeded American business generally. They had found probably that it was good business, and they had found they were under a stricter pressure. They were under almost constant legislature restriction of course, because of their high rate, and if I may say so, I do not believe that they ought ever to get to the place where the public official takes his finger very far away from their neck. I think that is a very good thing.

Well, then, the trend of emphasis was very definitely to administrative control. There has been a large development in the United States, as you probably know, towards administrative law due to complex conditions and due to the fact that the general principles no longer are able to be used for ordinary executive administration; and our emphasis is very decidedly shifted. In our sixth draft we shifted very definitely towards an increase in the powers of the state supervisor. We shifted to a demand for official responsibility, because we found that if the amount invested was too small there was a pressure towards unfair practices. We wanted to establish what amounted to a certificate of convenience and necessity of the community before a small loan agency would be permitted in a community; and I think our New York experience has been very very helpful, because by putting the responsibility in the banking department for small loans—

Hon. Mr. DUNNING: The state banking department?

The WITNESS: Yes, the state banking department. Then when they took up the question of a certificate of necessity and convenience for the community they did it with very very high standards rather than as to whether it was an outlet for somebody to make some money; and also as to the character of the applicant who was at the door asking for a licence. In addition to that we went into a wide reporting system, and I have brought, for the purposes of the committee, from the Sage Foundation several copies of a suggested report which most American states having uniform laws now employ. It will give you an idea of how vigorously we have tried to pursue the elusive question which accountants ordinarily cover up as to what earnings and costs are. And again, the desirability of a state supervisor getting reports which are available for comparison year by year within his own jurisdiction, and for comparison as against other jurisdictions, and for reference by means of specific data on offices, which we have also urged. That to my mind has been one of the best things towards driving the rate to that rate which is economically necessary for carrying on the business.

[Mr. Leon Henderson.]

Now, we have relied on three things for competition: One has been the competition as between the licensees, and while I never as director fomented inter-company disputes I never took a pessimistic viewpoint if one of the corporations and another one were to get into some sort of competition which led to betterment of borrowers' rates and protection. There was the competition of other alternative sources of lending, such as the Morris Plan companies—which are of the Taxative character—and then the personal loan departments of banks became quite competitive. There were also the credit unions and other agencies. But we relied also on the supervising agencies' regulations of putting a burden on the lender to meet the terms which they thought necessary. That is, we felt that you could be crowding the maximum rate down to a lower level constantly, that you could shift the burden to the strongest member of the contractual relationship to find a means of doing business and of making a profit; and that has worked out very well. I can recall that when I first came to the Foundation it was assumed that 3·5 per cent would always remain the rate even if you got cheaper money and cheaper loan bank methods like that; and it is very gratifying to know that that rate has been reduced by them voluntarily, and because of this pressure of the supervised states.

Hon. Mr. DUNNING: It has been reduced now to two and one-half per cent?

The WITNESS: It has been. I am going into a discussion of rates pretty largely.

I forgot, Mr. Chairman, to make one other statement as to myself. While in my capacity as consulting economist, and while out of government service in 1935—in fact while I was teaching at the University of Miami—I made a study for Clark Dodge and Company, New York bankers, of one company which had applied to them for financing; the Household Finance Corporation. In other words, I represented the company which was considering whether it would underwrite the issue of security for one of the leading small loan companies. In that capacity I was able to demand income tax statements from the loan company, break-downs, and accounting analyses, and things like that, that had never been freely available to me when I was with the Russell Sage Foundation. In that way I added to my knowledge tremendously. I, of course, was paid a fee by the banking house as a consulting economist. I will speak of that when I get to the rate changes.

Now, this period around the twenties with which I am more familiar saw several changes. It was to see the bank loans, and to see the companies tapping the security market. It was also a time of general endorsement by social agencies, better business bureaux, local aid societies, junior chambers of commerce, labour unions—Mr. William Green, President of the A. F. of L. has endorsed it, Governor Lowden, of Illinois, Governor, and later President Wilson; and Calvin Coolidge, as governor, had signed a small loans bill; and Franklin D. Roosevelt, Governor of New York at that time, signed a change in the New York bill that I was sponsoring at the time for the Sage Foundation. New York had had a rate which was equivalent to about 2·25 per cent over a period of something like eleven to fourteen years, and no lending of any great amount had ever gone on under that particular rate, and the loan-shark had come in and had taken the place of the lending that had been contemplated by the licensing department. Through the assistance of the banking department and our work the attorneys-general conducted a loan-shark drive, and the recommendations of the general committee did away with the difficulties and expended their loans, and the National City picked up from that. It was also recommended that the state small loan law rates be increased, which was done under the last term of the Franklin D. Roosevelt administration there. We had a new period of very fruitful experience, which was very painful for me at times because of the work it caused me. But some of the states were reducing their rates. Some of the states that were adopting the law

were changing their rates, and others were almost rendering their small loan law inoperative by a reduction to too low a rate. I was going to speak very briefly about five of them as I know them. One of them is New Hampshire, and New Hampshire reduced its rate so that practically all licensed lending left the state. New Jersey, after a violent fight in the legislature, reduced it to one and a half per cent. The lenders left the state and as a result pretty largely the business shifted into New York and Pennsylvania, particularly Pennsylvania. Later the state raised its rate to two and one-half per cent where it had been before. Wisconsin moved its rate down until I think the effective rate is about, as I recall from my Clark-Dodge study, about 2.27 per cent—it is something like that; but that gave a monopoly almost to one group. At the time I made my study between eighty-five and ninety per cent of all the business was being done by one loan company in the state. Missouri reduced its rate to below what we thought was the minimum rate, two and one-half per cent, regardless of how it were fixed; and Missouri has had a resumption of loan-shark conditions to such an extent that the attorney-general and the Better Business Bureau are moving now towards the restoration of a higher rate. The West Virginia experience was what you might call a theorist's dream. We had predicted with great brashness that if the rates were reduced from three and one-half per cent in that state, which is rather sparsely populated, licensed lending would go out and twenty per cent lending would come back, and it happened within three or four months. As I say in connection with these theorist dreams, too often your prognostications catch up with you and destroy you. This one, however, validated our general research experience and testing of these states.

Other states, however, began to adopt our six draft recommendation, which six draft recommendation was what we would call a graduated rate; and pretty generally we would allow three and a half per cent or three per cent per month on the first hundred dollars of a loan and two and one half per cent on the balance above that. That is, if a loan were for two hundred dollars, you would pay three and a half per cent on the first hundred dollars and two and a half per cent on the second hundred. When the loan was paid, you paid off the cheap money first. You paid off the two and a half per cent money first. A number of states experimented with reductions of that order and very successfully. To my mind there was no real abandonment of the service to which the borrowers are entitled.

By Mr. Martin:

Q. What was the increase in the rate in New York State under Mr. Roosevelt—from two and a half per cent to what?—A. Rather than trust my memory, I will look it up. It was to three per cent per month on the first one hundred and fifty dollars and two and a half per cent on the balance.

By Hon. Mr. Dunning:

Q. That is the present rate in New York?—A. That is the present rate in New York. I think, without making a very serious study of this, with the cheapness of funds, that rate can probably be reduced by some variation of this joint rate. The New York supervision is very, very good. Under this amended law we stiffened the penalties and lessened the possibilities of law evasion and things like that to such an extent that when Dewey was prosecuting the racketeers, he sent one hundred and forty loan sharks to Sing Sing under that law. There is a distinction between this uniform law and what are permissive rates—extra, beyond the normal legal rate—such as the credit unions, industrial banks or personal loan departments of banks enjoy. They are permissive rates granted for purposes of competition and so forth, but do not

[Mr. Leon Henderson.]

allow the state to exercise, in an administrative way, the enforcement of the law. In a state like New Jersey or New York, the alertness of the racketeers is well known, and in the absence of anything except competition from other lending, very quickly would build up bad practices if the state supervisors did not have this weapon constantly available.

By Mr. Martin:

Q. Mr. Henderson, having stated that you think the present New York State rate could be whittled down, would you care to state what would be the minimum in the whittling down process, in your judgment?—A. I think that the \$150 limit on the three per cent rate could be brought down to \$100 and two and one half per cent on the balance, fairly easily. The costs of doing business in New York are higher than they are in other places, but I am quite sure that that could be done.

By Mr. Edwards:

Q. All charges are included in that, are they?—A. Yes. As I recall, there is no other charge.

Q. No registration fee?—A. No.

By Mr. Tucker:

Q. Is that by endorsement or a chattel mortgage?—A. No. That is mainly on the personal loan business which covers wage assignments and chattel loans.

Q. Do they not have to register the chattel mortgages?—A. No, they do not have to register. That is usually optional with the lender under this.

Q. Yes, but to protect the security I would think they would have to register the mortgages?—A. Curiously enough the mortgage—the furniture is not the lender's protection. He would go broke if it were. I came to the conclusion that the best way to beat the game, if you ever wanted to, was to find some way tapping the general flow of wages and vesting your security in the honesty of the common, ordinary person. His reliability with regard to payment and his guarantee of payment is probably the best security in the world to-day. Very seldom are these chattels or these mortgages ever used. I have here Illinois, and they keep a record of the suits and repossessions. They had something like 317,000 loans outstanding at the end of 1936 in the state, which would mean, roughly speaking, at least a half a million of loans had been made. They had 291 sales of chattels and 263 of them were automobiles. I mean, the use of the mortgage is at a minimum. The dependence mainly is on the fact that the person has to have the money, and is reasonably grateful to be able to borrow it in a quiet, decent, business like way; and he is very anxious to keep that credit. To my mind, it is very difficult for most of us to get down and understand the real service which a small loan company performs.

By Mr. Coldwell:

Q. May I ask you a question, Mr. Henderson? How far back do your records go with the State of Illinois? What I have in mind is that in 1936 the repossessions were very small; but in a very spectacular decline, like that of 1929, how would seizures be under those conditions?—A. As I recall, they were not very large. In fact, the American Association of Personal Finance Companies made an engagement with President Hoover, I think, which they later continued under Roosevelt, that they would examine into any threatened foreclosure and if it was unfair—if there were not elements of dishonesty on the part of the borrower and things like that,—and if there was a real lack of capacity to pay, they had a special committee to try to work it out. That

was one of the most gratifying experiences from the standpoint of the Sage Foundation of Research. That is, there was pressure on the borrower to pay, the same pressure that goes on all the time as between debtor and creditor; and perhaps with the loan company they have better techniques of collecting. But it met the test. The small loan lending pretty generally met the test.

I wanted to touch on something, without being too sentimental. The thing that I have liked about the Sage Foundation, before I went there, while I was there and later, is that they were realistic. They were not interested in hypothetical solutions and things like that. They wanted to see something done and done quickly to-day, not forty years in the future. They very seldom got sentimental about the small loan law. We felt that, entirely apart from these high questions of lofty service and ideals that business speaks about, the thing would stand on its own feet, and it did. As to the necessity of having loans, there was never any doubt in our minds. Each succeeding year of research convinced us that consumer credit,—the necessities for borrowing—were increasing, that in the absence of a decent place to which borrowers could and would go, you would compound the distress, and that the service which the lender rendered in a business-like way was far in excess of what was ordinarily realized. As a result, we maintained our position on the flat rate. We defended the lender. We kept on with the research. It would have been easy at times for the Sage Foundation to drop this thing and say, "we have done all we could do." But they kept on because they really believed in it.

By Hon. Mr. Dunning:

Q. Might I ask you a question just here, Mr. Henderson? The trend of your experience would appear to indicate that you believe that regulation of the loan shark by criminal law is not really effective; that, in fact, regulated competition with the loan shark is much more effective. Have I gathered your thought correctly?—A. Absolutely.

Q. Why is it that the criminal law is ineffective? It is a crime to charge the twenty per cent rate, I suppose, even in Wisconsin. Out in Minnesota, it is a criminal practice, is it not, to charge this?—A. Not in some states if it is expressed in certain ways; but in many states it is a criminal practice, yes.

Q. Just why is the criminal law not effective?—A. The main thing is that the borrower needed the money in the first place. That is the reason why the borrower seldom undertakes to prosecute a loan shark. The second is that under an illegal business, there are all types of concealment. The third thing is that you have got to go to court, which costs money, and very often the courts do not understand as well as the supervisor gets to understand.

May I go back to my first contention. It is because, regardless of that high rate, the borrower who needed the money desperately in many cases feels that he made the contract and he got the money—what is it our President, Calvin Coolidge, said—"They hired the money, did they not?" He was speaking of war debts. I have interviewed literally hundreds—probably thousands—of borrowers; but until the loan shark gets into racketeering, very seldom is there an outcry.

By Hon. Mr. Dunning:

Q. You spoke of a drive being made by the Attorney-General?—A. Yes.

Q. Just what does that mean?—A. The Attorney-General in the State of New York invited the borrowers who were being fleeced to send their complaints to him. We were working with him behind the scenes, somewhat. We supplied the technique. I might as well say that. There had come, from out of the unorganized territory in the south, chain loan shark groups that established what we call salary buying companies, twenty per cent per month companies, all along the New York Central lines and so forth. One company had gotten as high as \$128,000 out of the city.

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Q. At 20 per cent a month?—A. Yes, at 20 per cent a month. From a net investment of about \$16,000 they ran it up until it stood at about \$128,000 and their net income per month was nearly what their investment was. You can have a drive against that, but if you do not have alternative sources, they come right back.

Mr. FINLAYSON: Were the regulated companies doing business in those districts?

The WITNESS: No; that was in 1928 before the small loan law was changed. The loan shark business as generally practiced has escaped the sporadic drives because—I do not know why I should not say it—next to the politicians they are the smartest understanders of human beings that I know of. They always get out in a place where they do not get blind red reaction against them.

But if the racketeer comes in, that is, of a criminal instinct rather than just an off-colour bootleg kind of fellow, then it is very difficult to get to him under the criminal law unless you have a long campaign by a very intelligent supervisor with some help. The law will not keep the racketeer from trying something, because he will use force.

Hon. Mr. DUNNING: There are all shades in criminology, really.

The WITNESS: In New York we had a lot of automobile lending, and there they would go out and bump a fellow on the head and take his car from him if he did not keep up his payments.

Mr. TUCKER: Where was that, in New York?

The WITNESS: Yes; in 1928 and even recently.

Mr. TUCKER: One of the things you mentioned was this: You said that in New York, coincident with a change in the rates, steps were taken whereby over one hundred people were sent to jail. At that time there were these legitimate companies operating in the State, but apparently as you state, they were forced to operate at a lower rate and they were willing to do business. You said coincident with your raising of the rates under the administration of F. D. Roosevelt you actually made a drive against the loan sharks.

The WITNESS: Pardon me. The first drive was in 1928; the law was amended in 1930. In 1935 the racketeering ring in New York got into the loan shark business, particularly on automobile loans rather than small family loans and built up a very terrifying business. But Dewey struck it down by using the penal features of the law as amended in 1930. So there were two drives.

Mr. TUCKER: Then was it the drive in 1930 or the one more recently in 1935; which did you say?

The WITNESS: 1936 and 1937.

The CHAIRMAN: Mr. Tucker, the people in the rear of the room are trying to hear you but can not. I think you had better speak a little louder.

Mr. TUCKER: What I had in mind was this: I take it that after the bill was passed by the Roosevelt administration in New York these companies were operating thereunder, still the loan sharks entered the field?

The WITNESS: That is right.

Mr. TUCKER: And it was then necessary to crack down on them very drastically by criminal law?

The WITNESS: That is right.

Mr. TUCKER: Does that not indicate, then, that when they enter the field even at this rate there is the type of borrower that the legitimate companies will not lend money to, and that you are, after all, only covering part of the field. If it is necessary to cover the field with the criminal law, why can you not cover a wider area than you are trying to cover? You have got to cover it anyway to protect certain people from racketeering practices, so why can you not cover it in regard to people who legitimately borrow and who do pay back—people to whom legitimate companies will loan money?

The WITNESS: Most of this lending racket that Dewey broke up was in New York city. It was in connection with automobile loans rather than with what we call family loans or the usual loans made by the licensed loan companies. A lot of those loans were made ignorantly; that is, the borrower does not know the difference between a licensed lender and a non-licensed one. These racketeers had pluggers and cards and solicitors—all the trappings and pull-in stuff that the old loan sharks had, and once in, he was pretty tightly held. Now that was being done, as I say by a criminal class, a racketeer class tied right in with the big ring in New York. And that thing cannot, in my opinion, either be stamped out by competitive lending—I make no claim here as I want to be very careful on this point. You can have thirty million dollars out by the National City Bank in small loans, you can have fifteen million dollars out by the credit unions, and you can have three or four millions out by the personal loan companies, and in a large city the size of New York, you can still have that kind of viciousness. There is no way, Mr. Tucker, of meeting a doctor's bill by the criminal law. That is the reason for small loan licensees. You can make usury a high crime—flogging, or death to the lender and borrower both, but that will not meet the needs and the demands that come from emergencies that spring up in the low income group.

Mr. TUCKER: But if you have got to send people to Sing-Sing, as you say, even though you provide these facilities, then the actual borrowing of the money at these high rates of interest does not arise out of the needs of the borrower but out of the activities of the lender; otherwise, if these people could get money at cheaper rates, you would think they would get it and not go to the loan sharks. Why is it necessary to have the criminal law on top of that and send people to Sing-Sing? It must be that it does not arise out of the necessity of the borrower so much as it arises out of the tactics of the lender.

Mr. EDWARDS: It strikes me that it does arise out of the necessity of the borrower rather than out of the activities of the lender.

Mr. TUCKER: Then these companies cannot be covering the field.

The WITNESS: The small loan companies, licensed companies, do not cover by any means the entire field and the demand for loans. There is no question about that. We used to have at my office a constant stream of people coming in for whom there was no agency available that could loan to them, I mean, at the ordinary going rate, as the risk was entirely too great.

Mr. TUCKER: But these companies only cover the people who are able to pay, who are good risks, but the person who is a doubtful risk is not helped by this legislation at all.

The WITNESS: I would not agree. It depends on what you mean by a good risk. You mean a good bank risk? No. The man who comes to the personal finance company usually is a fellow who cannot satisfy the requirements of the bank or a credit man or who has not immediately available two endorsers to stand good for him, or who has not any jewellery which he can hypothecate with a pawn broker. All that he has got usually is a reputation in the community of meeting his debts when he can, paying his bills, and who has reasonable prospects of employment. Now that fellow is a good risk for a licensed loan company at the rate they charge. You get beyond him into the type of fellow who has no job, who has nothing on which anybody would make him a loan, and then they can get a tremendously high return from him very quickly, and exercise some kind of terror on him usually, causing him to lose a job, or something like that, or take a wage assignment. Under this law we pretty generally limited the use of wage assignments, so that the borrower's job is not put in jeopardy by applying for a loan. There is that group, and

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if you did not have the licensed lenders, however, then the hundreds of thousands of borrowers who do go would go as they do in Minnesota only to the high rate lenders. There are in Minnesota right now probably 65 per cent—I think at one time it was 70 per cent—of persons who would be good risks for licensed loan companies. I had an opportunity to check one time as to the type of customer who went to the loan sharks' office. We found some records in a raid and I made an analysis of the line of credit there, and I thought that about 70 per cent of them would be good risks for licensed loan companies at probably one-seventh of the rate that was charged. A lot of those cases are gambling cases. A lot of them are cases where men borrow without their wives knowing anything about it. A lot of them were cases where they already had loans with other agencies which they were not paying.

Mr. TUCKER: I will tell you one of the things that bothers me. I do not know whether you considered it at all. These people who borrow at rates of $2\frac{1}{2}$ and 3 per cent, according to the records of the companies, pay the money back and the interest just as well as people who make large loans under our regular banking system. The question that bothers me is this: We have given the banking system certain rights to expand credit roughly ten to one against their cash reserves and so on, in order that they will be able to make credit available cheaply to the wealthier members of the community. If they did not have that right to furnish and expand credit, and so on, if they had to lend the actual money, they could not lend it as cheaply as they do. If we set up a banking system that enables the wealthier members of the community to borrow money, by virtue of being able to expand credit in that way, have we not got some obligation to make credit available cheaply to the poorer people? In this regard we have simply got to say this is the rate that is necessary without giving them any rights such as the banks have to loan money to the wealthier members of the community.

Mr. EDWARDS: Why say "wealthier"?

Mr. TUCKER: It is the wealthier members—

The CHAIRMAN: Gentlemen, I would suggest that Mr. Henderson be allowed to finish his statement.

The WITNESS: I would like to answer. I have probably worried more hours about it than you have, Mr. Tucker.

Mr. TUCKER: I would like to hear you.

The WITNESS: My feelings on the question of the banking system are not perfect, but I have always felt, or at least the Sage Foundation has always felt, that there was a much larger area in consumer credit that the banks could satisfy than they are presently satisfying. How far that could go I am not quite sure, because of the fact that it is the depositor's money. That is the key question. It is not money put at risk for the purpose of gain. That, Mr. Minister, is the essential difference. We have had a tendency in the United States, as you know, to encourage personal loan departments of banks that will make loans on three-name paper—two endorsers. The federal reserve system has been giving increasing attention towards making paper arising out of a consumer credit transactions available for discount with the idea that a saving would be passed on. Now there is somewhere a limit to which the banking system can go, but they have not anywhere near probed that limit yet. The Russell Sage Foundation never thought that the banking system, the philanthropic companies or the co-operative credit societies could ever absorb the entire field, and we were not, as I say, willing to wait as enthusiasts of the credit union would have liked us to have done until the banks did that. There were before us hundreds of thousands of people right then paying twenty per cent a month and becoming charges on society, sometimes adding to the welfare burden.

Now, I believe that what you will eventually need to come to—and I think Canada can profit by our experience mainly—is to catch this thing early and provide some help to your credit unions. I have always felt that if the Canadian government had helped Alphonse Desjardins when he started and took up the idea you would have had a much better rural credit system than the one you have to-day, and you would have had a lot of avoidance of the pressure that you now have. I believe your banking system could go a certain distance, limited always by the thing which is the strength of your banking system, and that is the availability of depositors' money on demand. I believe that you could avoid the excesses of hire-purchase instalment selling if the supervising agencies before us are expanded so that they would include money for research and observance of recommendations to parliament. I think very definitely that anything you can do towards getting uniformity in regulations through a dominion law is well worth while, particularly to avoid any possibility of the chain loan shark methods, which was one of the toughest things we had to avoid, because they bring to this interest field ingenuity, money, and a tremendous amount of bribery and extraordinary legal talent and so on; so much so, that they become a social sore. I believe you are moving in the right direction but I would rather think, Mr. Tucker, that here you would probably move in two directions: first get general oversight over the whole field of consumer credit through the state agency; and secondly have a prompt set-up of the commercial agencies on a basis that would have a clear right to forbid overcharges and outline the security and flexibility that is desired when you talk of competitive bases, and lay down the rate under which that business can operate. That is the highest form of a democratic competitive system, competition on the rates that are set down.

Hon. Mr. DUNNING: You appreciate our jurisdictional difficulties?

The WITNESS: I appreciate that.

Hon. Mr. DUNNING: In the hire-purchase field with respect to the property and civil rights, etc.

The WITNESS: I have been through it, and went through it some years ago. I have been trying to keep away from things on which I am stale.

Hon. Mr. DUNNING: Property and civil rights is within the competence of the province when the transaction is one wholly within the province. That is a difficulty we come up against.

The WITNESS: We had similar difficulties, Mr. Minister, in which I had to make up my own mind. I had to make up my mind first of all as to what was interest and what was not interest and whether a thing was a loan or whether it was not. We came to the conclusion that—we used to say if you are going along the street and a flower pot falls down and hits you on the head the cut is just as bad, whether it was an accident or whether somebody threw it. Now, from the standpoint of the borrower, regardless of these fine-spun legalistic distinctions—and I indicate my bias against the legal profession here—

Hon. Mr. DUNNING: Mr. Tucker is a lawyer, so you had better be careful.

The WITNESS: It is a cost to the borrower and a diminution of his ability to live a more decent and wider life. We made up our minds that so far as possible we would cut straight across these things.

Hon. Mr. DUNNING: You were dealing in the United States with individual states.

The WITNESS: Yes, but also with state laws and precedent decisions as to whether the thing was purchase wages or not. The loan sharks had already got in there and had obtained a decision from the state supreme court with regard to a certain transaction on an agreed set of facts. When we found that we

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decided we would break it, because we knew in a multiplicity of the contracts that were taking place there were pretended loans.

Hon. Mr. DUNNING: You always knew the state legislature was supreme?

The WITNESS: Well, after we had been to the Supreme Court three times and they refused to take jurisdiction, I believe we did.

Mr. MARTIN: I just want to follow up something that Mr. Tucker has raised in connection with loans made by banks. Having in mind your experience with the National City Bank of New York, is there any class in the state of New York that the National City Bank cannot reach in respect of small loans, and if there is would you mind explaining it?

The WITNESS: Well, the National City bank type of loaning is usually for higher amounts than the average borrower borrows from the small loan companies, and there is a requirement of two endorsers. The average householder has great difficulty and has a certain reluctance in satisfying these requirements, since the amount does not warrant all that trouble. Sometimes a man who might by scurrying around to get the endorsers prefers to go to a pawnbroker or a small loan company for his credit. In the main where you have credit unions and a personal loan department of banks, personal finance companies and such a wide luxuriant growth of instalment selling, your borrower tends to pick the one which is available and with which he is familiar. He tends to go down the line as to his class of credit risk.

Mr. DONNELLY: You have a fixed rate of interest in the banks that the banks cannot go beyond?

The WITNESS: In New York state, yes.

Mr. DONNELLY: What is that?

The WITNESS: I think it is six per cent discount repayable by instalments. Limitation, with certain minor fees. The National State bank cost of lending is among the cheapest that there is. There is an awful lot of small businessman's loaning that goes on with the National City bank in which a businessman with no established line of credit does not have to maintain compensating balances and is under caution to pay out of his weekly receipts, rather than a straight out-and-out consumer purchasing.

Mr. MARTIN: That would not come under personal loan companies?

The WITNESS: No, they are under a separate statute.

Hon. Mr. DUNNING: Under the banking department.

The WITNESS: Under the banking department. But at the risk of being wearisome I should like to emphasize the high desirability of state supervision of the bank department. Once that business started to assume large proportions they went into the legislature and asked for special legislation because of the peculiar character of the consuming credit that segregated it from the ordinary banking credit. That is, they recognized—the alert banking department—that this was something where there were other tests to be applied and that the borrower ought to have other guarantees.

Mr. TUCKER: Our banking system grew up to finance production, and as you point out now there is a tendency for wealth to confine itself in positions where it is not immediately available for purchasing power, and the result is that there is an apparent lack of purchasing power through that maldistribution of wealth, you might say. Now, it is very important that if a system is to function at all there should be a corresponding building up of the system to finance purchasing power as we have built up the banking system to finance producing power. Are we not simply trying to attack this thing in a make-shift way? Are we not failing to go to the root of the problem? Should we not go to the assistance of the banking system so that they may be able to finance purchasing power the same way as they are financing producing power? We have given the banks in

this country the right to loan on a ten to one basis, expand their credit to that extent; if they had not that they could not give credit at the rate that they do now. Should not we give the same privileges to society in order to finance consumption?

The WITNESS: That is right. I hope that is what I have been saying. I want to go further back. If you want to go to the root, I think the root is the maldistribution of income of most of the extra-legal borrowers.

Mr. TUCKER: What I am getting at is this: you are financing production. Our big producing concerns in this country pay five and six per cent. Now, there are people who get credit to that extent because we have set up a banking system which gives the banks the rights to expand their credit. Can we hope, on the other hand, and is it fair to expect people who are going to do the buying, to pay as high as thirty per cent, because we have refused to give the same rights to society to expand its credit to finance purchasing power as we have given the banks? In other words, can you finance producing power at five per cent and hope to balance it by consumer power at a rate of thirty or forty per cent?

The WITNESS: Well, in the first place, I do not think that they are opposable at all. In the second place, the financing of production is less many, many times the financing of consumption. I think there are things inherent in the nature of the risk and the cost, particularly, of doing business which makes the higher rate on the consumption side absolutely necessary. The actual cost in dollars of loaning in small amounts was double and treble the whole interest return of the producer's notes, most of which is pure interest; that is, a reward paid for the use of funds. It is the cost, the actual cost. There would be very little. You could multiply the ratio probably one hundred to one, if you wanted to, rather than ten to one, for the same amount of credit and you still could not get away from the fact that to send a clerk out to investigate the ability of a worker to pay will cost you a certain amount. It will also cost you when collecting that money in small amounts. Every time that you make an entry is costly. That probably will run around one and one-half per cent a month for actual pocket outlay. What makes the rate seem so high, Mr. Tucker, is because these charges are applied against such small amounts of money.

Mr. TUCKER: It would be higher if it were applied against a larger amount of money.

The WITNESS: No.

Mr. TUCKER: Is not the reason that the banks loan money so cheaply due to the fact that they get the funds they loan so cheaply; and the banks loan their money to protective enterprises. If they had to get their money in the same way as the small loan companies do, in other words, if they had to pay 6 per cent for it, they would not be able to loan at 6 per cent or 5 per cent.

The WITNESS: There is another factor which enters in there, and that is that with these loans in large amounts the cost of investigating the borrower is less.

Some Hon. MEMBERS: Hear, hear.

The WITNESS: Then, they require compensating balances, and the security is usually of a character that can be transferred; and then they also have this ten to one ratio. But, outside of the cost factor as applied against the average size of the loan, there is no way, in my opinion, even if you multiplied the rate of expansion up to one hundred to one, that you could get it down to a comparable ratio.

Mr. TUCKER: I do not see this—

[Mr. Leon Henderson.]

Hon. Mr. DUNNING: Mr. Chairman, a question is one thing. Mr. Tucker is a lawyer. We ought surely to accord some courtesy to the gentleman who is making the statement.

Mr. TUCKER: I did not want to interrupt. I want to get all I can from this witness, but I think it would be hardly fair for me to interrupt.

Hon. Mr. DUNNING: We want to get on.

Mr. TUCKER: There is just one other question I wanted to ask. The point I wanted to make is this: I suggest that the cost of credit to the small loan company by the state is made much higher than it is to the commercial bank; is it not fair to say that if you gave the same consideration to a system whereby we might make the cost of credit to the small loans companies somewhat the same as the cost of credit to the commercial banking system it would benefit the borrowers?

The WITNESS: Let me answer that in this way: I believe that if deposit money were available for small loans there could be a reduction in the cost of loans to consumers. I do not believe that even if they got their money for nothing you could hope to approach the banking rate of interest for consumers, and the result of that would be that you would have to have an extra legal rate. But more important than anything else to my mind is not the rate as between the two fields so much as it is the factor of state supervision over that entire field. That saves more for borrowers than any difference in the small loan rate. That is why the English thought proper before they began to determine what is an unconscionable rate to provide for about four per cent a month, and so forth. They have a different attitude entirely. We dealt with the matter differently. We have never felt that the rate was half so important as the surrounding conditions for the protection of consumers.

Mr. DONNELLY: Do you not find that when you push the rate down you narrow your field of loans?

The WITNESS: Yes, very definitely. As your average loan goes up it excludes the more necessitous borrower. The state could I believe after a period practically decide which class of borrower will be served by the way it pitches its maximum rate, and its burden of rate. It can do that if it wants to.

Mr. COLDWELL: Don't you think that the growth of large accumulation of wealth by individuals would be a factor in driving down rates in the future?

The WITNESS: You mean, in small loans?

Mr. COLDWELL: Yes.

The WITNESS: The thing which it tends to do is to make more funds available for open credit.

Mr. COLDWELL: You say it makes more funds available for open credit?

The WITNESS: That has been the experience.

Mr. COLDWELL: If this credit is not being taken up it will seek a new field, will it not?

The WITNESS: Yes.

Mr. COLDWELL: Is not this one of the fields it would seek?

The WITNESS: This is one of them, yes; but it is more likely to enter into the competitive field for established securities, driving your security rates up.

Mr. MARTIN: Most of your remarks have been confined to the United States. Has the Russell Sage Foundation covered other countries as well?

The WITNESS: We made a special study of the British situation, and I am leaving with your chairman a copy of "Money Lending in Great Britain," a report that we have made. Then, we have kept track of the trend in Australia, New Zealand, in the Strait Settlements, in India, Assam, South Africa and West Africa. We have kept up as closely as we could with other countries, but we

have specialized more in co-operative banking arrangements there. One thing we noted was pretty general. In the Commonwealth they have been tending toward the requirement of the borrower getting a legal statement; that he have a book of some kind, with a contract, to be available, to be open if it were a case of hardship or unconscionable rate. There has been a tendency to limit, as in Tasmania. Tasmania used to have a rate of 100 per cent. It is down to 50 per cent now, as I recall. There is a tendency in Great Britain—all the small loans do not pay much attention to the 40 per cent determinative. However, the significant thing from our experience with respect to Tasmania is that they are borrowing and moving towards more protection to the borrower through the state.

Hon. Mr. DUNNING: In Great Britain it is only operative through the courts, isn't it?

The WITNESS: Yes.

Hon. Mr. DUNNING: It is determined in each individual case.

The WITNESS: That is right.

Hon. Mr. DUNNING: And "unconscionable" does not come into it at all until it exceeds four per cent a month.

The WITNESS: That is it.

Mr. COLDWELL: How long is Mr. Henderson going to be with us, because we want to hear as much from him as we can?

Hon. Mr. DUNNING: I would like to see him have an opportunity to finish his statement.

The WITNESS: I have practically finished. I had a peroration about the general desirability for supervision.

The CHAIRMAN: Mr. Henderson would you like to get away this afternoon?

Mr. PLAXTON: Perhaps I could direct one question which would bring Mr. Henderson's remarks to a head. What scale of rates does the Russell Sage Foundation now recommend; and to what brackets of loans are they applicable?

The WITNESS: I think in a new community in our state (New York State) the Sage Foundation would recommend about three per cent on the first hundred dollars of a loan, and two and one-half per cent for all amounts above that.

Mr. DONNELLY: You are very strongly in favour of state supervision?

The WITNESS: Yes. Again I would say that the nature of the Act and the character of the supervision is much more important. We have had more gains from the work which the state supervisors have been doing in their own jurisdiction by exchanges through their own association than through any other single factor, outside of the compelling character of competition in recent years. The state reports that I went over in the last few days show that very very thoroughly.

Mr. HOWARD: You stated a few moments ago that you thought one of the best suggestions was to have a certificate of necessity; who could give that?

The WITNESS: The state supervisor. We had in mind something of the Oklahoma Ice case, in which a dissenting opinion was given by Mr. Justice Brandies. When you come to a place where extra units really do not add to the convenience of the community the community really ought to have something to say about it.

Mr. TUCKER: What time do you wish to leave this afternoon?

The WITNESS: I wanted to get a train so as to get back into New York to-night.

Hon. Mr. DUNNING: Then, you could get a train at 5.55 out of Montreal which would get you into New York City to-morrow morning.

[Mr. Leon Henderson.]

The CHAIRMAN: The minister has pointed out that to-day is private members day and suggests that we might have difficulty in getting a quorum. Is it your pleasure that we should meet this afternoon?

Some Hon. MEMBERS: Yes.

The CHAIRMAN: Then, unless Mr. Henderson might like a little relaxation—

The WITNESS: Oh, no; this is meat and drink for me.

Hon. Mr. DUNNING: Before we adjourn I would like Mr. Henderson to think if he can of one thing before we meet again, and that is the relationship of our essential differences to the systems he has been discussing, the main essential being that this is a national parliament attempting to secure national control over this business but complicated by the fact that the provinces, which correspond to your states, have certain constitutional powers not yet clearly defined by judicial decision in relation to this problem. I am thinking not of asking you questions relating to jurisdiction, Mr. Henderson, but that you should turn over in your mind what these differences apparently are, and the necessary qualifications which would be introduced by the known differences in your suggested techniques of control. For instance, just to illustrate if I may. You mentioned the desirability of extending this field into what is now one of the biggest aspects of it; that is, the hire purchase—the automobile loans, the refrigerator loans, and all the rest of it. Of course, this is a national parliament in Canada trying to deal with a problem. Wherever chattel security is taken, as in the case of automobiles and refrigerators and all that type of credit, that is within provincial jurisdiction.

Mr. EDWARDS: Are not all of these provinces in unison with the federal government, Mr. Dunning?

Hon. Mr. DUNNING: Well, I have not found complete unanimity. If you could give some reflection to that we are anxious to do something with that.

The WITNESS: I will do that.

The committee arose at 12.55 o'clock p.m. to meet again this day at 2.30 o'clock p.m.

AFTERNOON SITTING

The committee resumed at 2.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Mr. Henderson, will you proceed?

The WITNESS: I think I had better respond to questions.

Mr. VIEN: Have you had occasion to study the systems of legislation prevailing in countries outside of the United States and Great Britain—for instance, France or Germany or other civilized countries?

The WITNESS: Not to any extent to present any definite information. The German small loan system revolved mainly around the two great systems of credit unions, and outside of that there was the usual loan shark and the pawn broker. In France there has been a great reliance on the pawn broker and the credit societies, and there has been very little regulation of the so-called industrial money lender.

Mr. VIEN: Are you familiar with the rates of interest in these countries, the maximum rates, if any?

The WITNESS: No.

Mr. MARTIN: In those states where the uniform law prevails, what is the lowest rate? $2\frac{1}{4}$ per cent, is it not?

The WITNESS: The lowest operating rate, and I mean by that where there is licensed lending, is about $2\frac{1}{2}$ per cent, except for Wisconsin. Wisconsin has a rate of $2\frac{1}{2}$ per cent on the first \$100, 2 per cent on the second \$100 and 1 per cent on the remainder. 90 per cent of the business is done by one company, and the average rate is 2.28 and 2.30. It is a little bit above $2\frac{1}{4}$ per cent. But pretty generally you can say that any rate below $2\frac{1}{2}$ per cent, under uniform law, gives only a very, very highly specialized loan service.

Mr. MARTIN: Below?

The WITNESS: Yes.

Mr. PLAXTON: Does that invite the loan sharks?

The WITNESS: It does. In connection with Missouri, the Sage Foundation showed me correspondence that they had received recently from the attorney-general, the Bar Association, the Better Business Bureaux and a number of other quasi public agencies, to the effect that they were seriously bothered by the high rate lender, and that the companies that were licensed were selecting their risks to such an extent that they did not get what they had been getting under the old system. Now, Missouri is traditionally a very, very bad state for loan sharks because, frankly, there has been a tie-up between the political machine and the loan shark gangsters for some time and it never has been adequately cleaned up.

Mr. PLAXTON: Would it be fair to assume that if we drove the rates down to Wisconsin levels it might result, first, in a monopoly here in Canada, and, secondly, give encouragement to the development of the loan shark business?

The WITNESS: Separating your propositions, I think if you did put your rate at the Wisconsin rate you would have a tendency towards concentration of the business, and I think you would have recurring trouble with high rate lenders.

Mr. McGEER: What is the situation in Wisconsin now as a result of that?

The WITNESS: The situation was pretty fair the last I knew about it. There is an alertness on the part of the Wisconsin authorities that you do not have in some of the other communities. Wisconsin is, as you probably know, Mr. Chairman, a state like Massachusetts which has been very, very alert as to the rights of the public. There is some high rate lending, but it is not of tremendous importance there.

Mr. COLDWELL: What factor are the credit unions in Wisconsin?

The WITNESS: The credit unions are quite a factor because there is decided encouragement by the state, and, in addition, Wisconsin is one of the two states that has moved on instalment credit to bring it within regulation, and they have general supervision over automobile instalment financing. I think, Mr. Coldwell, that encouragement of the credit unions has been very, very helpful there, plus the fact that the United States government has had a very definite policy for encouraging national credit unions, and there has been a sympathetic reception of the federal government's activities in regard to credit unions in Wisconsin.

Mr. TUCKER: That is; they had paid organizers both by the state and by the federal government?

The WITNESS: Yes.

Mr. McGEER: What is the population of Wisconsin?

The WITNESS: I do not know.

Mr. COLDWELL: It is a thickly populated state.

[Mr. Leon Henderson.]

Mr. McGEER: The question I asked before was, what are the provisions as to supervision as to money lending activities in the state of Wisconsin.

The WITNESS: As I recall, and I am a little bit rusty, it is in the same Commission that administers the utility in railroads and banks. Do you know, Mr. Finlayson?

Mr. FINLAYSON: I think that is right.

The WITNESS: It is a very high type of commission, Mr. McGeer, and a very alert one, too. Organized lending business had some difficulty in getting started there despite the fact that one of the biggest loan shark chains had its home office there.

Mr. McGEER: They have, I take it, power to step in and investigate the books of anybody engaged in the business of money lending?

The WITNESS: Yes.

Mr. McGEER: And you would consider that an essential factor in the supervision of money lending? You have noticed that in our Money Lenders' Act we have no such powers at all. There are really no supervisory powers here at the present moment, unless there is a violation of the Act itself when a charge can then be laid under the Code. Even then there is no power to investigate what is going on outside of a specific charge being laid. You recognize that as a hopeless situation as far as supervision is concerned?

Mr. QUELCH: Should not the rate of interest on renewals be lower than the rate charged on new loans in view of the fact that the cost of the investment has already been met?

The WITNESS: There is quite a dispute about that and, frankly, Mr. Quelch, I am not prepared to say. On a small loan, if it is repaid very quickly, the costs are not covered. We have preferred to look at the general matter of lending rather than at the specific and individual transaction. We have tried to provide as wide a line as possible for free operation under the law and still give intensive regulation in the interests of the borrower. I cannot give you a very satisfactory answer to that.

Mr. DONNELLY: If a man is not able to pay a small loan the risk could not have been so good as you thought it was.

The CHAIRMAN: Mr. Kinley was asking a question and was interrupted.

By Mr. Kinley:

Q. You think that the chartered banks in the United States cover a larger field of loaning than do the Canadian banks? I understand the chartered banks in the United States loan money on real estate and take securities. They are not allowed to do that in Canada.—A. Well, they did.

Q. And came to grief?—A. Their experience with that kind of security has been unfortunate, I would say. If you do not mind I would rather we did not get into a discussion on the relative merits of the American and the Canadian banking systems except to say that I am a great admirer of your system as against ours.

Q. I was trying to establish that there might be a greater need for loan companies by reason of the fact that your banks are more local than ours and make loans that our banks are not allowed to make in this country.—A. I could not pass on that. If I might make one statement on that, I should say I think there is some gain very definitely in not having a plethora of loan agencies because it gets to a place where the lender has got to make money and has to have his money out and there is an encouragement for credit that we have always frowned on.

Q. Your idea is the banks should get away from that kind of business?—A. No. Our idea very definitely is that the banks or credit unions ought to get every bit of the business that they can. I am glad that you brought that

out because I want to make it very, very clear. The Russell Sage Foundation has always felt, as I said this mornnig, that there was a wider area for the banks on consumer credit and that the banks generally had not pre-empted that area yet. We have always hoped that they would go into it much further. When the national city system was set up we spent a tremendous amonut of time working upon that, based upon what has been the deterrent in schemes for consumer borrowers, and gave a great deal of encouragement to it. With regard to credit unions, we feel that the area ought certainly to be extended.

Q. By the banking field?—A. Yes.

By Mr. Tucker:

Q. The question I should like to ask is this: I have grave doubts about the real value of credit at such high interest rates, if the persons getting it are permanently turning over part of their salary to the people who are giving them the use of the credit indefinitely. I was just wondering if your Foundation has made any investigations as to the extent to which once these people make loans at these rates of interest they continue to owe some small loan company permanently the same amount of money. That is, they may have one company who they will borrow from and then they will go to another company to obtain money to pay the company from whom they borrowed in the first instance, and so on. I was wondering to what extent these loans are really loans that are paid for and to what extent the person, once he gets a loan from these small companies, thereafter permanently contributes to the exchequer of the small loan companies?—A. Well, the federal government has just finished a study of the income and disbursements of the largest sample that was ever taken on an absolute income and outgo basis. It shows the general annual income varying in different states, and that anywhere from twenty to thirty per cent of all families are compelled to spend more money in a year than they earn. In other words the balancing of the budget does not go on in a large number of families, because of the high cost of medical attention, legal needs, intermittent employment, and the fact that money comes in in driblets and there are substantial expenditures to be met.

The small loan company is the residuary legatee of all of the difficulties in meeting the budget that many many families have. The small loan company is the company that lends the cash, and cash is the solvent for many of the difficulties. It inherits, for example, the difficulty of balancing a budget when a car or a refrigerator or some other physical item sold on instalment credit has to be met or the loss of the particular goods take place.

Mr. VIEN: Repossession?

The WITNESS: Or the goods will be repossessed. There is a large amount of renewal; and we have always been uneasy about this—I speak very frankly—but we have felt very definitely that the largest part of that was not due to the drive of money lenders to keep their accounts settled, although that is always present. We have felt that the maldistribution of income, the failure of large groups of people to have enough consistently to have a decent standard of living was responsible more than these agencies, which, as I say, are the residuary legatees of a lot of the balancing troubles. For that credit they pay a very, very high cost. Let us not misunderstand that; but it is a necessary one. As you know, the Russell Sage Foundation is very close to all the charitable organizations, welfare societies and things like that, and we felt that although there was a tremendous amount of disservice done by pressure for renewals and things like that, that the absolute economy service rendered left no question about it at all.

[Mr. Leon Henderson.]

By Mr. Tucker:

Q. If eighty or ninety per cent of the people who get these small loans to pay doctors' bills remain thereafter in the hands of small loan companies, is not there grave doubt about the value of the service rendered to that person in lending him money and he thereafter having to pay interest indefinitely on that loan?—A. I do not think that is the picture. Certainly nothing in my experience or in the experience of the supervisors of loan companies that do the auditing and hear the complaints would lead us to believe that. If that were true, Mr. Tucker, I do not believe that the small loan law, starting at as much of a disadvantage as it has, would have ever stood all the public pressure that has been put on it. I do not feel that in these individual cities they could have obtained the support of the local aid societies, the better business bureaux, the junior chambers of commerce and the social agencies to public presentation of a case at a legislature when there is an attempt to repeal the small loan law or to modify it so that it is unworkable. That, perhaps, is the best testimony that we ever had as to that fact.

Q. Is not that the main reason why—you presented it yourself—you have these exorbitant interest rates? If you do not have them you turn the field over to racketeers whom you cannot control, to charge more, and you cannot stop their preying upon the people. Is it not something like the dope traffic? We say we cannot stop the dope traffic therefore we will let them take dope of a less vicious quality?—A. I do not accept any analogy with the dope traffic. I submit that the paying of a medical bill is not analogous with the dope traffic at all.

Q. If you do not pay the medical bill at once you can pay it by instalments just the same as you pay the small loan sharks, and you will have some money. If you do not pay these high rates of interest you will have some money to pay the next medical bill?—A. You mean you cannot pay a medical bill or a hospital bill by instalments?

Q. Yes, I can.

The CHAIRMAN: The witness has only an hour or so to catch his train.

Mr. TUCKER: I do not want to take up too much time.

Mr. McGEER: I should like to ask this question, and I will give it to you so that you can frame your answer to it. I have been asked by Mr. Walker to ask this question: What is the name of the company which you say is doing ninety per cent of the business in Wisconsin?

The WITNESS: That is the Household Finance Corporation.

By Mr. McGeer:

Q. Now, I should like to ask these three questions. You mentioned the different series of rates in the state of Wisconsin. What amounts are allowed under the law of Wisconsin?—A. I put that in the record this morning.

Q. You did not give the amounts.—A. I did.

Mr. PLAXTON: I made a note of them here.

By Mr. McGeer:

Q. Will you give them to me again?—A. Two and a half per cent on the first \$100; two per cent on the second \$100, and one per cent on the remainder.

Q. What is the remainder?—A. \$100.

Q. The limit in Wisconsin is \$300?—A. \$300.

Q. What is necessary, in your opinion, to effect a proper supervision of the administration and enforcement of that particular law?—A. That particular Wisconsin law?

Q. I took that as a sample. What I understood you to say before lunch was that the rate was not so important as the general circumstances surrounding the administration of the money lending laws.—A. What I meant by that—

Q. Will you tell us briefly what is necessary to supervise it?—A. Yes. In that statement where I said that the rate was not as important as the surrounding conditions of supervision I meant that, for example between $2\frac{1}{2}$ per cent a month and $2\frac{3}{4}$ per cent, say in New Jersey, it was very possible that $2\frac{3}{4}$ per cent with adequate supervision provided better protection for borrowers than say $2\frac{1}{2}$ or even $2\frac{1}{4}$ per cent without supervision; because it was due to the powers of the supervisor that the borrower had the ultimate of protection. Now, that requires, in my opinion, first that an applicant for a licence should have enough funds to do a reasonable volume of business. It involves a certificate of convenience and necessity to be issued by the state after an investigation of the community, and after an investigation of the character and general reputation of the applicant for the licence. It presupposes that there will be a required reporting in terms which the state will set, and not of a private accounting organization, and that the state shall have the right of audit and shall actually audit at least once a year the actual accounts at the office in which lending is taking place. As far as rates are concerned it requires that the rate shall be adequate enough so that there will not be a monopoly; so that there will be the possibility of small companies and small loan balances that would leave a service available to small communities. It requires that the rate be stated in flat terms, or without any concealment; that the borrower shall be given a full and adequate statement of what his account is; that there will be entry in ink each time there is a payment; and permission to the borrower to repay at any time that he wants to; that is, that at any time he wants to make more of a payment than he has contracted for he can do it. It supposes that the supervisor will have something mentioned before—not only the right of entry to the books, papers and records of licensees, but of any person whom he thinks ought to be brought within the terms of the law. Now that is as most lawyers would say a tremendous amount of power to be given by delegation to an administrative officer. To my mind it is of extraordinary importance because of the means and devices by which the law may be evaded. The penalties ought to be severe. In our experience there are two things which hold loan licensees to high standards: One is the fear of a loss of the principal and licences, their right to do business; and the other is the fear of jail. And, in our opinion, these penalties ought to be severe. The law ought to be comprehensive enough if possible to cover by terminology the various devices which the money lender is accustomed to employ in order to avoid proper statements. In general, those are the conditions that I feel are laid down in the last draft of the uniform law, with the emphasis very very definitely on the type of supervision provided by the state.

Q. Have you a copy of that draft uniform law?—A. Yes.

Q. Without that supervision could the licensing of companies accomplish anything?—A. It would accomplish only such service as that licensee wishes to give in the terms of his licence. It won't get to the general problem of regulation. I do not know how you can constitutionally do all these things. I think, however, you ought to be bold and try to get further than Mr. Walker intimated as possible yesterday; that is, just a regulation of interest extended as far as possible; and have in mind in whatever the drafting is as the regulation of interest things which are regulatory of the business of money lending.

Q. Would you mind indicating what states you consider have the best legal machinery for the enforcement of these regulations. Or, what group of states. I do not want you to say which is the best. I was wondering what states are really progressive in this respect?

The CHAIRMAN: Could you give us three or four?

The WITNESS: New York, New Jersey, Indiana, Ohio, Connecticut, Massachusetts—and there is no invidious comparison to be taken from the order in which I have named these states.

[Mr. Leon Henderson.]

By Mr. Coldwell:

Q. I notice you are not including Wisconsin?—A. In the way the question was framed I would not include Wisconsin, because I am against monopoly, except it be a state monopoly; and that goes for the whole frame and reference of enterprise.

The CHAIRMAN: Mr. Kinley.

Mr. KINLEY: I think my question has been answered. I was going to ask the witness in what states they had that kind of control.

The CHAIRMAN: Mr. Martin.

By Mr. Martin:

Q. Mr. Henderson, what would you say in the light of what you have just said now about those states where regulation seems to be working out satisfactorily? In the light of that, what would you say would be the most satisfactory rate, or what would be the minimum rate from the point of view of this country that we should adopt?—A. In the first place, as I think I have indicated, I do not believe that a rate ought to be so low that it monopolizes the business, nor do I think that it should be so low that you cannot get local lenders in smaller communities. I talked this over informally with Mr. Nugent—and I am responsible for my own interpretation—and we felt that Canada probably ought to do better than we would do in the States; and we felt that probably $2\frac{1}{2}$ per cent with none of the recommendations we usually make of 3 per cent on the first hundred—we thought that $2\frac{1}{2}$ per cent flat rate ought to be fairly adequate for your needs. Particularly as you would get in some cities, I am quite sure, the larger cities, where larger loan balances are possible, a lower rate; and particularly that, on the basis of actual experience.

By Mr. Kinley:

Q. You mentioned New York; what is their rate?—A. New York is 3 per cent on the first one hundred and fifty dollars and $2\frac{1}{2}$ per cent on the remainder.

Q. For a month?—A. For a month.

Q. Is there much difference in this respect, or is it pretty well settled within the rate?—A. There is quite a large difference. The prevailing rate lending companies do not have quite such a spread as the state rates do.

Q. Do you think we should be able to figure it out on a somewhat more scientific basis?—A. I think I would prefer to reserve the term scientific for something other than that.

Q. Well, say, should we be able to plan from experience?—A. We have been acting through experience and practice. The Sage Foundation has felt that it was very valuable to them, painful at times; it pained you to see a state like New Jersey, for example, go to one and one-half per cent from three per cent, and then back to two and a half per cent. It pained you to see a state go like West Virginia from three and a half per cent flat rate, and then down to an unworkable rate, and then back to two and a half per cent. But in the end it has been very helpful.

By Mr. Coldwell:

Q. You said that provision should be made so that the borrower might repay a larger amount. Have you any regulations covering what shall be done in that event, with regard the arrangements?—A. Under the proposals in the uniform law there is no discount. The rate they have, $2\frac{1}{2}$ per cent, is paid on the amount of money used for a certain period at the end of the period. For example, if one hundred dollars is borrowed, at the end of the first month if payment is made on principal \$2.50 is paid; and then the principal payment of \$10 was made, leaving \$90; then they run another month and the $2\frac{1}{2}$ per cent is paid on the \$90. Under the uniform law, the borrower, although he may have made a contract to pay that \$100 in ten equal payments, might come in the next day and

pay only one day's interest on the hundred dollars. He has the right to repay and have his interest calculated only for the number of days that it is in use.

By Mr. Vien:

Q. That is on the outstanding balance?—A. Yes.

By Mr. Coldwell:

Q. Is there any minimum charge?—A. No. However, you will understand that such cases arise very infrequently. It is not very often that a borrower in this class can take advantage of a provision of that kind by advancing a larger payment than that for which he has contracted.

By Mr. Kinley:

Q. Is there any special report on the excess profits of these companies?—A. Control over excess profits has been pretty largely due to the work of supervision and the Sage Foundation; in the first instance reducing the rate, and in the second because of competition reducing the cost of loans; and also for their own private reasons reducing rates.

Q. What would you think of a provision in the law which would say that profits over a certain amount would go to the state? Would that curb their desire to charge too much?—A. Well, you mean profits of any one lender?

Q. No, of all such companies?—A. Well, suppose you and I each charged the maximum rate and I am a more efficient lender than you are; you want to pay the results of my efficiency to the state.

By Mr. Tucker:

Q. You spoke about the Provident Loan Society of New York, a semi-philanthropic institution. What rates do they charge?—A. They have a variant rate. It runs something like one per cent a month, as I recall it, but they have made some special reductions also. The Provident loans are on pawnbroking security entirely. The Provident Loan Society of New York loans on watches, jewelry and things which are actually delivered and put into its vaults. It is a pawnbroking business.

Mr. BAKER: That is different.

The WITNESS: They loan a specified amount of their valuation and then you pay about one per cent per month. In the semi-philanthropic companies which make chattel loans in competition with the commercial personal finance companies, their rate on chattel loans will run around two, two and a quarter and two and a half per cent, depending on the community.

By Mr. Donnelly:

Q. Mr. Henderson, has your organization, the Russell Sage Foundation, made any survey of the necessity for loans?—A. Yes.

Q. That is, as to how many people there are or what classes of people would be better off without a loan at all—people who borrow money without a real necessity for it?

The CHAIRMAN: Is that a question?

The WITNESS: There are two questions. The answer to the first one—as to whether the Sage Foundation has made any studies as to the necessity for loans,—is yes. That was basic to the initial work and to the continuing interest that the Foundation has had. On that question, all four directors have never had any hesitation. As to the necessity for regulated lending, as to where you can draw the line on the right of the individual to borrow or not to borrow, the answer is no.

[Mr. Leon Henderson.]

By Mr. Donnelly:

Q. Do you not find that there are a great many people that could get along without loans,—people who borrow money without any real necessity for it?

Mr. TUCKER: People who would be much better off if they did not?

The WITNESS: If you mean that the human being is fallible, yes.

Mr. KINLEY: He has a right to be, if he wants to.

By Mr. Vien:

Q. I wanted to ask you if it is a fact or not that lending money on pawn-brokerage is less expensive than the business carried on by these lending companies?—A. Oh, yes.

Q. Yes, it is?—A. The actual cost of pawnbroking loans is considerably less.

Mr. BAKER: They have the actual security.

The WITNESS: A loan shark once said to me, "The Provident Loan Society has got its borrower locked up in its vault. My borrower is probably in a saloon spending my money."

By Mr. Vien:

Q. Have you a copy of the law and regulations of the various states which you cited as being good examples to be followed?—A. I have, and will leave with the committee, the sixth draft of the uniform law which contains that information.

Q. Where is it applicable?

Mr. MARTIN: In the six states.

Mr. VIEN: In the six states in the United States?

Mr. MARTIN: Twenty-six.

The WITNESS: No. This is the sixth draft which is the model which is proposed now and is the recommendation. Twenty-six or twenty-seven states have something like the uniform law, beginning with the first draft and with various modifications down to this.

Q. You would not say this has been enacted throughout the states you have mentioned?—A. No.

Q. Have you a reference to the statutes which are in this? Perhaps Mr. Finlayson has that.

Mr. FINLAYSON: What is the date of that draft?

The WITNESS: It is 1935.

By Mr. Vien:

Q. What I have in mind is this, Mr. Chairman. Mr. Henderson has mentioned to the committee certain excellent legislation that has been introduced in five or six states that he has named. I wanted to know whether we could have an easy reference. We must have that in our library. The statutes are in the library.—A. If you want the actual statutes, the reference is here.

Q. The reference is here?—A. Yes.

Q. That will be plenty.—A. In these books here they are discussed. I am leaving these with the chairman.

Q. Would you read into the record the names of those books that you refer to?—A. The books?

Q. Yes, if you would.—A. I am leaving with the chairman a book entitled "Small Loan Legislation" by Gallert, Hilborn and May; a book entitled "Regulation of the Small Loan Business" by Robinson and Nugent; a book entitled "Money Lending in Great Britain" by Orchard and May; and a copy of the

sixth draft of the uniform small loan law and citation of the small loan statutes, all of which are publications of the Russell Sage Foundation.

Mr. VIEN: Mr. Finlayson, I think you have a further reference.

Mr. FINLAYSON: What I was going to say, Colonel Vien, is that in this Robinson and Nugent book, "The Regulation of the Small Loan Business," at page 134 you will find a list of these states which have adopted the uniform law with the rates which they have inserted in it.

Mr. VIEN: Thank you. What is the date of the book?

Mr. FINLAYSON: This book is 1935.

By Mr. Tucker:

Q. There are two questions I would like to ask, just to follow up the question I started to ask about these semi-philanthropic institutions. I suppose you have investigated them to find out whether they lost any money by lending at those rates that you have mentioned?—A. Yes. For a long time the director, my predecessor, acted as secretary of the association of the philanthropic and semi-philanthropic associations. We were in very close touch. In fact, we had more adequate information from them than we had from the commercial companies.

Q. Well, was any money lost by those companies?—A. There was great variation in their earnings. There would be in the early stages. When they were getting started, they might lose some money; but pretty generally they made some money.

By Mr. Vien:

Q. But they are not operated for a profit?—A. No. They make a certain limited return, and they have pretty generally been taking selected risks. They have been interested in continuity and the preservation of their capital. They have not been bold enterprisers at all. They have done a grand service for the borrowers.

By Mr. MacDonald:

Q. What do those companies charge?—A. It varies, as between cities and as between the type of collateral that they take. But those companies which do a chattel loan business, on semi-philanthropic funds, charge from two to two and a half per cent.

By Mr. Donnelly:

Q. Per month?—A. Per month.

By Mr. McGeer:

Q. Mr. Henderson, I do not want to be asking you too many questions; but would you say in our situation—you know it fairly well now—that the first thing we in Canada should do would be to draft and secure enactment of a general law supervising and providing for the regulation of money lending, and that that should be the preliminary to the licensing of individual corporations to carry on that business?—A. Most assuredly. The whole burden of my testimony, I think, has been in that direction.

By Mr. Tucker:

Q. The other question I wanted to ask is this: if you incorporate these companies and give them the right to charge these high rates of interest without having, first of all, done all you can to extend the field of operations by virtue of state assistance, of credit unions and by putting the onus on the banks of extending their field of operations as far as they can reasonably be expected to do, is it not likely that these other companies will occupy the field by virtue

[Mr. Leon Henderson.]

of extensive advertising campaigns and so on, and that the banks will fail to discharge the duties they should towards the small borrowers and the chances of expanding co-operative lending as it should be expanded under the credit union idea will be prevented? Is there not a danger there?—A. I do not see that danger. As I said before, the Sage Foundation moved very vigorously into this area. The first Morris Plan Bank was around 1911 and your first credit union was around 1910; the first small loan law was around 1911. Now, the credit unions and the banks, regardless of whether there is a small loan law or not, do not seemingly absorb the entire market; and my own feeling very, very definitely is that if it is possible for a loan company, charging two and a half per cent, to take business and to keep business from a bank charging one and one and a half per cent or from a credit union charging one per cent, then there is something faulty in the mechanism of the credit unions and the personal loan departments of the banks. I do not see that it is realistic to assume that small loan companies could keep borrowers against their will if there were an alternative, a much cheaper and presumably a much more dignified source of credit. In my experience, it just did not happen that way.

Q. Would you not expect that people with money to loan—take for example, a banking corporation—would rather loan to one of these companies and have them do the business, and be sure of their rate of interest, whatever it might be—five or six per cent—than have to enter the field themselves; and that if you simply enter this field you relieve the bank of any responsibility of fulfilling the duty which it should fulfil perhaps by virtue of getting charters, which are very valuable? Is that not possible?—A. It is possible. I hope I will not be misunderstood, but I do not think it is realistic. I gathered something in what you said that you might try to compel the banks to make certain classes of loans, and I certainly would think that was decidedly unwise. Certainly in any essence of banking that I know anything about, you cannot compel them to make certain classes of loans and still maintain the character of that institution.

By Mr. McGeer:

Q. You know that one of our banks has gone into the small personal loan business?—A. Yes. But that is something different from saying that a bank must make certain classes of loans.

By Mr. Tucker:

Q. If one bank has gone into the field and is filling the need there, could you not say to the other banks, "You must enter the field too," and investigate as to whether they are really satisfying the credit needs of the community? If they are not doing that, their charter should be cancelled—I mean, reasonably satisfying it?—A. Mr. Chairman, that involves a question of what the national policy on banking acts is that I would not want to respond to. Certainly I have indicated that I think it would be a highly undesirable thing for any bank.

By Mr. McGeer:

Q. Mr. Henderson, surely it is the consensus of your investigation that the small loan is an inevitable situation, and that supervision is the only available alleviation of the abuses that attend it at the moment. Is that not the Russell Sage view?—A. Yes. Unfortunately, there have been dynamics in the increase of the use of consumer credit over which we have no control, and which we say ought to be brought within social control.

Q. And they are likely to increase, are they not?—A. I am afraid that they are, yes.

Q. Would you mind giving me the name of the organizations in New York, Ohio, New Jersey and the other states that you mentioned? Suppose we wanted to have witnesses from Massachusetts or New York or Wisconsin or New Jersey

—who would we get in touch with there?—A. I think that the secretary, by writing—

The CHAIRMAN: We have that information, Mr. McGeer.

Mr. McGEER: All right.

By Mr. Plaxton:

Q. I took it this morning from what you said, Mr. Henderson, that the Russell Sage Foundation recommends a rate of three per cent on the first one hundred dollars and two and a half per cent on the second and third hundred dollars. When you were speaking of a rate that might be applicable to Canada, I took it, as I recall it, you mentioned two and a half per cent. Was that the minimum rate?—A. Yes.

Q. In other words— —A. And a maximum.

Q. In other words, you suggest that as a flat rate?—A. As a flat rate, yes; because as I said, I felt that you would get lower going rates from the operating companies here.

Mr. McGEER: That maximum should include all interest and charges, if there were any.

Mr. KINLEY: Why do you think it would be lower?

Mr. McGEER: Competition.

The WITNESS: Competition and based on experience to date.

Mr. KINLEY: They must do more business. Their turnover must be greater.

The WITNESS: Yes. You have some companies that are doing business here, and you have under your act a general limitation of two and a half per cent, if I read Mr. Finlayson's report correctly.

Mr. KINLEY: They are doing pretty well.

The WITNESS: They are not doing at all badly.

By Mr. McGeer:

Q. Are there any companies lending at less than the flat rate, in the states where they are in operation, that you know of?—A. In the United States?

Q. Yes, I mean where you have the flat rate situation?—A. Oh, yes.

Q. Have you had any experience of where companies are lending at less than that?—A. Yes.

Q. I suppose that is fairly common, is it not, in all the states?—A. Yes, it is. As I said this morning, we rely on getting this effective rate in competition from other lenders, other licensees—competition from other types of lending and on the alertness of the state supervisor in keeping the maximum at what amounts to a driving force.

By Mr. Donnelly:

Q. Would you fix the maximum amount at \$500 or \$300?—A. I prefer \$300.

By Mr. McGeer:

Q. How many states have that limitation?—A. As far as I know, twenty-six out of twenty-seven that I know of have that \$300 limitation.

By Mr. Tucker:

Q. Why do you prefer that \$300 to the \$500?—A. I think I said this morning we had found that it was adequate to cover most of the needs of the borrowers arising from emergencies and the type of the loans which are contemplated to be made by the licensees; and second because it has stood up under our constitutional requirements. To put it bluntly, it has never been seriously questioned except by loan companies that would like to get a much wider range.

[Mr. Leon Henderson.]

By Mr. Plaxton:

Q. Is not a flat rate open to this objection, that it might conceivably be too high for loans falling in a certain bracket and too low for the upper bracket loans?—A. That is right. For that reason I think that there is a high value in getting hold of this thing early. I think that a two and a half per cent, as I say, it would give you at least a period of observation, all that you perhaps, ought to have, for small loan balances in small cities, and still would permit loan companies that are now existent to have lower rates. I think you would get an effective rate lower than that.

Mr. KINLEY: Your rate is a state rate; that is, the rates that you have in the United States are all made by the state legislatures?

The WITNESS: That is right.

Mr. KINLEY: The rate that we would make here would be a national rate covering the whole country. What would be your problem if you had to have a rate for the whole country?

The WITNESS: I think we could handle it very easily. I think the rate would be around three per cent on the first \$100 or \$125 and two and a half per cent on the balance.

Mr. FINLAYSON: Following up Mr. Plaxton's question, what is the object of the graded rate such as you have in Wisconsin and New York?

The WITNESS: The graded rate in Wisconsin was the selection of the state legislature itself.

Mr. FINLAYSON: In principle, what is the object of the graded rate?

The WITNESS: In general terms, the object of the graded rate was to see that loans of a smaller denomination were made, and since there is a fixed cost applicable against any loan, there has been a tendency for the average loan to move up, particularly with increasing costs that have been taking place in the various states.

Mr. FINLAYSON: So that with a flat rate there is the danger that a man who only needs a small loan would not be able to get it?

The WITNESS: Yes, there is.

Mr. FINLAYSON: And the object of the graded rate is to permit the company to charge a slightly higher rate for the very small loan in order that it may serve that field?

The WITNESS: But we did that, Mr. Finlayson, after the business had been established. That was a sort of corrective thing, and that is what I had somewhat in mind, that I feel after you get started that you can pretty well—

Mr. FINLAYSON: Get started early?

The WITNESS: Yes.

Mr. FINLAYSON: If 2½ per cent were fixed as the rate, the company might be quite able and willing to make \$150 loans at that rate, but they would not want to make \$50 loans?

The WITNESS: That is quite possible.

Mr. FINLAYSON: Therefore, the man who only needed a \$50 loan would have to look elsewhere for his money?

The WITNESS: There is that possibility.

Mr. FINLAYSON: Will you just explain how that graded rate works? When you say that the graded rate is 3 per cent on the first \$100 loan, how does that work in the case of a \$300 loan?

The WITNESS: On a \$300 loan the man would pay at the end of the first month \$3, plus \$5 or \$8, and then if he made a principal payment on the next computation he would pay 3 per cent on \$100 and then he would pay 2½ per cent on \$170. He has a combined rate.

Mr. FINLAYSON: Take the \$300 loan, the entire balance bears what rate of interest at the beginning of the repayments?

The WITNESS: \$266 at the beginning.

Mr. FINLAYSON: And the first repayments are applied to discharge which element of the loan?

The WITNESS: The cheap loan.

Mr. FINLAYSON: So that when the loan gets down to \$150, the lender then gets what rate of interest thereafter?

The WITNESS: Well, if the break is at \$100, he gets 3 per cent on \$100.

Mr. FINLAYSON: Take the break at \$150.

The WITNESS: 3 per cent.

Mr. FINLAYSON: On the balance of the loan?

The WITNESS: Yes.

Mr. FINLAYSON: So that on the average the lender is getting on that \$300 loan possibly $2\frac{3}{4}$ per cent or more?

The WITNESS: I do not know.

Mr. FINLAYSON: I have made the computation here. He gets 2.86 per cent on the average on that loan.

Mr. DONNELLY: That is if he meets all the payments when they become due.

Mr. FINLAYSON: That is right. Now, what you have is this: that while $2\frac{1}{2}$ per cent might enable that lender to make the \$300 loan, by that graded rate that you have suggested, he gets in fact 2.86 per cent on the average?

The WITNESS: Yes.

Mr. FINLAYSON: So that the graded rate, it seems to me, works to increase the rate of interest on the large loan and that is quite foreign to the object of the graded rate which is to enable the \$50 man to get a loan?

The WITNESS: Well, when we were coming down off the high level, the experience very definitely was that there was an increase in the small loan, which we wanted, and there was a decrease from 3 or $3\frac{1}{2}$ per cent to 2.86, if that is the rate,—a very substantial reduction in the rates on the high loans. So that the purpose of the Sage Foundation in both instances, that of serving the small borrower and of reducing charges to the high borrower, was accomplished.

Mr. McGEER: What Mr. Finlayson suggests is that if a man borrows \$300 he pays the graded rate all the way through, but he does not pay on \$300 a flat rate. He does not pay 3 per cent on \$100 and another rate on the next \$100 and another rate on the next \$100 if he borrows a total amount of \$300.

Mr. VIEN: Yes.

Mr. FINLAYSON: He pays 3 per cent on \$150 right through the whole year.

Mr. BAKER: The first \$100.

Mr. McGEER: That does not mean if he borrows \$100 he pays 3 per cent, and if another man borrows \$200 he pays the lower rate, or if he borrows \$300 he pays the minimum?

Mr. FINLAYSON: No.

Mr. KINLEY: If he borrows \$300 he puts up security, and that security is held until the loans is paid. Why should he pay a high rate of interest when he gets to the low break? It seems to me it would be eminently fair for him to retain that rate of interest on that loan notwithstanding that he pays it off on a \$150 loan.

The WITNESS: You are getting into a technical difference there. If he wants to say he has paid 2.86, that is all right.

[Mr. Leon Henderson.]

Mr. KINLEY: There is no expense in connection with the loan after it is made; you have got security.

The WITNESS: Let us get back to what the actuality is. He pays a certain number of dollars for the use of \$300.

Mr. KINLEY: Yes.

The WITNESS: Now that is the thing which is the net subtraction for him. That rate may be 2·86. What we were doing in this step-down was trying to get a lower rate on the higher loans and a drive to smaller loans, and both of these things were accomplished. And I have said here that I thought if you caught it early that you could do much better than we did.

Mr. VIEN: 2½ per cent flat is a better condition than you have?

The WITNESS: Yes.

Mr. QUELCH: If you raised the limit to \$500, there should be a slight reduction in the flat rate.

The WITNESS: If the \$500 loans are made, yes. If you could show that the small loans were not being made, I would be prepared to recommend that the rate be increased to 3 per cent on the first \$100.

Mr. FINLAYSON: When you speak of a graded rate of 3 per cent on \$150 and 2½ per cent thereafter, it does not mean that the man who borrows \$150 pays 3 per cent and that the man who borrows \$300 pays only 2½. It means this—

Mr. McGEER: You can make it that.

The CHAIRMAN: Just a minute; let Mr. Finlayson finish his questions.

Mr. FINLAYSON: Take the New York provision. The rate there is three per cent on the first \$150 on all loans and two and a half per cent on the balance over \$150. On a loan under \$150, of course, the rate is three per cent. On a loan of \$200 the rate is not two and a half per cent but 2·96 per cent.

Mr. BAKER: Because he paid off the first \$250?

Mr. FINLAYSON: On a loan of \$250 the rate is 2·91 per cent and on \$300 the rate is 2·86.

Mr. McGEER: If the purpose of making a higher rate on the lower amount is to induce the borrowing of small loans and yet provide the loan company with the overhead, is there any reason why the legislation should not provide for a flat rate on the first \$100 and an actual rate of so much on the second amount and so forth?

The WITNESS: There is none, except you get into an awfully bad mathematical problem there in which you leave a gap of \$40 or \$50 in which it is better for the lender to borrow the larger amount. We spent months on the joint rates, and what I have been suggesting here is a rate of two and a half per cent and to try that to see whether competition did give you the lower rate, and then if you found the smaller borrowers were not served there is no reason why you should not make a split there. The two and a half per cent, as I have suggested, is a much better rate, as Mr. Finlayson has certainly pointed out.

By Mr. Finlayson:

Q. May I suggest this, that with the graded rate you might provide for the repayment of the higher interest bearing element first? That would still give you the gradation that you are looking for, but would reduce the average rate.—A. If you let the man who borrows \$300 pay off the cheap money first; but take the man who borrows \$100.

Q. If the man who borrows \$300 applied his first repayments to paying off the three per cent element, and then took the lower rate element— —A. We thought of that, but because of the scope of the arrangement and the confusion

that it caused and the distortion it would do to the lending business, we never gave much time to it.

Q. Can I put one more question to you. Has the Foundation ever considered what is a fair rate of return on invested capital or total net assets in this business? You suggest that there should be administrative discretion to fix a rate below the maximum. Have you ever considered at what point the reduction would be justified, based on the returns to the lenders either on their paid-up capital or on their total net assets after deducting reserves?—A. We had a lot of consideration of that; but for the most part there was never enough funds coming in to the small loan business through the established capital market to supply the demand. That is where we felt that we ought to have a general maximum and that the greater return ought to be geared to the amount of capital that was necessary in the business. Contrary to most kinds of business there never seemed to be enough cheap money available, and so we never assessed what ought to be the proper rate. However, we did go to a tremendous amount of enquiry to establish what the earned rate was, and you have available the studies that we have made on that.

Q. Do you think that is a material factor in determining whether there should be a lowering of the rates and in the return actually received by the lender?—A. Yes.

Q. Perhaps you are familiar with the Massachusetts rate. Massachusetts has actually regulated it on a flat three per cent.—A. With some modifications of special classes of security.

Q. I believe they have modified it recently so as to provide two and a half per cent on some types of security on amounts above \$150. I notice from the Massachusetts report that the average earnings on the net assets in 1936 were about seven and a half per cent for all lenders, small loan companies around 8·36, the Morris plan 3·53, and altogether 7·57. With that rate of earnings the commissioner, who has administrative discretion, reduced the rate of interest to approximately the New York figure. The provision is that the rate is three per cent on the first \$150, and in the case of a chattel mortgage two per cent on the balance of the loan; if the security is a single signature or the signature of a husband and wife it is three per cent on the first \$150 and two and a half per cent on the excess. Now, that reduction was ordered to be put into effect on the earnings that I have mentioned. Suppose we had in Canada a company earning on the average say two and one-third per cent or 2·4 per cent per month, and earned ten per cent or more on its total net assets less reserves for unearned income and losses, would you think there would be justification there for a reduction in the rate?—A. I cannot—

Q. Perhaps you would not care to answer that?—A. I cannot make that fine distinction on the proper rate to be allowed, first because of the difference between an established community like Massachusetts and Canada.

Mr. VIEN: A growing country like Canada.

By Mr. Finlayson:

Q. At any rate, when you speak of administrative discretion you would say that that point which I have mentioned is one that should be taken into consideration by the administrator?—A. I have looked at that and I think the Russell Sage Foundation has looked at it from the standpoint that that is what the administrator ought to be constantly reporting to parliament so that the parliamentary decision would be more intelligent. I would put it that way. I would assume he would know much better what was the rate necessary to attract capital, and that he would not be trying to penalize efficiency. I can conceive of a situation where a company could earn eleven or twelve per cent and the borrower would be much better served by a company that lost money, you see.

[Mr. Leon Henderson.]

Q. The Russell Sage Foundation does not favour the gradation of the rate with the type of security taken?—A. It is not—

Q. It favours a uniform rate for all types of security?—A. We have felt, I think, that the supervisor would make a recommendation if a business grew up on a kind of collateral or security where the risk was not as great as that contemplated by the law.

Q. Do you think that there has been over there excessive expenditure on publicity and solicitation?—A. Yes, I think it has not been so much the excessive expenditure that would affect the cost to the borrower, as it has been the bad character of the thing. I refer to the circulars.

Q. Has there been what you might call competitive advertising, the feeling that one lender must keep up with another lender and so forth?—A. I believe there has been some of that.

Q. That may have been developed into an evil?—A. I think I can speak of that constructively. We provide in the law (the sixth draft) that rules and regulations may be established by the supervisor requiring copy to be submitted to the supervisor and some information to get rid of the most vicious of these things. We certainly approve of that.

Q. Has there been an attempt to deal with the problem of the limitation on the percentage of gross income which may be expended for advertising?—A. No, and I think that would be an unwise way to get at it. I would prefer again that the administrator, familiar with it, should have some authority to say whether or not the circulars should be addressed to all the people.

Q. This is the case of an administrator seeking advice and counsel from the man who knows most about this business.—A. I would say constructively it cannot be done on a percentage basis, because I know in some cases the advertising itself reduces the cost of doing business, and I am pretty generally against this forced advertising. I know in general the United States public has been very very badly abused.

Q. Let us get down to cases. We have three regulated companies here, and they have spent about ten per cent of gross income on advertising; whereas other kinds of companies, loan companies, trust companies and so on, spend only one per cent or less. Now, does that appear to you to be a disproportionate cost of advertising, or would you care to say?—A. Mr. Nugent could give you a better answer than I can. Mr. Nugent has that comparison.

By Mr. Baker:

Q. Should we have legislation against advertising?—A. I think not. I would trust again to the fellow who lives with it day in and day out.

By Mr. Finlayson:

Q. I am just through now. I just want to ask Mr. Henderson if he can give us any information about the Morris Plan bank. My impression is that these Morris Plan banks differ from the small loan companies in this respect, that they have the power to take deposits from the public and to issue certificates; thus, they get their money from the public otherwise than by share capital. As the result, their rates are substantially lower than those of the small loan companies.—A. The Morris Plan is the name given to one type of what is known as industrial banking concerns; and in some of the states where they got started early they were able to sell certificates of deposit—that is what they in effect are—and so cheaper cost money; but the main thing that they relied on and a thing which distinguishes them from the small loan companies, is that their loans were not limited to \$300 in their amount; and secondly, they required endorsers. In other words, they loaned all their money on paper, and they usually loaned at a rate which is about an effective rate of 1½ per cent a month, and they usually had a much higher loan rate, and they had more business loans. That business has come directly in competition

with the loans by the personal loan departments of the banks, and they have had quite a considerable success in that type of lending.

Q. If they were not permitted to take this money from the public by way of deposits, or by way of investment certificates, they could not lend at that low rate?—A. That is right. There are three things which I think enter into it: They are not limited to \$300; they have a deposit capital; and the security of co-signers is there.

Q. Have you any information as to the personal loan departments of the banks? Have they been faced with any excessive losses, or any substantial losses, or, is there any information of a public character on that?—A. No. Mr. Nugent had an article that he could not get at what those losses were. It is very difficult to get at that because the banks have not segregated that information.

Q. Can you say in framing the rate structure for the small loan companies in the United States what provision is made for losses that will have to be written off? Is there any rate assumed in building up the rate structure?—A. No, it was not built up that way, Mr. Finlayson.

Q. Have you any knowledge as to what the actual realized loss is in your companies generally, over a period of years?—A. Yes, that was in the Nugent study—

Q. Just in general?

The CHAIRMAN: Give us the reference and we can look it up.

The WITNESS: I think that will be found in the pamphlet called, "The Expenses of Small Loans Licensees."

By Mr. Finlayson:

Q. Is that a pamphlet Mr. Nugent has just published?—A. Yes.

The CHAIRMAN: Could we have a copy of it?

The WITNESS: Yes, I will leave my copy with you.

By Mr. Finlayson:

Q. I just wanted to ask if you think a loss of one-half of one per cent would be large or small?—A. It would be small for licensed companies. Probably the only time I have seen them use that was when they were trying to sell some of the securities.

Q. And if Canada proved to have a loss of one-half of one per cent while some of the states in the United States might have a 5 per cent loss, that might operate as a warrant for a lower rate in Canada?—A. Yes, if you were striving to try to get the tightest rate you possibly could get.

Mr. MARTIN: It will be remembered that at a meeting of the subcommittee it was agreed that we should ask the Russell Sage Foundation when their representatives came here if they would care to recommend someone who had actually to deal with the operation of the law whom this committee might summon as a witness at a later date if it so desired.

The CHAIRMAN: You mean, an administrator?

Mr. MARTIN: Yes.

The WITNESS: I would prefer it if you would ask Mr. Nugent about that, because I am really out of touch with it now.

Mr. COLDWELL: Mr. Chairman, I am sure that we are all very grateful to Mr. Henderson for coming here and giving us this very excellent exposition to-day.

Some Hon. MEMBERS: Hear, hear.

Mr. COLDWELL: On behalf of the committee, seconded by Mr. Baker, I wish to move a very hearty vote of thanks to him. In doing so I would just like to say this, that I do not think I have ever heard a witness who has given a clearer

[Mr. Leon Henderson.]

explanation or clearer answers to questions that have been asked. I am quite sure that we have all benefited very greatly from his presence here, and what he has been able to give us will help us very materially in meeting this very difficult problem which we are called upon to deal with.

Some Hon. MEMBERS: Hear, hear.

Mr. BAKER: I have very great pleasure, and I esteem it an honour, in seconding this motion. Speaking for myself personally, it has been a great pleasure to be seated in this committee because I always enjoy meeting a man who knows his job; and we have certainly met one to-day. It is a very great pleasure also to feel that we have among our cousins to the south valuable power to draw on when we need it; and we certainly made a good draw on this occasion. We have received in condensed form in a very short time an amount of knowledge which it would have taken us a very long time to acquire in any other way. And I express great appreciation, I am safe in saying on behalf of the chairman and the members of this committee, for Mr. Henderson's appearance before this standing committee on Banking and Commerce of the House of Commons of the Dominion of Canada. I hope that when you go home, sir, you will express to your fellows in the Foundation that we here have fully appreciated your services and your kindness in coming here, and we hope that we will have the pleasure of seeing you oft times again.

Motion agreed to.

The WITNESS: I find myself quite incapable of responding. I just want to say that this all makes me very very happy.

The CHAIRMAN: Thank you very much. Yes, Mr. Walker?

Mr. WALKER: Mr. Chairman, I have no status I know to ask any question, but because of the fact that Mr. Henderson has made some direct references to the parent company, and because presumably if any of the changes in his recommendations are to be adopted by this committee they will be based on Canadian conditions, I would have liked an opportunity to present a few very brief questions.

The CHAIRMAN: Mr. Walker, I think it was the intent of the sub-committee that this afternoon should be devoted to questions by members of the committee. That was decided by the sub-committee before we came into the session, so I am afraid we cannot allow you to proceed.

Mr. WALKER: Would it be possible for this committee to consider questions at a later date, questions that might be prepared for forwarding to Mr. Henderson so that he might reply to them in due course?

The CHAIRMAN: Yes, we could arrange that.

Mr. COLDWELL: I would move that the committee adjourn.

Mr. MARTIN: Might I make a suggestion?

The CHAIRMAN: There is a motion that we adjourn.

Mr. MARTIN: I was just going to speak to that motion, if I might.

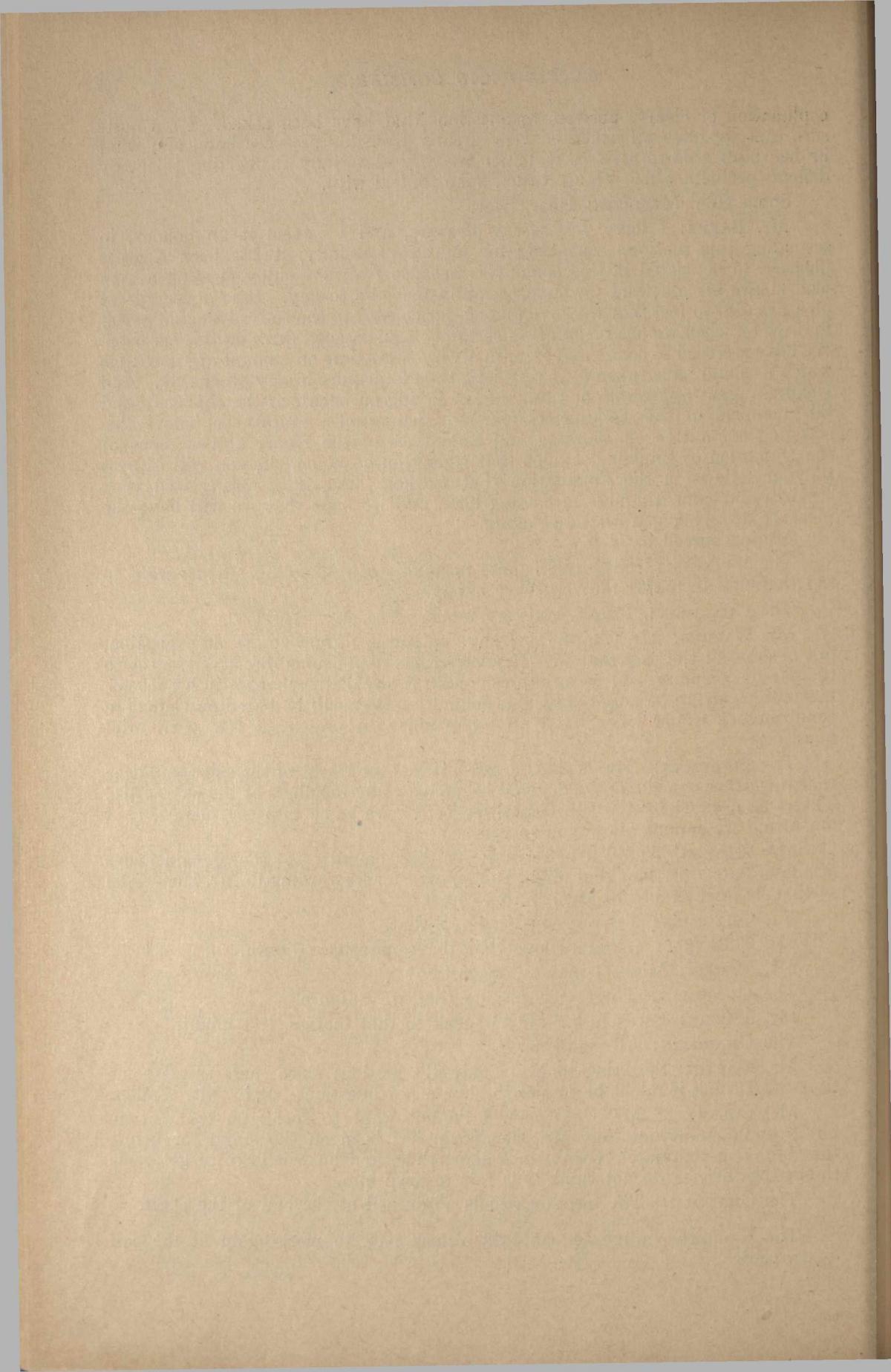
The CHAIRMAN: All right.

Mr. MARTIN: Speaking to Mr. Coldwell's motion; since there seems some time left I think it might be proper to have a few questions put by Mr. Walker.

Mr. COLDWELL: Mr. Chairman, I do not want to speak on the motion, but I would point out that Mr. Henderson has been on the stand for hours, that he has got to catch a train in a short time, and he will have to get some things together. I do not think it is fair to keep him.

The CHAIRMAN: The meeting stands adjourned at the call of the chair.

The committee adjourned at 4:20 o'clock p.m. to meet again at the call of the chair.





SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 5

TUESDAY, MARCH 8, 1938

WITNESSES:

- Mr. S. G. Dobson, President of The Canadian Bankers' Association, Montreal.
- Mr. James Stewart, Assistant General Manager, Canadian Bank of Commerce, Toronto.
- Mr. S. Rettie, President, Civil Service Co-Operative Credit Society, Limited, Ottawa.

MINUTES OF PROCEEDINGS

TUESDAY, March 8, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Fontaine, Howard, Jaques, Kinley, Lacroix (*Beauce*), Lawson, Mallette, Martin, Maybank, Moore, Perley, Quelch, Stevens, Tucker, Vien, Ward, White, Woodsworth.

In Attendance: Mr. G. D. Finlayson, Superintendent of Insurance, Mr. S. G. Dobson, President, Canadian Bankers' Association, Mr. James Stewart, Assistant General Manager, Canadian Bank of Commerce, and Mr. S. Rettie, President, Civil Service Co-Operative Credit Society, Limited, Ottawa.

Mr. S. G. Dobson was called and examined.

The witness having expressed the desire not to disclose the source of certain letters from which he quoted, Mr. Vien moved,

That, in view of the particular circumstances in which the Bankers' Association finds itself in relation to its members, the Committee, in this instance and without creating a precedent, allow the witness to quote from these letters without mentioning names.

Witness retired.

Mr. James Stewart was called and examined.

Witness retired.

Mr. James Rettie was called. Witness read a statement and was examined thereon.

Witness retired.

On motion of Mr. Martin,

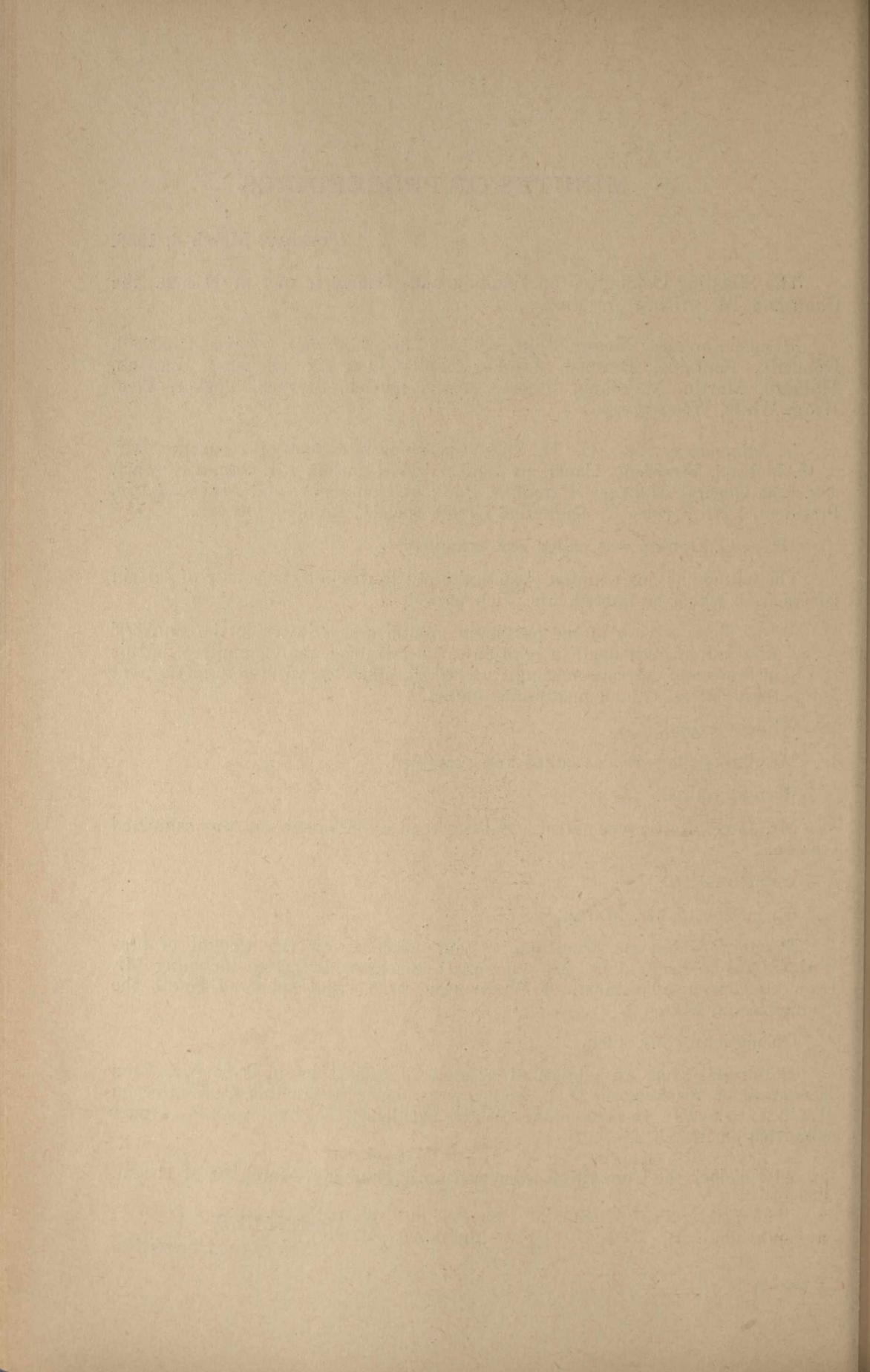
Resolved,—That the Chairman be authorized to fix the amount of professional fee to be paid by this Committee to expert witnesses including Mr. Leon Henderson, Economist, of Washington, D.C., who appeared before the Committee on March 2.

On motion of Mr. Vien,

Resolved,—That an additional amount of \$33.50 be paid to Mr. Leon Henderson of Washington, D.C., who gave evidence before this Committee on March 2, to rectify an error made by Mr. Henderson in his expense account submitted on March 2.

At 1 o'clock the Committee adjourned until Thursday, March 10, at 11 a.m.

R. ARSENAULT,
Clerk of the Committee.



MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,

MARCH 8, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m. Mr. W. H. Moore, presided.

The CHAIRMAN: Gentlemen, to-day we are to hear from Mr. Dobson, President of the Canadian Bankers' Association. After Mr. Dobson has made his statement we shall proceed with the examination; but I might remind you, if I may, that it is necessary in the examination to stick to the issue; that is the reference that has been submitted to us by parliament. I shall now call on Mr. Dobson.

Mr. S. G. DOBSON, President of the Canadian Bankers' Association, called.

The WITNESS: Mr. Chairman and gentlemen, I am here as a result of a letter from your chairman to the Bankers' Association asking if the association cared to appear before this committee and express its views on the small loans problem. I do not think it would be possible for one man to express the views of ten people, particularly ten different bankers; so upon receipt of the letter I wrote to each individual general manager and asked if he would express in a letter to me the views of his institution on the subject of personal loans. If I may, I think perhaps the best way to express this matter would be to read short extracts from these letters. I think that probably will answer the question better than I could do it myself.

One institution says:—

In reply to your letter so-and-so, we may say that it is our policy to give sympathetic consideration to any loan applications even of small amounts. Provided that the branch manager is satisfied as to the moral risk and the prospects for liquidation of the advance within a reasonable time, he is encouraged to make such loans rather than decline them.

By Hon. Mr. Stevens:

Q. Is there any objection to saying from whom this letter came?—A. I do not think we need do that. I would prefer not to do that, as it is an internal matter.

The CHAIRMAN: Say "No. 1."

The WITNESS: This is really internal correspondence in the association.

HON. MR. STEVENS: Quite so. I merely asked this because it is the custom, of course, in these hearings and in parliament, when a document is offered, that the author of it shall be stated.

The WITNESS: Perhaps I had better not read these extracts, then.

The CHAIRMAN: Can we not accept them in that way?

The WITNESS: I thought they would express the views more clearly than I could do myself. Some have a little different angle on the situation, which I thought would be interesting. If you prefer I did not read them I shall generalize.

The CHAIRMAN: I think Mr. Stevens just raised the point and asked for a disposition of it. You do not press the point, Mr. Stevens?

HON. MR. STEVENS: My only point is this, Mr. Chairman: there is always the tendency for a committee to get into, shall I say, careless habits and thereby establish a precedent. I would much rather hear Mr. Dobson's views, and he could then cite the letters if he wishes. When a document is read in this committee, unless the committee specifically in each instance excuses the presentation of the name, in order to keep the practice fair, I believe we should follow the general rule.

The CHAIRMAN: Gentlemen, what is your disposition of the matter? Shall we allow the witness to read the extracts without giving the names?

MR. BAKER: Could not the witness simply mention the viewpoint of some as being so-and-so, and others as being such-and-such.

MR. VIEN: I would move that in view of the particular circumstances in which the Bankers' association finds itself in relation to its members, that this time, without creating a precedent, we allow the President of the Bankers' association to quote from these letters without mentioning the names.

Motion carried.

The WITNESS: Another institution says:—

I think it has been realized for some time that small loans provide a legitimate field for the extension of banking business, and that all banks have been active in this respect.

I am just quoting very short paragraphs.

Another says:—

We now make very many small accommodation loans. Speaking for ourselves, we do not object to such loans provided they are made to responsible people with the source of repayment properly in sight.

Another says:

"It has been the practice of this institution, during the past twenty-five years, to give favourable consideration to all applications for small loans at prevailing rates, providing applicants are worthy of credit."

Another institution says:

"This bank, doubtless in common with all of the other banks, encourages the business of small borrowers."

Another institution says:

"It is our policy to encourage the business of small borrowers, and as a matter of fact there is a considerable volume of this class of business current at our branches throughout Canada."

Another institution says:

"We are inclined to look upon the field of 'small loans' with particular favour."

Another institution says:

"This bank has always made it a practice to grant loans to small borrowers whose reputation and character are such as to entitle them to credit. We have a large number of such loans on our books and no reasonable demand of that nature is refused."

Another institution says:

We do not keep statistics—

[Mr. S. G. Dobson.]

By Mr. Tucker:

Q. What was that last remark? A. "No reasonable demand of that nature is refused." I suppose he should have used the word "request" there. Another institution says:

We do not keep statistics of small or personal loans, and can only say that it has always been, and still is, our policy to grant such loans to worthy borrowers, and I have no doubt at this moment we have thousands of such loans on our books.

Another institution says:

We would be willing to entertain transactions of the nature under discussion, and which come within the category of a reasonable banking risk, and would do our best to co-operate towards the end desired.

That sums up, I think, the general idea of the banks towards small loans. Banks have always made small loans, I believe, ever since they were incorporated. We, unfortunately for your information, have no particulars as to the volume because these small loans are run as a general banking business. We do not keep the details. The nearest I could come to giving you any idea, perhaps of volume is this. At the end of November last year when preparing some items for an address to our shareholders we asked our branches throughout Canada, in addition to other questions, for the number of small loans; that is loans—

By The Chairman:

Q. You are speaking now of the Royal Bank?—A. Excuse me, I forget. I am speaking of the Royal Bank, yes. We asked the number of borrowers on the books of the branches whose liability was under \$500, and in our case the number was 61,000. In other words we had 61,000 borrowers on the books whose liability to the bank was \$500 and under. On that basis I would make an estimate, which is bound to be only an estimate, that there might be perhaps as a minimum 250,000 borrowers from Canadian banks whose liabilities are under \$500. That is a very large number.

Now, we—I am speaking again of our institution because I cannot speak for the others—encourage small borrowers. We send out circulars from time to time, to our branches, pointing out that this is a field of endeavour which they should follow, and where there is an opportunity of making small loans in which there is a reasonable prospect of repayment as promised, that they should be made. From time to time we advertise in the newspapers. I do not know whether I am allowed to do this, but you might be interested in this circular. This is a type of ad. that we sometimes circulate throughout the press in Canada. I shall just read this one. This is just an indication of what takes place. I am trying to answer your point as to what is the attitude of the banks towards small loans. This advertisement is as follows:—

I DIDN'T THINK THE BANK WOULD BE INTERESTED.

Many responsible men and women, faced with a temporary emergency, are reluctant to apply to the bank for a loan to tide them over their difficulties.

Yet, such loans are made by this bank every day. They must be used to meet a definite need and the borrower must be financially able to retire the loan within a reasonable period.

If necessary, arrangements can be made with the bank to repay the loan by convenient instalments at stated intervals. Branch managers of this bank welcome the opportunity of discussing such personal loans with any responsible individual.

Now, of course, the banks, with one exception, have not gone into what is known as the monthly payment plan. While many of the loans which banks may make, I suppose, really amount to that, inasmuch as the man may discount a note for three months, we will say, or a period such as that, and at the end he may not be able to pay, he may come in and make a payment or even renew it in full; but we have—I am speaking about all banks with the exception of one—not gone into the plan of accepting regular monthly payments.

Now, you might ask what field this large number of borrowers covers. I believe nearly every single type of individual borrower borrows money from the bank. He may be a farmer, a taxi-driver or a labourer.

Q. Or a politician?—A. Well, even politicians.

Hon. Mr. LAWSON: They are bad risks.

The WITNESS: And these loans are for all kinds of amounts. When I say up to \$500, they may be as low as \$50, \$100, \$150 and \$200. They run into all kinds of amounts and all kinds of individuals.

By Mr. Tucker:

Q. What was the average amount of the 61,000 loans?—A. We did not ask that question, and I have not got the information. But I make a guess, and it might be around \$200.

By Mr. Mallette:

Q. What would you say was the interest rate charged?—A. Seven per cent.

Q. Per annum?—A. Per annum.

Q. With no additional charges for searches and registration fees?—A. No.

By Mr. Martin:

Q. There is one exception, at least, to that rate?—A. There is one other bank which handles a loaning business on a different basis, and Mr. Stewart the assistant general manager of the Canadian Bank of Commerce is here and will explain it, if you are interested in the system. I think the fact is that up to the moment only one bank has adopted the monthly payment system.

Mr. CLEAVER: Is it your wish, Mr. Chairman, that the witness should be permitted to complete his statement before questions are asked?

The WITNESS: I think that completes my statement.

The CHAIRMAN: Gentlemen, shall we hear from Mr. Stewart first, and then we can go on with the discussion later?

By Mr. Tucker:

Q. What type of security, if any, is usually given in your opinion on the estimated 250,000 loans? What class of security, if any, is given?—A. I would say that varies. I would say there are many cases where loans are made on a single name; many cases where a loan is made on an endorsement—it might be one or two—there are many cases where the loan is made on negotiable security. There are all kinds.

Q. Rarely collateral?—A. There are many cases—

Q. You do not make loans on furniture or anything like that?—A. No, we are not permitted to do that.

The CHAIRMAN: Is it your wish to hear the Canadian Bank of Commerce?

JAMES STEWART, Assistant General Manager of the Canadian Bank of Commerce, called.

The WITNESS: Mr. Chairman and gentlemen, I have not come prepared to-day to make any statement one way or the other, but I should be quite pleased to answer any questions that any of you gentlemen care to ask.

[Mr. S. G. Dobson.]

Hon. Mr. LAWSON: I think, Mr. Chairman, the Canadian Bank of Commerce have gone into it somewhat extensively. They have developed a small loan business, and Mr. Stewart might be good enough to outline the efforts they have made in that regard; the results, as to the amount of money loaned, and the number of loans, and any information of that kind which he has available. I think that would be of use to the committee.

The CHAIRMAN: Mr. Stewart?

The WITNESS: Well, Mr. Chairman, the Canadian Bank of Commerce entered the personal loan field in Toronto in June of 1936. Before the end of July of that year personal loan departments were opened at Halifax, Montreal, Winnipeg, Calgary and Vancouver. It is true, as Mr. Dobson says—as all banks have I should imagine—that up to that time we made small loans; but it seemed to us that there was a wider field. There was a considerable amount of criticism against the banks because of the fact that credit facilities were not available to wage earners; and to some extent with a view to dissipating any such criticism we entered the personal loan field. There was also probably a selfish motive too in that it built up a substantial amount of good will for the bank. The system, as I say, is in vogue throughout Canada. The loan departments are at Halifax, Montreal, Winnipeg, Calgary and Vancouver, but each and every branch bank is equipped to handle such small loans although the department is the last word in the confirmation or the refusal of the loan. The branches, however, work up the application, send it into the central department and there it is accepted or declined. In so far as volume is concerned, since the department was started we have made 60,423 loans, for a total amount of \$8,800,000. The average amount of loan made is \$146. I think that answers the question.

By Mr. Cleaver:

Q. What is the average amount of interest charged?—A. Seven per cent discount.

Q. That works out at what?—A. Off-setting the savings balances on which interest is allowed the effective rate is 10.5 per cent.

By Mr. Martin:

Q. No charge is made for service?—A. There is a service charge, ranging from 50 cents to \$3 depending on the amount of the loan.

By Mr. Tucker:

Q. Is that included in the effective rate of interest?—A. That is included in the effective rate of interest which I gave you.

Q. There is the claim that the small loan companies cover a field that you people cannot cover. Of course, it is very important to us to know just what field you do cover, just what the basis of your loans is, so we can compare with that the loans they make. I wondered if you could tell the committee the basis upon which your department acts in declining loans and in granting them?—A. First of all the essentials to obtaining a loan from us are trustworthiness, wage or salary in keeping with the amount of loan that is granted and such as to permit the loan to be paid off without hardship to the borrower within the year. He must be credit-worthy. He must be employed for a reasonable length of time, and with every prospect of his continuing in employment.

By Mr. Clark:

Q. Is an endorser required?—A. Yes.

By Mr. Tucker:

Q. Always?—A. Not always, no. We started out with the idea of having two endorsers; but our experience has shown that we do not require that in all cases.

By Mr. Vien:

Q. Do you loan on chattel mortgages?—A. Not at all, sir; we are not permitted to do that under the act.

By Mr. Kinley:

Q. Mr. Dobson told us that he had 60,000 small loans. You have some 61,000 small loans. What is the essential difference between your small loan business and the type of loan he has?—A. I cannot speak for Mr. Dobson. I do not know anything about what he is doing.

Q. You are lending money in the regular course of business the same as Mr. Dobson's bank is doing; what is the difference?—A. I can explain it from the point of view of the Canadian Bank of Commerce only.

Q. Yes?—A. When we have an application before us in the personal loan department for a loan under the scheme we make an investigation of their affairs and we may discover that they are credit-worthy without coming under the scheme. They may have ability to repay before the end of the year. They may have assets permitting our favourable consideration of a loan on their behalf, or they may have collateral to put up to protect the loan. Such cases become just ordinary banking transactions.

By Hon. Mr. Stevens:

Q. Then you have in addition about 60,000 small loans under your special system; your ordinary small loans in the regular banks?—A. Yes.

Q. Can you indicate whether or not your ordinary small loans fell off to any appreciable degree after the system of special small loans was introduced?—A. I am afraid I have not got the figures on that, but I would not think so.

Q. That would be your opinion?—A. Yes.

By Mr. Tucker:

Q. Would it be of any great advantage to you in the case of your small loan department to have the right to take chattel mortgages?—A. I would not want it.

Q. Just why do you say that?—A. Well, I do not think it would be the right thing for a bank to go ahead and accept a chattel mortgage security on furniture for instance and be put in a position where at some time or other it might have to go out and seize it.

Q. You say it would not be the right thing to do. Would it be any more right for the small loan companies to be given that right, and to charge two or three times the rate of interest you charge to do it?—A. That is for you to decide, I am afraid.

Q. What I am getting at is this: is it not advisable that you in covering this field as widely as possible need to have that right; because, after all, you are charging a rate of interest of about one-third of what they want to charge. They have the right to take a chattel mortgage. Would you be able to cover a wider field if you entered that field?—A. I do not think so, because we would not go into that field. We could not at the rate that we charge.

Q. Would it assist you in collecting?—A. Not from the class of borrowers that we are handling now. I cannot speak for the other class of borrowers which the finance companies assist, because I do not know much about it; but in so far as we are concerned with the record that we have, in our experience with the borrowers that we have, chattel mortgage security is not necessary to assist us in collecting.

[Mr. James Stewart.]

By Mr. Martin:

With regard to the endorsers, is it not a fact that the normal practice is to require at least one endorser?—A. The normal practice is that, yes.

Q. Now?—A. Yes.

Q. So that not to require an endorser would be an exception?—A. Yes, it would be an exception.

Q. And of the 60,000 or so loans that your bank are making would you be able to tell the committee what proportion of those are made up of people who are normal customers of the bank; can you tell us that?—A. No, I have not got that information, I am sorry.

By Hon. Mr. Stevens:

Q. I was going to ask Mr. Stewart a hypothetical question. Take a civil servant in Ottawa or elsewhere in permanent employment with a definite salary and with a reasonably good character, would you consider such a person a good subject for a loan under your small loans department?—A. The only provision that would be made in that case would be that the amount that was borrowed would be in keeping with his salary and such that he could repay it without difficulty within the year.

Q. Quite so. Would you consider that it was at all necessary in circumstances of that kind to fortify the security with a chattel mortgage?—A. No, sir.

Q. Your opinion would be that it would not be necessary?—A. It would not be necessary. We would get endorsers.

By Mr. Kinley:

Q. Would the witness take an example of say \$50 and work it through; would he explain to the committee where a man borrows \$50 under that plan what he would pay, the total amount he would have to pay?—A. I could not give you an example on \$50 because we have an arrangement of our loans in such a way that you can only get a loan in multiples of twelve.

Q. Well then, take \$60?—A. on \$60 the interest would be \$3.60.

Q. You collect the interest when you give him the money. You take the interest off the principal when you accept the application. What does that figure at?—A. That figures at 6 per cent.

Q. Is money at 6 per cent on these loans?—A. Yes.

Q. I thought you said 7 per cent?—A. 6 per cent on this type of loan. I should explain that in the case of Mr. Dobson where he said 7 per cent he referred to 7 per cent interest. I am referring to 6 per cent discount, in that the interest is deducted at the origin of the loan.

By Mr. Vien:

Q. That would be \$3.60?—A. Yes, \$3.60.

By Mr. Kinley:

Q. Now, go on to the next charge?—A. There is a 50 cent service charge for investigating.

Q. That makes \$4?—A. Yes, plus 3 cents for stamp.

Q. I do not think that is a charge?

Mr. VIEN: That makes \$4.10.

By Mr. Kinley:

Q. Go on to the next one?—A. The borrower receives \$55.87—or, \$55.90.

Mr. WARD: Doesn't that work out at about 15 per cent?

The CHAIRMAN: Mr. Kinley has the floor.

Mr. WARD: Let him work that out for us.

The WITNESS: He deposits in his savings account \$5 per month.

By Mr. Kinley:

Q. He must pay you back \$5 a month?—A. He deposits in his savings account \$5 a month.

Q. That makes you the trustee of his savings account?—A. We are the trustees of the savings account, yes.

Q. That is really his payment?—A. Yes. He makes that payment over a period of twelve months, so that at the end of the period we have the \$60 loaned to meet the note and we allow interest on the savings account.

By Mr. Tucker:

Q. You pay that to him, or do you credit it to him?—A. We credit it to him at $1\frac{1}{2}$ per cent, the regular savings rate.

By Mr. Martin:

Q. And if the payments are all made promptly over the year what interest does the borrower receive back on this loan you are telling us about?—A. It works out at $1\frac{1}{2}$ per cent.

Q. How many dollars then has he to pay you for the use of the \$60?

Hon. Mr. LAWSON: He pays \$4.10.

By Mr. Kinley:

Q. He pays more than that at the end of the time, doesn't he?—A. He receives \$55.90 and pays us back \$60, less the interest which we allow him on his deposit.

By Mr. Vien:

Q. What is the result in dollars and cents?—A. I am afraid I have not worked that out.

Mr. WARD: I wonder if Mr. Kinley could work that out for us?

The CHAIRMAN: Mr. Kinley, have you finished your questions?

Mr. KINLEY: I was trying to work that out. You see, on that \$60 note at 7 per cent that Mr. Dobson was talking about, the interest on that note goes over the year; and, there is a charge in connection with that?—A. Yes, the applicant would pay that. In Mr. Dobson's case it would amount to $7\frac{1}{4}$ per cent.

Q. That would be $7\frac{1}{4}$ per cent on a straight loan?—A. Yes.

The CHAIRMAN: Mr. Kinley, Mr. Finlayson would like to aske some questions.

By Mr. Finlayson:

Q. I just want to ask Mr. Stewart if he insures the life of the borrower?—A. Insurance is placed against the borrower.

Q. And, do you use the interest on the deposit to provide the insurance on the borrower?—A. Yes.

Q. All of the interest?—A. Not all of the interest; it amounts to 50 cents a hundred, I think it is.

Q. Fifty cents per hundred for insurance?—A. Yes. No, excuse me, we started at 50 cents a hundred; it has since been reduced to 45 cents a hundred.

Q. So that on this \$60 loan you would pay 27 cents of an insurance premium?—A. Of an insurance premium, yes.

By Mr. Kinley:

Q. Is there a minimum of \$100 on the insurance premium?—A. I would not be sure of that, it may be. I cannot answer that question.

[Mr. James Stewart.]

By Mr. Martin:

Q. So that the applicant pays the insurance premium in addition to the 10 per cent?—A. Yes.

Q. What would be the effective rate of interest then?—A. That does not enter into the effective rate of interest at all, because that insurance premium does not come to us.

Mr. MARTIN: The borrower has to pay that charge.

Mr. KINLEY: And, out of his own money.

By Mr. Finlayson:

Q. You would say he gets the benefit of the insurance?—A. Decidedly.

Q. You say that he gets value for that?—A. He gets value of that insurance premium, as is best evidenced by the fact that quite a number of claims have been paid already.

Q. And if he died, there was no liability continuing?—A. If he dies, the liability is wiped out.

By Hon. Mr. Lawson:

Q. And his estate gets the balance of the surplus of the insurance?—A. No. There is no surplus. He is only insured to the amount of the loan.

By Mr. Vien:

Q. Is it compulsory? Is the insurance compulsory?—A. Yes.

Mr. KINLEY: It is a charge on that loan. It is compulsory. It is collateral which he gives the bank.

By Mr. Coldwell:

Q. If a man has a policy to deposit, do you compel him to take out insurance?—A. No. If he has got a policy to deposit, he would not even be under the personal loan plan. He would be in the commercial banking field then.

By Mr. Martin:

Q. I think if we could only get the witness to answer this question, it would clear the matter up. I know it is difficult, because he has just been in the business a short time. But we are dealing here largely with what is called the problem of consumer credit. While undoubtedly a good number of those who borrow from you borrow for purposes that would come under the caption of consumer credit, nevertheless is it not likely that the great percentage of your borrowers are people who do not come with the classification of consumer credit?—A. I do not think I quite understand what you mean by consumer credit.

Q. In your general banking business you loan money for production purposes. The small loan companies are in the business to assist—

Mr. TUCKER: Will the witness answer that question "yes," for production purposes?

The WITNESS: I beg your pardon?

The CHAIRMAN: Order, Mr. Tucker.

Mr. TUCKER: Did you answer, Mr. Stewart?

The CHAIRMAN: Mr. Martin, go ahead.

Mr. TUCKER: I would like to know whether he answered the question.

By Mr. Kinley:

Q. I want Mr. Tucker to get that question answered. You said "yes," did you?—A. To what?

Q. The purpose of the banking system generally was for production credit?—A. Well, I would not say that, not by any manner of means.

Hon. Mr. LAWSON: He did not say the purpose of banking was for production purposes.

The WITNESS: Not by any means.

Hon. Mr. LAWSON: He said many of their loans were made for that purpose.

By Mr. Martin:

Q. Would you say that, in your normal banking business, you loan money for production purposes?—A. Not altogether.

Q. You do not say that?—A. No.

Q. You do understand the distinction I make between production credit and consumer credit?—A. By consumer credit, you mean anything other than for the purpose of production?

Q. Yes, such as a man, for instance, paying doctor bills, emergency cases dealing with his home and his domestic life?—A. Right.

Q. Are you able to give us any breakdown of the purposes for which these loans are made? Perhaps we can get at the question in that way?—A. Yes.

By Mr. Baker:

Q. Do you limit the purposes for which you make loans?—A. No, there is no limit, but I have a classification here. It is not very extensive. This only covers the months of January of this year. I am talking now of percentages of loans made by the personal loan department only for these purposes—for medical, dental and hospital bills, 15.73 per cent; for the consolidation of debts, 28 per cent; for outside loan liquidation, 6½ per cent; taxes, real estate, mortgages and interest, insurance premiums, 8.6 per cent; travel and education, 3.4 per cent; house improvement expenses, 11.7 per cent; clothing, 2.3 per cent; motor cars, 7.02 per cent; and miscellaneous, 16 per cent.

Mr. KINLEY: Has Mr. Finlayson figured out that case yet?

Mr. FINLAYSON: I have no doubt that on the basis that Mr. Stewart figures, the rate he has stated is about correct. Something will depend on how you regard that insurance premium. Mr. Stewart has regarded that insurance premium as the interest earned on the deposits as a gain to the borrower.

The WITNESS: Yes.

Mr. KINLEY: That insurance premium is interest?

By Mr. Finlayson:

Q. Yes, instead of paying the full \$60 in repaying that loan, he pays \$60 less the interest?—A. Yes.

Q. That is looking at it from the borrower's standpoint and assuming he gets full value for the insurance which is effected on his behalf. Looking at it from the other standpoint, that this interest is simply a charge and that he pays the full \$60, the rate would be a little more than ten and one-half per cent?—A. It would be more than that, yes.

The CHAIRMAN: How much more?

Mr. FINLAYSON: Would it be two per cent more?

Mr. KINLEY: Twelve and a half per cent?

The WITNESS: That I could not say exactly.

Mr. FINLAYSON: Do not put that in the record, because I would like to have the tables here to figure it exactly. It would be something in excess of that.

[Mr. James Stewart.]

The WITNESS: It would be in excess.

Mr. KINLEY: Have we all the charges on that loan? Is every charge there, every charge that you make?

Mr. FINLAYSON: Excuse me, Mr. Kinley, and I will just finish this. There is this other point that I think should be cleared up before you ascertain the exact rate—first, as to the amount of interest that would be credited on that \$60 loan. I would assume that it would be forty or forty-five cents.

The WITNESS: I am afraid I could not give that figure.

By Mr. Finlayson:

Q. It seems to me it would be about five and a half months interest on the average, for the loan?—A. Five and a half months?

Q. Yes.—A. Oh, yes.

Q. The whole loan is coming back in instalments?—A. Yes.

Q. And on the first instalment paid he only gets eleven months' interest; is that not correct?—A. Yes.

Q. And he gets no interest on the last instalment?—A. No.

Q. So I think it would be about, on the average, five and a half months' duration. On that basis, I think the total interest credited would be about forty cents. Now, you do not know whether there is a minimum insurance premium?—A. No, I could not be sure of that point.

Q. If there is not, that would just about provide the insurance premium. You have an insurance premium of say forty-five cents?—A. It is forty-five cents.

Q. A hundred?—A. Yes.

Q. If that is the minimum, and there is no reduction made for a \$60 loan, this would just about provide the premium. If, however, the rate is forty-five cents per hundred applied to a \$60 loan, the premium would only be twenty-seven cents, and his deposit has earned forty cents, so that there would be thirteen cents there, even on that view. I would not care to work it out to decimals in my head.

Mr. KINLEY: I think we should have that, Mr. Chairman.

Mr. FINLAYSON: I can get that on the two views.

Mr. KINLEY: We do not want there to be any mistake about that.

Mr. VIEN: Might I suggest that you carry that on for two or three loans—for instance, a \$120 and a \$240 loan—because the service charge changes.

Mr. FINLAYSON: The service charge changes.

The WITNESS: Yes, the service charge changes.

Mr. FINLAYSON: Perhaps we can get from Mr. Stewart the precise charges for the loans you have in mind?

By Mr. Vien:

Q. Let us take two typical loans, one of \$120 and the other of \$240.—A. On the \$120 loan, he is charged \$7.20 interest. There is again the fifty-cent service charge, with six cents this time for government stamps; so that of the \$120 he receives \$112.24. On the \$240 loan—I have not got that here, but I have a \$252 loan here.

Mr. FINLAYSON: That would be just as good.

The WITNESS: There is \$15.12 interest; seventy-five cents service charge; six cents for stamps; the borrower receives \$236.07.

By Mr. Kinley:

Q. What is your per cent of loss on the small loans?—A. We have not been in this very long yet.

Q. You have been in it over a year?—A. Yes, but we have been operating during a period of reasonably good conditions. The real test comes when business falls off.

Q. Yes. Of course, there would be a loss to the endorsers, too?—A. Yes.

Q. You do not know in how many instances or in what percentage of cases you had to call on the endorsers to make good?—A. No. I have not got that information with me.

By Mr. Vien:

Q. You could not compare your losses on the ordinary banking operations with those in this personal loan business?—A. Well, of course we have been in ordinary banking for seventy years, and losses can show up in that time; but they do not show up in eighteen months. After all, we have been in this business for only eighteen months.

Q. You have no statement here of your experience during those eighteen months?—A. I have a statement of my experience.

Q. What is the statement of your experience? We shall take it with the limitation you have just given.—A. It shows losses for the period actually written off of \$665, and at the present time we show uncollectables of \$1,766; that is in addition to the \$665.

Q. What percentage does that represent of the total?—A. Very, very small.

By Hon. Mr. Stevens:

Q. A fraction of one per cent.—A. A small fraction.

Q. A small fraction of one per cent?—A. Yes.

By Mr. Kinley:

Q. They are losses on what?—A. Bad debts.

Q. That does not include what you call on the endorser for?—A. No.

Mr. KINLEY: That would be a different story.

By Mr. Finlayson:

Q. What is the service charge for a \$120 loan?—A. Fifty cents.

By Mr. Cleaver:

Q. You stated that you had a selfish reason or that the bank had a selfish reason for entering this field, namely, that the bank believed it would build up good-will for the bank?—A. Yes.

Q. What do you say as to whether this special field has been profitable or unprofitable to the bank, compared with the profits you have earned in the other branches of your banking business?—A. So far, this has been unprofitable.

Q. Unprofitable?—A. Yes.

Q. So that you charge that loss up to advertising, do you?

By Mr. Vien:

Q. You say that the personal loan department so far, based on your eighteen months' experience, is not profitable?—A. That is so.

By Mr. Clark:

Q. You mean in comparison with the general banking business—only on a comparative basis. It has been unprofitable on a comparative basis?—A. I am not comparing them at all.

[Mr. James Stewart.]

Mr. KINLEY: It has shown actual losses.

The WITNESS: We have this department set up apart from any commercial business. The expenses are charged to it, so that we know exactly what we are making or losing; and we are losing on this business up to the present time.

By Mr. Vien:

Q. Of course, during the first six months or nine months there would be very small volume?—A. Yes.

Q. And with increased volume your losses will diminish?—A. They will diminish very considerably, we hope.

By Mr. Tucker:

Q. What do you charge yourself for money in this small loan department?

The CHAIRMAN: Order, order, gentlemen.

Hon. Mr. LAWSON: I am sorry, Mr. Chairman, but we cannot hear the witness at all.

The WITNESS: In stating that there is a loss so far, we have charged nothing for money.

By Mr. Tucker:

Q. You must have charged something against this interest? What do you charge?—A. We have charged the department nothing for interest on the money they have used so far, in order to reach our calculations.

Q. What have you charged against interest?—A. Well, we have got expenses such as salaries, rents, stationery.

Q. Then in many of your branches throughout Canada the ordinary staff of the bank handles this department as well as its own?—A. No; they accept applications for the loans.

Q. Do you charge anything?—A. The actual bookkeeping; we charge for that, yes.

Q. Then you charge something for the work done by the bank?—A. Decidedly so.

Q. Although you have the staff there, anyway?—A. But we would have the staff there anyway. We have not had to increase the staff any, to speak of. In some cases we have. I think the best answer to that is that the Canadian National Railways did not offer me a ticket from Toronto free because they were running a train through and an extra compartment.

Q. You say that by the extension of this business your bank has lost money?—A. Yes, so far.

Q. Then if you have not had to increase your staff appreciably I would like to know how you have lost money?—A. We have not had to increase our staff appreciably in the branches, but we are in the operating departments.

Q. As a matter of fact, did you not, when you opened this department, transfer people that you would have kept on, probably in the same way as other banks, into this other department?—A. In some cases, true; but we have also had to increase our staff.

Q. You have taken on new men for that work?—A. Yes.

Q. To what extent have you allowed for the fact, when you say you have lost money, that you have largely used the men you would have kept on anyway in the other departments?—A. I have not taken that into consideration at all.

Q. You have charged for a larger staff than you have had in the branches anyway?—A. Yes.

By Mr. Martin:

Q. If you had not done that your losses would be still greater than they are now?—A. No.

Q. Obviously, yes. You have said that you have made no money on this kind of business, and if you had to hire a larger staff—A. No; it would not have made any difference because the staff who are employed in the personal loan department are charged to that department.

Mr. CLEAVER: Do I understand that Mr. Finlayson has the necessary information and that the committee will be supplied with the effective interest rates in regard to these three specimen loans of \$60, \$120 and \$252?

Mr. FINLAYSON: When I get from Mr. Stewart the exact information.

By Mr. Tucker:

Q. Following up my other question, and taking your figures as you actually figured them, what average rate of interest would you have had to charge so that there would not have been a loss?—A. I do not know that I can answer that question because had our average loans been greater than they are we might have made money. In other words, one person can only do a certain amount of work, and it costs as much to put through a \$100 loan as it would a \$1,000 loan. So that could we increase the average loan we could probably make money on the present basis.

Q. I suppose your volume of this business is gradually increasing, is it?—A. It increased up to December of this year, and then it seems to have flattened out fairly well now.

Q. On the basis of the present volume of business, do you calculate you would still lose money?—A. No, I think we can make a little money from now on, providing we keep to the present figures.

By Mr. Kinley:

Q. Mr. Stewart, unless there is collateral security, you always ask for an endorser?—A. Almost invariably, yes.

Q. Will the small loan companies lend on a chattel mortgage?—A. Yes.

Q. Therefore, in order to make a comparison, I think it would be fair for you to show what the endorsers lose by their kindness to your borrowers.—A. I am afraid I have not got that information.

By Mr. Martin:

Q. Would this be a fair question? You require, as you do in almost every instance, an endorser, and the fact that that is the case naturally limits the field of potential borrowers; is that not right?—A. I think that would be the case.

Mr. HOWARD: Mr. Chairman, may I ask Mr. Stewart if he would care, for the benefit of the members of the committee only, to supply one of his sheets of bank charges similar to what you supply to a customer.

The WITNESS: I would be very glad to send it.

Mr. HOWARD: Then they would all know how you figure the costs and what the charges are.

By Mr. Vien:

Q. If I understood correctly, Mr. Stewart, you select very carefully the class of borrowers in your personal loan department?—A. Naturally. We try to do that.

By Mr. Kinley:

Q. And you select your endorsers pretty well too?—A. Yes.

[Mr. James Stewart.]

By Mr. Vien:

Q. What has reduced considerably the amount of your losses is, in the first place, your endorsers; and, secondly, your selection of borrowers?—A. And, thirdly, the good conditions under which we are operating, which I think is much more important than the other two.

Q. If you went into the business in the same way as the small loan companies, taking greater risks, and lending without endorsement, or having to take chattel mortgages, would your charges be higher or lower?—A. I do not really know that I can answer that question. We are not permitted and, consequently, never do take chattel mortgage security. But if I were to guess, I would say they would be very much greater.

Q. Would you favour a policy of broadening your operations and lending to borrowers who do not all possess the same class of security to offer, or without endorsers?—A. With no endorsers and just open the gates and let anybody in?

Q. Not completely wide open, but as wide as the money lenders or small loan companies?—A. I do not think we would really care to go very much further than we have gone in the matter of the selection of customers.

By Mr. Finlayson:

Q. Does the bank reject many loans?—A. The rejections so far have averaged ten per cent of the total applications.

Q. Perhaps you have no precise information as to the extent to which the endorsers have come to the support of the borrowers, but do you think you have had to call upon the endorsers many times?—A. I do not think so; no.

Q. So that your recovery is usually from the borrower himself?—A. Oh, yes, from the borrower.

By Hon. Mr. Lawson:

Q. I would like to follow Colonel Vien's question with a few more specific questions. As I understood your answers, you would not be desirous of banks having power to make loans on chattel mortgage securities?—A. My personal opinion is No.

Q. And may I presume that your reason is that you would only be taking chattel mortgage securities in any event where you were not satisfied as to the credit of the borrower and his endorsers?—A. Exactly.

Q. And, if I may follow that up again, may I presume that the reason you would not want to assume that risk is because your business is to lend other people's money and not your own?—A. We are trustees of the public funds.

By Mr. Kinley:

Q. The endorser gets no consideration?—A. No.

Q. What do you think of a system that becomes a custom whereby the general public is expected to assist the banks by endorsing notes without consideration?—A. Well, we do not force anyone to endorse. They may endorse if they want to or refuse if they want to.

By Hon. Mr. Lawson:

Q. Would it be fair to put it this way: that if a man has so little credit that he could not get any of his friends to back him, the bank does not care to take him as a risk?—A. That is a fair way of putting it.

By Mr. Tucker:

Q. On the question of endorsement, I understood you to say that the considerations were that these persons should be reasonable risks, have a job and the means of repayment within a year; but I am wondering what the con-

siderations are in the case mentioned by Mr. Stevens, the case of a civil servant with an assured income, a permanent income, providing he lives. Why does the bank require an endorser in his case?—A. I do not know that I can actually say why.

Q. Would there be any reason?—A. Unless it be for safety's sake.

By Mr. Howard:

Q. Is that not to assist in the collection? I mean to say, the pressure from the endorser would help in seeing that the other fellow paid you.—A. It is for our security.

Mr. KINLEY: Increased security.

By Mr. Tucker:

Q. Perhaps if you went into the records you would find that half your loans to civil servants in this city, if they were not able to get an endorser, would be made without an endorser?—A. I could not answer that.

The CHAIRMAN: Gentlemen, we have Mr. Rettie, president of the Civil Service Co-operative Credit Society, and it has been suggested that we hear this gentleman, and allow Mr. Stewart and Mr. Dobson to remain.

Mr. TUCKER: I am wondering if this is the right way to examine witnesses, to call Mr. Dobson and Mr. Stewart and then not finish with them.

The CHAIRMAN: I gathered from the nature of the questions that we were about finished.

By Mr. Mallette:

Q. I have one more question to ask in regard to why the banks in all cases might not require an endorser from a civil servant. Is it not due to the fact that their salaries are not seasonable?

Mr. DOBSON: I do not think Mr. Stewart, when answering that question, did so from first-hand knowledge. You have no particular knowledge of civil service borrowing?

Mr. STEWART: No.

Mr. DOBSON: I would be inclined to say that civil servants do borrow without endorsers. Am I right, Mr. Gray?

Mr. GRAY (Royal Bank of Canada, Ottawa): Yes.

Mr. DOBSON: Others may require endorsers for one reason or another. But I do not think Mr. Stewart intended to convey the impression that all civil servants had to have endorsers before they could borrow money.

Mr. MALLETE: I understood Mr. Stewart to say there was no need for endorsers. The idea that additional security is asked is possibly because you cannot seize the salaries of civil servants.

Mr. DOBSON, recalled:

By Mr. Martin:

Q. Mr. Dobson, we are dealing with two different things. You are talking about civil servants who can borrow money without an endorser; he does not come within the classification of consumer credit at all; he comes within the normal banking business, is that not right?—A. Of course, consumer credit again comes into consideration I suppose.

Q. He would come under the regular business of the bank?—A. I suppose that is true.

Q. Is that a fact?—A. I would think that is so. They are generally normal customers of the bank.

[Mr. James Stewart.]

Q. And the man who goes to the ordinary small loan company is a different kind of person, who has no standing with the bank at all?—A. Yes. Perhaps some civil servants do go to loan companies. I have no information on that point, but I daresay they do.

By Mr. Kinley:

Q. Would either of these gentlemen care to say how they account for the large volume of business that is being done by these small loan companies?—A. I do not know. In the first place, is it a large volume?

Q. Quite a large volume.—A. It is fairly so, but I do not think it is anything like the volume of the small loan business done by the banks.

Q. I beg your pardon.—A. I do not think it is anything of the size or volume that is done by the banks. It is a different type of loan, of course. I do not know as to that. Of course, a lot of people think they cannot get money from the banks; I do not know why. A lot of people go to loan companies because they think it is outside of the realm of banking. I think perhaps there are quite a number of people who go to loan companies who could get a certain amount of accommodation from the banks. I do not think there is any doubt about that. On the other hand, there is a class which I think a loan company is necessary to handle.

Q. You think there is a field?—A. I do, indeed. I think there is a field for loan companies. Just where the dividing line is, and whether the loan companies are doing too much or too little business, I cannot say. But I do say this, as far as the banks are concerned, they are endeavouring gradually to expand their field to extend accommodation to deserving people—that is the expression we use—as much as they possibly can. That does not mean that a lot of deserving people may not go to the loan companies.

By Mr. Tucker:

Q. Following that up, if these small loan companies are permitted to enter the field with a great deal of capital and spend vast sums in advertising, would not they prevent thereby the banks from rendering this service to a greater extent?—A. I suppose the fact that the loan companies advertise perhaps more freely than banks actually captures the eye of a lot of people needing money, and for that reason they are probably drawn to them. Banks advertise not nearly as extensively, I think, as loan companies. Perhaps the banks should advertise more.

By Hon. Mr. Stevens:

Q. Would the Bankers' association give consideration to the desirability of a publicity campaign similar to what you were good enough to intimate a moment ago the Royal Bank had followed up?—A. Well, I could not say as to that. I believe perhaps there would be a division of opinion as to that because each bank looks after its own clients and advertising in its own way. The Bankers' association are now embarking upon a publicity campaign, which you probably know of, and I would say offhand that they would not probably care to embark on another campaign of advertising, because these things cost a lot of money. The Bankers' association are going ahead with an advertising or publicity campaign which covers pretty much this year and is very widespread, and which involves a lot of money. I do not believe the Bankers' association—and I am expressing my own opinion—would care to embark on it; but I do not see why other individual banks who favour this type of business—I am speaking of the small loan business—would not be willing to go ahead and advertise further and let more people know that accommodation can be had at the bank. I think the banks individually might do that.

Q. Now, Mr. Dobson, this committee is engaged this year and was last year in the consideration of this large public question, the supplying of cheap money as low as possible to deserving small borrowers. That is really the question. You intimated a moment ago, and I think quite properly, and to my mind it was very welcome, that the banks are to-day lending to a very large number of small borrowers. I think you gave a figure of 250,000?—A. I estimated that, yes.

Q. I think your estimate is very low. You intimated a moment ago that the reason why many people go to these unusually high rate financing companies is that they do not know that they can get accommodation at the banks. I put my question again, and you can answer it just now if you wish, or you may take it as a suggestion for consideration on which you may give your opinion to the committee later. Would the Bankers' association give consideration to the advisability, from the public welfare standpoint, of acquainting the public with the facilities presently existing in the banks in the small loan field?—A. Yes; there is no reason why in this publicity campaign that we are engaged in now that that fact should not be stressed. As a matter of fact Mr. Knowles says that it will be stressed in these advertisements, and if we think it advisable, why we can stress it a little further. We are rather anxious to do everything we can to co-operate in extending accommodation to small borrowers at reasonable rates of interest, and if by publicity more people would come to the banks and avail themselves of these facilities, why, we would be glad to help in any way we can.

Q. They would be infinitely better in the hands of the banks than they are in the small loan companies?—A. There might be a difference of opinion on that. I see Mr. Tucker smile.

Hon. Mr. LAWSON: It is hardly fair to ask Mr. Dobson that question.

By Mr. Tucker:

Q. I should like to ask Mr. Dobson's opinion on this. I understood Mr. Stewart to say by virtue of the Bank of Commerce entering this field they were not dealing with it as an ordinary banking business. Now I should like to know first of all whether he agrees with that, that they are dealing with a field they were not reaching before, and also what he thinks of the possibility of the other banks assisting the Bank of Commerce in covering that field?—A. I have no knowledge of just what field they cover, but I feel that, as Mr. Stewart says, they do cover a larger field. Now, as to the other banks extending their facilities along these lines, I think that some may be favourable to it and others may not. But you realize there is a maximum rate specified in the Bank Act, seven per cent. Now, while I think you will all admit that the Canadian banks are doing a very fine piece of work, unfortunately somebody might come along and say you are not charging seven per cent; you are charging over the legal limit. We, speaking for ourselves, have looked at that and we have decided we do not want to let ourselves in for any more criticism that we can possibly avoid, and for that reason and others we have had nothing to do with it.

Now, if your committee should recommend and the government should decide to ask us to co-operate in the small loans field and provide an increased rate for monthly payment loans, I believe it is quite possible and probable that some other banks might then decide to take up that extended loan field. I do not mean to say they are going to take the business away from the small loan companies and go right through with that type of business. I do not believe for a moment that the small loan companies are not going to stay in business. I believe they are required there, but the banks might extend their field further, that is all.

[Mr. S. G. Dobson.]

By Mr. Kinley:

Q. If you are going to invade the field in which they are then it will go hard with them and their rates will go up, as their hazards will be greater.—
A. Unquestionably.

By Mr. Howard:

Q. You would take the cream off it and make it much harder for others to operate.—A. May I answer that before we go on. There is one field I do not think we would ever invade, and I think that is the field in which they do the bulk of their business. I am now referring to a loan to a family against a chattel mortgage on their furniture etc. I could not imagine a bank giving a loan on a chattel mortgage on furniture etc. So far as that is concerned we would not be interested in that type of business. I think that is the field in which the small loan companies do the bulk of their business.

By Mr. Vien:

Q. You would also agree with Mr. Stewart that there are classes of borrowers to which the small loan companies loan, after taking the necessary precautions in their opinion, which the banks would not consider as proper banking operations?—A. Yes; I think the answer I just gave covers that.

Q. You agree with that?—A. Yes.

Q. Even if the advertising campaign developed more business in the personal loan departments of the banks, there would still be a large field to be covered by money lenders and small loan companies?—A. Yes.

Q. My last question is this: you have made the statement that if parliament in its wisdom deems it advisable to allow the banks and other money lenders to increase the rate of interest some banks might consider the possibility of entering that field. Is that correct?—A. Yes, extend their loans.

Q. Extend their operations to another field. Would you have in mind any special rate of interest, an all-inclusive rate of interest including all charges on a straight interest basis, not on a discount basis?—A. I would think that a straight interest basis would be the better basis, so a man would know what he is being charged.

Q. Would the bank suggest that— —A. Would the bank suggest it?

Q. Yes.—A. I do not want to give the impression that I am suggesting that the government should do anything of this nature. I say if they should I think it would be expected that the banks would do that. I am not suggesting that it should be done. I do not want to give that impression at all.

By Mr. Quelch:

Q. If the banks went into the small loan field I think it is safe to say that certain people who are borrowing from the banks to-day at seven per cent would be side-tracked to the small loan branches and would thereby pay a higher rate of interest.

Mr. STEWART: I can answer that question. From experience that is not the case. When we find a man is credit-worthy, has collateral or assets and will protect his loan he is immediately sent to one of the branches to get his accommodation.

Hon. Mr. LAWSON: Because it is more profitable.

Mr. STEWART: There is no work attached to it and consequently the lesser rate of interest in the branch is more profitable than the higher rate of interest in the personal loan field.

By Mr. Martin:

Q. Perhaps I can put my question in another way. I should like to ask Mr. Dobson this: Mr. Kinley made a suggestion and you gave a carte blanche

answer to it. Perhaps you had not time to think it over. If the banks extended their business along the lines you have indicated, and since you have already stated that you thought they would get the cream of the small loan business—A. I did not say that but it is all right.

Q. You affirmed that it would have the effect of increasing the rates which the loan companies would be compelled to charge?—A. I think, Mr. Martin, I partly answered that by saying that I understood the loan companies now lend to a class of borrowers with which we would not be interested at all.

Q. You would cover the field?—A. We are covering the field, but we are merely talking about extending that field perhaps a little further, that is all. We are not talking about going into this small loan business on a large scale.

Q. I do not want to press it unduly, but whether you admit that you take the cream of the business or not, the fact is if you did extend along the lines that you have indicated you would reach a higher type of borrower in the small loan field and that would inevitably have the effect of increasing the rates which these companies would have to charge in order to make it financially adequate for them to do business?—A. Well, one answer to that is at the present time it is generally felt that people who can go to banks to get credit as they stand, still go to the loan companies and get it. Probably the same would apply if we did extend our field. It would be the same. There would be worthy borrowers who would go to loan companies just the same, probably; I do not know.

Q. Possibly I did not make my question plain?—A. What you mean to say is that if the banks extend their field there would be a limit to what is left over.

Q. Quite.—A. I understand perfectly. It might mean fewer loan companies.

Q. And higher rates of interest?—A. I do not know; perhaps so. I do not want to express an opinion on the question of rates. Don't forget one can say there is a tendency to borrow more, and the easier you make borrowing facilities the more people borrow. Whether it is good or not I do not know; but unfortunately, as far as one can see, due probably to this instalment buying business which is now vigorously in vogue, people borrow more money, so that there will be a lot more borrowing customers, probably.

By Mr. Tucker:

Q. There is an assumption made in a lot of the questions this morning that the small loan companies are loaning to people who have not a salary and who are not credit-worthy, but to people who pledge their furniture etc. I should like to ask you if you have enough knowledge to say whether these loan companies do lend on that kind of credit? Do you really assent to the suggestion that is implicit in most of the questions that have been asked, because my understanding is that these loan companies do not lend to people unless they have a job or are credit-worthy, and that they take a chattel mortgage only as a sort of additional security and do not even bother to register it and never enforce it. I am wondering if you are familiar with that type of business?—A. No, I am not, Mr. Tucker; I quite believe they do not want to make loans on these chattel mortgages when a man has no job, or no income. I can't see them doing that.

By Mr. Kinley: (To Mr. Stewart.)

Q. Might I ask Mr. Stewart, what do you do if a man defaults in his monthly payments on a small loan; suppose he can't pay on the first, second, third, fourth or fifth month; what do you do?—A. We go after both the promisor and the endorser.

Q. Is the loan immediately collectable if the borrower misses a payment when it is due?—A. It is, yes.

[Mr. S. G. Dobson.]

Q. If he fails to make his first month's payment he is deemed to be in default?—A. Yes.

Q. Is there any discretion on your part as to that?—A. Oh, lots of it.

Q. What can you do?—A. We do not necessarily call. We ascertain the circumstances under which the applicant has had to default. If he has a legitimate reason we carry him along. If he is a constant defaulter without any real reason for defaulting then we mature the loan.

By Mr. Donnelly:

Q. Do you not consider that the chief sucker in all this loan business is the endorser of these notes? Don't you think that if we are going to pass legislation we should pass legislation to protect the endorser, because he gets nothing out of it?—A. The endorser is merely making a voluntary commitment. We are not asking him to do it. Whatever consideration he has is as between himself and the promisor of the note.

Q. How many loans would you make without endorsers?—A. We may have made a few; I do not know. I do know, however, that it is not the normal practice.

By Mr. Kinley:

Q. What do you usually do? When a man comes in and asks you for a loan don't you say to him, go and get us an endorser and we will make you the loan?—A. That is reasonable practice.

By Mr. Finlayson:

Q. You get two endorsers?—A. At first we did consider it necessary to have two endorsers, but our experience shows us that in many cases that protection can be dispensed with. At the present time the managers of our personal loan department have discretion, and some loans are taken without endorsers.

Q. Could you say approximately what amount of your loans are secured by two endorsers?—A. I could not really say, but I could say without fear of contradiction that it is very seldom that an endorser is called upon to take up a loan.

By Mr. Kinley (To Mr. Dobson):

Q. I would like to ask a question somewhat similar in nature. Is not the custom in western Canada the same as it is in eastern Canada, or in the Maritime provinces at least, to ask the public to endorse—?—A. I am afraid I did not get your question, would you mind repeating it?

Q. Is the custom as prevalent in western Canada of endorsing notes as it is in the Maritime provinces?—A. I can only answer that in this way, I have not been in a branch bank for a long time. When you speak of western Canada I presume you refer to the prairies. On the prairies a good deal of the borrowing outside of the cities is done by farmers and the farmer borrows without endorsement almost invariably, so that if you took a certain number of small loans we will say in western Canada and a similar number of loans in Nova Scotia you would find that there was a larger percentage of unendorsed loans in western Canada than you would find in Nova Scotia.

Q. A larger percentage of unendorsed loans?—A. Yes.

By Mr. Martin: (to Mr. Stewart)

Q. With regard to the endorsers, what attitude does the bank take in so far as ascertaining the integrity and strength of the endorser is concerned?—A. We investigate the length of time he has been in the employ of his employer, and what his employer may think of him.

Q. In other words, you make sure that he is a good endorser?—A. Yes.

By Mr. Tucker: (to Mr. Dobson)

Q. I just wonder, following along what Mr. Dobson said, that perhaps if this committee took certain steps they might enter this field—I was just wondering if there was any way in which he could convey what some of these banks might want the committee to do if they were to enter that field. After all, this is a serious business that we are engaged in. If we decide to let these small loan companies as a general practice expand—

The CHAIRMAN: Order, please.

Q. —it is going to have a very serious effect on our whole economy and also on our banking system. It is a very serious matter that we are actually concerned with. I just wonder if he would be prepared to consult with his banking association and make any suggestion to this committee that would help us in solving the questions that we are trying to solve; as Mr. Stevens says, extending credit as cheaply as possible to the small borrowers who are credit-worthy.—A. Yes, I will be very glad to do that. You want me to consult with the banks and see if they have any suggestion to offer as to how this committee might inject something into the Act which would enable them to expand their business in that direction?

Q. Yes?—A. Yes, I will do that.

The CHAIRMAN: Are there any further questions, gentlemen?

Is it the pleasure of the committee that we hear from Mr. Rettie?

S. RETTIE: President, Civil Service Co-operative Credit Society, Limited, Ottawa, called:

The WITNESS: The secretary asked me to prepare a statement on which to start a discussion. I have it here. Do you wish me to read it?

Mr. VIEN: I would like Mr. Rettie to tell us who he is and whom he represents?

The WITNESS: I am president of the Civil Service Co-operative Credit Society an association organized thirty years ago to make small loans to civil servants, employees of the Dominion Government, residents of Ottawa.

By Mr. Vien:

Q. Are you in the civil service yourself?—A. I am in the civil service.

Q. In what capacity?—A. I am an employee in the Auditor General's office.

By Mr. Mallette:

Q. Did you say Ottawa only?—A. In or near Ottawa only.

Q. Does it include Hull?—A. Yes.

The CHAIRMAN: Go on, Mr. Rettie.

The WITNESS: I presume the committee wishes to avail themselves of the knowledge of the small loan business attained through my association with an organization that has been dealing in small loans for almost thirty years.

First, let me say that difficulties related to the problem of dealing in small loans as a profit making business are fully recognized. Mr. Henderson in giving his evidence the other day was so convincing in his argument for a substantial rate of interest being allowed to reputable companies engaged in this business that he seems to have said all that can be said on the matter.

I feel, however, that perhaps the situation of the customer of the small loans institutions should receive some attention. This resolves itself around a single question concerning the ability of the average customer to sustain the charge contemplated. Mr. Henderson referred to borrowings to meet doctors' bills and

[Mr. S. G. Dobson.]

to amounts urgently needed to forestall repossession of articles purchased on the instalment plan. In both these types of debts there are substantial additions to their fair cost to provide for bad debt items. I mention this because there is a serious pyramiding of these charges to insure bad debts all along the line. Is it not almost a certainty that this pyramiding will in many cases destroy the capacity of the borrower to repay his borrowings?

One other matter that might be mentioned here is the limits set on small loans. I understand Mr. Henderson regarded \$300 as a maximum. I have seen the sum of \$500 mentioned in advertising published by some of the licensed companies. Usually either of these maxima would be sufficient but we find many cases where individuals applying for loans require larger sums than these and unless the larger sums are provided they would be much better with no loan at all.

A further difficulty is the short period during which these loans are current. It does seem reasonable to attempt to secure some relation as between a borrower's income, his requirements for daily sustenance and his monthly payment against his loan. Sometimes the twelve instalments fit the case. More often it should be fifteen instalments and in serious cases two and even three times the latter figure.

Having worked with an institution that is attempting to meet some of these points, perhaps you will allow me to outline very briefly the organization under which it operates and the methods it employs.

Origin

The society which I represent belongs to the co-operative type originated by Desjardins. Its membership is limited to employees of the Dominion Government resident at or near the capital. It was established as a voluntary association on a co-operative basis in 1908. In 1928 it was incorporated under the Co-operative Credit Societies Act of Ontario. The purpose of its founders was to remove a large number of government employees from the clutches of the private money lender. It will be understood that the services of the banks were available in only a limited degree to government employees and not at all to those in obscure positions at low salaries. There were no finance companies in those days, so the average civil servants had to seek loans from the private money lenders, mostly at ruinous rates of interest.

Membership

A mutual plan was adopted, i.e. only subscribers to its shares could make deposits with or receive loans from the society. This plan has been adhered to throughout and when the society was incorporated the number of shares that might be held by a member was limited to one of a par value of \$5. Shares are not transferable but provision is made in the rules for redemption by the society of a member's share when he desires to terminate his membership.

Management

The management of the affairs of the society is committed to three elected boards, the usual set-up of co-operative credit institutions. The members of these boards who attend to their duties in their spare time serve without fee. Appointed officers, four in number—two full time and two part time—are paid salaries for attending to the routine of making and collecting loans and the keeping and auditing of accounts.

Interest to Depositors

The rate allowed on deposits is now 3 per cent. No return is allowed on shares, the profits being distributed as additional interest on the minimum annual balances of the depositors. Last year profits were sufficient to raise the interest on these balances to 5 per cent.

Loans

Loans were made to members only and in the main to persons who are in receipt of low salaries. No loan is granted without a satisfactory reason for the loan being advanced by the applicant. The reason most frequently advanced is that the money is necessary to meet extra expenses incurred through sickness in the applicant's family. Many cases of desperate need are met with every year. Efforts are made to encourage thrift and to discourage the chronic borrower. Loans are repaid in monthly instalments over varying periods, but usually these periods do not exceed fifteen months.

Interest Charged on Loans

Interest charges are moderate, currently being 7 per cent on personal loans and 6 per cent on loans secured by mortgages. The rates mentioned are effective interest rates, and the cost to the borrower is illustrated by the following examples:—

Loan	Monthly Repayment	Cost to Borrower
\$ 50.....	\$ 5	\$1.60
100.....	8	3.95
100.....	10	3.20
150.....	10	7.00
150.....	12	5.90
150.....	15	4.80
200.....	15	8.40
200.....	20	6.40
300.....	20	14.00
300.....	25	11.40
500.....	40	19.70
500.....	50	16.05

Explanation of Low Rates

It is not intended to suggest that these favourable rates can be made general. Several factors have made it possible for the society to operate on so low a scale of charges. Most important of these is the permanency of the government pay-roll. Cases of borrowers getting in arrears through termination of employment are unusual. Then the government departments have co-operated to the fullest extent in the matter of collections. Assignments against salary to cover monthly repayments are accepted by all disbursing officers. The free services of the several boards are also important. The net earnings are not diminished by fees and bonuses to directors.

Rates equivalent to ours, and better, can be made available where groups of people—savers and borrowers—are willing to co-operate for that purpose.

By Mr. Vien:

Q. That is on the basis of what is known as the Desjardins plan?—A. Oh, yes, that is on the basis of the Desjardins plan.

By Mr. Coldwell:

Q. May I ask what the total resources of your organization are at the present time?—A. They amount to a little over \$300,000.

By Mr. Martin:

Q. Have you had the experience of having more loans which you were desirous of making than you had capital available for the making of those loans?—A. At times, and at times exactly the other way around. Just at the moment we have a great deal more money than we can let out on present loans.

[Mr. S. Rettie.]

By Mr. Tucker:

Q. Why should it be then that these private loan companies are doing such a large business in Ottawa with civil servants?—A. I would not say that they are.

Q. That is what we understand; that they are doing that business with civil servants?—A. I question that very much. I do know that they have quite a number. One reason for that is this—we find quite a bit of it—a man comes to us and he borrows and he does not tell us how much he needs, and maybe what he does need is not an amount that we could possibly lend him; but we make him a loan and while he is paying that loan he decides he wants some more money and he goes to one of the finance companies and he borrows it. Actually last December we handled a case where a man owed us quite a large sum in consideration of his salary, and he owed very nearly as much to two other lending institutions. So he found that his monthly payments to us and to the other companies were just simply putting him in the hole. He was running into debt with his grocer and his baker and all that. So what happened was that we paid off the two other companies, took the whole thing over and put him on a reasonable repayment basis to fit into his budget, and the man is getting along all right, provided that he does not go and borrow some more money to buy a car or something like that.

Q. Is it your experience then that quite often civil servants go to the small loan companies and get loans that it would be much better for them if they did not get?—A. That is true, yes. They come to us and get loans.

By Mr. Martin:

Q. I suppose there are many occasions when people go only to you and get loans, where they would be better off if they did not go?—A. Yes, there is no question about that. We try to avoid that, but we cannot find out everything.

By Mr. Vien:

Q. It is much better for a man never to borrow, generally speaking, is it not?—A. It is much better to be a saver. I have found that out.

Q. It is much better if you have enough money so that you are not obliged to borrow?—A. The best thing in the world is for a man to have a small savings account and do his own borrowing. He is getting one and a half per cent while it is in the bank, and he is getting seven per cent or two and a half per cent per month on it when he is using it for his own purposes.

By Mr. Tucker:

Q. There was a suggestion last year that civil servants went to the private loan companies because they did not want to make the disclosures that you required from them before you make loans; that is, it was more private and confidential. Is there anything in that?—A. I do not think so. We regard any disclosures as highly confidential. It is not talked around the corridors or anything like that. But there is this feature about it, that the supervising officers of a man's department are very apt to find out, if they look at the records, that a man has been borrowing from us. There might be that consideration. Some man might be very diffident about his superior officers in the department knowing that he was borrowing. We do not tell them that. But due to the fact that there will be a deduction order go in against the man's salary, anybody who is particularly interested and has access to the pay-roll, would see that.

Q. Do you always put in a deduction order?—A. Well, yes, "always" would be fair. We do not always. We do find that it is very much more convenient for our borrowers and we like to do it in that way. But, occasionally, in the case of a man in excellent standing and with nothing against him, we let him attend to his payments.

By Mr. Martin:

Q. Did you ever make a loan to a member of parliament?—A. No. It would require a change in our charter to allow us to do that.

By Mr. Vien:

Q. Have you got a copy of your charter here?—A. I have a copy of the rules, Mr. Vien. Of course, we have only one copy of the charter, and that is posted in our office.

Q. It is incorporated by letters patent?—A. Yes, under the Ontario Co-operative Credit Societies Act.

Q. What is the date of that?—A. 1928.

Q. Do you loan to all civil servants or only to your members?—A. Only to our members.

By Mr. Howard:

Q. How many members have you?—A. About three thousand.

By Mr. Mallette:

Q. What are the qualifications of membership?—A. A member must be employed by the Dominion government, and be resident at or near Ottawa.

By Hon. Mr. Lawson:

Q. And buy a share of stock?—A. And find somebody who is willing to recommend him to the society.

By Mr. Tucker:

Q. And pay \$5 for a share?—A. And pay \$5 for a share.

By Hon. Mr. Lawson:

Q. That is the unwritten endorser, then?—A. Not in that case, no—somebody who thinks he is a fit and proper person to become a member of the society.

By Mr. Howard:

Q. What is the object of purchasing a share?—A. Well, it is required under the act.

Q. Just one share?—A. Just one share. We do that. Ordinarily, these co-operative societies have shares and sell quite a number of shares, which get a higher rate of return than the deposit. They take deposits and then they sell shares if the profits warrant it.

By Mr. Kinley:

Q. You get your money from the civil servants—that is, your capital money?—A. Yes, from the civil servants.

Q. Therefore you lend them back their own money?—A. We lend them back their own money.

Q. Do you give any preference to the man who has shares?

By Hon. Mr. Lawson:

Q. He cannot borrow at all unless he has a share.—A. He cannot borrow unless he is a member of the society.

By Mr. Kinley:

Q. It is only a matter of borrowing your money, that is it?—A. Yes.

By Mr. Martin:

Q. What has been the return on the investment?—A. On the investment? What do you mean?

Q. You say five per cent last year?—A. Five per cent last year.

[Mr. S. Rettie.]

By Mr. Cleaver:

Q. On savings. What is the return on the capital invested?—A. On the capital we do not pay anything.

By Mr. Coldwell:

Q. Do you ask for any endorser?—A. Yes.

Q. One or two?—A. We have a rule that up to \$250, one endorser; for excess over that, two endorsers.

Q. Do you investigate the endorsers?—A. Yes, we look into their capacity to pay. I may say that the society is not awfully concerned about the endorser, any more than it is a means of our getting a line on what kind of a man the applicant is. It is laid down in our unwritten bible—that is the legend we get from the great Desjardins—that endorsers are desirable and necessary to carry on the co-operative business. But the times we have had to have recourse to the endorser are very, very few. I do not suppose that in the thirty years the society has operated, they have had to call on the endorser a dozen times.

By Mr. Howard:

Q. Naturally when you take a transfer of salary from the department, he expects to pay?—A. Yes. We were not always doing that. We had quite large groups of people from whom we did not have these assignments; but it has been an enormous help. The co-operation of the government has made possible the successful operations to a large degree.

By Mr. Maybank:

Q. Last year did you have to write off any debts at all?—A. Well, we have never had to write off a dollar in bad debts. On one occasion there was a very small amount—I think it was less than \$90. The manager concluded that he was negligent and thus responsible for the loss, so he paid it himself. I do not think he should have paid it himself. I think the society should have done that; but he wanted to do it and he paid it. I would say that is the only case.

Q. That is the nearest you ever came to a loss?—A. Yes, the nearest we ever came to a loss was the \$90 that the manager paid.

By Mr. Tucker:

Q. Do you not think the fact that you require endorsers is one of the reasons you have forced some of the members of the civil service to go to some of the small loan companies?—A. Yes, possibly.

Q. Do you not think that, now you have got this additional protection of being able to take wage assignments, you should try to cover the field by dropping the idea of endorsers?—A. That is my own personal view. I have always felt that. I would like to dispense with endorsers; but I cannot get all the other interested people to see the same view.

By Mr. Vien:

Q. Where is your company operating? Where is your head office?—A. Well, we only have one office. It is a small corner in the Confederation building.

Q. You do not pay any rent?—A. No.

By Mr. Martin:

Q. What would happen in a case like this: Suppose a girl, a stenographer working in the Civil Service, the lowest grade, getting say about \$80 a month, required \$250 or say \$350 for some serious operation in the family?—A. We would look at a person on a small salary like that coming for \$350—

Q. She could not get it?—A. Well, no, I would not say that. We would look at it very, very carefully. I know one case, exactly the case that you mention, where a girl—

Q. We are thinking of the same case, probably.—A. I think first she came for \$250 which we gave her. It was for putting her mother in the hospital, as I recall it, and her mother went to the hospital, was treated and came back. Very shortly afterwards the girl came back to us, said her mother had to go back to the hospital again and it was going to cost her \$300 or something like that. We had to turn her down. We concluded that it was not a case that we should lend money for, that it was more or less a case for some charitable institution to look after, because the mother had absolutely no resources, and I think the girl had \$60 a month salary. It was really too big.

By Hon. Mr. Lawson:

Q. See if I understand and follow that. In order for that girl to borrow at all, she would first have to be a member of your organization?—A. Absolutely.

Q. And being a member of your organization would have entailed the purchase of a share of stock at \$5?—A. Yes.

Q. On which investment she would never get any return?—A. No. But she would get it back when she ceased to be a member.

Q. I am talking about a return in the form of interest.—A. No.

Q. In addition to being the owner of that share, would she have to have been a depositor?—A. No.

Q. Not necessarily?—A. No.

Q. She merely has to purchase a share?—A. One share. As a matter of fact, in that case the girl came in and told us the story, bought a \$5 share and got her first loan.

By Mr. Vien:

Q. Is there any limitation on the number of shares to be held by any one member of the association?—A. Yes, only one.

Q. One only?—A. Yes.

Hon. Mr. LAWSON: It is co-operative.

Mr. TUCKER: I hope Mr. Dobson did not take any ideas from this last witness as to the way in which to carry on a tight banking business.

Mr. DOBSON: If we could get free rent and get help without salary, we would be in a good position.

Mr. STEWART: In fact, if you could get some legal irrevocable assignment of a man's pay, you would be in a pretty good situation too, would you not?

Mr. DOBSON: Particularly if they worked for the government.

Hon. Mr. LAWSON: I was going to say if Mr. Dobson could confine his loans to bankers, he would not have many losses.

Mr. DOBSON: They are the one class that is restricted very much from borrowing. They are very much restricted.

The CHAIRMAN: Are there any further questions, gentlemen?

The Committee adjourned at 1 p.m. to meet again at 11 a.m. Thursday, March 10, 1938.

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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 6

THURSDAY, MARCH 10, 1938

WITNESSES

- Mr. George B. Henwood, K.C., Deputy Attorney-General of Alberta,
Edmonton, Alta.
- Mr. Cyrille Vaillancourt, Manager of La Fédération des Caisses Populaires
Desjardins, Quebec City.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

BANKING AND COMMERCE

THE HISTORY OF THE BANKING AND COMMERCE

OF THE UNITED STATES

BY JAMES M. SMITH

THE HISTORY OF THE BANKING AND COMMERCE OF THE UNITED STATES, FROM THE EARLY PERIODS TO THE PRESENT TIME. BY JAMES M. SMITH. VOL. I.

NEW YORK: PUBLISHED BY J. B. LIPPINCOTT, 1854.

MINUTES OF PROCEEDINGS

THURSDAY, March 10, 1938.

The Standing Committee on Banking and Commerce met at 4.00 p.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Clark (*York-Sunbury*), Cleaver, Coldwell, Deachman, Donnelly, Fiset (Sir Eugene), Hill, Jaques, Kinley, Lacroix (*Beauce*), Lawson, Macdonald (*Brantford City*), McGeer, Mallette, Martin, Moore, Perley, Plaxton, Stevens, Tucker, Vien.

In attendance Mr. G. D. Finlayson, Superintendent of Insurance, Mr. George B. Henwood, Deputy Attorney-General of Alberta, and Mr. Cyrille Vaillancourt, Manager of "La Fédération des Caisses Populaires Desjardins", Quebec City.

Mr. Henwood was called and examined.

Witness retired.

Mr. Vaillancourt was called and examined.

Witness retired.

On motion of Mr. Vien,

Ordered,—That the prepared statements submitted in evidence by Mr. Vaillancourt, be incorporated in the printed record.

Mr. L. J. Billy, Manager of "La Caisse Coopérative Notre-Dame d'Ottawa, Limitée", filed with the Committee the financial statement of this Association, being the twenty-fourth Annual Report.

At six o'clock the Committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

REPORT OF THE

COMMISSIONERS OF THE
LAND OFFICE
FOR THE YEAR 1887

ALBANY, N. Y.:
ANDREW DEWEY, STATE PRINTER,
1888.

THE STATE OF NEW YORK,
OFFICE OF THE COMMISSIONERS OF THE LAND OFFICE,
ALBANY, N. Y.,
JANUARY 1, 1888.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

March 10, 1938.

The Standing Committee on Banking and Commerce met at 4 p.m. Mr. W. H. Moore, presided.

The CHAIRMAN: Order, please gentlemen. Mr. Finlayson has some figures he wishes to put on the record.

Mr. FINLAYSON: Mr. Chairman, I was asked to compute the rates for three typical loans of the Canadian Bank of Commerce. There was some question as to the charge for insurance premiums and also as to the interest earned on deposits. I have ascertained the correct figures and the following are the resulting rates for the loans specified: First, assuming that the insurance premium is not a charge against the borrower but is a payment made by the borrower for value, on a loan of \$60, the effective annual rate would be 12·7 per cent per annum; for a loan of \$120 it would be 11·8 per cent and for a loan of \$252, it would be 11·5 per cent. If you assume that the insurance premium is an additional charge against the borrower—

Mr. MARTIN: Well, is it not?

Mr. FINLAYSON: It depends on how you regard it. I have first assumed that the insurance premium is a payment by or on behalf of the borrower for value which he receives in the way of protection. On that view the insurance premium is not an additional charge in respect of that loan. On the other view it is a charge, and in that case the borrower has returned to him only the excess of the interest earned on the deposit over the insurance premium. That has the effect of slightly increasing the effective rate of interest. On a loan of \$60, on that basis, the rate would be 13·7 per cent; on a \$120 loan, the rate would be 12·8 per cent and on a \$252 loan, the rate would be 12·5 per cent. I will hand to the secretary the computation so that anyone can read how they have been computed.

The CHAIRMAN: Thank you, Mr. Finlayson. Now gentlemen, you will recall that at an early stage in our proceedings we advised the Attorneys-General of the several provinces of the reference that had been made to us, and we invited them to make representations if they were interested in our procedure. As a result, we had a communication from the Attorney-General of Alberta, Hon. Mr. Aberhart, who stated that his Deputy Attorney-General, Mr. Henwood, would be in Ottawa today, and if convenient, would be instructed to appear before the committee. I have much pleasure in introducing Mr. Henwood.

GEORGE B. HENWOOD, called.

The WITNESS: Mr. Chairman and gentlemen, I do not know that there is very much I can bring to the assistance of your committee, because the Money Lenders Act has not been, for many years, a live issue in our province. I have not, within the last five years, I think, had any complaints. I may say that there is considerable money lending in the province. But some years ago we had a series of complaints and we found that in so far as the Money Lenders Act itself was concerned—the provisions of the Act—it was virtually a dead-letter with regard to enforcement; and chiefly, Mr. Chairman, because I think there are not sufficient teeth in the Act. There is no provision in it similar to the provision under section 629 of the Criminal Code which gives a right of search, seizure and

removal of books, documents and so on for the purpose of getting evidence in support of the complaints. But in reference to the complaints that I have referred to in Alberta, I think I may say that even if there were that provision, we could not get very far with it; because we would find that those who were alleged to have been violating the provisions of the Act were really acting as agents for companies organized in eastern Canada. So that we would, in all probability, be met with the situation that even if we had the power of search, we would not find the documents which we were looking for. In that connection, those complaints related themselves to what were alleged to have been very exorbitant charges in connection with loans that had been made. There was that complaint; and there was also the complaint that the scheme of loaning was to loan something more than \$500, so as to take the loan outside of the provisions of the Money Lenders Act, on an arrangement made between the borrower and the lender for the immediate return of this fictitious excess. I hardly know how to go on, Mr. Chairman. If there are any questions that you care to ask me, I would be only too glad to try to answer them.

By Mr. Coldwell:

Q. What about small loan companies? Have you many registered in the province of Alberta?—A. No, I do not think we have any registered.

Q. Are there any doing business in the province?—A. I asked Mr. Finlayson about that, and he told me of one. Was it the Security Trust Company, Mr. Finlayson?

Mr. FINLAYSON: The Security Loan, I think.

The WITNESS: Security Trust and Loan.

Mr. FINLAYSON: I have forgotten the name.

By Mr. Coldwell:

Q. Are the people of Alberta in the happy position of not requiring to borrow any money?—A. Oh well, you perhaps know something, through the newspapers, of the position of Alberta. Money is borrowed as it is anywhere; but there have not been the complaints in recent years, as I say, of any unfairness on the part of lenders in the province.

Q. Have some of the companies withdrawn from business during the last two years?—A. I do not know as to that.

By Mr. Vien:

Q. But you have received no complaints against the federally incorporated companies, have you?—A. No, Mr. Vien.

Q. Are you aware as to whether or not any are operating in your province?—A. Well, I could not say as to that. I am sorry, but I did not come particularly well prepared. I just happened to be in Ottawa to-day.

Q. The only point I wanted to clear up was with regard to something you said. I understood you to refer to certain complaints in connection with money lenders whose chief place of business was in the east?—A. Well, the memorandum I had was that the companies then referred to were two companies known as the Crown Finance Company and the Nova Scotia Finance Company. I do not know whether those are federal companies.

Q. They are not federally incorporated.—A. Nor do I know whether they are any longer in existence.

By Mr. Martin:

Q. Is the Crescent Finance Company not operating in Alberta?—A. I do not know of its operations, if it is.

[Mr. George B. Henwood, K.C.]

Q. Has it not an office in Edmonton and one in Calgary?—A. I have not heard of it. If it is operating, we have no complaints with regard to its operations.

By Mr. Vien:

Q. Do you feel it would be desirable, in the public interest, that all money lenders be licensed by the federal government, with a view to having a more direct and effective control on the rates of interest which they may charge?—A. Well, I think if there is to be a general Money Lenders Act, it should be an effective act. We would be only too glad—and I have those instructions from the government I represent—to assist in the enforcement of an Act, if the provisions were such that we could enforce it, upon a complaint being made.

Q. You are aware, I am sure—or are you aware that in the operations of the money lenders who are commonly called sharks and who use wrong practices they disguise, under the shape of service charges, some of the compensation which they exact from the borrower for the amount of money loaned?—A. Quite so. That was the complaint we had.

Q. Would you be favourable to legislation which would style as interest or otherwise, so as to bring it within federal jurisdiction, all the charges that these money lenders can collect from the borrower?—A. Yes.

Q. So as to give the federal government an effective control of the application of the laws regarding interest?—A. We think it should be a matter of federal control, because it cannot very well be a matter of provincial control, assuming that there are companies represented outside of the province in the way that I have suggested.

Q. And it could hardly be a dual control?—A. No, I think not. I do not think there would be any advantage in that.

Mr. CLEAVER: Mr. Chairman, I think the reason that an invitation was extended to each of the Attorneys-General of the provinces was so that we could hear from them as to whether they had any strong views in regard to overlapping jurisdiction. I wonder if this witness would be good enough to indicate whether he has any views in that regard.

The WITNESS: I have had an opportunity to-day of looking through some of the minutes of evidence which Mr. Finlayson very kindly gave me; and it seems to me that the evidence given by Mr. Varcoe is entitled to a great deal of weight.

By Mr. Cleaver:

Q. Would you concur in the opinion which he has expressed?—A. I do not think the question of jurisdiction need arise in so far as the attitude of the government I represent is concerned.

Q. Thank you.—A. I do not know that I could go so far as to say that I concur in that opinion, because I have not given it very careful consideration. But I want to make it clear to you, Mr. Chairman, and to the committee, that the attitude of the government of Alberta is in favour of more strict enforcement of such act as is on the statute books here; that is, if there are complaints which are justified, then there should be a prosecution in respect to those complaints, and we should have an effective method of getting evidence.

Mr. DONNELLY: We think so too.

The CHAIRMAN: Are there any further questions, gentlemen?

The WITNESS: I was going to suggest, Mr. Chairman,—I do not know whether the committee has given any thought to it,—that there might be a supervision set up similar to that under the Combines Investigation Act. It seems to me, if you are going to enquire into complaints, that there should be a supervision by a competent officer, and I am sure Mr. Finlayson would occupy that position well, similar to the powers of investigation given under the Combines Investigation Act.

Mr. VIEN: You will realize that so far Mr. Finlayson and the government agencies at Ottawa can only deal with such companies as were incorporated under federal legislation. We are trying to find a way to pass general legislation which would compel all money lenders to take a licence and thereby fall under the regulation, jurisdiction and supervision of the gentleman who would administer the Act.

The WITNESS: And in that way to take power, if necessary, to seize books, records, and so on.

Mr. VIEN: Yes.

The WITNESS: For the purpose of proper inquiry.

Mr. VIEN: You will note on the draft, which is not yet accepted but suggested to the committee and which is on the record, that that power is suggested in the draft legislation that has been put on record.

The WITNESS: I have not happened to see that yet.

Mr. FINLAYSON: I might just explain the returns we have received from Alberta companies. We have forwarded to a list of companies that we obtained such information as came to us, and the questionnaire that we prepared was sent out to all those companies. We have received only one return. I have not got the name of it just now, but I think it is the Security Loan and Investment Company.

The WITNESS: The Stirling.

Mr. FINLAYSON: Yes, the Stirling, I think.

Mr. MARTIN: Have you got the Crescent Finance Company down there?

Mr. FINLAYSON: Yes, I have it here. Those are all companies incorporated in the province of Alberta. We have only received a return from one. Mr. Martin mentioned the Crescent Finance Corporation with head office in Regina. That company, I see, has branches in Calgary, Edmonton, Medicine Hat and Lethbridge. We have not yet received returns from the Crescent Finance Corporation. I think they are waiting until they have the 1937 figures complete.

By Mr. Coldwell:

Q. There is no law against advertising these loan companies, is there, Mr. Henwood? I notice there are no advertisements in the Alberta papers.—A. No.

Mr. COLDWELL: There is only one pawnbroking business advertised that I could see.

The CHAIRMAN: Are there any further questions, gentlemen? We are very grateful to Mr. Henwood for his appearance.

We have Mr. Vaillancourt present, and I will now call upon him.

CYRILLE VAILLANCOURT, called.

The CHAIRMAN: Mr. Vaillancourt, will you just explain to the committee your position and something about your qualifications?

The WITNESS: Mr. Chairman, I am the manager of the Federation of the Caisses Populaires in Quebec. I will try to explain in English, but if my English is not good, my friends Mr. Lacroix, Mr. Vien or Mr. Mallette may be able to translate for me.

The Caisse Populaire is exactly the same sort of thing as the Credit Union in the United States or Nova Scotia, New Brunswick, and so on.

If you would like to, you can read my brief and my report after which I will be glad to answer your questions.

[Mr. Cyrille Vaillancourt.]

The first "Caisse populaire" was established at Levis (Province of Quebec) on December 8, 1900. Its founder, Mr. Alphonse Desjardins, was also the founder of the Credit Unions presently operating in the United States and in various provinces of the Dominion.

In a comparatively short time, quite a number of similar associations have been formed: on March 1, 1938, there were 393 "Caisses populaires" operating in the province, under the "Quebec Co-operative Syndicates' Act" 1906.

Their importance has been increasing as steadily as their number, so that they are now an important factor in the economical life of many communities.

Their mode of operation is inspired from the Raiffeisen and Schultze-Delitsch systems (Germany). As the name of the Act under which they are operating implies, their advantages are restricted to members only—they are strictly co-operative.

Their aim is to help working classes through short and medium-term loans and at the same time, to encourage thrift among people of small means. In short, people of humble means are encouraged by them to deposit their savings and these are invested mostly in small loans to people of the same class, at reasonable rates. Through economical management and administration, they are enabled to pay a fair return on small investments while charging very reasonable rates on loans.

Interest rate charged varies from 4 per cent to 7 per cent, the average rate being 5 per cent. No commission is charged on renewals and interest is charged every month, based on the actual amount outstanding only.

Example:

Loan: \$120;
Interest: 6 per cent;
Terms: \$10 monthly.

	One month at 6 per cent
January—\$120.	\$0.60
February—\$110 . . . . .	.55
March—\$100. . . . .	.50
April—\$90. . . . .	.45
May—\$80. . . . .	.40
June—\$70 . . . . .	.35
July—\$60. . . . .	.30
August—\$50 . . . . .	.25
September—\$40. . . . .	.20
October—\$30. . . . .	.15
November—\$20. . . . .	.10
December—\$10. . . . .	.05
	\$3.90

Thus, the borrower will have paid but \$3.90 on his loan instead of \$7.20 which would have been charged to him by a money lender who would have discounted interest on the full term of the loan, as is often done.

Furthermore, if the "Caisse populaire" is prosperous, a distribution may be made to members, depositors and borrowers alike, the latter possibly getting a reimbursement or "Ristourne" of say 10 per cent to 15 per cent of the interest paid. In a few cases, a "Caisse populaire"

has financed a municipal corporation at very low interest rates, for instance, Ste-Germaine de Dorchester has benefited from a loan by its "Caisse populaire" at one-half per cent per annum.

The 393 "Caisses populaires" are grouped into six regional unions which are in turn united into "La Federation des Caisses populaires Desjardins" who has complete control of the propaganda and of the auditing of the various units.

This efficient control has been an important factor in maintaining public confidence in these organizations and is largely contributing towards their continued expansion.

In 1932, the legislature, in order to help the Federation in maintaining its efficient supervision has granted a subsidy which has been doubled in 1937. The "Caisses populaires" are also contributing to the propaganda and audit fund by an annual payment based on the revenue of each.

"For the proper inspection of all the 'Caisses populaires,' the Federation is presently employing seven auditors, whose appointment is subject to government approval. Each Regional Union has its own propagandist. The Federation is not only auditing every 'Caisse populaire' but it also controls their managers' fidelity bonds and supervises the investment of their surplus funds.

Under a special provision of the Act, the Federation's approval is required before any 'Caisse populaire' may make any investment, otherwise than by loans to its members which loans are under the control of each 'Caisse's Credit Board.' This rigid control of investments is of course designed to safeguard the members' savings. The annexed schedules will give an outline of the general activities of the 'Caisses populaires' in the province of Quebec and will reveal the steadily increasing importance of the sums entrusted to these institutions over a period of years.

371 'Caisses populaires' reported as of December 31st, 1937	
Total assets.	\$ 16,958,132 93
Outstanding loans to members.	7,326,293 15
Investments in bonds or debentures (Federal, provincial, municipal)	6,395,980 18
Total amount paid on shares in the societies by active members.	2,119,750 76
Accumulated reserves.	1,452,111 25
Cash on hand and in banks.	3,166,381 25
Total members.	67,297
Total depositors.	58,456
Total borrowers.	15,605

To give an idea of the large number of small loans made by these associations, 12,818 small loans on notes have been made during the year 1936.

Further details will be found in the annexed statements."

By Mr. Coldwell:

Q. Do you limit the number of shares that may be obtained by an individual?—A. The number of shares is fixed by every Caisse Populaire. Every share is \$5 at the beginning, and no member can take more than 40 shares.

Q. Forty shares?—A. Forty shares.

Q. At \$5 a share?—A. Yes.

Q. That is a limited investment of \$200?—A. Yes, sir.

[Mr. Cyrille Vaillancourt.]

By Mr. Cleaver:

Q. Do you pay annual dividends to the shareholders?

A. At the end of the year, after all expenses are paid and the rate on the savings deposit is set, the board of directors decide on the dividends.

Q. Could you tell us as to what the average yearly dividend would amount to during the last few years?—A. The dividends vary for every Caisse Populaire, between 3 per cent and 7 per cent. The highest is 7 per cent.

Q. What interest rate do you pay to your depositors?—A. It varies now from two to four per cent, but the average is between two and a half to three per cent.

By Mr. Coldwell:

Q. You mentioned directors; are they paid or do they give their services free?—A. Free. The manager only is paid.

Q. You got a subsidy from the provincial legislature in 1932 which was doubled in 1937?—A. In 1932 we received twenty thousand dollars for inspections. Last year the sum was doubled. We now receive forty thousand.

By Mr. Lacroix:

Q. You mean that the money given by the government was only to make a survey of the books?—A. Yes, sir, to the Federation.

By Mr. Coldwell:

Q. Not to the separate ones?—A. It was only for the Federation to control inspections, to pay the inspectors and propagandists.

Q. Do you get this annually?—A. Annually.

By Mr. Deachman:

Q. What taxes do you pay?—A. To the government? No taxes.

By Mr. Mallette:

Q. You do not own any real estate?—A. In Levis we have a building, and two in Montreal.

Q. You pay municipal taxes?—A. Oh, yes, we pay municipal taxes.

Q. And business taxes?—A. No, no business taxes.

By Mr. Lacroix:

Q. You mean no provincial business tax?—A. No, sir.

Q. Do you pay to the federal government if you make a profit? You pay on your profit, do you not?—A. No.

Q. If you make enough?—A. No. We pay taxes only on the building.

By Mr. Martin:

Q. To the municipality?—A. To the municipality. We do not pay the federal government any business tax.

By Mr. Lacroix:

Q. Or income tax?—A. No, no income tax at all because we are a co-operative organization and our directors receive no salary.

The CHAIRMAN: Gentlemen, I may say that you are at liberty to ask questions in French and have French answers given, because we have a French reporter here who will take down the evidence in French.

By Mr. Mallette:

Q. Is there still a limit to the number of shares that each shareholder can hold in your organization?—A. Yes, but when the unit becomes larger we allow

a greater number of shares. For example, at Levis we have some shareholders who own as much as \$3,000 worth of shares but in the ordinary units it would not be over \$200.

Q. It varies in the different units?—A. Absolutely.

Q. And that is in the large centres like Montreal, Quebec, etc.?—A. That is the biggest.

By Mr. Coldwell:

Q. These are not shares; this is an investment, money on deposit. Are they shares?—A. Yes.

Q. I thought the shares amounted to forty at \$5 each?—A. Yes.

By Mr. Mallette:

Q. Those are shares, they are not deposits?—A. In the beginning we had a limit of forty shares for one shareholder; but as the caisse would progress it would make regulations to permit a larger number of shares. At the beginning we allowed them only forty shares of \$5 each. The reason for that was that the shares are subject to withdrawal just the same as the deposits, with this difference that for the withdrawal of the shares a month's notice must be given, whilst this is not the case as to deposits. From year to year, as the Caisse progresses, the general meeting can decide to allow three or four hundred dollars worth of shares as a maximum. We have to keep control over the amount of shares allowed to a shareholder because if, say, there were ten persons owning \$3,000 worth of shares, and all of them came and asked for their money at the same time, it would take \$30,000, and this might cause the Caisse to fail. That is the reason that we have that limit.

By Mr. Tucker:

Q. Is there any limit on the amount that you receive from depositors, outside of the investment share?—A. We have no limits, but suppose one person came to the Caisse Populaire and offered us \$20,000, we would refuse that. This is for the people only.

By Mr. Lacroix:

Q. For the small man?—A. Small amounts, because the small amount is more stable, and we develop the sense of saving in our own members.

By Mr. Mallette:

Q. Would you tell us what is the biggest amount that you have accepted as a deposit?—A. This all depends on the Caisse itself. For example at Levis we accept deposits of \$5,000 and \$6,000 because that is one unit where business last year was over \$1,700,000, and I think that we could accept deposits of as much as \$10,000 on account of our total assets.

By Sir Eugène Fiset:

Q. The deposits are on the same basis as the shares?—A. Yes, but the deposits can be from one cent and two cents to any amount that you want to put in.

By Mr. Kinley:

Q. Too much money would be a liability. If they could not use it it would be a liability?—A. Yes.

[Mr. Cyrille Vaillancourt.]

By Mr. Vien:

Q. Mr. Vaillancourt, is it your desire to speak French?—A. When I do not understand the question that is put to me I will ask that I be permitted to answer in French, and if you do not understand my French somebody may translate it.

Mr. COLDWELL: That is very good.

By Mr. Lacroix:

Q. Now, Mr. Vaillancourt, with regard to the 12,000 loans of last year, have you anywhere the details of the average of such loans?—A. Yes, sir. If you turn to page three of the appendix you will find the details there. The explanation is all there. In 1936 they ran from \$1 to \$1,000.

Q. You get loans from \$1 to \$1,000?—A. Yes, sir.

Q. Or above \$1,000?—A. Yes, sir.

Q. On the page previous to that you give further details for the city of Montreal and they amount to \$1,500,000 yearly loaned by the Caisse Populaire in the city of Montreal during the six years of the depression, beginning in 1930 to 1935?—A. Yes.

Q. The number for the city of Montreal during these years was 3,408 between \$1 and \$1,000; sixty-four only between \$5 and \$1,000.—A. That refers to notes. In 1935 the total was 12,175 and in 1936, 13,974.

Q. I do not see that on page two?—A. That is found on page three of the appendix, the list of loans made and remitted to "Les Caisses Populaires," of general operating expenses, and of general turnover from the date of foundation to June, 1936. The total amounts loaned to the 251 Caisses Populaires was \$65,000,000 and the total amount remitted \$56,000,000. The expenses amounted to \$1,600,000.

By Mr. Tucker:

Q. When you say "the total amount remitted" you mean the amount repaid I suppose?—A. Yes, repaid.

Mr. VIEN: So that the record may be more intelligible, Mr. Chairman, I would move that the documents prepared by Mr. Vaillancourt be printed. If his explanations follow, they will be more easily understood by referring to the items which this document contains.

"CAISSES POPULAIRES DESJARDINS"

ASSETS AND LIABILITIES

As at December 31, 1937

	Gaspe	Rimouski	Quebec	Montreal	Sherbrooke	Three Rivers	Unaffiliated	Endowments	Total	Reg. Com.	Total
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
ASSETS											
Investments.....	36,500 00	25,930 00	3,165,237 61	589,016 85	81,539 00	752,318 54	39,317 48	86,925 65	4,776,785 13	1,619,195 05	6,395,980 18
Loans to members.....	329,457 80	161,716 14	3,354,541 87	1,524,427 50	243,827 11	1,346,180 90	139,868 65	800 00	7,100,819 97	225,473 18	7,326,293 15
Inventory.....	155 00	586 22	8,399 46	11,983 15	1,589 00	1,220 34	100 00	80 50	24,113 67	1,252 66	25,366 33
Miscellaneous.....			30,143 34	12,904 63	14 50	516 01			43,578 48	533 24	44,111 72
Cash on hand.....	159,367 71	89,234 66	1,240,044 39	409,292 30	193,388 64	664,322 13	13,978 70	14,209 03	2,783,837 56	382,543 99	3,166,381 55
Assets.....	525,480 51	277,467 02	7,798,366 67	2,547,624 43	520,358 25	2,764,557 92	193,264 83	102,015 18	14,729,134 81	2,228,998 12	16,958,132 93
Expenses.....	4,131 09	1,528 07	21,098 52	16,699 38	5,597 99	13,840 57	470 66	68 52	63,434 80	3,280 65	66,715 45
Interest on savings.....	579 03	933 41	3,135 63	11,590 49	4,275 55	2,374 05	0 38	541 23	23,429 77	13,041 53	36,471 30
Bonus.....	80 32	76 69	2,061 93	122 42	129 63	2,895 84	2,643 48		8,010 31		8,010 31
Total.....	530,270 95	280,005 19	7,824,662 75	2,576,036 72	530,361 42	2,783,668 38	196,379 35	102,624 93	14,824,009 69	2,245,320 30	17,069,329 99
LIABILITIES											
Capital stock.....	46,998 45	43,036 51	1,249,445 43	311,833 01	35,691 70	188,735 52	28,424 59	80,363 08	1,984,528 29	135,222 47	2,119,750 76
Savings.....	396,195 25	219,296 66	5,583,316 11	2,015,552 40	465,409 82	2,330,639 68	118,148 60	4,943 57	11,133,502 09	2,007,278 69	13,140,780 78
Loans.....	600 00	1,116 15	49,872 34	7,235 00	1,950 00	24,842 67	7,500 00		93,116 16	15,000 00	108,116 16
Interest on savings.....	37 47	210 90	5,175 17	579 73		3,590 51	454 49	12,769 43	22,817 70		22,817 70
Bonus.....	640 73	165 29	7,891 31	804 44	43 24	4,008 81	250 05		13,803 87		13,803 87
Liabilities.....	444,471 90	263,825 51	6,895,700 36	2,336,004 58	503,094 76	2,551,817 19	154,777 73	98,076 08	13,247,768 11	2,157,501 16	15,405,269 27
Profits.....	8,700 87	3,838 83	78,884 54	47,015 64	11,575 54	32,009 67	543 73	3,162 51	185,731 33	19,625 26	205,356 59
Entrance tax.....	105 10	172 75	2,946 64	829 00	321 29	872 57	5 50		5,252 85	751 96	6,004 81
Reserve fund.....	76,993 08	12,168 10	847,131 21	192,187 50	15,369 83	198,968 95	41,052 39	1,386 34	1,385,257 40	67,441 92	1,452,699 32
Miscellaneous.....											
Total.....	530,270 95	280,005 19	7,824,662 75	2,576,036 72	530,361 42	2,783,668 38	196,379 35	102,624 93	14,824,009 69	2,245,320 30	17,069,329 99
Members.....	3,277	2,458	29,916	10,959	4,412	13,331	454	2,123	66,930	367	67,297
Depositors.....	2,525	2,000	27,481	11,186	3,615	11,269			58,076	380	58,456
Borrowers.....	1,098	543	6,786	2,379	1,189	3,526			15,521	84	15,605
Units reporting.....	25	19	117	76	37	78	3	10	365	6	371

STATEMENT No. 2.

LIST OF LOANS MADE BY AND REMITTED TO "LES CAISSES POPULAIRES", OF
GENERAL OPERATING EXPENSES AND OF THE GENERAL TURNOVER
OF FUNDS, FROM THE DATE OF FOUNDATION TO JUNE 30th, 1936

FOR THE PROVINCE OF QUEBEC

	Number of units	Total amount loaned		Total amount remitted		General operating expenses		General turnover of funds	
		\$	cts.	\$	cts.	\$	cts.	\$	cts.
Unaffiliated "Caisse populaires"	2	2,114,515	24	1,963,685	84	33,602	98	10,448,112	87
Regional Union of Gaspé.....	23	3,209,884	73	2,761,631	50	114,947	25	21,799,155	37
Regional Union of Montreal.....	40	11,022,974	96	9,458,606	71	349,910	54	99,680,372	46
Regional Union of Quebec.....	95	31,423,964	38	26,159,258	32	724,392	66	213,227,763	76
Regional Union of Sherbrooke...	31	896,490	04	651,248	50	30,987	52	8,488,118	49
Regional Union of Three Rivers.	60	16,600,015	93	15,025,653	15	353,813	47	128,571,269	27
	251	65,267,845	28	56,020,084	02	1,607,654	32	482,194,792	22

Percentage of the general operating expenses:— $\frac{1}{3}$ of 1% or $33\frac{1}{3}$ cents per \$100 of the general turnover of funds.

N.B.—The five regional unions existing at the time (there are now six regional unions), the ten Endowment and Provident "Caisses" are not included in the above figures.

For the Cities of	Number of units	Total amount loaned		Total amount remitted		General operating expenses		General turnover of funds	
		\$	cts.	\$	cts.	\$	cts.	\$	cts.
Quebec.....	9	5,863,638	69	4,631,763	65	201,592	13	35,074,991	29
Montreal.....	17	7,548,137	41	6,265,950	73	284,074	59	74,394,735	20
Sherbrooke.....	2	192,568	93	137,696	68	11,781	37	2,261,459	42
Three Rivers.....	2	3,311,188	27	2,883,245	45	96,767	09	36,630,049	53
		16,915,533	30	13,918,656	51	594,215	18	148,361,235	44

Percentage of the general operating expenses:— $\frac{2}{5}$ of 1% or 40 cents per \$100 of the general turnover of funds.

STANDING COMMITTEE

STATEMENT No. 3

LIST OF LOANS MADE AND REMITTED TO "LES CAISSES POPULAIRES", OF GENERAL OPERATING EXPENSES AND OF GENERAL TURNOVER FROM THE DATE OF FOUNDATION TO JUNE 30, 1936

Counties of	Number of units	Total amount loaned		Total amount remitted		General operating expenses		General turnover of funds	
		\$	cts.	\$	cts.	\$	cts.	\$	cts.
Beauce.....	14	2,189,868	44	2,013,600	70	39,801	74	17,765,349	73
Bellechasse.....	4	1,688,191	73	1,349,142	05	33,329	17	16,769,220	31
Bonaventure.....	11	2,571,793	06	2,240,232	89	90,779	19	18,168,954	29
Champlain.....	12	5,127,219	35	4,899,274	37	136,714	13	44,100,947	25
Dorchester.....	7	4,046,476	77	3,389,627	10	34,068	06	35,558,429	06
Gaspé.....	8	171,864	86	138,792	18	4,736	38	1,159,706	54
Matane.....	3	928,291	33	778,220	27	15,798	42	5,712,244	70
Nicolet.....	17	1,862,183	71	1,713,083	67	26,232	41	12,949,789	45
Saint-Maurice.....	6	2,876,486	13	2,607,966	14	41,653	39	17,162,736	56
Sherbrooke.....	2	164,123	24	144,009	18	4,083	32	942,830	77
	84	21,626,498	62	19,273,948	55	427,196	21	170,290,208	66

PERCENTAGE OF THE GENERAL OPERATING EXPENSES

$\frac{1}{4}$ of 1% or 25 cents per \$100 of the general turnover of funds

N.B.—Please note that the "Caisses populaires" situated in the cities of Quebec, Montreal, Sherbrooke and Three Rivers are not included in this list. A special one is compiled for the leading cities of the province of Quebec.

NEARLY A MILLION AND A HALF DOLLARS LOANED BY THE "CAISSES POPULAIRES" IN THE CITY OF MONTREAL DURING THE 6 YEARS OF DEPRESSION BEGINNING WITH 1930 TO 1935 (INCLUSIVE)

	Number of loans	Total amount loaned
Loans on notes.....	3,408	\$ 542,535
Mortgage loans.....	1,158	810,515
Total.....	4,566	\$1,353,050

CLASSIFIED LOANS ON NOTES

Loans from \$ 1 to \$ 25 excl.	1,051	\$ 8,671
" " 25 " 50 "	468	12,616
" " 50 " 100 "	310	36,154
" " 100 " 500 "	1,515	273,887
" " 500 " 1,000 "	64	211,206
Total..... 3,408		\$542,536

STATEMENT No. 4

LOANS AND PROFITS, PEOPLE'S BANKS (CAISSES POPULAIRES), EXERCISE
1935 AND 1936, IN 234 BRANCHES

	1935		1936	
	Number	Amount	Number	Amount
		\$		\$
On notes.....	11,066	1,269,935	12,818	1,493,380
On mortgages.....	772	532,462	663	562,932
On bonds and securities.....	337	1,001,351	493	1,007,550
Total.....	12,175	2,803,748	13,974	3,370,821
Gross profits.....		472,543 17		459,601 46

CLASSIFICATION OF LOANS ON NOTES

Showing the number of loans according to the size of the amount loaned for 234 branches

From	Number of loans	Loaned amount
		\$
\$ 1 to \$ 24.99.....	3,904	43,634
25 to 49.99.....	2,225	74,556
50 to 99.99.....	2,645	174,140
100 to 199.99.....	2,197	277,770
200 to 299.99.....	837	189,820
300 to 399.99.....	371	118,502
400 to 499.99.....	174	74,055
500 to 599.99.....	139	71,451
600 to 699.99.....	60	37,651
700 to 799.99.....	32	23,084
800 to 899.99.....	32	26,181
900 to 999.99.....	20	19,191
Over \$1,000.....	182	368,345

Total of loans on notes:—Number of loans, 12,818; Amount loaned, \$1,498,380.

VARIATIONS OF CAPITAL STOCK OF PEOPLE'S BANKS

Year	Capital Stock			Number of members	Average capital per member	Number of banks	Average capital per bank
	Paid up	Refunded	Remaining				
	\$	\$	\$		\$		\$
1917.....	146,507	72,220	837,592	25,669	32	93	9,000
1918.....	132,006	66,405	907,857	27,593	33	98	9,267
1919.....	188,235	74,853	1,034,301	29,795	34	100	10,340
1920.....	230,816	75,998	1,199,170	31,029	38	113	10,610
1921.....	241,537	96,326	1,328,991	33,166	40	100	13,290
1922.....	189,182	115,982	1,355,309	32,173	42	108	12,550
1923.....	190,785	123,892	1,388,591	31,752	43	111	12,510
1924.....	165,494	98,469	1,441,373	31,250	46	119	12,110
1925.....	167,839	91,024	1,534,051	33,279	46	122	12,570
1926.....	163,201	93,964	1,507,014	36,298	41	154	9,800
1927.....	166,287	88,356	1,723,961	41,365	41	159	10,840
1928.....	213,866	117,955	1,767,090	41,374	42	168	10,520
1929.....	161,990	109,818	1,850,541	44,835	41	178	10,380
1930.....	126,411	134,492	1,831,694	45,767	40	179	10,230
1931.....	95,513	128,393	1,776,049	43,641	40	174	10,200
1932.....	77,030	141,116	1,619,670	40,933	40	168	9,640
1933.....	53,704	121,718	1,483,324	36,470	41	162	9,160
1934.....	97,136	118,435	1,514,070	38,811	39	177	8,555
1935.....	136,997	88,134	1,557,076	43,045	36	199	7,824
1936.....	176,208	85,233	1,574,704	49,890	31	234	6,758
	3,120,744	2,042,783					

SAVING TRANSACTIONS OF PEOPLE'S BANKS

Year	Amount deposited	Amount withdrawn	Deposits remaining	Number of depositors	Average deposit by depositor	Number of banks	Average deposit per bank
1917.....	4,751,518	4,147,159	2,116,054	18,977	111	93	22,750
1918.....	5,763,881	5,382,651	2,513,405	20,672	121	98	25,640
1919.....	8,453,536	7,297,026	3,682,050	23,451	157	100	36,820
1920.....	10,529,628	9,667,920	4,558,053	26,238	173	113	40,330
1921.....	10,304,589	10,129,424	4,602,203	30,570	150	100	46,020
1922.....	6,668,561	7,334,935	3,912,375	30,583	128	108	36,220
1923.....	7,462,071	6,862,423	5,546,339	29,771	150	111	40,950
1924.....	8,922,645	8,230,520	5,234,973	30,874	170	119	43,990
1925.....	9,421,380	8,922,721	5,799,951	33,527	173	122	47,540
1926.....	10,727,346	9,997,154	6,313,532	37,343	169	154	40,990
1927.....	13,408,563	12,311,982	7,859,954	40,753	192	159	49,430
1928.....	14,244,035	13,457,731	8,092,968	40,568	200	163	48,170
1929.....	15,147,018	15,370,605	8,090,614	44,685	180	178	45,450
1930.....	14,021,284	14,053,755	7,750,875	44,940	172	179	43,300
1931.....	11,604,832	11,966,213	7,436,861	43,207	172	174	42,740
1932.....	8,578,836	9,426,961	6,189,794	40,201	154	168	36,840
1933.....	7,127,428	7,502,889	5,586,812	37,683	148	162	34,490
1934.....	7,522,689	7,171,415	6,089,713	39,723	154	177	34,400
1935.....	9,297,288	8,535,890	6,865,477	42,856	160	199	34,505
1936.....	11,904,751	10,801,832	7,692,407	49,796	154	234	33,015
	195,861,879	188,571,206					

STATEMENT No. 6.

LOAN TRANSACTIONS OF PEOPLE'S BANKS

Year	Loans granted			Loans repaid	Loans outstanding		
	Amount	Number	Average		Amount	Number of borrowers	Average
	\$		\$	\$	\$		
1917.....	2,306,171	12,741	180	1,796,574	2,534,134	7,458	340
1918.....	2,623,095	14,293	180	2,195,190	2,901,517	8,056	360
1919.....	3,667,004	14,386	250	2,590,282	3,976,940	9,148	430
1920.....	4,341,543	15,390	280	3,071,338	5,181,391	9,213	560
1921.....	4,248,725	14,983	280	3,476,322	5,799,282	9,219	620
1922.....	2,891,092	13,367	210	3,244,932	5,292,322	8,999	580
1923.....	3,429,444	12,273	270	2,797,933	5,596,589	8,373	660
1924.....	3,763,852	11,017	340	3,032,071	6,327,516	8,414	750
1925.....	3,919,960	13,794	280	3,394,208	7,087,211	9,384	750
1926.....	4,496,955	15,843	280	3,609,813	7,668,292	10,418	730
1927.....	4,778,761	16,832	280	3,624,570	9,371,925	11,754	790
1928.....	5,047,769	17,403	290	4,201,771	9,592,607	11,885	800
1929.....	4,249,650	17,994	230	3,853,001	10,314,622	13,553	760
1930.....	3,724,537	18,857	200	3,664,922	10,142,575	14,278	710
1931.....	2,998,046	16,203	185	3,400,013	9,762,338	13,240	735
1932.....	2,157,886	13,283	160	2,864,183	8,605,440	12,363	695
1933.....	1,682,551	11,407	150	2,340,816	7,667,919	10,784	710
1934.....	2,141,801	11,295	190	2,113,368	7,934,002	11,230	707
1935.....	2,803,748	12,75	230	2,417,586	8,287,077	11,987	691
1936.....	3,370,821	13,974	241	2,483,578	8,943,821	13,453	665
	68,643,411	287,510					

SUMMARY OF OPERATIONS OF CO-OPERATIVE PEOPLE'S BANKS, FROM 1932 TO 1936

Designation	1936		1935		1934		1933		1932	
	\$	cts.	\$	cts.	\$	cts.	\$	cts.	\$	cts.
RECEIPTS										
Cash on first day of year.....	1,322,556	90	996,053	34	697,711	94	620,338	66	735,626	83
Capital stock.....	176,208	13	136,996	81	97,136	02	53,703	90	77,029	54
Savings.....	11,904,751	25	9,297,287	63	7,522,689	12	7,127,428	47	8,578,836	14
Loans refunded.....	2,483,577	84	2,417,586	32	2,113,367	61	2,340,815	88	2,864,183	31
Entrance tax and profits.....	469,599	84	475,696	64	444,930	35	453,817	32	533,748	54
Loans.....	117,453	82	82,477	09						
Sundries.....	35,529	91	24,593	20	158,487	33	245,752	95	384,410	30
Total.....	16,509,677	69	13,430,691	03	11,034,322	37	10,841,857	18	13,173,834	66
DISBURSEMENTS										
Capital refunded.....	85,233	21	88,133	99	118,434	80	121,715	69	141,115	67
Savings refunded.....	10,801,832	23	8,535,890	43	7,171,414	88	7,502,888	81	9,426,960	86
Loans and investments.....	3,370,821	22	2,803,747	69	2,141,800	70	1,682,551	46	2,157,886	75
General expenses, sundries.....	237,965	06	265,083	41	300,341	84	552,010	66	439,857	21
Bonus.....	77,642	92	82,973	14	84,219	36	84,281	49	96,709	11
Interest on savings and loans..	198,763	93	197,449	30	214,949	19	221,024	61	255,275	34
Loans reimbursed.....	178,588	05	82,399	99						
Cash on last day of year.....	1,558,831	07	1,375,013	08	1,003,161	60	677,384	46	656,029	72
Total.....	16,509,677	69	13,430,691	03	11,034,322	37	10,841,857	18	13,173,834	66

STATEMENT

Assets	1936		1935		1934		1933		1932	
	\$	cts.	\$	cts.	\$	cts.	\$	cts.	\$	cts.
Loans unrefunded.....	8,943,820	81	8,297,076	53	7,934,001	54	7,667,919	39	8,605,439	79
Cash.....	1,558,831	07	1,375,013	08	1,003,161	60	678,758	55	656,029	72
General expenses.....	72,574	59	103,754	07	97,940	11	76,029	35	89,027	99
Sundries.....	271,528	79	277,910	54	112,693	15	113,695	84	112,400	73
Total.....	10,846,755	26	10,043,754	22	9,147,796	40	8,536,403	13	9,462,898	23
LIABILITIES										
Capital stock.....	1,574,704	40	1,557,075	70	1,514,069	71	1,483,323	59	1,619,670	40
Savings.....	7,692,407	08	6,865,477	05	6,089,712	64	5,586,812	14	6,189,794	09
Bonus.....	15,819	48	18,301	38	19,928	32	19,379	75	21,953	74
Interest on savings.....	10,129	28	8,273	10	9,813	72	11,707	95	13,675	28
Sundries.....	78,428	42	139,407	21	142,238	54	121,072	70	288,670	86
Funds.....	1,234,243	20	1,228,552	97	1,172,099	52	1,109,640	94	1,094,486	50
Entrance tax and profits.....	241,023	40	226,666	81	199,933	95	204,466	06	234,647	36
Total.....	10,846,755	26	10,043,754	22	9,147,796	40	8,536,403	13	9,462,898	23

PROGRESS OF CO-OPERATIVE PEOPLE'S BANKS

Designation	1936	1935	1934	1933	1932
Number of banks.....	234	202	184	162	168
Members.....	49,890	43,045	38,811	36,470	40,933
Depositors.....	49,796	42,856	39,723	37,683	40,201
Borrowers.....	13,453	11,987	11,230	10,784	12,363
Loans granted—					
Amount.....	\$3,370,821	\$12,803,748	\$12,141,801	\$1,682,551	\$2,157,886
Number.....	13,974	12,175	11,295	11,407	13,283
Profits realized.....	\$459,601	\$472,543	\$441,876	\$452,220	\$531,765

The WITNESS: The percentage of the general operating expenses amounted to one-quarter of one per cent or twenty-five cents per \$100 of the general turnover of funds.

By Mr. Finlayson:

Q. What security do you take for loans to the members?—A. That is a good question to ask. The first is morality. For an amount of \$50 to \$100 only the personal signature, endorsement.

By Mr. Lacroix:

Q. Below a hundred no endorsement?—A. Bond.

By Mr. Mallette:

Q. What decides the morality?—A. We operate only in the locality. The three members of the credit board know all the people of that locality, and all about their morals.

By Mr. Kinley:

Q. Have you a lien on the shares of the man to whom you make the loan?—A. A mortgage?

Q. If the man owns the shares?—A. Yes. Suppose you have \$200 in shares you can borrow \$100 or \$200 if you want to, without security.

By Mr. McGeer:

Q. Your borrowing is not confined to shareholders?—A. Yes.

Q. Is your lending confined to members, shareholders of this society?—A. Yes.

Q. You do not lend to anybody who is not a member?—A. No. The first thing that is necessary for a borrower is to join the society.

Q. What are the conditions under which he joins?—A. They have to pay ten cents per week. If they take a \$5 share they have to pay ten cents per week.

By Mr. Lacroix:

Q. On account of the \$5?—A. On account of the shares.

By Mr. McGeer:

Q. What are the conditions of morality that you mentioned in connection with the membership. Can anybody join?—A. No, anybody cannot join. Suppose I am a bootlegger; if I am, I cannot join the Caisses Populaires.

Q. The question he first asked brought this question up; what is the security taken—but, first he has to be a member of the society?—A. Yes.

Q. The terms upon which he can become a member are that he subscribe for five dollar shares, then that he will pay that amount of ten cents per week over a period?—A. Yes.

Q. Then there were some other conditions as to his standing as a citizen and as to whether he would be accepted in the society or not. I take it that that is merely that he be a good citizen, that he is not a criminal?—A. That is it.

Q. But there is no limitation generally speaking on the joining of this society that would preclude the general rank and file of citizens of Montreal, or Three Rivers, or Quebec or any other city in the province of Quebec?—A. That is right.

Q. Then I asked him if there were any special qualifications and he said no there are none. The board of directors of that particular caisse considers the application and if he is a good citizen, without anything objectionable to his record, he is accepted?—A. That is it.

Q. Then the first loan of under one hundred dollars would be made to him on his own note?—A. Ordinarily.

Q. And above that, any sums over \$100 requires an endorser?—A. An endorser, yes.

Q. Are there cases in which additional security is required, additional to the endorser?—A. Yes, for \$1,000 I suppose we take a mortgage.

By Mr. Martin:

Q. A chattel mortgage?—A. A mortgage on land.

By Sir Eugène Fiset:

Q. Not only on the land but also on his personal property?—A. Well, not yet, the law is going to be amended.

By Mr. McGeer:

Q. How high do you go with an endorser; that is, you give up to \$100 without an endorser and how far do you go with an endorser without any other security?—A. To \$1,000.

Q. That is, you lend up to \$1,000 with an endorser without other security?—A. Yes, without other security.

By Mr. Kinley:

Q. Dealing with the question of security, Mr. Chairman; suppose a man has \$200 of shares in the society?—A. Yes?

Q. And you lend him \$200 and he defaults, can you hold his share money to pay the bill?—A. Yes, sir.

Q. That is additional security?—A. Yes, sir.

By Mr. McGeer:

Q. All of the loan shares subscribed for in so far as they are paid up is security for you with respect to the loan, but you will lend up to the full value of these shares without security?—A. Yes.

Mr. MARTIN: In the case of an endorser for a loan of say \$500, what would you do about determining the possibility of realizing from the endorser if the man who gave you the note fails to pay?

The CHAIRMAN: I think you will get further ahead if you will take my advice about asking your questions in French. I understand this is a bilingual committee.

By Mr. Martin:

Q. I would like to know how you find out if the endorser is good or not?—A. As I told you a while ago, our Caisses Populaires are parochial institutions. You know as well as I that in a parish everybody knows everybody else. The board knows if a man is worth something or not. They know a man's way of living. Take for example a man who leads a dissipated life, if he comes to the Caisse to borrow \$500 to buy himself an automobile to go on making a fool of himself, of course he will not get a loan.

Mr. VIEN: On the question of the procedure followed to determine the solvency of the endorser, witness says that they lend only to people who are well-known in the community. The credit board knows the people who apply for loans, and if they see that a borrower lives in excess of his means, and desires to borrow to be more extravagant they will refuse such a loan.

The CHAIRMAN: I think possibly the members of the committee are following, Colonel Vien.

[Mr. Cyrille Vaillancourt.]

By Mr. Martin:

Q. Can you tell us what losses you have had?—A. In the last 35 years out of loans totalling \$200,000,000 our losses have not been more than \$100,000. That will be about two-fifths of one per cent.

By Mr. Lacroix:

Q. Those losses would amount to only about one-half of one per cent?—A. One-twentieth of one per cent.

Mr. MARTIN: Witness stated in French that of that \$100,000 there was a large amount stolen, there were two thefts.

Mr. LACROIX: They were not all losses then?

The WITNESS: There were two thefts; one of \$23,000, and one of \$10,000, making \$32,000.

Mr. MARTIN: And the real loss was therefore that much less.

By Mr. Tucker:

Q. That loss would be one-twentieth of one per cent, approximately, including what was stolen?—A. Yes.

Q. In the schedules you have here, page 1, general operating expenses, for example in the regional units at Three Rivers where there are 60 units you show operating expenses of \$13,000; that would be almost altogether paid in salaries to the secretaries of each of those units, I suppose?—A. Yes, sir.

By Mr. MacDonald:

Q. In joining the association do you subscribe for a five dollar share, and then you pay 10 cents a week?—A. Yes.

Q. And supposing a man joins and he pays his 10 cents the first week, 10 cents the second week; then, how much can he borrow?—A. He cannot borrow before three months in that case, because it is necessary to know if this man is sincere.

By Mr. Donnelly:

Q. Can you give us any idea of the amount of the collections you have had to make from endorsers of notes because of the default of the original signer?—A. No, I could not give you the exact amount. But I can tell you that at Levis, which is my city, the Caisse Populaire, in the whole fifty seven years of its history, has never had to collect.

Mr. DONNELLY: The endorsers get out pretty well there.

By Mr. MacDonald:

Q. Going on with my question; you say at the end of three months you would accept his application?—A. Yes.

Q. For how much?—A. That all depends on the man. Suppose this man is on relief, we could not lend him very much.

Q. You would not lend him very much?—A. No, unless he could get an endorser satisfactory to us.

Q. Or give other security?—A. Yes.

Mr. VIEN: I see on a page of your tabulation a distribution of your loans for the year 1936 with respect to amounts. Have you figured out what the percentage of your total number of loans is and also the amount lent; for loans under \$50, for instance. Have you any calculation in percentages to show that?

Mr. CLEAVER: From figures I have here it would appear that 89 per cent of their loans are for amounts of \$500 or under; and in dollars about $\frac{2}{3}$ in the dollar amounts loaned.

Mr. VIEN: That is quite accurate. I figured it out about that way. My figuring is the following: For loans under \$50 I find 6,120 loans, which would be 48 per cent of the total number of loans. I find an amount of \$118,190, or 68 per cent of the total amount lent. Would that be correct?

The WITNESS: I think so.

By Mr. Vien:

Q. Then I find that loans from \$50 to \$500 number 6,124, or 48·5 per cent of the total number of loans; the amount being \$834,287, or 55 per cent of the amount lent. I find that for amounts over \$500 you have 465 loans, or 3½ per cent of the number of loans, and \$545,903, or 37 per cent of the amount lent; 3½ per cent in number and 37 per cent in value. Therefore that would mean that a little less than 50 per cent of your business was in the field of loans ranging from \$50 to \$500?—A. Yes.

Q. Can you tell us the total number of local institutions in which these figures 12,878 loans originated?—A. There are 234 institutions.

Q. Did you say 234 branches?—A. Yes.

Q. On page 3 you give us the way you invest your funds—loans and profits, People's Banks. You have 43 per cent of your assets invested in loans to members and 57 per cent in cash on hand. That is shown on page 9, I think it is.—A. Yes.

Q. You show how that is distributed. I see that you have 43 per cent of your assets invested in loans to members and 57 per cent in cash on hand, in banks and in bonds and debentures?—A. Yes.

Mr. McGEER: What page is that?

The WITNESS: The last page. (*Statement No. 7*).

Sir EUGENE Fiset: These are declarations by Mr. Vien.

Mr. VEIN: I am asking Mr. Vaillancourt. He can verify them.

The WITNESS: I can verify them.

By Mr. Vien:

Q. The dollars and cents figures are given on Statement No. 7 and the percentages are my own calculations, but I think they are accurate. Would it be approximately correct to say that you have about 43 per cent of your assets invested in loans to members?—A. Yes; but that is only true because many of our Caisses Populaires lend money to their municipalities.

Q. Yes?—A. They finance their own municipalities for probably more than a million dollars.

Q. Would that be in the form of bonds or debentures?—A. Yes, the form of bonds and debentures: the same thing with the school board.

By Mr. Kinley:

Q. I suppose you carry their over-draft?—A. No draft, but notes.

By Mr. Vien:

Q. This is the point I wanted to bring out, and I would ask you to check me as to whether or not it is correct. If there is only forty-three per cent of your assets, the product of your shares or the product of the deposits with you, on loan to your members, why is it that you have only forty-three per cent of your assets lent to members?—A. Yes—plus our municipalities or our school boards.

Q. Yes?—A. These organizations are members of our Caisse Populaire.

Q. Oh?—A. They are members of the Caisse Populaire, and this loan is not included in the loans to our members.

[Mr. Cyrille Vaillancourt.]

Q. They are not?—A. No; that is public loans.

Q. They are indicated as investments?—A. Yes, as investments. In the city of Levis we have loaned a quarter of a million dollars to our city.

Q. I wanted to ask you what determines your policy in distributing your assets as between investments and loans to members. Would it be because you have no demand from members?—A. Yes.

Q. And you invest in other securities?—A. Yes.

Q. That is your reason?—A. Yes. But another thing, our general policy is we have thirty-five per cent of the total assets in cash on hand, or in debentures.

By Mr. Kinley:

Q. Do you ever make temporary loans from the banks?—A. From the banks?

Q. Yes?—A. During the summer time; especially the central Caisse.

Q. How much do they charge you?—A. The banks?

Q. Yes?—A. Now we have a better price.

Q. What is it?—A. Four per cent.

Q. You pay four per cent to the bank?—A. Yes, guaranteed.

Q. Of course; by what?—A. By debentures; guaranteed by federal debentures.

Q. You deposit security for the loan?—A. Yes.

By Mr. Mallette:

Q. You do not sell those bonds?—A. No, we deposit them as security for the loans that we get and which are for only fifteen days or three weeks. We might lose a point or two by selling them.

Q. But you can buy them back again?—A. Yes, we could buy them back if they go up in price. It may happen, but on the other hand we might have to take a loss. These loans are made only by the Central Caisse as the other caisses have no need of them. We do buy and sell securities at the central Caisse but when we need a loan for only fifteen days or three weeks we do not take the chance of losing a quarter or half a point. On say \$100,000 it would amount to something.

Q. You consider that as a speculation?—A. Yes.

Q. Have you a classification for the year 1936 of the loans outstanding? What I have in mind is to ask you how much in the year 1936, or at the end of the year 1936 you had outstanding in notes, mortgages or in bonds?

Mr. LACROIX: The last page, page 9 (Statement No. 7).

The WITNESS: Loans, \$8,943,000.

By Mr. Vien:

Q. What I had in mind was to ask how much of that amount was in notes?—A. And mortgages?

Q. Mortgages and bonds?—A. Wait a minute.

Q. If you have not got it, could you prepare a statement of that, as to how this amount was distributed in loans outstanding on the 31st of December, 1936, which is the last year for which figures are available?—A. On page number 3 (Statement No. 4), 1936, on notes and on mortgages the amounts are given.

Mr. MARTIN: And bonds.

The WITNESS: And bonds.

By Mr. Vien:

Q. That is the total amount during the year. But what I would have liked to find is how much of that was outstanding at the end of the year, on the 31st

of December. That would help us to determine the length of the period for which a loan is made, if you could give that figure as outstanding on the 31st of December.

Sir EUGENE Fiset: When does the fiscal year end?

By Mr. Vien:

Q. If you have not got it, I do not want to take the time of the committee. You can prepare it and file it.—A. That is very easy.

Q. What is your fiscal year?—A. It all depends.

Q. Each bank has its own?—A. Yes. But the average in the cities is—

Q. Is it the calendar year?—A. —at the end of November; and for the country, it is the last day of May.

By Sir Eugene Fiset:

Q. In the report which appears on page three (Statement No. 4) you show figures as of the end of 1936, are those figures for your fiscal year or for the calendar year 1936?—A. Those figures are for the fiscal year of each society which ended in 1936.

Q. What do you mean by that?—A. For twelve months for each Caisse. Some of them have their fiscal year ending in November, in May, in July, but generally the fiscal year ends either in May or in November. Those figures are for the twelve months for each Caisse.

By Mr. Tucker:

Q. Up to that time you got no help from any government in extending your movement?—A. Oh, yes, sometimes we received something from the provincial government; one year, \$2,000; in 1930, \$2,000.

Q. One of the things that strikes me as strange is that this movement should have spread over the province to such an extent when such has not been the case, say, in the province of Ontario where conditions are much the same. I know conditions are different in some ways, but I wondered if Mr. Vaillancourt could tell us why it was that this movement has become so widespread in the province of Quebec? Was it due to the support of the church?—A. Yes.

By Mr. Martin:

Q. What percentage of applications for loans are granted?—A. I do not know. I never made a review of it. Levis is my city and I know all about the Caisse Populaire at Levis. At Levis, the average is 75 per cent.

By Mr. Donnelly:

Q. Is accepted?—A. Yes, accepted.

By Mr. Kinley:

Q. What per cent do you get from the municipality? That is, what is the prevailing rate for money loaned to the municipality?—A. At Levis it is four per cent.

Q. In Levis you were in competition with the banks?—A. The banks lend at the same price.

Q. They lend at the same price, but you have the advantage in that you do not pay taxes?—A. We pay taxes for buildings.

Q. I know, but you have advantages. You have paternalism which they do not have?—A. Yes. Three years ago the city of Levis was in a very bad shape financially, and we asked the bank—

Q. You took a chance?—A. —to furnish the money. The bank refused then, and the Caisse Populaire saved the city of Levis. We saved our city ourselves.

[Mr. Cyrille Vaillancourt.]

Mr. MALLETT: Good citizens.

The WITNESS: There was a total debenture issue of nearly a quarter of a million dollars. We took \$100,000 on the condition that the bank took \$50,000, the government \$35,000 and the electric company \$15,000, at par. The city of Levis paid only \$143 for the total financing of nearly a quarter of a million dollars.

By Mr. Finlayson:

Q. To what length of time do you make loans to borrowers?—A. On mortgages, not more than ten years.

Q. But on notes?—A. If a man came to the Caisse Populaire and asked for \$300 and said "I cannot pay more than \$10 a month," we are satisfied and we loan it to him at ten dollars a month.

Q. For two years and a half?—A. Yes.

By Mr. Vien:

Q. Do you charge for renewals of notes?—A. No.

Q. Do you compound the interest?—A. No.

Q. I was looking at the report of 1931 with which you are familiar. I see at page 29 of that report that Mr. Poirier was asked if the rate was being compounded every three months:

Q. Do you compound that interest, every three months?—A. Every three months.

Q. There is no difficulty, because you exact the payment of interest monthly?—A. Yes, monthly; and if the member does not pay the monthly instalment, we refuse to renew the note. He will give us \$1 in good faith and we will renew it.

A. Up to 1930, some Caisse Populaires charged fifty cents or one dollar for renewal notes, but now that does not occur.

Q. It is no longer done.—A. No. The Federation was organized in 1932.

Q. It is no longer being done?—A. No.

Q. No compound interest and no renewal charge?—A. No.

Q. You told me that if there is only forty-three per cent of your assets loaned to your members it is because you have not any greater demand from reliable borrowers. How do you explain that? Is it because the class of people to which your members belong do not require money, or is it because the exaction with respect to the qualifications of borrowers?—A. Yes, sir. With the relief we are more suspicious of borrowers. Many labouring men were working during the summer time and in the winter time, and it was not necessary for them to be on relief. Now that they have ceased working they have immediately gone on relief and these men are not good for us. We are afraid of them.

Q. And the amount lent to your members is smaller?—A. Yes.

By Sir Eugene Fiset:

Q. In other words, the relief has affected to such an extent the credit of the men that were borrowing from you that you do not dare lend now to them?—

A. Absolutely.

By Mr. Vien:

Q. In other words, your requirements of the borrower are more restricted than they were on account of the circumstances that you have explained?—

A. Yes.

Mr. KINLEY: A man will not borrow money if someone will give it to him.

By Mr. Vien:

Q. What is your experience with reference to the repayment of the loans you make to your members? Will they generally live up to their undertaking or have you had a varied experience in that respect? As a general rule, your borrower pays regularly?—A. Yes, before 1930. In 1929 especially, with such a period of prosperity, the manager of the Caisse Populaire never asked borrowers for money, simply to pay their interest, that is all. But after 1929 the board asked that the borrowers refund the money. On the first of January, 1932, our total assets, 162 Caisses Populaires, were seven and one half million dollars. In 1937, last December, with 393 Caisses Populaires, the total assets were seventeen million dollars.

Mr. KINLEY: Hard times should improve your business.

The WITNESS: We have improved our business and we have convinced our members that the salvation will come from ourselves.

Mr. KINLEY: Your business depends on the desire of people to lend money, and in hard times they lend money and in good times people have money.

By Mr. Vien:

Q. On page 39 of the 1931 report, I find that you said 90 per cent of your loans were to farmers in the Quebec district?—A. In the Quebec district, but not now.

Q. Not now?—A. No.

Q. That does not apply now?—A. It is fifty-fifty now, fifty to the farmers and fifty—

Mr. KINLEY: To industrialists.

The WITNESS: Yes, in the city.

By Mr. Vien:

Q. What is the average term of the loan on notes?—A. It all depends on the borrowers. One man might come to the Caisse Populaire and ask us for \$200.

Q. And you may give him twenty months to repay at \$10 a month?—A. Yes.

Q. I understand that. What I had in mind is whether you could say what takes place in practice, or what is the ordinary term of a loan on a note with an endorser?—A. On notes, ordinarily not longer than five years with an endorser; and for a mortgage not more than ten years.

Q. What I would like to know is the amount that an individual who borrows from your bank on a mortgage or with an endorser has to remit to you every week or every month?—A. That depends on the borrower. In our Caisse Populaire we do not do business with big financiers; we transact business with the working men. Some of them work by the week and are paid by the week. Others are paid by the month. A man who comes to borrow \$100 will say "Well, I can give you \$1 a week." The other man who is paid by the month will say "I can give you \$5 or \$10 a month." Each loan is treated separately, and it all depends on the borrower. But as far as giving an average, I could not tell you.

Q. I understand that as to the point of view of your rules, Mr. Vaillancourt, but, in practice, what does happen? In practice, what would you say is the length of time your borrowers borrow money? Would you say that it is for more than a year or for less than a year?—A. I would say that the average would be about two years on notes. On mortgages it ranges between five and ten years.

By Mr. Tucker:

Q. Is there the possibility that there would be a large number of credit-worthy people in the province of Quebec who wished to borrow sums of money

[Mr. Cyrille Vaillancourt.]

under \$500 and who could not get credit from the Caisse Populaire in the province of Quebec?—A. From the other province?

Q. No, no.

By Sir Eugène Fiset:

Q. Not necessarily that, but a group, not an organized group, but say ten or fifteen people separately, if they are not members, they cannot borrow \$500 each?—A. If they are not members it is no use. Take my case, I am the manager of the Quebec co-operative organization. Our co-operative organization is connected with the central Caisse Populaire.

By Mr. Vien:

Q. The Federation?—A. Not the Federation. We have five regions or districts. Our organization is connected with the Quebec regional Caisse Populaire, and this organization loans us money every year guaranteed by the organization.

By Mr. Mallette:

Q. Anybody can become a member of the Caisse but they have to wait three months before being able to borrow?—A. Not necessarily.

Q. In other words if he wants to become a member of your association he must pay \$5 right away?—A. Exactly.

By Mr. Tucker:

Q. There is no reason why any credit-worthy person cannot become a member of the Caisse Populaire in Quebec?—A. No, no.

Q. As I understand it from your evidence, there is no reason why any credit-worthy person should not be able to become a member of a Caisse Populaire in Quebec and get a loan of an amount of which is worthy of credit from your organization?—A. No, not if you are a member.

By Mr. Donnelly:

Q. If you are not a member, can you not pay \$5 and join right away?—A. Sure

Q. Take the case of a man with sickness in his family but who has a job and who wants to borrow \$50; can he go and pay in \$5 and buy a share and borrow the money right away?—A. Yes.

Mr. MALLETTE: If he is reputable.

The WITNESS: No, no. If he can furnish an endorser. When I spoke a few moments ago of three months, I was referring to a man who came to the Caisse Populaire and took a share but has no guarantee. He can give only ten cents, but it is necessary to pay—

Mr. DONNELLY: The \$5 first.

The WITNESS: Yes.

By Mr. Tucker:

Q. He pays in full?—A. No, it is not necessary that the share be paid in full, but only ten cents a week.

Q. What I am getting at is if anyone who is credit-worthy needs some money in the province of Quebec and can provide one good endorser he can go and if he has enough to pay, say, half on the share, he could then get a loan at once from your organization? That is correct is it not?—A. Yes.

Mr. VIEN: Not exceeding \$1,000.

The WITNESS: That depends on the financial strength of the Caisse.

By Mr. Tucker:

Q. I take it from what you have said that you have plenty of capital to meet the needs of credit-worthy borrowers?—A. Yes.

Q. So that there is no great need in your province to permit a small loan company to enter there to look after the needs of credit-worthy borrowers?—A. Oh, well—

Q. Do you think that there is any need of parliament authorizing small loan companies to enter your province to take care of the needs of credit-worthy borrowers who want to borrow under \$500?

Mr. VIEN: What is your answer?

By Mr. Lacroix:

Q. Is it necessary that in the province of Quebec small loan companies be allowed to loan money to the people?

Mr. MALLETTE: The witness cannot answer that question. Outside of those who are members of your organization there is a certain class of people that you cannot accommodate with loans, to whom you would not make loans?

The WITNESS: Evidently.

By Mr. Mallette:

Q. I do not want to put the answer into your mouth but it is evident that it is a fact?—A. Yes.

By Mr. Vien:

Q. You make loans to your members only?—A. Absolutely.

Q. And your organization is a co-operative one?—A. No.

Q. You do not go out of the circle of your members?—A. We cannot do that because we have not got the right to do it.

Q. Then, outside of this circle of your members there are others whom you cannot satisfy and you said that a while ago when you were talking about those on relief, you do not want to take any chances?—A. We do not take any chances.

By Mr. Mallette:

Q. You want to be reimbursed?—A. Absolutely. We do not run a St. Vincent de Paul society.

By Mr. Vien:

Q. To a question that was asked of you you said that in the province of Quebec there were some persons that your association could not entertain as borrowers. In that case don't you think that some other kind of organization is necessary?—A. I could not very well answer that question.

By Mr. Finlayson:

Q. Do you know if there are any small loan companies in Levis?—A. No.

Q. Or in Three Rivers?—A. No. I have no experience with those small loan companies.

Q. Could you tell me from what classes your members are drawn in the cities—what occupations?—A. Especially labouring men.

Q. Manual workers?—A. Manual workers in the cities and farmers in the country.

By Mr. Vien:

Q. You told us that your membership was about 50-50 as between the cities and the rural districts?—A. Yes.

[Mr. Cyrille Vaillancourt.]

Q. Now, can you tell me how many members you have in the city of Montreal, or what amount of money is loaned in the city of Montreal?—

A. Oh, yes, the amount of money—yes, sure.

Q. And the number of borrowers.

Mr. FINLAYSON: Eleven millions in 1936.

The WITNESS: \$4,000,000—oh, Montreal?

Mr. LACROIX: Page 1 (Statement No. 2) Montreal, number of units seventeen, loans—\$7,548,158.41 in the city of Montreal.

Mr. VIEN: This is the total amount since the beginning of the operation.

Mr. MALLETTE: What are you looking for?

The WITNESS: \$1,300,000 exactly.

By Mr. Lacroix:

Q. To-day the amount of the loans is \$1,300,000?—A. Yes.

By Mr. Vien:

Q. That would be the amount outstanding. The difference between the third column and the fourth column would give the amount outstanding as of the 30th of June, 1936; is that correct?—A. Yes, sir.

By Mr. Lacroix:

Q. Do you believe, Mr. Vaillancourt, that there is any necessity to allow financial companies or loan companies to loan money in the province of Quebec at 2 per cent per month?—A. I find that quite dear.

Mr. TUCKER: There was some question asked by Mr. Vien in French about people who are unemployed. Now, I understood—and you can tell me whether I am right or not—I understood your attitude to be that a man may be unemployed and if he is an honest man and a man likely to get work again and likely to pay you and get an endorser you would not hesitate to lend to him because he happened to be temporarily unemployed.

The WITNESS: Oh, no. I suppose sometimes prices—we lend money on that condition with an endorser, yes.

By Mr. Vien:

Q. I find that on the 30th of June, 1936, in Quebec in nine unites you had loaned from the beginning of your operations the amount of \$5,863,638.69, and the amount remitted by the borrower was \$4,061,763.65. Therefore, in round figures, you would have outstanding in nine institutions in the province of Quebec an amount of \$1,232,000, and in the city of Montreal in seventeen units you had loaned from the beginning of your operations \$7,548,137.41, and the amount remitted was \$6,265,950.73; therefore, in round figures, on the 30th day of June, 1936, you had outstanding in the city of Montreal \$1,283,000 in seventeen institutions.

By Mr. Tucker:

Q. I have one more question I would like to ask. Do you think that under present conditions there is room for much further expansion of your institution in the province of Quebec, or has it pretty well reached the limits of its growth now?—A. We have now a request from the different localities for over two hundred more and our limit probably will be one thousand.

Q. One thousand more?—A. Oh, no—one thousand more, nearer fourteen hundred, I suppose.

Q. And at the rate of expansion thus far, how long would it take you to really cover the field as you think it should be covered and can be covered?

—A. Not more than one hundred per year.

Q. It would take you ten years then?—A. Yes.

By Mr. Vien:

Q. I note on page 2 (*Statement No. 3*) a tabulation on the latter part of the page showing nearly one and a half million dollars on loan by the Caisse Populaire in the city of Montreal during the six years of the depression beginning with 1930 and running up to 1935 inclusive. I find that during the six years you lent in notes in the city of Montreal to 3,408 borrowers a total of \$542,535—in six years—and that the amount lent on other securities in 1,158 loans amounted to \$810,515, so that during the depression in the city of Montreal, and during that six year period, you lent much more on other securities than on notes with endorsers. Would you explain why?—A. It is very easy to explain. During the depression time the small property owners were hard pressed and we had to save them. That is why we have made loans especially to small property owners who were over-burdened with their taxes and who were going to lose their property.

Mr. VIEN: And at the same time this had the effect of decreasing the number of your loans on notes because you were not fully guaranteed as there were a great number of unemployed.

By Mr. Clark:

Q. I would like to ask if the membership includes females on the same terms as males?—A. Yes.

By Mr. Lacroix:

Q. Do you think it would be helpful to the people of the province of Quebec or would it be harmful, to allow the finance companies to lend money at 2 per cent or 2½ per cent per month?—A. My opinion is that it would do them harm.

By Mr. Vien:

Q. Have you studied the conditions that prevail in the United States and in other countries and that were the cause of the creation of small loan companies?—A. Yes.

Q. Are you well acquainted with what was done?—A. Yes, I have studied the question and the inquiry made by the Russell Sage Foundation. Conditions of life in the United States are not the same as they are over here and it is difficult to make a comparison. I would not be prepared even to give judgment as to what happened in the west as even there the conditions of life are not the same as here.

By Mr. Mallette:

Q. What about Ontario?—A. From what I have gathered in the few times I have been in Ontario I may say that conditions are about the same as in the province of Quebec. It is my opinion that it is the deferred payment plan of merchandising that has occasioned the creation of the small loan companies. The people have burdened themselves with weekly or monthly payments which they cannot meet and they have to resort to small loan companies to get them out of the hole. They dig one hole to fill up another, and it goes on like that. When a person is not able to meet an interest rate of six or eight per cent, how do you think he will be able to meet one of twenty-seven or twenty-eight per cent. That is why we render them that service in order that they may be able to get a small loan right away instead of waiting to get a big loan later on.

[Mr. Cyrille Vaillancourt.]

Q. It is not only the deferred payment plan that has caused that situation?
—A. There are many other things.

By Mr. Vien:

Q. Take for example an individual who has an insurance policy, he needs a sum of money but he has already borrowed the limit on his policy, he cannot find an endorser and he has to pay the premium on his policy. You cannot lend him any money because he cannot find an endorser, but he has to have money in the very near future in order to save what he has already paid on his policy. Somebody must save him. I am citing you one case in ten thousand.—A. Yes, I understand.

Q. He must go to somebody who will lend him some money, he may not be any longer insurable because he has been sick, he has to find somebody who will lend him some money; then, do you find that a man who would lend to him without any guarantee should not make his profit? Take another case of an individual who has made many payments on a thing that he has bought on the instalment plan; he is about to be served with a seizure and he may lose all that he has paid. He needs to borrow \$50 but you will not lend to him because there are no chattel mortgages in the province of Quebec. Don't you think that that man should not be obliged to pay a much higher rate of interest on the money borrowed because he has no guarantees to give, in order to save his life insurance policy or the object that he has purchased?—A. My experience with many such cases is that if a man is not able to meet the premium on his insurance policy he will not be any more able if he has to pay twenty-seven or twenty-eight per cent interest. Later on he will be much less able to do so. I have made a loan to a person who has bought a washing machine on the instalment plan, \$2 cash and \$1 a week. He has paid \$157 for it in 1929, he has given \$241 in cash and he still owes \$139. He came to us and we dug him out of the hole. It is such things that make it hard for the people to meet their obligations.

Q. These conditions have been studied in the United States and the conditions of life there and in Canada are not very much different. There are rural sections and urban sections, there is capital and labour, workers and employers and salaried people. Nevertheless in nearly all the states in the Union they were obliged, even after the inquiry of the Russell Sage Foundation, to pass laws permitting as much as two and a half per cent per month; the same thing happened in England where the maximum was four per cent per month.—A. I admit that, it is just like a person who would want to stop the water flowing in a river, it would cause an inundation. It is an evil that we may have to tolerate but I contend that if our people were better educated in that respect and if there were less of these interest rates of twenty-five and thirty per cent there would be less unfortunates than there are to-day.

Q. But this is a thing that cannot be avoided?—A. I will admit that, but it is creating an occasion to send them in deeper and deeper.

Q. But that is a need that must be met?—A. Well, yes.

By Mr. Finlayson:

Q. Do any of your branches do business outside of the province of Quebec?—A. Yes. Outside of our province the name is the Credit Union.

Q. Where are they?—A. They are exactly the same, they are in Nova Scotia, New Brunswick and Prince Edward Island.

Q. Are they affiliated with your organization?—A. No, they are not affiliated.

Q. Have you a branch in Ottawa?—A. Yes, there is a branch in Ottawa, and it operates under the Ontario law.

Q. Have you a branch in Hull?—A. Yes.

Q. At your branches do the employees serve without salary?—A. No, no.

Q. You pay them?—A. Oh, yes, we pay them.

Q. Do you spend much in ordinary advertising, newspaper advertising?
—A. Never.

By Mr. Martin:

Q. Don't you spend that \$20,000 that you get from the Quebec government for publicity?—A. No, not for publicity; for inspection and for propaganda—speeches, lectures, and suchlike. Not for advertising in the newspapers.

Q. You do not believe in newspaper advertising?—A. No. When we organize a Caisse Populaire we are obliged to send inspectors in about five times.

By Mr. Finlayson:

Q. Can you tell us what portion of that \$40,000 subsidy you get is spent for inspection and audits of branches, and what portion for publicity and propaganda?—A. Three-quarters is spent for inspection and one-quarter on propaganda.

By Mr. Martin:

Q. On page 1 (Statement No. 2) I see Three Rivers; you have two units there and the cost of operating them was \$96,000?—A. That is right.

Q. Is that the cost for that one year?—A. No, that is the cost since the inception of the organization at that point.

By Mr. Mallette:

Q. On page one (Statement No. 2) of your tables you mention the city of Three Rivers, which has two units, and the general operating expenses are \$96,767.09 a year.—A. You must have misunderstood me; that means expenses since the beginning and that is more than thirty years ago.

Q. And in Quebec, where you have nine units the expenses are \$201,592.13?
—A. Yes.

Q. Some of those branches have not been long established?—A. Some have been established longer and some only recently.

Q. In a general way the directors act without any remuneration?—A. Yes, the law does not permit any remuneration.

Q. The whole administrative council serves without remuneration?—A. Yes, sir, because to pay them would be contrary to the law. Only the employees are paid, the managers and so forth.

Q. Your whole board of directors serve without remuneration?—A. Yes, with the exception of the manager.

Q. When do they sit, when do they do their work?—A. Oh, they sit in the evenings, Sundays, anytime that is convenient.

The CHAIRMAN: Mr. Mallette, will you express our thanks to the witness?

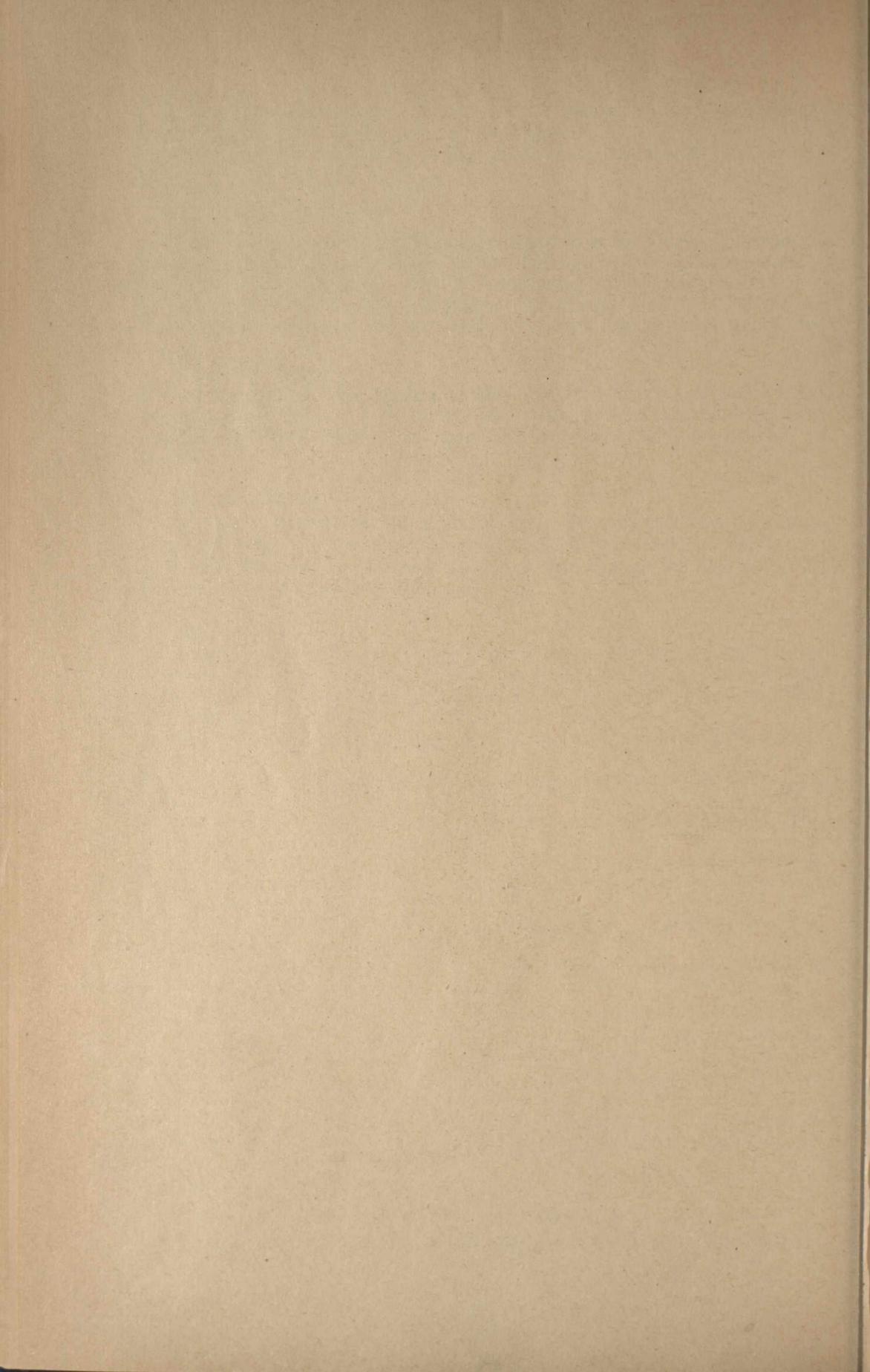
Mr. MALLETT: Mr. Vaillancourt, I am pleased to thank you very heartily on behalf of the committee for your enlightening testimony. Your testimony has not only informed us as to the functioning of the Caisses Populaires, but also on the movement of credit in general, and we thank you very much.

Mr. VIEN: Mr. Chairman, Mr. Billy of the Caisse Populaire, of Ottawa, is here, and would like to file the financial statement of his caisse if that is acceptable to your committee.

The CHAIRMAN: So shall it be.

Mr. VIEN: I will ask that it be filed in the record.

The CHAIRMAN: The committee stands adjourned to the call of the Chair.



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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 7

TUESDAY, MARCH 22, 1938

WITNESS

Mr. Ralph L. Bunce, Deputy Superintendent of Banking, State of Iowa,
Des Moines, Iowa, U.S.A.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

MINUTES OF PROCEEDINGS

TUESDAY, March 22, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Edwards, Fiset (Sir Eugène), Harris, Hill, Howard, Jaques, Landeryou, Lawson, Leduc, Macdonald (*Brantford City*), McPhee, Mallette, Martin, Maybank, Moore, Perley, Plaxton, Quelch, Vien, Ward, Woodsworth.

In attendance, Mr. R. L. Bunce, Deputy Superintendent of Banking, State of Iowa, Des Moines, Iowa, U.S.A., and Professor A. B. McDonald, Extension Department, St. Francis Xavier University, Antigonish, N.S.

Mr. Bunce was called and examined.

On motion of Mr. Vien,

Resolved,—That the following documents cited by Mr. Bunce, be incorporated in the printed record:—

- (a) Annual report to the Superintendent of Banking (State of Iowa) for the year ended December 31, 1937, of Licensees engaged in the business of making loans of \$300 or less.
- (b) Copy of the Iowa Small Loan Law. (*See* Appendices "A" and "B".)

At 1 o'clock witness retired and the Committee adjourned until 4.30 p.m.

AFTERNOON SITTING

The Committee resumed at 4.30 p.m.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Edwards, Hill, Howard, Leduc, Macdonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Quelch, Thorson, Vien.

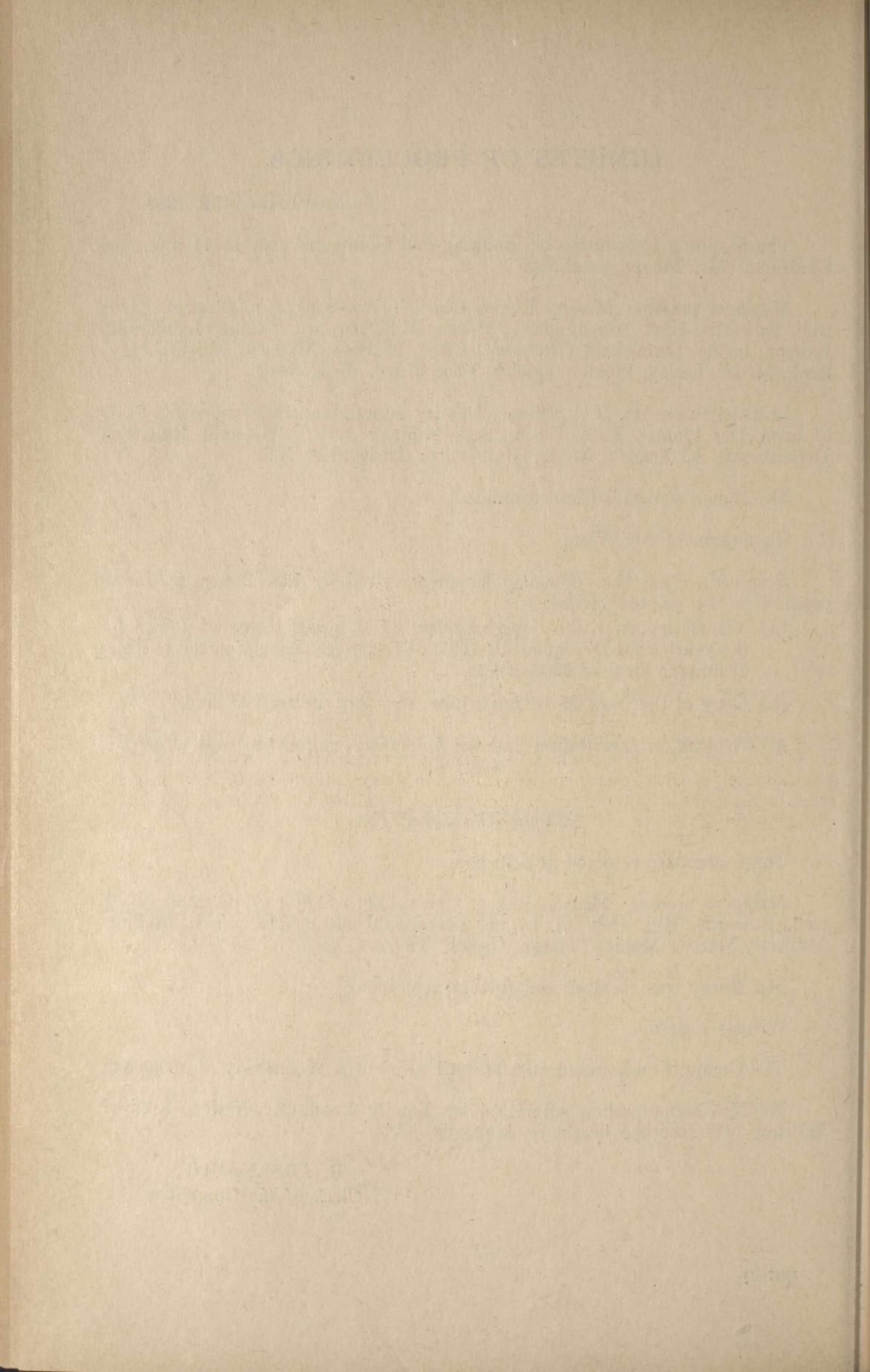
Mr. Bunce was recalled and further examined.

Witness retired.

The Committee adjourned at 6.20 until to-morrow Wednesday at 10.30 a.m.

NOTE—Memorandum submitted by Family Loan Corporation, Limited, Halifax, N.S. recorded herein as Appendix "C."

R. ARSENAULT,
Clerk of the Committee.



MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277

March 22, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., Mr. W. H. Moore, the chairman, presided.

The CHAIRMAN: Gentlemen, you will recall that it was the opinion of the committee that we should have someone come from the United States who had had experience in administering short or small loans acts, and we have been fortunate enough to secure the Deputy Superintendent of the Banking department of the state of Iowa. I have pleasure in introducing Mr. R. L. Bunce.

RALPH L. BUNCE, called.

The WITNESS: Mr. Chairman, members of the committee, it might be well if I introduced myself just a trifle in addition to the introduction which the chairman has given me. In the first place, may I state, Mr. Chairman, that I do not pretend to come as a professional or as an expert; I am simply a banker from Iowa. In our particular department we have several other divisions of the work, but under my personal supervision falls the responsibility for examination and supervision in the administration of the chartered state banks, of which we have 547, and of the small loan companies which, at the present time, are operating about 120 offices in Iowa. Whether or not I have a sufficient understanding of your problems and of your situation here in Canada to attempt to help you to adjust our experience to your own situation I am not at all sure. Possibly it would be of some help if I explained to you that Iowa is a state of approximately 56,000 square miles with a population of 2,500,000. Our largest urban centre has a population of approximately 170,000. We probably have about ten larger cities with a population ranging from 20,000 to 120,000. We have some fifty or sixty cities.

By the Chairman:

Q. What is the total population?—A. A trifle over two and one-half million.

By Mr. Mallette:

Q. For the whole state?—A. Yes, sir, two and one-half million. We have another group of cities running approximately from four to six thousand—we have somewhere around fifteen or sixteen of these; but primarily and principally our state is agricultural entirely. We have no large industries. Practically every town, however, of four or five thousand and up does have some one small industry of its own. My own native town of Washington, a town of 5,000 population, has a button company which is one of the successful small operators in the United States. However, principally we are an agricultural state.

Now, I presume that the fact that you are investigating this particular subject indicates that here in Canada just as in Iowa the legislative body recognized the particular need for enlarging the legalized credit agencies. Some fifteen years ago the legislature in our state first approached this problem of authorizing companies, after they obtained a licence from the state, to lend money up to \$300 with a charge of 3½ per cent per month on the unpaid balance.

There was no provision, however, for supervision of any control placed in the hands of any licensing officer. That continued until our special session of the legislature which convened in 1934, and in March of 1934 our present Act was enacted. I might say that our department at that time did not participate in the deliberations and did not make any recommendation: we had no data or statistics available. The administration in our department was due to be changed, and consequently, we did not participate; and our law is one that was entirely developed by the legislature. I might say that when that law was first enacted the legislature fixed a rate of interest that would apply for one year, and automatically relicensed all of the present operators. Our department was then ordered in the same law to make a complete survey and study of the conditions and of the operation and to report at the next meeting of the legislature on January 1st following, 1935. I might say that in approaching this, both the superintendent of our department and ourselves who have never been anything but bankers—and I will add here that no-one in our department has ever had any connection whatsoever with any small loan companies—we approached this matter with a feeling somewhat of regret that we had had this matter dropped into our laps; and, frankly, we had at least all of the average person's prejudice against the so-called high rate money lenders. I do not mind saying that I thought they were a bunch of highbinders, and that anything like 3 and $3\frac{1}{2}$ per cent a month was on the face of itself ridiculous and outrageous.

We started from scratch because, as I said, we had no data accumulated in our department. We first obtained figures for 1933, and as we went along through the year 1934, by request for special information and personal examination of the licensees that were operating, we accumulated enough data to complete our first survey and make our report to the legislature. As I go along, or as you question me, you may ascertain whether or not our survey has caused a change in my attitude regarding this industry and also regarding the interest charge phase of it.

Our law placed the responsibility for fixing the rate of interest in the hands of our banking board which board is composed of five representative bankers appointed by a governor, who serve for a four-year term without compensation. The various studies and surveys which have been made under my direction have in turn been submitted to the members of that banking board and they in turn have subscribed to the printed reports that have been presented to the legislature. They, like myself, have had no connection, no experience with the small loan operators from the active standpoint, and I think they, like myself, also had some prejudice. On the other hand, we have, after a four year survey, continuously recommended that the rate established in our law which is a graduated rate of 3 and $2\frac{1}{2}$ per cent, splitting the interest charge at \$300—we have continuously recommended that that rate be continued.

By Mr. Finlayson:

Q. Was it split at \$300?—A. Split at \$150. Three per cent per month on the first \$150 and $2\frac{1}{2}$ per cent on the portion of the loan in excess of \$150, but not exceeding \$300. We have, as I say, rather continuously recommended the continuation of that as a fair-going rate in Iowa.

In considering the nature of this type of lender, our legislature had before them already the banking laws of the state which charters over 500 banks. We had on our statute books the credit union law, and under that we had in round figures 100 credit unions operating, filling a portion of the field, but in our experience it is only the industrial credit unions that have worked out to good advantage in Iowa; and we found that they did not cover a very large part of the borrowing need of our people. That Act was continued as part of the program. It was recognized that there was a great need for a smaller type of loan to supplement the banking law and the credit union law and, consequently, our present Small Loan Act was enacted.

[Mr. Ralph L. Bunce.]

By Mr. Martin:

Q. What was the year of its enactment?—A. 1934. Now, the question of the size of loans came into consideration somewhat, and while I think the maximum of \$300 was fair enough at that time I believe that before too long we will be forced to consider whether or not to enlarge that limit or whether we shall create an additional credit agency.

Now, I do not know, but I would rather believe that your general legal rate of interest law is quite similar to ours—a 5 per cent legal rate with a maximum of 7 per cent per annum by contract. There are certainly a lot of people who do not fall within one of the two classes that our present laws legalize. In other words, according to an economic survey in our country barely 20 per cent of our people on the average can qualify for commercial bank credit, leaving 80 per cent of the people dependent upon such other lending agencies as the legislatures may create. Certainly 80 per cent of our people do not fall in any $2\frac{1}{2}$ of 3 per cent a month class; and the question now is to take care of that group in between, and also in between any amounts under \$300 and the size of a loan that a commercial bank can and will consider and can handle profitably.

Some of our states have attempted to solve that problem by authorizing the operation of so-called industrial banks—private corporations with private capital authorized to lend various amounts, some without limit, others with a maximum limit of several thousand dollars with an average rate of approximately 1 per cent a month.

Now, I understand that some of your banks are operating personal loan departments quite similar to the attempt on the part of our banks; and I presume that that operation, just the same as we have it at home, is purely based on a subterfuge that is quite obvious to anyone, in that the man comes in and borrows \$500 and it is discounted at, we will say, six per cent. He agrees to open a savings account or some other type of account in the bank and makes regular monthly deposits there, which, of course, means that instead of paying six per cent he is paying a true rate of approximately twelve per cent. Our banks are attempting that and they are simply scratching the surface. We find that comparatively few of them find that they are as yet developing a profitable operation.

By Mr. Martin:

Q. What is the basis of security, endorsers?—A. Endorsers, ordinarily, yes; primarily it is purely on an honour loan basis.

One of our state banks which has pioneered in that work has developed an annual volume of approximately \$100,000.

In the three years experience I have I think that is profitable. I believe you will readily understand, with our wide distribution of population in our urban centres that comparatively few banks would be able to develop the volume of business that would enable them to handle those loans profitably unless they could legally charge at least one per cent a month.

I have been talking for two years at home about the advisability of raising the present loaning limit to our small loan licencees of \$300 to \$500 or \$750, with the understanding that the rate on the amounts above \$300 should not exceed one per cent a month. Whether to place that on the needs of the small loan licencee or place it on the needs of the banks is a question that has not been decided as a matter of policy in our community.

By Hon. Mr. Lawson:

Q. When you are giving this per cent rate per month, do you mean that that is an all-inclusive charge?—A. All-inclusive charge, yes. I was just going to make a few observations about the rate question. I am awfully glad you

mentioned that because it would be a fine starting place in any reference I make to interest rates. I think the interest rate, whether you call it interest or the cost to the borrower, should be expressed in one definite rate; it should be made to apply only to the unpaid balance of the loan, and should be charged only for the actual number of days the loan has been outstanding, and should be so definitely and plainly stated to the borrower that there can be no doubt in his mind. There should be no cover-up or hidden charges of any sort whatsoever.

Now, whether that all-inclusive statement can be considered as interest is a question and a legal point that I would not attempt to answer; but I would say this: all the charges of any nature whatsoever in connection with the small loan should be stated as a definite percentage charge.

I believe your legislative body is to be congratulated upon the consideration they are giving to this problem so early in the development of this industry in your country. You should be able to avoid some of the pitfalls and some of the mistakes and errors that we in the States have made through our experimentation covering the last thirty years.

One of the first things that is outstanding in the experience in the States is that you should not attempt to establish too low a rate at the beginning. We have had a number of experiences in our state where by legislative enactment the maximum loan rate of from one to two and a half per cent has been fixed and universally in these experiences reconsideration at a future date has been necessary; and it is easier, I believe, to start with a reasonably high rate and work down as your experience indicates that you can, rather than to start so low that you are not interesting the right type of capital and the right type of operator, and you have to try to reduce your rate backwards.

We have a fine example of that in our neighbouring state, the state of Missouri, just south of us. They have a two and a half per cent flat rate in their state. They are getting very little service to the lower bracket borrower. The loan shark, the salaried buyer, the wage assignment, is coming in, until to-day they have a bad situation in their two large cities, St. Louis and Kansas City. Within the last year I discussed this matter with the superintendent of their banking departments, who has charge of it, and he said, "Well, we have a bad condition developing in our state. It is going to be necessary for us to make some change round there and grant a little higher rate, particularly on the smaller type of loans."

As I say, we already have the example of New Hampshire, which tried it; New York tried it, New Jersey tried it, Tennessee tried it, and I believe Virginia. Consequently that is one outstanding thing that has been repeated in every one of our states that have attempted to get a real low rate of interest charge established on these loans.

Our legislature approaching this problem recognized two things; first, as I have already suggested, the need of the people. A large percentage of our people needed facilities for borrowing money. Consequently they recognized the need for private capital to take care of that loan demand. The next point is, they were unwilling to authorize banks to use depositors' funds in this type of loan. Next they recognized it was necessary to interest private capital and if that was to be done the rate should be fixed that would permit a sufficient return upon that private capital to interest the individual to take care of the needs of our people. Consequently it is written into our law that it is the duty of our bank board to fix rates that will permit a net return sufficient to interest the necessary capital.

We have made, as I say, several surveys of that cost of these businesses. I have with me here—I am satisfied you gentlemen do not want to take the time to go into that detail, but if any are interested outside of this formal meeting I shall be glad to give them the details of our study of the cost. It is

[Mr. Ralph L. Bunce.]

rather an extensive study—the study we made. The study encompasses about a sixty page report which is made up each year. We have carefully checked with federal agencies and other studies, the Russell Sage Foundation that has carried on an unbiased study of this business for a number of years, and we have found that while possibly we have not attacked this particular survey as scientifically as some—we do not use the logarithms that the Russell Sage experts use—but somewhere or other in our little system that we have developed we have succeeded in getting results that checked quite favourably with the results of the different surveys made. And when I say that the items of cost chargeable on the expenses of gross income, being examinations, payment of income tax and federal and internal revenue departments, when I say that our figures on that check quite favourably with them, I believe you will recognize that we are not allowing any heavy items of expense to go through.

Now, actually based upon our present volume of business operating on three to two and a half per cent with a split of \$150 the operations of last year permitted the operators an average of eight per cent return upon the employed capital.

In figuring that eight per cent return as fair and equitable and about as low as you can go if you expect to interest a large amount of capital, we looked at it from this standpoint: the maximum rate of interest that any investor can expect to be returned by a choice investment ranges from two and a half per cent to four per cent. Municipal bonds may be purchased on a basis to yield about two and one-quarter to two and three-quarters per cent a year, and choice farm mortgage loans running from five to ten years may be obtained on about a four per cent basis. It is our thought that in order to attract capital to a business having the hazards of the small loan business certainly eight per cent is about as low as you can hope to go. Now, whether or not one should consider advisable a flat rate or whether it should be based, as we have it, upon a graduated scale is a question that has caused a great deal of argument among our people. Many favour one and many favour the other. Possibly, it is because that is the rate and the method that was fixed in our law when it came to us for administration; but anyway I favour the graduated rate of interest, and I also favour the lowest bracket of interest at not less than three per cent a month. Reduction may come at any particular breaking point you wish, and it may be reduced considerably lower, possibly, above that; but in our own state as I said a little while ago, personally I felt we should raise the loan limit to a larger amount; and under our conditions I believe that the fair applicable rate and one that would continue to interest capital and benefit the borrower at the same time would be three per cent up to \$100 and two per cent up to \$300 and one per cent from \$300 to \$500; the three, two and one rate with a split at \$100 and \$300, with a top of \$500, would, in my mind, and based upon our figures, give as nearly approaching the best return that we expect for our capital and still take care of the borrowing public without injury.

By Mr. Woodsworth:

Q. May I ask where the extra hazard comes in if statistics covering such a wide range would indicate certain savings?—A. Well, you realize that practically all of the small loans are purely honour loans. There is really no pledge, security or collateral of particular value. They are running all the risks of sickness, death, loss of job, with respect to the repayment of practically every loan. Last year, for instance, our lenders took 5,800 and some odd wage assignments, only 58 of them were ever recorded. The same is true of the chattel mortgage. They took a great many chattel mortgages on household goods or what have you; but I believe it is safe to say that probably less than five per cent, not over five per cent, of these mortgages are ever recorded. I think there are a great many failures in one way or another.

Q. But covering such a wide range, the average does make it a fairly secure proposition?—A. Certainly, because of the average volume. Our loss ratio has varied. For instance, back in 1933 when we first began this survey our loss from bad debts ran 11·3 per cent of the loan balances, which you will readily recognize, is quite a heavy loss. That has been reduced gradually during these years through two things: one, because of improved conditions, and two, because of improved operation on the part of the lender and supervision under our present law. Understand, the figures that I am quoting for 1933 apply to the old three and a half per cent operator who had no supervision. But even on five per cent, as it now approaches, the loss ratio on the loan balance, I believe you will recognize, is rather a heavy percentage, in comparison with the ratio of loss bankers expect to suffer.

Q. Quite so, but my point was covering the whole range and capital would still be fairly sure of securing a steady return, and I hardly understand why this should be considered extra hazardous business.—A. Well, I consider it extra hazardous in comparison with other loaning facilities that we have in our state, which is really nothing except the bank, which is making almost altogether secured loans, and which has a very low percentage of loss.

The honour loan, as I said a while ago, is developing rapidly and is becoming a growing thing, we find, in the small loan field.

By Mr. MacDonald:

Q. In what way do you supervise these companies, apart from fixing the interest rate?—A. In just about every way that we can conceive of. We can regulate and control the advertising; we can require any number of reports we wish; we make personal examinations of every office once or more every year, and any little transaction that apparently is irregular, anything that in any way tends to contribute to a violation of the provisions of this act, we can control by regulation.

I will say this, that the administration of this act has been one of the most interesting propositions that I have ever personally experienced. When this law came into effect and I was first introduced to small loan administration I found that there was an attitude on the part of the lender to stay just as far away from the banking department as it was possible. He resisted and resented any type of supervision. He did not think that any state department could possibly tell him anything about his own business. We took this attitude, that these agencies were paying some \$15,000 to \$18,000 a year into our department, and they were entitled to a service. Not only were we the first to protect the borrower so that he would not be harmed, but in return for that and in order that they might acquire a more friendly attitude towards supervision, we wanted to render a service to these licencees, and so as we made these various suggestions to bring down the cost of their business, we made a set-up that should be ideal for the different sizes of business, and then as we went around examining banks we presented it to these people and we found these licencees taking a different attitude towards our department. They began to realize that we were not a policeman standing there with a big club looking for an opportunity to crack somebody's head, but we were there trying to make improvements in the administration of this law, figuring that was good for the borrower might be good for the lender, and that a more ethical type of operation and competition would be beneficial to both sides; and consequently we have worked along that line until to-day I think we have as friendly co-operation from the licencees as we have always had in our department from the bankers themselves.

We have issued only one set of regulations, which run to a little over one page of legal size paper. I should like to say this: we have not had one case where a licencee declined voluntarily to adjust his methods or discontinue any practice at our request.

[Mr. Ralph L. Bunce.]

By Mr. Martin:

Q. How many licences have you?—A. To-day we have about 127. At the end of last year our report covered 107 operating offices.

Q. Have you any figures showing the number of loaning agencies before you had this supervisory method?—A. No. I do not believe there is any way of obtaining that type of information.

Q. From advertisements and so on you could form an estimate?—A. We know that prior to the enactment of this act there were more than 200; there were 166 that were paying licences under the old three and a half per cent law; that dropped down to about 100, and we have this carefully worked back to about 120 odd. That brings to mind one other point that is a weakness in our act. I would suggest your considering this point, and we hope to have our law amended to cover it. That is what is commonly known as the need and convenience clause, giving to the licensing official or retained in the government in some manner the right to say how many business offices can operate at a given point; whether or not the need of the people can best be served, and where the offices would be conveniently located by the establishment of one, two, three or four offices at any given point. We do not have that. Another weakness of our law that you might well consider is the minimum amount of capital that a licensed office must have. In our state and in our law \$5,000 is the minimum capital, which is ridiculously low. In addition to that we cannot deny a man who otherwise meets the requirements of the law another licence at a point that might be already well served. Now, that is a danger that we are attempting to meet as best we can; because we all realize that competition in this business, in our opinion, is good and is necessary.

Q. What was the lowest rate permitted by the legislature at one time earlier? You have not given us the earlier history.—A. Yes, I did. We have only had one law prior to the present one, which was the three and one-half per cent per month. Prior to that time we just simply had the legal rate of interest law which, at that time, was generally eight per cent on contracts for I think something like forty years.

By Mr. Howard:

Q. You stated a figure of \$5,000 as capital. That would mean separate offices?—A. Yes.

Q. How many offices have you?—A. When I speak of licensees I am really speaking of offices, because regardless of whether it is the same individual or corporation, they must go through the same process for each office in obtaining a licence.

By Mr. Woodsworth:

Q. Are you troubled with unlicensed or bootleg agencies?—A. Not very much any more. Referring again to my comment regarding your not starting in with a too low rate of interest, that is my reason for urging a three per cent rate on the lower bracket loans. Now, you might be interested—

By Mr. Edwards:

Q. Three, two and one you spoke of?—A. Yes. Last year, for instance, our licensees through our licensed companies made a total of 109,310 loans. Of that number 4,729 were loans in amounts under \$25 and the next 19,222 were between \$25 and \$50. Now, that means 23,000 of our 109,000 loans were loans in amounts of less than \$50. We know by our survey that three per cent a month on the unpaid balance will not permit any lender to carry that type of loan at a profit. He is making it at a loss. That is the reason I say the need for the money is felt more keenly by the fellow who needs only \$50 than

by the fellow who wants \$250, probably, and that small borrower is entitled to it. He is the man most liable to become the victim of the loan shark and the money bootlegger and pay his ten per cent to twenty per cent for it.

By Mr. Clark:

Q. The loan is limited to \$300, and if a man gets \$300, can his wife get \$200?—A. No, they are restricted to one contract which is not to exceed the \$300. We have found—

By Hon. Mr. Lawson:

Q. I was going to ask the witness to turn his mind back to the statement he made a few moments ago. Under your law the weakness was that you could not restrict the number of licensees. May I take it that the general law of your state is that the power to licence does not necessarily entail the power to prohibit by the simple method of refusing a licence?—A. Well there is no provision in our law in that regard. Our law simply says the superintendent shall issue a licence if certain things are done.

Q. I see. It is an obligatory law if the applicant complies with certain conditions?—A. Yes. Our counsel advises us that we are in this position, "if we do refuse arbitrarily to grant a licence that applicant through a mandamus can obtain an order of the court which would force us to issue the licence."

Q. But if your law read that the superintendent of banking, or whoever it may be, may issue a licence, it would cover the point you have in mind?—A. Yes. But it places upon him the responsibility for investigating and determining whether, in his opinion, the applicant by his experience is able to honestly and fairly operate his office within the provisions of our law.

Q. Then, Mr. Chairman, may I jump to something else? I would like to ask some questions with respect to three things while I am at it. During the course of your evidence you said that the maximum rate allowed by law in your state was seven per cent. Is that the maximum for secured loans such as mortgage loans?—A. That is the maximum for any loan except loans made by a licensee under the Small Loan Act.

Q. There is another thing I wanted to ask you about. For the purpose of understanding one another I will call all the money which a borrower pays to the lender, in excess of the amount which he actually receives interest on, as an advance on interest. I understand the principle of your law is that you insist on the effective rate being expressed in the terms of the contract?—A. Yes.

By Mr. Quelch:

Q. Under the graduated rate, if a man borrows \$500 I understand he will pay 3 per cent on the first \$100, 2 per cent on the next \$200 and 1 per cent on the balance. That will not be a straight rate of 1 per cent on the \$500?—A. No. One per cent would apply to the portion over \$300 on my estimate.

By Mr. Macdonald:

Q. If he pays off \$50, on what amount is that applied?—A. That would be in the 3 per cent bracket. On a \$50 loan, you say?

Q. No, if he borrows \$500. I understand you to say he pays three per cent on a certain portion?—A. Yes.

Q. Two per cent on a portion of it?—A. Yes.

Q. And one per cent on a portion of it?—A. Yes.

Q. Then when he repays the loan, his first payment is applied on which part of it?—A. On the higher bracket.

Mr. FINLAYSON: On the one per cent?

[Mr. Ralph L. Bunce.]

The WITNESS: On the one per cent bracket.

Mr. QUELCH: At what rate would that work out on the whole loan of \$500?

Hon. Mr. LAWSON: It cannot work out at a higher rate than he has given.

The WITNESS: That would depend. I think it would work out at about 1.6 per cent. That, however, is based on the average size loan that the licensee might have.

By Mr. Martin:

Q. Surely it could not be 1.6 per cent. The credit unions operate on about one per cent.—A. Yes.

Q. And they have not any overhead or any of these charges. It could not be 1.6 per cent, surely, could it?—A. That is an offhand guess; because as I say, to arrive at that you must know the average size loan the borrower is making or the average size of his uncollected balances, in order to get the figures that would be truly applicable to any one office.

By Mr. Finlayson:

Q. What split rate are you assuming in that 1.6 per cent—three per cent up to \$100?—A. Yes.

Q. Three per cent up to \$100; two per cent from \$100 to \$300 and one per cent from \$300 to \$500?—A. Three, two and one.

Q. Three, two and one. Where are the breaking points?—A. At one and three.

By Mr. Quelch:

Q. Would that be up to as high as \$700?—A. No. I was just talking about up to \$500.

By Mr. Finlayson:

Q. That is not the rate actually in existence?—A. No, it is not. I have not any actual figures on that one point. I am not saying that is accurate at all.

By Mr. Martin:

Q. It could not be, Mr. Bunce.—A. In other words, what I am trying to express is that a flat rate of that charge would produce about the same or should produce about the same return to the lender.

Q. Is there any question from your experience, personally, dealing with the prosecution of this legislation, that legislative recommendation of the rate of 3 per cent has had the effect of minimizing operations of the loan sharks in your state?—A. We think so, materially.

Q. On what do you base that statement? Mr. Lawson pointed out earlier that it was difficult to determine the number of illegitimate borrowers in an unregulated system or even in a regulated system. How do you arrive at that conclusion?—A. Well, of course, you are always at somewhat of a loss to learn all these things, if they are isolated instances. On the other hand, if anyone is engaged in it to any great extent, and has any great volume of the business, it really becomes self-apparent. You know the demand in that community, and you are going to hear complaints. Here is one thing: When your legislature fixes a certain definite rate and that is advertised and becomes generally known, and it becomes generally known that there is a branch of the state government that will attempt to obtain redress for anyone who has become victim of a higher rate, these complaints will naturally drift in to you. I can say this, that in the last two years we have not had a single complaint from a borrower with reference to the rate of interest charged by any lender in Iowa.

By the Chairman:

Q. By any borrower?—A. By any borrower. Going back in our files to the preceding years, before the department had any authority, you can find plenty of cases where individuals came in and asked for help, where they have told very outlandish stories of how much they were paying or what has been done to them.

By Mr. Martin:

Q. In the neighbouring state of Missouri, did they not have a legislative rate as low as one per cent at one time?—A. I think they did. Now they have two and one half per cent.

Q. It is something about that.—A. Well, Missouri is made up principally of two large urban centres, and the balance of the state is sparsely settled; consequently, in speaking of their condition you are talking about St. Louis and Kansas City almost entirely.

Q. Yes?—A. In the old days—well, and even to-day—Kansas City was really outstanding as one of the spots in the United States that had a black record for the wage buyer and the loan shark.

Q. Yes?—A. Their legislature then enacted a two and one half per cent law and it has not cured that condition as yet. One of the largest—in fact, the largest Iowa licensee, licensed as an individual, also has a good-sized office in Kansas City. He is a very ethical fellow and also is a good business man. He tells us that in his office in Kansas City he discourages the consideration of any application for a loan of less than \$100, which means that the poor fellow who needs only \$40 or \$50 goes right over to one of these other loan sharks.

Q. From your experience, would you say that when the one per cent law was in operation in Missouri, the abuses were very evident?—A. Yes. I would also say this, that even with the two and a half per cent law, it is rather obvious to anyone and it is recognized by the superintendent of their banking department.

Mr. WARD: It is not yet clear to me, Mr. Chairman, to what this graduated rate applies. Suppose a borrower gets \$500 and he pays it off monthly. When he comes down to \$300, when there is still a \$300 residue of his loan left, does the rate then step up to two and a half per cent, and then as he comes down to \$100, does it step up to three per cent?

Hon. Mr. LAWSON: It does not step up at all.

Mr. WARD: That is the point. The witness said that a \$500 loan bore a rate of one per cent.

Hon. Mr. LAWSON: No, no.

Mr. MARTIN: One per cent on the surplus over \$300.

Hon. Mr. LAWSON: Three per cent up to \$100; two per cent over \$100 and one per cent from \$300 to \$500.

Mr. WARD: Quite right; but I want to get it clear. If the borrower makes a loan of \$500 he does not get the whole loan at one per cent?

Mr. MARTIN: He cannot make a loan at one per cent.

The CHAIRMAN: Had we not better let the witness answer the question?

The WITNESS: I will give you an illustration of the interest charged at the end of the first month on a \$500 loan based on my suggested schedule, to be paid as follows: \$3 for the first \$100; \$4 for the next \$200 and \$2 for the last \$200, or a total interest charge of \$8 for the first month. Then the charge for the second month—the \$3 and \$4 would still apply, and the \$2 would be reduced by the amount of interest at one per cent upon the amount of principal which the borrower repaid at his first monthly payment.

[Mr. Ralph L. Bunce.]

By Mr. Landeryou:

Q. Could you tell us whether the Morris Plan banks are taking deposits?—

A. No, they are not.

Q. They have large offices in St. Louis; they have had for a number of years. Do you know what rate they were making their small loans on?—A. In the past they were making them on about a seven per cent discount basis; now most of them are down to about a six per cent discount basis. It means roughly twelve per cent is the true interest.

Q. What would the amount of true interest be at the rates you suggested?—

A. That all depends on the average volume of business in any particular office, to get at a true rate of interest—what it will develop in your particular office. A consideration of that point would lead us to a discussion of another phase of this business. In the rates that I am quoting as an actual basis on our own experience, you must remember that in the first place we are basing it upon the type of demand for the size of loan that comes into our average office; and another thing that enters into your cost computation is the average length of your loan. I have been told that your average length of loan by your borrowers in Canada is twelve months. The majority of loans under our law and in our situation covers a period of twenty months. The computation of an average rate of interest which will produce a given return to the average lender must take all these factors into consideration.

Q. What would be the average rate to the man that is borrowing—to the borrower? What is the rate on \$300, at the rates you were suggesting? What would be the effective rate? You have suggested that they cut down the Morris Plan rate from seven per cent to six per cent discount. You said it would be twelve per cent as the true rate. Just what would the rate be on the plan you have suggested—the effective rate?—A. The effective rate on our present law or upon our proposition?

Q. The plan that you suggested?—A. Well, that is one thing I said a moment ago. I cannot answer that question accurately. As I view it, to the best of my ability, I would say it would run somewhere between 1.6 per cent and 2 per cent.

By Mr. Coldwell:

Q. Is that possible when you are retaining the amount upon which the higher rate of interest is paid for the entire twenty months? Would it not be very much higher than 1.6 per cent?—A. As I say, we have not had the experience of the one per cent bracket at all, and consequently I have to estimate that.

Q. I think it would be much higher than that? I see Mr. Finlayson figuring. I wonder if he has been working that out.

Mr. FINLAYSON: When I started to figure, I had not heard about this twenty months. I am figuring on the twelve months loan. For a loan of \$500, three per cent on the balance up to \$100, two per cent on the balance from \$100 to \$300 and one per cent on the balance over \$300, repayment over twelve months, the average rate would be 2.17 per cent.

By Mr. Landeryou:

Q. Are these Morris Plan banks operating in Iowa at all?—A. Yes.

Q. Do they give their borrowers the six per cent discount in your state?—

A. Yes, that is universally true. Sometimes it is seven, but the general practice is six. That is almost altogether on the endorser type of loan.

By Mr. Coldwell:

Q. Reverting to Mr. Finlayson's figures again—that is, on a twelve monthly basis—if you retain the amount upon which the higher interest is paid for twenty months, then your rate will be still higher?—A. Well, your amount of cost. Here, for instance—

Q. No, your rate.—A. In order to help you get my slant on this, a three per cent charge on the first \$100 costs \$19.50 if repaid within twelve months; that jumps to a cost of \$31.50 if it is repaid over a twenty month period.

Q. Yes?—A. You think when you hear three per cent per month that offhand—frequently we are told that is 36 per cent a year. The actual cost is only \$19.50 if repaid in a year. But here is a thing that you have to watch all the time. We had one licensee who, a year ago, advertised to the public a voluntary reduction in his rate of charge to two and one-half per cent per month flat. We immediately found that his operating method was that he was encouraging every borrower to enter into a thirty month contract, and as an additional inducement he was told that he would not have to pay anything back at all for the first two months. You can readily see that so far as the borrower's interest is concerned, he will pay a larger cost for that loan, even at a two and a half per cent rate, for thirty months than he will pay by our graduated rate for twenty months. We have, without making definite regulations, let it be known to our licensees, and they are following that voluntarily, that any time they extend the period beyond twenty months, we will order against it.

By Hon. Mr. Lawson:

Q. I presume that in your Act you have penalties provided for any who make loans of this nature unless they are licensed by the state?—A. Yes.

Q. And therefore, if you find out that it is being done, there are prosecutions?—A. Yes.

Q. I think in your country the federal government has not the power—or does not exercise the power, in any event—to grant a charter to a company to carry on business in the whole of the United States?—A. No.

Q. So that you are not met with avoidance of your law; it is always evasion for which you prosecute?—A. Yes. We have this situation: We can make a law which regulates the amount of interest than can be charged and at the same time govern the business of lending money in one statute.

By Mr. Landeryou:

Q. There are two types of lending company doing business in your state. One is the Morris Plan company?—A. Well, the Morris plan operates in our state just sort of by leave, not by law. They simply hope that nobody will step in and invoke the Usury Act against them. We have no law for them at all.

Q. Could they not secure a licence, the same as the other loaning companies?—A. Then they would come under our restrictions and under our supervision. They do not do that. They are simply outlaws. I do not mean that in a derogatory sense, because there are twelve of them in our state, all operated by fine, clean gentlemen, and operated on a high basis. We respect them. But they are doing it without any definite legal provision.

By Mr. Quelch:

Q. They are on the same basis as the Bank of Commerce in this country, are they not?—A. Yes.

By Mr. Landeryou:

Q. They loan money at a substantially lower rate than the other companies in your state?—A. They loan on a six per cent discount or approximately twelve per cent basis.

By Mr. Martin:

Q. On the endorser basis?—A. Yes.

[Mr. Ralph L. Bunce.]

By Mr. Landeryou:

Q. Do you find that the Morris Plan company loses more money than the others, or which type of company has the greatest loss?—A. In view of the fact that the Morris Plan company reports to no one, there are no statistics upon their operations in our state.

Mr. MARTIN: They are unregulated.

By Mr. Quelch:

Q. Under the Morris plan they would have the use of their money free?—A. Well, it is their invested capital; and most of them sell what are called or termed investment certificates which they qualify under the securities law as securities and sell them at whatever rate of interest may be necessary. So it costs them, generally, five or six per cent for the money, outside of their own actual invested capital.

By Mr. Martin:

Q. They use the endorser method, do they not?—A. Certainly.

Q. Would you say or would you not say that the endorser method has the tendency of limiting the field for borrowing or borrowers?—A. Very much so.

By Mr. Vien:

Q. Are there any classes of loans which are not covered by the obligation of taking out a licence? What I have in mind is, for instance, are mortgage loan companies obliged to take a licence under this system?—A. Only if they wish to charge more than the rate of interest that it is permitted by our law. Then they must have licence.

Q. That is seven per cent?—A. Yes.

Q. Any lender who charges more than the seven per cent regulated rate of interest would fall under the obligation—would become a money lender under the terms of your Small Loan Act?—A. Yes.

Q. Would that apply also to the individual where, for instance, a man does not carry on the business of lending money? If I wanted to borrow from my neighbour or from my brother or from some relative an amount of money, would he have to take out a licence, even if it is an individual loan and he does not carry on the business of a money lender?—A. Yes, if he charges you more than seven per cent interest.

By Mr. Coldwell:

Q. What about the credit unions?—A. May I add one thing to this other answer first?

Q. Yes.—A. Our law does not contemplate any real estate mortgage loans being made under this high rate of interest. It is prohibited in our Act.

By Mr. Vien:

Q. That is, any man who borrows money from another cannot be charged more than seven per cent interest under the ordinary law?—A. That is right.

Q. And he can make an arrangement of this kind with a licenced money lender only?—A. Yes, that is correct.

Q. What is the penalty?—A. It is a misdemeanor which carries with it a penalty not to exceed one year or a fine not to exceed \$1,000; or, at the discretion of the court, both fine and imprisonment.

Q. Is there a penalty in the nature of the cancellation of the obligation to repay?—A. Yes.

Q. Also?—A. Yes. Any violation by a licensed lender also abrogates the contract, both as to principal and interest.

Q. It relieves the borrower, does it?—A. Yes.

By Mr. Coldwell:

Q. Have you any credit unions in your state, and if so, do they come under your control?—A. Yes.

Q. And are the regulations similar to those governing small loan companies or are they different?—A. Considerably different. That is an entirely different act of the legislature. But we have them. We have about 120 operating in our state and they are under our supervision, yes, sir.

Q. I will ask some more questions about that later.

By Mr. Landeryou:

Q. With regard to this sliding scale of rates you mentioned—three per cent up to \$100, two per cent from \$100 to \$300 and one per cent over \$300 and up to \$500—would there be a tendency on the part of the loaning companies to hold the loans down to the small brackets in order to increase their revenue? Is there not the danger of that, with the sliding scale?—A. It is just the opposite in actual practice.

Q. I do not quite get your point. It is natural to increase the loan?—A. Well you will find this—and that is the general point that I wanted to refer to later on when we cleared up this part. Your profit does not come from the low bracket loan, even at three per cent. Your profit comes from the additional amount of money that you may be able to lend; because, as I said earlier in the game here, I did not assume that you wanted to take the time to go through a sixty page report or study all the costs of this business. If you had studied that, however, you would find that it costs just as much to place the \$100 loan or the \$50 loan upon your books, and it costs you just about as much to service that loan as it does a \$300 or \$500 loan. You can readily see when you look at the cost per month per account, that it wipes out your margin of profit, if you were just making \$100 loans; and you must rely in actual practice upon the amounts in excess of \$100—I will say in excess of \$75, because in our case actual figures show that the breaking point is between \$70 and \$75 where you show some little profit at a three per cent rate.

By Mr. Macdonald:

Q. May I take you back to the state of Missouri? I understood you to say that originally the rate was one per cent and that money lenders were then charging an exorbitant rate; I also understood you to say that now the rate is two and one-half per cent and there are still a great many money lenders charging an exorbitant rate. Could you give the committee in your opinion, what is the cause of that? Is the rate still too low?—A. Yes, that is my opinion. I support my opinion with that of the man in charge of that business for their state, that the principal cause of that is the fact that the lenders licensed under the Small Loan Act cannot and will not make loans under \$100 at the one and a half per cent a month flat rate; and consequently anyone who does not need at least \$100 immediately becomes a victim of the other type of lender.

By Mr. Howard:

Q. May I ask the witness this question, Mr. Chairman: Have you any records as to repeat loans under this system?—A. I am sorry that I do not. Sixty days from now I would have. That is one respect in which I wanted to qualify myself here at the outset, as not pretending to be an expert and knowing all the answers. In our survey, you will understand that we started from scratch, and first it was a question of cost accounting; and as we have gone along each year we have attempted to develop more the trend and use of general supervision. This year for the first time we are asking for reports from our licensees that will give us figures upon these renewals. We have tried to

[Mr. Ralph L. Bunce.]

take up one or two additional things each year in a general way as we went along, taking them more or less in the order of importance as we saw them. The first problem that we attacked two years ago was the practice of certain licensees to simply charge or collect interest only. We found some offices where a man borrowed \$200, and he kept on paying interest on \$200 every month, until you might find a man who had borrowed originally \$200, who had paid back \$350 in interest and still owed the \$200. We made a drive on that a year or two ago and we have that almost entirely eliminated. We got rid, if you will pardon me for using the word, of offices that were the bad offenders in that respect—this year, at the first of the year. This year we are taking up as our particular study this type of renewals. We have for three years worked steadily to encourage every lender to make every account be reduced on a regular monthly basis. As to how well we have succeeded in that you might be interested in the fact that this last year, with an average of 73,800 loans accounts in our licensed offices, only 3,700 of them were on an interest only basis. That is five per cent. So you see we have really accomplished a great deal; and frankly, when the licensees get that into their heads, we have not any trouble.

By Mr. Vien:

Q. Is there any provision in your law compelling them to have an instalment basis or is it regulated?—A. No. We have not even made a regulation on that.

Q. It is persuasion?—A. It is persuasion, yes sir. But it is good business for them. They make a better profit.

Q. And it is better for the borrower as well?—A. Yes. That leads on, unless there are some questions on those two points, to something else.

By Mr. Quelch:

Q. It should be possible to grant renewal loans at a lower rate than new loans?—A. That is optional, if they wish to.

By Mr. Vien:

Q. You have no regulation or legislation?—A. No.

Q.—to prevent loan companies, small loan companies, from renewing loans?—A. No. You are up against this: If you prevent a renewal, they simply go across the street and borrow from another lender and pay off the first one. If he is a good fellow and he needs that money, he might as well continue on a renewal basis with the original lender.

By Mr. Quelch:

Q. At a lower rate?—A. At the same rate.

Q. You already have the expenses of investigating?—A. Why is it necessary for him to renew; why has he not lived up to the terms of his contract? The cost will be about the same in the second case.

Q. If he paid it in full and wanted to get another loan immediately, would not there be a saving there?—A. That depends somewhat upon the individual and upon his desirability as a customer. I know many licensees, of course, who will grant that. That is part of my business.

By Mr. Vien:

Q. There are certain things that you would never be able to eliminate, but you have developed a policy towards that end?—A. And it is also educational to a great extent.

Q. And practice?—A. I said a while ago you are to be congratulated upon attempting to regulate this industry while it is young. Remember that we had to begin with over a hundred licensees who had established a business and gone

along without any regulation. They had been in business for thirty years and thought that nobody could tell them anything about it. They wanted to do it their own way and they resented any regulation whatever.

By Mr. Martin:

Q. We have them too.—A. We had to work this out.

By Mr. Vien:

Q. You were creating a greater disturbance in the channels of trade?—A. Yes. It requires a lot of educational work. You are going to be able to escape that. I understand that there are three operating companies chartered by the dominion government, and any additional ones you will have control over. Consequently you can see that they are going to operate on what you know to be good sound ethical practices in this particular business.

By Mr. Martin:

Q. Our job is to reach a lot of others, other than these three who are willing to submit to regulation.—A. That is my view.

By Mr. Finlayson:

Q. Mr. Bunce was good enough to send me in reply to an enquiry some copies of his report and the results of some of his investigations, and I want to say I am impressed with the thoroughness with which they have gone into the business. There are some points here, however, on which I want to get some further information. Mr. Bunce, would you be good enough to let me have them? When did Iowa first adopt the uniform small loans law; 1921 was it not?—A. I think that is about the time.

Q. As developed by the Russell Sage Foundation?—A. I said fifteen years ago. It would be along about 1921 or 1923. I am not sure just what year it was that the three and a half per cent law came into effect with practically no supervisory provisions.

Q. There is just one point I wanted to ask you. I understood that the uniform law from the outside provided for supervision?—A. Well—

Q. Why did it not get supervision in Iowa?—A. I never personally compared our law with the draft. I presume that would be the first draft of the Russell Sage Foundation on which our original law was based. But I think it is very likely true that the legislature at that time did not follow the first draft altogether.

Q. Possibly.—A. Just the same as our present law kind of tends away from the so-called sixth draft in several places.

Q. You mean your legislature has not adopted the last modification suggested by the Russell Sage Foundation?—A. They did not adopt some that were already in there.

Q. At any rate, the uniform rate provided for in 1921 or thereabouts was three and a half per cent?—A. Yes.

Q. And that continued until 1934?—A. Yes.

Q. When it was reduced to three per cent on the balance up to \$150 and two and a half per cent on the balance over \$150?—A. Yes.

By Mr. Howard:

Q. The maximum was \$300?

Mr. FINLAYSON: Yes.

By Mr. Finlayson:

Q. These rates are still in force?—A. Yes, without change.

Q. You have about 120 lenders?—A. Yes, that means offices.

[Mr. Ralph L. Bunce.]

By Mr. Martin:

Q. Licensed lenders?

The CHAIRMAN: Offices.

By Mr. Finlayson:

Q. Let me understand it, now. That means there are 120 separate individuals, partnerships or corporations?—A. No, it does not mean that. It means 120 odd licensed offices. We have one lender, for instance, who has six separate offices; several others have two.

Q. Yes?—A. We have no one company or individual that has more than fifteen per cent of our total volume in the combined offices.

Q. Would you have the figures on the other offices; that is how many entities are there?—A. About 100 at the present time.

Q. How would they be divided among partnerships, domestic corporations and out of state corporations?—A. I have that.

Q. Perhaps I can suggest the figures which I obtained from you. I have forty-one partnerships and individuals?—A. Yes. There were about thirty-five individuals and partnerships, which we consider the same.

Q. That is for 1936. The figures I had were for 1937. These are about the same?—A. They are about the same. Forty-four are Iowa corporations, twenty-three out of state corporations.

Q. I am looking at the first page of your report for the year 1936. I see here on December 31, 1936, there were 120 licencees. Does that mean offices or entities?—A. No, that is licencees issued, as I explained, not entities. These are licensed offices.

Q. Some of which may be offices of the same corporation?—A. Yes.

Q. I think that is where the difference arises. How many separate lenders are there, for instance, in Des Moines, lenders, not offices?—A. How many separate lenders?

Q. Yes.—A. Well, we have, as I recall it, about twenty offices in the city of Des Moines, and there are only—I was trying to think where there is a single duplication. There is one duplication. However, there are separate corporations, but both owned by the same individual. He has a separate corporation for each office.

Q. There would not be very much difference between office entities and lending entities?—A. Not in Des Moines.

Q. I am trying to get a comparison. I suppose the population of Des Moines is about the same as Ottawa. Des Moines is about the same size as Ottawa?—A. Des Moines has a population of about 170,000.

Q. I think Ottawa has about 150,000.

By Mr. Plaxton:

Q. Is that your largest city?—A. Yes.

By Mr. Finlayson:

Q. So, you have twenty offices and lenders in a city about the same size as Ottawa—a little larger than Ottawa?—A. Yes.

Q. How is the volume of business distributed between domestic lenders and out of state lenders? I take it there is a majority of the business in the hands of the domestic lenders; is that so?—A. Oh, yes. You see about eighty per cent of our lenders, in round figures, are home people. On the other hand, the outside licencee has a larger proportionate dollar volume of business.

By Mr. Howard:

Q. Would it not be a good idea to know how many banks you have in Des Moines?—A. How many we have?

Q. Right along with your offices and lenders?—A. In the downtown district—that is where practically all the loan offices are located—there are four banks.

Q. Four banks?—A. Yes. The largest has deposits ranging around \$36,000,000; two of them ranging from \$23,000,000 to \$28,000,000.

By Mr. Vien:

Q. State or national?—A. Equally divided. The largest bank is a national bank and the second largest is a state bank and the third is a national bank and the smallest is a state bank.

Q. Have your state banks branches?—A. No, sir.

By Mr. Finlayson:

Q. What is the total loan balance of your small loan companies to the end of 1937 for the state of Iowa?—A. December 31, \$7,675,889.

Q. And the population of the state is about two and a half million?—A. Yes.

Q. So that the loans balance averages about \$3 per capita of the state; is that correct?—A. Yes, that is about right.

Mr. MARTIN: What is that again?

By Mr. Finlayson:

Q. The total small loan balance outstanding in Iowa is about \$7,500,000. There are two and a half million people there, consequently the small loan balance per capita is about \$3. I am just trying to get a picture compared with that of Canada.

Mr. MARTIN: That is not a very helpful statement, Mr. Finlayson, because there is a great percentage of people who do not borrow at all.

Mr. FINLAYSON: I am just trying to develop a comparison, that is all.

By Mr. Finlayson:

Q. That is carried on by something over a hundred lenders?—A. Yes, sir.

Q. In Canada we have three dominion incorporated lenders with balances outstanding at the end of 1937 of \$4,750,000. Assuming that the provincial and unregulated lenders have about an equal volume, which I think is not far from the fact, that would mean that we would have in Canada about \$9,500,000 for a population of something over 11,000,000; so that the per capita loan balance in Canada would be something like ninety cents compared with the \$3 per capita average loan balance in Iowa. The point is that one-half of these loan balances are carried here by three entities.

Mr. McPHEE: What number of companies was that for?

Mr. FINLAYSON: Probably twenty or twenty-five.

By Mr. Finlayson:

Q. Now, I noticed in your report, Mr. Bunce, that your small loan companies and lenders apparently do other business. I notice here that the total assets at the end of 1937 used in the small loan business was about \$8,500,000.—A. Yes.

Q. Then there are assets not used in the small loan business of something like \$9,500,000?—A. That is due to a peculiarity in our law which is another weakness that might well be guarded against by yourselves, in that our law states that the amount of fees to be paid by a licensee depends upon the current assets of the licensee. He does not say the assets employed in the small loan

[Mr. Ralph L. Bunce.]

business. For instance, an individual usually does not have to incorporate. He may have \$75 invested or employed in the small loan business. He might have \$50,000 worth of stocks and bonds in his own person. He must report that in his statement of assets to us. Consequently, a lot of that is just kind of "bushwa."

Q. What kind of business is this other business, as a rule—real estate loans?—A. They are prohibited from engaging in any other business in the office.

Q. They just have the assets?—A. Yes.

Q. Would that apply to a corporation, say?—A. Well, very few corporations—I do not know of any—yes, I know of one corporation that does have real estate holdings and operates a real estate department. They do it in a separate room, under separate management. The title is in the same corporation.

Q. For instance, I notice here that the outside corporations—that is, out-of-state corporations—have \$2,400,000 of assets used in the small loan business, just over \$2,000,000 of assets in use in the small loan business. I suppose these out-of-state corporations are small loan companies say in New York—some from New York?—A. No, we have none.

Q. None from New York?—A. No.

Q. Any from Chicago?—A. Yes.

Q. You have the Household?—A. We have one from Chicago, yes. Yes, the Household Finance Corporation has six offices within our state.

Q. What other companies are there? Where do the other out-of-state companies come from?—A. There is the Commonwealth which has its headquarters at Indianapolis; the Securities Acceptance Corporation and the United Lenders, I believe they call themselves. They are Omaha Corporations. Then there is one from Wisconsin that has two offices—the Arrow Finance Company.

Q. What kind of other business would these out-of-state companies do in Iowa; that is, business other than a small loan business?—A. Well, two of them are engaged in the automobile discount business in Iowa,— those two Omaha companies, the Securities Acceptance and the United Lenders.

Q. Do you think it is desirable to have these two companies carry on some other business than the small loan business? Does it make for a higher or lower cost of money to the small loan borrowers?—A. I do not believe that it affects it at all, because under our law they cannot carry on any other business in conjunction or in the same office state with a small loan business. Consequently, there is definite overhead there. It may eliminate some of the general overhead of a large corporation, as it is made applicable to the individual companies.

Q. Do you see any advantage in prohibiting a small loan company from doing some other class of business?—A. Yes.

Q. Do you think it is desirable that they be prohibited from so doing?—A. Yes.

Q. Whether they are domestic corporations or out-of-state corporations?—A. When I say "yes" to that, I mean Yes, in the same location as their office. If they are doing another type of business in another state, we do not care.

Q. But in your state, would you consider that it is unobjectionable for a small loan business to carry on its small loan business in one office and some other kind of business in another office?—A. Not particularly, no sir. We do have to watch this very closely, because we have several licensees that are principally engaged in the discounting of automobile contracts and conditional sales contracts. There is always the danger of the discount department getting hold of a fellow that is one month in arrears and saying, "Here, you have got to refinance that in our small loan department," because the rate immediately becomes higher; and they not being under supervision do not return to him any of that brokerage fee or whatever they call it in their original charge.

Q. At any rate, your law permits it?—A. We prohibit that; every licensee that is in a dual business is definitely told that any time we find that he is permitting his other business to contribute to an evasion of the purpose and intent of the Small Loan Act, we will take up his licence.

Q. What I mean is that your law permits one corporation to engage in two classes of business?—A. Not at the same place.

Q. So long as they do it in separate offices, they can?—A. Yes.

By Mr. Martin:

Q. Separate offices or separate places?—A. Separate offices.

By Mr. Finlayson:

Q. They might be in the same town?—A. Yes.

Q. One office might be in one block and another office in another block?—
A. Yes.

Q. Or the two offices might be in the same building—A. Yes, or the offices might be just across the hall from each other.

By Mr. Vien:

Q. What is the purpose of preventing a company from carrying on any other line of business?

Mr. FINLAYSON: I do not get your question.

Mr. VIEN: I want to ask if there is any good purpose in preventing a company from carrying on any other kind of business, if they are in the small loan business?

Mr. FINLAYSON: That is what I am trying to get from Mr. Bunce. I want him to say what his experience was in Iowa because, as you will recall, Colonel Vien, our small loan companies here are practically prohibited from doing many classes of business which some of the small loan companies elsewhere do. Our loan companies here cannot take deposits, for instance.

Mr. VIEN: Quite so.

By Mr. Finlayson:

Q. I might ask you a question on that, Mr. Bunce. Do any of the small loan companies in Iowa take deposits from the public or sell investment certificates?—A. No.

Q. They are all prohibited from doing that. They must supply their own loaning funds from their own capital?—A. From capital. They borrow, of course, from their banks.

By Mr. Martin:

Q. They do in some states, do they not?—A. I think some states do permit them to sell investment certificates.

By Mr. Plaxton:

Q. You permit the Morris Plan banks?—A. I do not say we permit them—
Mr. MARTIN: They are tolerated.

The WITNESS: —because we have nothing to say about them whatsoever. We have a securities department, which is another branch of the state government; and they can qualify securities for sale within the borders of Iowa, whether they happen to be operating in Iowa or not, and that is the way they approach the public to get their money.

[Mr. Ralph L. Bunce.]

By Mr. Vien:

Q. They are not in the small money lender class?—A. No; absolutely distinct and not specifically authorized by law at all.

By Mr. Finlayson:

Q. I wanted to come to your rate of earnings in your statement. I think you said that those rates now in force by lenders earned about eight per cent on their capital?—A. Yes, after the payment of interest upon borrowed money.

Q. What would the rate be before payment of interest?—A. Approximately ten per cent. That is last year.

Q. Starting from that ten per cent rate, that ten per cent rate would be the result of a fraction, the numerator of which would be the earnings, and the denominator of which would be the assets used in the small loan business, would it not?—A. Yes. I will use the basis of \$113. In other words, we recognize that you must fix the rate upon \$100 that will earn a return upon \$113. We have found by experience that our licensees can keep about \$100 of each \$113 employed.

Q. The assets used, however, as the denominator of the fraction are the assets used in the small loan business, not these other assets that we have been talking about?—A. No, sir.

Q. And the earnings are the earnings from the small loan business?—A. Only.

Q. They are not earnings from some other part of the business?—A. No, sir.

Q. I see these earnings would be about \$830,000. Can you verify those figures for 1937? The denominator would be something over \$8,000,000. Would that be right?—A. The total net earnings derived from the small loan business for the year were \$830,596.69.

Q. I take it that you use not the small loan assets at the end of the year but the mean small loan assets?—A. Yes, that is true.

Q. By "mean," I mean of the assets at the beginning and at the end of the year; and they would amount to about eight and a quarter million?—A. Yes.

Q. Giving a ratio of 10·09. These earnings are before deducting interest paid on borrowed money; is that right?—A. Yes.

Q. What was the amount of the interest paid on borrowed money? \$168,000, was it? What was the interest paid on borrowed money?—A. I have it here as soon as I can locate it.

Q. I think you will find it on the last page, the very last page of this report.—A. Interest paid, \$168,305.

Q. Yes, \$168,000. What is the amount of borrowed money? That is on the second last page I think?—A. On the first page.

Q. On the first page also, yes.—A. Borrowed money \$7,166,947.45.

Q. Yes.—A. Again in that, of course, may be included—because that is their general statement—money that is borrowed for other purposes.

Q. Do you know what rate of interest is paid on that borrowed money? Do you know what that borrowed money costs them?—A. That would vary all the way from around two per cent to six per cent. In the larger corporations—those out-of-state corporations can borrow money currently for around two and one-half per cent to three and a half per cent on a collateral basis.

Q. Yes?—A. And the smaller companies that borrow from their own home local banks will pay an average of six per cent.

By the Chairman:

Q. Per annum?—A. Yes, per annum.

By Mr. Finlayson:

Q. There was quite an increase in the borrowed money in 1937, I notice?
—A. You will notice there was quite an increase in the loan balance, also.

Q. Yes—six and a quarter millions for 1936 and \$7,166,000 for 1937. I suppose there you would take the mean borrowed money for the purpose of getting average figures?—A. Getting average figures.

Q. Would you say that about two and a half per cent would be the average? With \$168,000, the interest paid on borrowed money and \$6,700,000 the mean amount of borrowed money, it would give a rate of about two and a half per cent on the average.

Mr. VIEN: On that point, how do you arrive at your mean amount?

Mr. FINLAYSON: By taking the amount of borrowed money at the beginning of the year and at the end of the year and adding it together and dividing by two.

Mr. VIEN: It is not a constant mean average during the year?

Mr. FINLAYSON: No; that is the average at the beginning and at the end of the year. I am trying to get at this eight per cent rate. To get at the eight per cent rate you deduct the interest on borrowed money from the net earnings that you used in the first computation?

Mr. MARTIN: What do you mean by the eight per cent rate?

Mr. FINLAYSON: I am getting back to what Mr. Bunce said, that the companies earn eight per cent.

Mr. MARTIN: An eight per cent return.

Mr. FINLAYSON: On their capital.

Mr. MARTIN: Yes.

By Mr. Finlayson:

Q. You would deduct the interest on borrowed money from the net earnings that you used in the earlier computation producing ten per cent?—A. Yes.

Q. But would you not also deduct from the denominator of the fraction the borrowed money itself from the assets used in the small loan business?—A. No, I would not.

Q. That is, you deduct from the earnings the interest paid on borrowed money, in the numerator of the fraction, but you retain the gross assets without deduction of the borrowed money for the denominator of the fraction?—A. You would notice, if you would follow our entire system of cost accounting, that we do treat interest paid as a different item of expense than we treat salaries, rent and things of that sort. If you will notice in our form of report here, we report that in a different bracket; so that it is probably average cost in a different manner than the other types of expense. On the other hand, it is our theory that in the first place, whether it is actual personal capital of the licensee or whether it is money he is obliged on his own responsibility to obtain, the rate of return both upon his own money and the money he is pledging his responsibility for must be sufficient to interest him in that as a business hazard.

Q. Yes, but looking at it from this standpoint, the lender has a certain amount of his own capital in the business. He gets a certain portion of his capital from the banks or other lenders on which he pays an average, apparently, of two and a half per cent. We come now to estimate the rate of earnings on the lender's own capital. We deduct from the net earnings, before interest, the total interest paid on that borrowed money, but we make no deduction from the denominator of the fraction, of the amount of the borrowed money; so that what you have there is a rate of net earnings after deducting interest on borrowed money, related to the total assets which include some \$3,000,000 of borrowed money which, I submit, is a ratio which means nothing.

Mr. MARTIN: The difficulty with that, Mr. Chairman, is this—

[Mr. Ralph L. Bunce.]

The CHAIRMAN: It is one o'clock, gentlemen.

Mr. MARTIN: We should not have arguments at this stage. Mr. Finlayson is putting a question which is really argument. I was going to object to this procedure the last time Mr. Finlayson resorted to it. I am strenuously objecting to it now.

Mr. FINLAYSON: I am afraid I put it in the form of a statement; I should have put it in the form of a question. I should like Mr. Bunce to consider the statement I made.

The WITNESS: May I say this: Mr. Finlayson has been referring to a number of figures that are contained in the official report. I have a copy of the official report which I shall be glad to leave with your secretary to be included as part of your minutes if you so desire.

The CHAIRMAN: I think it would be well to do that.

The WITNESS: Probably if you did that you would avoid a lot of these direct references to our figures that I read here.

Mr. VIEN: I move that it be printed in our daily report. (See Appendix "A.")

Mr. FINLAYSON: I think it would be a very desirable thing. It is a very illuminating report, I must say. There are questions there that I could not quite understand.

Mr. VIEN: I think the point really stands out that if you take the amount of money borrowed and the return on the annual investment, you will find that the annual return will be greater than eight per cent.

The CHAIRMAN: We will consider the matter this afternoon. It has been decided that we meet this afternoon at 4.30 o'clock. I would therefore ask you gentlemen to co-operate with me in the matter of a quorum.

The committee adjourned at 1.05 p.m. to meet at 4.30 this afternoon.

AFTERNOON SESSION

The committee resumed at 4.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Mr. Bunce is here and will continue.

Mr. RALPH L. BUNCE, recalled.

The WITNESS: Mr. Chairman and gentlemen, when we recessed for lunch I believe I was being questioned by Mr. Finlayson.

Mr. FINLAYSON: Yes.

The WITNESS: Did you have any additional questions along that line that you wanted to follow up?

Mr. FINLAYSON: No. I believe we had reached the point where I had suggested you might consider the basis of the eight per cent rate; that is, the factors entering into the computation. I think I had finished with that phase of the subject.

The WITNESS: Well, in taking up one more general phase of this question—we will incidentally come back to that point again, not so much from the question of how we arrived at it but the advisability and necessity of it. I think you undoubtedly all recognized that in my discussion this morning I did not attempt to go into the technical matter of cost accounting in connection with

this business. It is a more or less technical and scientific proposition. I will not pretend to be qualified to give you a readily understandable explanation of the various methods. As I say, I have with me surveys, the explanation of our method, the actual computation as made by the experts in our department. I know the theory and I know the results, and I am willing to vouch for the authenticity and the trueness of their results. I have, however, not attempted to enter into a discussion of the technical methods of cost computation.

Now, the next general point that I have in mind to discuss with you a few minutes is whether or not it is the desire of your legislative body to enact a law which will grant in effect a monopoly of this business to one, two or three firms, or whether it is your desire to enact legislation which will invite competition.

Mr. MALLETTE: We are against monopolies. There is no doubt about that. That is the platform of our party.

The WITNESS: Then, we agree.

Mr. MALLETTE: These gentlemen do not ask for any such powers either. They are glad to have their little field of operation.

The WITNESS: Well; the reason that I bring that up is this: we, of course, have gone on the theory that competition is desirable in connection with this business and that competition will help to correct some of the evils and make it much easier from an administration standpoint, rather than more difficult, and will give better and cheaper service to a larger number of borrowers.

On the other hand, there is this to be said. If you are going to grant more or less monopolies to one, two or three large operators, it is demonstrated so far as our experience is concerned that the larger operator can obtain a better degree of efficiency, can lower the overhead cost per account, and would eventually permit your legislative or governing body or officer to reduce the maximum charge permitted.

By Mr. Mallette:

Q. That is theory?—A. That is not theory, no. That is a demonstrated fact. But you must balance on the other side the fact that such an office operated purely from an efficiency standpoint will not be conducted in very many points in your dominion.

Now, frankly, the rate of interest that is permitted under our law and under our supervision permits a few larger offices, operated by large companies that have developed a high degree of efficiency, to develop better than the average return; whereas a majority of our lenders who are operating in smaller communities with a smaller volume, and with a corresponding less degree of efficiency, are not obtaining even the average net returns that our report shows. Now, if we were to legislate and to fix a rate that would reduce, we will say, the 8 per cent, the net return by the most efficient company, we would immediately drive a number of our people out of business and we would take away from the borrowing public the facilities that the law contemplates to provide for them. So that you must determine whether or not you are going to establish the law simply for the benefit of a few unusually well organized and managed concerns who will simply maintain offices in your large centres where they can develop a satisfactory volume of business—in other words, an efficient volume of business—or whether you are going to establish a rate that will permit a larger number of companies to operate at a large number of points, thereby making credit facilities available to the larger percentage of your population.

Now, you have to balance that and arrive at a conclusion as to which is the most desirable for your own situation.

By Mr. Coldwell:

Q. In that connection I asked this morning about credit unions. Are they a factor in your own state?—A. Yes.

Q. They are?—A. Yes.

[Mr. Ralph L. Bunce.]

Q. Are they under your supervision?—A. Yes.

Q. You have about a hundred of them?—A. Over 120.

Q. What is their experience? Are they competitive factors in the field?—A. Practically no.

Q. They are not. What is their experience? Is it generally good, successful?—A. Well, I think it is safe to say 80 per cent, yes.

Q. Can you give us some idea of what they are doing there, because we have them in Canada?—A. Yes.

Q. I would like to know just what effect they have on your general small loan situation?—A. Well, I would say they really do not affect the small loan situation at all.

By Mr. Martin:

Q. Would it be fair to say except for the fringes in your state they cover two different groups of people? There will be, naturally, an overlapping on both ends, but apart from that they would generally cover a different group?—A. Yes, and a different type of borrower. It is a peculiar thing but apparently the majority of the type who borrows money either from the credit unions or the small loan companies would rather pay the higher rate of interest and have their business handled confidentially and privately than borrow money at 1 per cent a month and bare their personal business affairs to their associates.

Q. How many of these credit unions in the state of Iowa provide for both consumer and production credit?—A. All of ours are restricted to loans to their own members.

Q. For consumption purposes or to enable them to carry on business?—A. Well, it is not restricted.

By Mr. Coldwell:

Q. Do you think the credit unions are any less confidential than the small loan companies?—A. Of necessity, yes, they are less confidential.

Q. The officers of the credit unions?—A. Under our set-up they have a credit committee of ordinarily five or six who are fully advised to pass upon every loan.

Q. That was not so in the case of the Caisses Populaires.

Mr. MALLETT: It was, yes.

The WITNESS: That is one of the protections that the credit union has.

By Mr. Coldwell:

Q. What type of people do they deal with, civil servants, etc?—A. Yes. The only type of credit union that we have found in our state to operate satisfactorily and successfully is what is commonly known as the closed type of union. In other words, the association of the members must be close, and generally speaking it is through mutual employment which gives them almost daily association. The attempts that have been made in Iowa to serve a community that does not have any close relationship or association connected with it uniformly passed out of the picture. I have two of them on our list right now that for two years have not been able to get a large enough percentage of their membership together to vote dissolution. They have ready all the funds paid in, and they cannot even legally distribute these funds.

Q. Can you give us any idea of the volume of business these are doing in your state?—A. In round figures, \$2,000,000.

By Mr. Mallette:

Q. Does the state government help in the organization of the credit unions?—A. We do not have anything to do with their organization or anything of that sort, but we are very friendly with them.

Q. Does the government subsidize that in any way?—A. No.

By Mr. Coldwell:

Q. What rate of interest do they charge?—A. They may charge 1 per cent a month.

By Mr. Finlayson:

Q. Quite so, but what do they charge?—A. The successful ones charge 1 per cent a month.

Q. And the others?—A. They tried to operate on a 6 or 7 per cent basis.

Q. And failed?—A. Yes. We are liquidating one of these now. It is hopelessly insolvent. If the membership recovers 25 per cent on the dollar they will be lucky.

By Mr. Martin:

Q. Apparently, first of all, the credit unions in your state are not as efficient as they might be; but assuming that they were as efficient as some are in this country, there need be no conflict between the two operations; is that not right?—A. I think so; and I do not want you to get the idea that our credit unions in the majority of cases are not operated very efficiently and thoroughly. I would say out of our 120 there are probably 100 that I believe will match up with any credit union any place in the country.

By Mr. Coldwell:

Q. Have they been operating for some years?—A. Yes, some of them have.

Q. How long?—A. More than ten years in some cases.

By Mr. Martin:

Q. Have you a draft act, or have you given this matter any consideration from the point of view of legislation in your own state?—A. With regard to the credit unions?

Q. No; the principle that we are speaking about, the small loans?—A. Yes; I think I have mentioned already two or three weaknesses that we would like to see corrected.

Q. I understood you to say that you had a draft act?—A. No; we have not been drafting a new act or anything of that sort.

Q. I understood you to say you had a draft act yourself that had not been submitted. Did I misunderstand you?—A. No; I simply said I had argued for certain changes in our present law, which would be by amendment. Last year, for instance, we had three amendments prepared but the legislature did not get to them before they adjourned.

Q. Let me put this question to you. We are searching about for adequate legislation. Now, with your experience, can you make any concrete suggestions to this committee?—A. Regarding the draft of a bill?

Q. Yes, what we should do. Before you answer that may I point this out to you. You really are aware—if you are not it would be perfectly understandable—we have nine provinces. There are only three companies with federal charters who are in the small loan business. If they were not given adequate legislation they might easily permit the dominion charter to lapse and carry on business in one province, where in the absence of more stringent criminal law regulations they could not be effectively touched. Now, with that introduction, would you care to make any concrete suggestions to this committee?—A. I would be glad to do this, if you care to have me take the time. I would be glad to sketch as hastily as I can our own law covering the highlights, stressing what I think is important and what would be applicable to your situation as I understand it, and such additional suggestions as I might have in addition to our present law.

[Mr. Ralph L. Bunce.]

Q. Let us have that.—A. Would you care for that?

Q. I personally would.

Mr. VIEN: I think it would be very helpful.

The WITNESS: All right.

By Mr. Martin:

Q. What is that you have there?—A. That is a copy of the Iowa small loan law as it now exists.

Q. Cannot we put that on the record, Mr. Chairman?

The CHAIRMAN: Yes, it will be placed on the record. (See Appendix "B".)

The WITNESS: The first point that logically comes up in the law, and naturally it is the first point in ours, is the prohibition clause:—

No person, co-partnership, association or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of three hundred dollars (\$300) or less and charge, contract for, or receive on any such loan a greater rate of interest or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this act and without first obtaining a licence from the superintendent of banking, hereinafter called the superintendent.

There is your first important step, to bring everyone who is charging or contracting to collect charges in excess of your present legal rate of interest, unless he becomes a licensee, under this special Act. Immediately you will bring everyone who is in the business of lending money in small amounts for a higher rate of interest under the provisions of the Act.

The second takes up the provision, which is for anyone who wishes to engage in this business to make application to the superintendent of banking or to such official as you designate, for the issuance of a licence to engage in that business. Incidentally, I do not know whether you have given thought to the method of maintaining any department. With us it is maintained on an annual fee basis. Each licensee must pay either \$50 or \$100 originally to cover the cost of investigation, and thereafter he pays either \$75 or \$150 per year depending on whether or not his assets exceed \$20,000. That is fixed in the second section of our law therefor in connection with providing for applying to this officer. In addition to that, he is also required to file a surety bond executed by a corporation qualified to do business within the State of Iowa. That corporation bond goes to the superintendent of banking. In that same section one of the provisions is that the applicant must show that he has \$5,000 in cash or current assets available for use in making loans under our licence. To be perfectly frank with you, there is one of the places where I have already, I believe, suggested there is a weakness in our law, and that a considerably larger amount of capital should be required. Of course, as I understand your set-up, one of your three companies now chartered by the Dominion might have an indeterminate number of offices without increasing the capital. Bear in mind that this \$5,000 here applies to each office. If a man has four offices, he would have to have \$5,000 for each one of them. But even at that, there should be, I would say, a minimum of \$25,000 required for any office.

By Mr. Martin:

Q. Why? Because with a lower amount there are likely to be greater abuses?—A. Yes; and the cost of that man's doing business. When you have to do as we have to, strike an average for your industry, if you have got too many of these down there, you are going to have to continually keep your rates up. You lose efficiency in that smaller office. There is another definite suggestion I would make to you, to retain a much higher capitalization requirement than you will find written in our Act.

Q. Yes?—A. The fourth section then describes how the superintendent shall proceed and what qualifications are necessary in addition to the provision of capital and the furnishing of a bond. "If the superintendent shall determine from such application or from investigation that the financial responsibility, experience, character and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to warrant the belief that the business will be operated lawfully, honestly, fairly and efficiently within the purposes of this Act, and if the superintendent shall find that the applicant has available or actually in use the assets described in section two of this act—that is, \$5,000—he shall thereupon issue and deliver a licence to the applicant to make loans in accordance with the provisions of this act. . ."

Now, I believe that the nature of that Act is sufficiently broad to give the licensing officers plenty of latitude in the investigation of the ordinary applicant. It also, in this same fourth section, provides that in case the superintendent denies the applicant, a transcript of the evidence, his decision and findings with respect thereto, containing the reasons supporting the denial must be filed with the banking department and a copy thereof must forthwith be served upon the applicant. He maintains a permanent file in his own office.

Q. What is the effect of that? I mean, if you do not do anything further?—A. Well, the only effect of that is to make it a part of an official record that will be maintained; you cannot just turn a man down and tear up the records.

Q. You must give reasons?—A. You must give your reasons, and you must give them to him in writing and you must maintain a permanent record of that; because he may come back a year from now and ask for another one and wish to show that he has removed those objections and things of that sort. I think it is only fair that the evidence should be on file as part of your official record.

The next section simply specifies what shall be in the licence. It shall state the address of the place of business; it shall state fully the name of the licensee, whether it is a co-partnership or an association, the names of the members thereof, and if a corporation, the date and place of its corporation; and it is required here in our law specifically that such licence shall be kept conspicuously posted in such a place of business and shall not be transferable or assignable. Now we find it a distinct advantage to have that requirement in the law that every licensed office must display the official licence. Your people become acquainted with the fact that your government is licensing certain people to lend and that the people can look to a governmental agency for protection if there is violation of the law; and secondly we want to know that these people are able to walk into an office and not ask them whether they loan money, but are able to look up there and see whether or not they are licensed. Consequently, I believe that is essential.

Q. Is the fact of government licensing brought to the attention of the public in any other way?—A. We require, through regulation, that in all of their advertising matter going to the public, our licensees refer to the fact that they are licensed under the Small Loans Act of Iowa. I am getting now into something else that I intended to mention a little further on in the discussion of this one general point that I started before this came up, which is the matter of advertising and the educational advantages of advertising.

Our sixth section is with reference to the bonds. If the superintendent finds that a bond is insecure or exhausted or otherwise of doubtful validity or collectibility, he can require an additional bond; and if this bond, upon his demand, has not been filed, then he can cancel their licence.

[Mr. Ralph L. Bunce.]

Here is another section that would not be applicable to you, if you follow my other suggestion, that every licensee shall have available at all times for each licensed place of business at least \$5,000 in assets. Now, for instance, to show you the importance of having a provision of that sort, we had one licensee in Iowa two years ago—I believe I told you this morning that we inherited all of the old licensees that were under the 3½ per cent law, automatically. Consequently, it took us about a year to begin to catch up with this fellow and get on to all that he was doing. We did not find any direct violation of the technical requirements of this law. We knew that his operations, however, were not of a strictly first-class nature in some other respects and he was not the type of business man that we liked to see have a licence from our department. Frankly, we were fearful that sooner or later he would be in serious difficulties with his stockholders; and while his statements showed assets of around \$100,000, after a year's study and survey and getting what information we could regarding him gathered together on the side and other places, we learned that his company was insolvent. He did not have \$5,000 even of company money or his own money available. We cited that man in. He surrendered his licence without argument, and moved out of the State of Iowa. To-day he is out on a \$25,000 bond under a \$50,000 defalcation charge on the part of his stockholders. We did not have the evidence of that in our state. He was doing business in both states. It took the other state a year or so after we had gotten rid of him in order to get that criminal evidence against him and to get some of his stockholders to file or prefer charges. We feel that we were extremely lucky in that we had this provision in 'here that enabled us to stop that man using in any form the language that he was even licensed to make small loans or do anything else under the laws of our state. So there are extreme cases where a provision of that sort might be helpful.

By Mr. Plaxton:

Q. When you are speaking of cash, I presume you mean if it is in a bank account?—A. Yes; liquid assets is the term that our law uses. It means cash or negotiable securities or things of that sort.

Here is a provision, of course, that we follow very closely. In fact, it has been a matter of issue. We have been threatened with court actions to test it but so far it has not gone through the courts. That is our seventh section, which says that "not more than one place of business where such loans are made shall be maintained under the same licence. It further provides that more than one licence to the same licensee may be issued upon compliance, for each such additional licence, with all of the provisions of this Act governing the original issuance of a licence."

Now our whole financial system in Iowa, of course, is built up upon the individual unit rather than upon the branch basis; and consequently we stress the fact that the place of business named in the licence is the only place, and that they cannot have a half a dozen representatives in different towns taking in applications and transacting business out there. That seems to be quite important to us. That is something for you to consider. But I believe that if you are going to attempt supervision, you will find it highly desirable to have all of the business restricted to one office under one licence, so that you can consider each one of them individually for supervision and examination. So I would urge, regardless of what methods you use, that you do not attempt necessarily to restrict the number of offices that one operator may have, but if in some way, instead of your granting a charter that will permit the holder of that charter to start offices indiscriminately, and with no control whatsoever on the part of your government, you can figure out a way to avoid that, that would be my suggestion—that you issue additional licences and make them apply for a licence for each place of business that they wish to open.

By Mr. Martin:

Q. You mean you would have each office make a return to the superintendent?—A. Yes. Well, that will come in a consolidated return. Ordinarily, the company that has more than one office will have the records separate for each office.

Q. Would you not run up into considerable overhead cost in a country like Canada, running from coast to coast?—A. Overhead on the part of the company?

Q. Yes, of the company, which would perhaps cause higher rates even?—A. Well, not a great deal; because you need individual records in connection with your loans maintained at the offices. Your general office will ordinarily maintain a control record, and consequently there is not a great deal of duplication there. Incidentally, we have found that the companies who had maintained a central office and have a control, even though they may charge the correct proportion of that general overhead back to each office—we have found that that type of operator produces and receives a more efficient return than the individual licensee. Consequently the money that is paid by each individual office over to the central office is money very well spent, apparently, and the efficiency in our state, in our experience, indicates that the management through that central office is of a higher degree, from the efficiency standpoint, than our individual operators are able to obtain. In that same provision it says, as I read, that these licences were not transferable or assignable. There is a provision, however, that a licensee may move his place of business, named in the licence, but only by presenting his licence, the original licence, to the licensing official and getting his written consent to the removal.

Our next section is one that you can either read in as a separate provision or you might put it back into section 2 of ours. Our next section is the one that requires the payment of an annual licence fee. In our case, as I said before, it is either \$50. or \$75, depending on the size.

Now then, next we take up the question of revocation or suspension of licence. Our next section in our law provides for 20 day notice for hearing, if the superintendent at any time feels that there is reason for revoking that licence.

By Mr. Plaxton:

Q. Has the company or person whose licence has been cancelled an appeal from the decision of the superintendent in the case of revocation?—A. There is no provision in our law for such an appeal to anyone. Our general law however would give such a person the right to bring an action before our district court. In our system, of course, in Iowa, there is a district court and then the state supreme court.

Q. Yes?—A. Which is simply an appeal body.

Q. That would be by way of mandamus?—A. Yes, through a mandamus action. There is no provision for that in this Act at all.

Q. No?—A. The superintendent is given full and sole power with the exception of one point which I will come to later, that is the fixing of rates; outside of that everything—full power of control is given to one licensing officer.

Now then, the grounds for revocation: first, if the licensee is in ten days default of payment of annual fees, or if he fails to maintain satisfactory bonds; second, where he has violated any provision of this Act or any rule or regulation lawfully made; third, if any fact or condition exists which would clearly have warranted the superintendent in having refused in the first instance, originally, to issue a licence. We also have the next provision, that if the nature of the complaint or the cause that you have against this party requires quicker action

[Mr. Ralph L. Bunce.]

we can on a five day notice call the licensee for hearing and suspend for 30 days in that manner; so that really you have got quite effective control. You can give him a five days notice, call him in and suspend him for 30 days, and while that 30 day suspension is running you can give your 20 day notice of revocation; so you really have a five day control over the licensee. I believe that is fair enough, and you would be surprised at the respect that the licensee has now. We have only had two or three cases where we have cited anyone under that provision, and we have not had a single instance yet where the licensee went through with a hearing. He either corrected the matter or he surrendered his licence promptly. And you will find that it is quite valuable, and that is one thing I would urge upon you; to retain in the hands of your government and to make some provision for this expulsion and revocation of their licences, for good reason, of course.

By Mr. Martin:

Q. Supposing a company fails to make a return to the superintendent, would that be cause for revocation?—A. You would be reasonable on that. After all, we have many of them who are delayed in making their returns. On the other hand I do not believe any of them fail to give us a ring on the telephone or drop us a line; and you may grant them an extension if you like.

Q. Would you consider failure to make a return at all grounds for cancellation; is that provided for in the statute?—A. It is provided for in the statute; they have ten days. You must give them notice of default, and then give them ten days in which to comply—unless they give us good cause. It is natural to assume that the statement is not such as they want to make.

There is provision in here also that the licensee may surrender at any time by delivering written notice of surrender, but such surrender shall not affect the licensee's civil or criminal liabilities for acts committed prior to such surrender.

Another measure which I think is logical in any law having this provision; no revocation or suspension or surrender of any licence shall impair or affect the application of any pre-existing lawful contract between licensee and any borrower.

Q. That is a very unnecessary clause?—A. Yes, that is why we put it in a measure like this. I think possibly it is a good thing to have. There is also a provision here that in case of suspension or revocation requiring the basis of a written record as part of the permanent file in our office.

Now, then, the next section provides for the examination of the business for discovering violations of this Act or securing information lawfully required by him hereunder, the superintendent may at any time, either personally or by an individual or individuals duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business described in section one (1) of this Act, whether such person shall act or claim to act as principal or agent, or under or without the authority of this Act. For that purpose the superintendent and his duly designated representatives shall have and be given free access to the place of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The superintendent and all individuals duly designated by him shall have authority to require the attendance of and to examine under oath all individuals whomsoever whose testimony he may require relative to such loans or such business.

That is another point that I would urge you to incorporate in any law that you may enact. Obviously it is necessary if you are going to supervise and control a business that you should know all these things, and you must have full examination privileges and you must exercise them.

The next is requiring the licensee to keep books, accounts, and records in order that the superintendent may determine whether the licensee is complying with the provisions of the Act; and every licensee shall preserve for at least two years after making the last entry on any loan recorded therein all books, accounts, and records, including cards used in the card system, if any.

Q. I was going to suggest that it might save you a lot of time and a lot of effort if the Act from which you are reading might be taken as read and put into our record—if you will take it as read you might give us such suggestions in connection with the Act, or suggestions that are not embodied in the Act, as you might care to make?—A. That would be fine. In connection with the part I am just talking about here there is another provision that in my judgment is highly important, and that is the requirement that at the time of the making of the loan every borrower shall be given a plain statement of his account with the rate of charge; and that he shall be given a receipt for his payment, and that the receipt shall show, if it is \$10 paid it shall show whether it is \$9 credited to principal and \$1 to interest; and vice versa. On every payment made that applies, it is mandatory; that the borrower shall have a receipt.

Q. Yes?—A. And these papers shall be available to him. It is important to require that papers be cancelled and returned when the loan is fully completed. There is one thing here, I do not know whether under the limitations of your regulations you can put it in or not, but if it is possible at all I would advise that you put in a clause giving you control over the advertising matter used by the licensees. Now, if you can in your measure go to that extent in controlling, I would urge that you give consideration to incorporating a similar provision to our section 12, which is reasonable, but on the other hand it gives you control over advertising. We have already discussed this morning the question of having more than one business. Our law prohibits that, unless the superintendent gives a written consent when he determines the other business to be conducted in the same office is one that will not contribute to violation of this Act. I believe we covered that this morning. That is very essential, if you are going to control the lending business.

By Mr. Vien:

Q. Your prohibition in that regard is only in respect to that one office?—A. Yes, the same place of business.

Q. The same place of business?—A. Yes.

By Mr. Finlayson:

Q. You do not prohibit the lender from doing business other than a small loan business in another office?—A. No.

By Mr. Cleaver:

Q. Do you think your control is more effective if you allow another company to have an office across the hall—as you put it this morning?—A. We find it so, yes. When you put a good strong provision governing the violations of provisions of the Act, and that is enforced, and you have licensees of a character that the law requires, you will not find many attempts to evade. We find our people to be very careful about that, generally speaking.

Q. Yes?—A. There is one other important point in our law which might or might not be applicable to you. I do not know whether you have considered the possibility of providing for—having flexibility in—your maximum interest rate or not. We have tried to retain that, purely as a means of control. Possibly you may prefer to delegate that to a certain official, or to a certain board—in our case that is handled by the Banking board, which I referred to this morning, and which enables us to consider changes of rates. Now, there are

[Mr. Ralph L. Bunce.]

licensees down home who do not know this yet, but the figures that Mr. Finlayson and I were talking about this morning cover our 1937 operations. Based on that, I am firmly convinced that we have reached the place where we can now make a reduction, and that that will be considered based upon our 1937 findings, not as a reduction in the rate, but as a lowering of that breaking point. We find that by reducing that 3 per cent from \$150 down to \$100 we are benefiting practically all of the borrowers. That will be reasonable, I believe. We have not arrived at that definitely as yet, but, frankly, I believe that is desirable. If we can effect that within another month or so, that is a year quicker than any legislature could possibly effect it.

By Mr. Martin:

Q. Would you care to say what, in the light of your experience, should be the minimum rate in Canada?—A. That depends on whether you are going to make it a flat rate or a sliding scale.

Q. Say a flat rate.—A. That would depend again on whether you are going to make the maximum \$300 or \$500.

Q. Say \$500.—A. I believe two and one-half per cent.

Q. Mr. Leon Henderson said the same thing.—A. I am not familiar with what he said, but I am glad if I agree with so eminent a man.

By Mr. Finlayson:

Q. Would you take into account our own experience here over the last five or six years before suggesting a rate?—A. Of course, when you ask me to suggest a rate, I am naturally going to be governed by my own experience.

Q. Yes.—A. And my own observations in the States, because I may say I am unfamiliar with any experience you may have had up here.

Q. How many years' experience have you had there—two?—A. Five in our state.

Q. Since 1930?—A. Well, no, it is four years. And I have conferred and studied with a number of other states.

Q. But you would agree that a study of the experience here should be preliminary?—A. Certainly. I was asked my opinion and I am just giving my opinion on that. You might find that you could get by at a lower rate.

By Mr. Martin:

Q. What about this: is there any reason why anything in Canada should provide a different kind of experience than in any individual state in the United States?—A. I cannot conceive of any reason. We are all just average human beings, and we have about the same needs, sorrows, joys, wherever we go, and I do not believe your experience up here will be a great deal different than our experience.

By Mr. Cleaver:

Q. Do you favour a flat rate or a graduated scale of rates?—A. A graduated scale of rates.

By Mr. Plaxton:

Q. Is it a fact that it costs more to operate a business in a sparsely settled area?—A. Yes, sir.

Q. As opposed to a densely populated area?—A. For various reasons. It has been demonstrated that the peak of efficiency is a three hundred thousand volume in one office. When a company gets beyond that they will seriously consider starting a second office because they have passed the peak of efficiency. As they work up to that, they cannot have the same degree of efficiency, of course.

By Mr. Quelch:

Q. With a graduated rate of one, two or three, the flat rate would be around two and one half?—A. I have not tried to estimate that on anything like an accurate basis, but I imagine it would run somewhere between two and two and a half.

By Mr. Plaxton:

Q. It would also follow, then, that the making of a \$25 or \$50 loan would cost just as much in the way of overhead as would a loan of \$500?—A. Yes, sir. That is another reason I would say, if you are talking about a flat rate in Canada, if you are going to go much below two and a half, your lenders would not make loans of less than \$100.

By Mr. Martin:

Q. Here is the problem that puzzles me. We have been studying this subject since last session, and you and Mr. Finlayson are engaged in the same business; therefore, now is the time, when you are both here, for this committee to get the benefit of your considered opinions. We have to struggle with a number of problems and among them is the question of rates. Mr. Finlayson seems to be decided on one rate.

Mr. FINLAYSON: Not in the slightest.

By Mr. Martin:

Q. I took it that that was your view from reading the evidence of the committee in the Senate and before the House of Commons committee. Now, I can clearly understand what you have said: to have a rate lower than two and a half per cent on amounts from one to five hundred dollars would tend to prejudice the position of regulated companies, and a system of governmental regulations itself would play into the hands of the loan sharks for small loans. Is that clear?—A. If you have a rate lower than two and a half per cent?

Q. Yes.—A. Yes.

Q. That is your considered opinion?—A. That is my firm opinion.

By Mr. Quelch:

Q. But you favour a flat rate?—A. One particular reason that I have for favouring a graduated rate is to encourage the companies to take care of that little fellow. He is the fellow that needs it more than the fellow who is going to borrow \$400 or \$500, and he is the fellow who needs protection from the loan sharks. The point is whether you are going to make your breaking point at \$100, theoretically. Our experience shows that we can make that breaking point about \$70, scientifically. Below that, it would cost considerably above three per cent a month.

By Mr. Cleaver:

Q. How much above three per cent?—A. On the smaller type of loan, under \$25, the cost will be better than six per cent.

By Mr. Finlayson:

Q. Following Mr. Martin's suggestion, as a rule which company, the large or the small company, has the larger earnings?—A. The large company.

Q. Which is your largest domestic company?—A. The State Finance.

Q. Which is your largest out of state company?—A. The Household Finance of Chicago.

[Mr. Ralph L. Bunce.]

Q. What did the Household Finance company earn on its Iowa capital in 1936 or 1937, what rate of earnings?—A. I think it was better than 11 per cent. That bears out what I said a moment ago that the large company—as long as you have brought the name out here and it is a company that is operating in your dominion—

Q. The Household Finance company is not operating in this dominion directly.—A. Well, it is a subsidiary.

Q. Yes.—A. I will say this: that that company shows the most efficient operation of any licensee that we have, I think.

By Mr. Martin:

Q. What company is that?—A. The Household Finance. That is based upon taking the net return earned upon their employed capital as the measuring stick for efficiency.

By Mr. Finlayson:

Q. When you say 11 per cent, Mr. Bunce, are we talking about the gross earnings before interest or after the deduction of interest? I ask that question because I want to say that in the figures we were speaking of this morning there is such a wide disparity between us. Mr. Bunce says that on the net basis after interest the rate is 8 per cent. That is the rate of earnings after the deduction of interest on borrowed money. But my computation, and I can be examined on it later, is that that rate is 14.92 per cent.

Mr. MARTIN: Let us settle that now. Which is right?

By Mr. Finlayson:

Q. The whole difference being to what amount of capital you relate your net earnings.

Mr. CLEAVER: That is why I wanted that question answered this morning.

Mr. MARTIN: I think we ought to have it answered, but I do not think Mr. Finlayson should make a statement.

Mr. FINLAYSON: Then I will put the question to Mr. Bunce.

The WITNESS: I am not in a position to answer your question. I have not a statement nor have I the figures in mind of any individual report. I do not know what percentage, if any, of the capital employed in Iowa is reported as borrowed money by that particular corporation. They borrow money for their whole general set-up; they allocate so much of it to the various offices in Iowa. Whether or not they individually report any borrowed money or any interest paid, I cannot say. That figure of 11.2 net, I think, is before any deduction for interest. It does, however, include the amount which is allocated to each of their offices with their proportionate share of the general overhead of their home office.

By Mr. Finlayson:

Q. I should make it clear that the figures I have here are the aggregate figures for all the lenders. I have no individual figures for the Household Finance, so that the figures I am comparing here are the figures for all the licensees in Iowa.—A. You are up against the thing I told you about this morning. In trying to strike any average, because of our law which requires the individual to report all his personal holdings, and things of that sort, our figures are distorted on that point.

By Mr. Howard:

Q. There is another reason. Supposing your company had a capital of \$5,000, which you stated some of them had this morning, and they loaned up to \$1,000,000, it simply means that they re-discount that paper through a

commercial bank at a rate of two and a half to three per cent. So in the statement the earnings would show a good deal higher on your \$5,000 capital, or a good deal less than if you had \$1,000,000 and you were loaning your own money?—A. Yes, sir. The majority of our licensees have their own money, and the earning that they are making is not affected at all by any borrowed money or any interest they pay.

By Mr. Finlayson:

Q. I think it is perfectly obvious that the rate on the net, that is, deducting interest on borrowed money, should be greater than the interest on the gross, because they borrow money cheaper than they would themselves loan it to the company. In this case you can see the average rate paid on borrowed money in Iowa is apparently two and a half per cent. The companies, on the average on the gross, earn ten per cent on their total assets. Well, obviously, if you put that on the net you are going to have the spread between ten and two and a half on the borrowed money distributed over the rest of the proprietor's own capital, and that naturally brings it up to the 14.92 per cent. So that in consideration of the rate—

By Mr. Martin:

Q. Do you agree with that? Your time is limited.—A. I will wait until he completes his statement.

By Mr. Finlayson:

Q. Are we agreed on that point?—A. Well, I do not think we ever disagreed on that point. That is so obvious that no one would disagree with you. I might repeat, however, if you will permit me to interrupt you, what I said this morning. There are two methods of approach to this particular question. We, in common with the majority of states, have chosen this particular approach that is indicated in our survey. Just as I said this morning, we consider that is necessary in order to interest the necessary capital; that is money which can be used in this business and earn a good return; and that whether or not you have as an individual licensee put up your own money, or whether you have pledged your own personal responsibility to borrow money to put in that business, does not make any difference so far as the desirability of your being permitted to earn a good return on every one of those dollars is concerned. You can take that as your method of approach and your basis of your cost-accounting, or you can go over and take the basis Mr. Finlayson is talking about, in which you are going to attempt to break down and make a differentiation between one individual who has a cheap source of credit as compared with a man over here who is putting in his own money or is unable to borrow any more money. When you try to approach that on any set of average figures you are going to just tear your hair and get red-headed and everything else, because I have seen it tried.

By Mr. Cleaver:

Q. Your suggestion is dividends should be paid on the borrowers money as well as on the capital?—A. Yes.

By Mr. Finlayson:

Q. What is the small— —A. Otherwise, why would you go out and risk your neck to borrow that money.

Q. What is the capital of the smallest lender in your state?—A. \$5,000.

Q. You think that should be raised to \$20,000?—A. Yes, sir.

Q. If you did that would it curtail the facilities available to the public now, do you think?—A. It would to a certain extent; not sufficiently, however, I do not believe, to work a hardship.

[Mr. Ralph L. Bunce.]

Q. What volume of loans has the largest lender in your state outstanding?
—A. About half a million.

Q. Could that larger company by itself operate on a lower rate of interest than the smaller company with \$5,000?—A. Yes, sir.

Q. If you limited say all with capital below \$50,000 would the balance of the companies, do you think, be able to operate at a lower rate of interest than they now charge?—A. Yes, I believe so.

Q. So the volume of assets of the lender has something to do with the rate that should be fixed?—A. Just as I said this morning, that you must determine whether or not you are going to enact legislation that would encourage a few large offices or whether you are going to enact legislation that will encourage smaller offices to take care of a larger number of people where you have a sparsely settled population.

Q. You suggest it is not possible to have a reduction in the rate. Which class of company would that hurt most, the small one or the big one?

The CHAIRMAN: Mr. Finlayson, is not Mr. Bunce talking about offices, and are you not talking about companies?

Mr. FINLAYSON: There is not very much duplication. The principle is practically the same, but I am talking about companies.

The CHAIRMAN: Not in Iowa.

Mr. FINLAYSON: There is not a great deal of duplication. There are only one hundred entities.

The CHAIRMAN: There is only one company there with six offices.

Mr. FINLAYSON: I am speaking now of companies, lenders, entities.

The CHAIRMAN: Mr. Bunce is speaking of offices with a capital of \$5,000 in each office.

Mr. FINLAYSON: No, we are talking about the same thing.

The WITNESS: No. I understand you are talking about entities, and I will keep that in mind.

By Mr. Finlayson:

Q. Which class of company, the small company or the large company, would oppose a proposed reduction in rates most strongly?—A. I do not know. They are all human. They all want to make as much as they can. The bigger you are the louder you howl.

Q. Which do you think would be hurt the most, the small company?—A. The small company, yes sir.

Q. Which would probably fight strongly against it?—A. The small companies.

Q. Is there any attempt on the part of the large companies in Iowa to freeze out the small ones?—A. No.

Q. There is no attempt?—A. With about one exception.

Q. The large companies favour competition?—A. They invite it.

Q. Of the small companies?—A. Yes, sir.

Q. Might that be the reason why they favour competition?—A. No, I do not think so. You know, it is a peculiar fact that whenever a man is successful in one line of business in a community it generally attracts others to that point to engage in the same business, and if the first man is good enough to become successful without competition it will not hurt him any; it will probably help him.

Q. There is this fact to be considered. Is it not true that if the lower half of your companies were eliminated from the field, the smaller half, that it might be easier for you to show a case for a reduction of your rate?—A. Yes, it would.

By the Chairman:

Q. Yes, but, Mr. Bunce, with the same number of borrowers, would they get the same service?—A. No, sir. He did not ask me that.

Mr. MARTIN: That is it. There is just that danger of a simple question. We have only got this witness for a short time, and if we permit these questions we lose a complete picture.

The WITNESS: I was going to get back at that when he discontinued this line of thought. He did not get to it.

By Mr. Finlayson:

Q. I thought I had covered that when I asked Mr. Bunce some time ago as to whether an increase in the minimum capital of \$25,000 would lower the facilities, would lessen the facilities; and I do not think he thinks that it would materially. I thought I had covered that point in that question?—A. You asked me about our \$5,000 companies?

Q. Yes.—A. And I said that was not enough then.

Q. I thought I asked you then if the minimum of \$5,000 were increased to \$25,000, whether there would be any curtailment of facilities to the public?—A. Well, I do not recall. I did not catch you in that. I think I would have to qualify my answer to that a little bit.

Q. I must have misunderstood your answer, but that is what I understood you to say?—A. We could eliminate the \$5,000 companies; but when you get to the \$25,000 offices, that would seriously curtail our services.

Q. Perhaps I misunderstood your answer, but I understood you to say that the minimum should be increased to \$25,000.—A. I think so.

Q. Are you suggesting a curtailment of the facilities to the public?—A. No. I am asking simply for elimination of the smaller ones, because there are not so many of those located at points that are not otherwise serviced. The \$25,000 minimum would not effect any serious curtailment of the facilities to our people.

By Mr. Martin:

Q. Would it not tend to dissipate the abuses now in existence because of the various small capital companies under the statute?—A. It would be helpful, yes.

By Mr. Finlayson:

Q. That is quite right. Take this one company. Suppose one company specializes in larger bracket loans and another company of the same size specializes in lower bracket loans. Which company would make the larger earnings, assuming equal efficiency in its officials?—A. The company that specializes in the larger bracket loans.

Q. That is, the larger bracket loans should be more profitable?—A. Yes.

Q. At the same rate, the same nominal rate of interest?—A. Yes.

Q. What would you say about this? Take one company. Which would be more profitable to it—a loan of \$50 carrying 3 per cent throughout or a loan of \$300 carrying 2 per cent throughout? Which would be a more profitable loan for that company?—A. Well, based on our figures, the first loan would be carried at a loss and the second loan would show a profit, possibly.

Q. That confirms my own impression, but I wanted to yet your opinion.—A. I do not know how much profit they would make on a 2 per cent flat rate, but it would not be a great deal.

Q. Let us take that as an illustration. Suppose that company operated very largely in that upper bracket. It might be able to carry on its business at, say, 1 per cent less than the company that specializes in the small loans of around \$50 or \$100?—A. No, I will not follow your reasoning there. Any company that will specialize in \$50 loans at 3 per cent per month will go broke.

[Mr. Ralph L. Bunce.]

Q. It will lose money?—A. Consequently you cannot compare that with a 2 per cent rate on any basis, can you?

Q. No, but if the 2 per cent rate would enable the company specializing in the larger bracket loans from, say, \$200 to \$300, to live—A. You are assuming that the company can operate profitably at 2 per cent; and by that I assume you mean a satisfactory profit at 2 per cent.

Q. With \$300 loans?—A. Yes. But, of course, I do not agree with that as a basis.

Q. No. What rate would you think, on a \$300 loan, would enable the company to operate at a profit?—A. I think they could make a fair profit, but not what we consider an ample profit, on the $2\frac{1}{2}$ per cent flat basis.

Q. On the $2\frac{1}{2}$ per cent flat basis?—A. But I question whether you would obtain a satisfactory service to your public and whether you would interest very much capital. You would find that one or two companies would engage in the business, maintain large offices and it would restrict the facilities absolutely. I am basing that on the experience of more than half a dozen states in our country that have tried it.

Q. Have you a schedule showing the average rate on loans of different amounts on the scale now in force in your state? What is the average rate of interest, say, borne by a \$300 loan?—A. Based on the volume that we have, the total percentage rate on the sizes of loans, beginning with the \$25 bracket, in order to produce that 8 per cent return which I say we consider as desirable—

Q. Excuse me. I did not put my question clearly. I am dealing now just with a single loan of \$300, on the scale in force in Iowa. What is the average rate earned on that loan throughout its history?—A. I would have to start and break down my figures to begin to answer that question.

Q. You have not got those figures—A. I have not got them, but I could break that down and give them to you, if I had a little time to do it.

By Mr. Hill:

Q. You would not have any company making only \$300 loans. They have to make loans of whatever amount a man may want—\$50, \$100 or \$150?—A. If we had a company that was only making \$300 loans, I will tell you what we would do; we would cite that company inside of thirty days for suspension because they are not operating under the provisions of the Act.

Q. I am not suggesting, remember, that the company would loan only \$300. I am trying to get the rates on loans of different amounts. I am trying to compare one of \$300, and I intend to go down from there?—A. Possibly, Mr. Finlayson, the figures I started to quote you here might give you what you were attempting to work out.

Q. I understand; but you are dealing with the aggregate?—A. I am dealing with the different sized loans in actual volume as we find them in this business. This is actual experience.

The CHAIRMAN: Give us those, Mr. Bunce.

The WITNESS: Now, this is the case in the different sized brackets of loans, as we have found it to be through actual volume. This is in our licensed offices at the end of last year and based on 1937 operations. To produce an estimated 8 per cent return upon what we term the employable capital. Now, for all loans up to \$25 it would be 7.6 per cent per month. On the \$25 to \$50 bracket it is 4.5 per cent. On the \$50 to \$55 bracket it is 3.4 per cent. May I say that based on our experience you now come to the \$75, the first bracket where the 3 per cent per month charge will permit the company to realize a little profit. Now, on the \$75 to \$100 bracket it is 2.9 per cent. On the next bracket it is 2.5 per cent.

By Mr. Finlayson:

Q. That bracket is?—A. \$100 to \$125. And the next one, \$125 to \$150 is 2·4 per cent. It jumps there from \$150 to \$200 where it is 2·3 per cent; and from \$200 to \$300 it is 1·8 per cent. Now, I have had that extended, on a basis using the same idea of averages for limits of say up to \$400 and up to \$500. On the \$400 it would be 1·77 per cent, and if it was up to \$500 it would be 1·68 per cent. Now perhaps that will enable you to reconcile the question you were asking me.

By Mr. Cleaver:

Q. These figures would show an 8 per cent return on all employed capital, including money borrowed as well as capital?—A. Yes, without any deduction for interest rate.

By Mr. Finlayson:

Q. I think these figures are very illuminating but I would like to see set against them just the actual rate earned on loans of these amounts; that is, what rate is earned, what average rate is earned on the \$300 loan on your scale?

Mr. COLDWELL: These are the 1937 experiences.

Mr. FINLAYSON: That would be a very interesting experiment. The law describes certain normal rates and the companies charge that presumably and that produces a certain flat rate on the loan throughout its history.

Mr. MARTIN: Even if he does it, Mr. Finlayson, it would not be very helpful. It is the general return on the average investment which surely is helpful to us.

By Mr. MacDonald:

Q. I suppose 1937 was one of the most prosperous years for these companies?—A. Yes, it was, so far as we have been able to observe.

Mr. VIEN: Under the most ideal circumstances.

The WITNESS: Yes, our loss ratio has gone from 11 per cent back in 1933 down to 5 per cent last year. They have had their ups and downs. And there is another thing. You have got to allow a good cost for an overhead if you are going to prevent losses. I think you will believe this, that from a study of the actual figures the company that shows the highest overhead so far as office personnel and office management is concerned generally shows the lowest percentage of losses; and the company that has a poor or cheap management is usually the company that has the heavy losses. Efficiency in management costs money, and it is something that has to be paid for.

By Mr. Edwards:

Q. Have you any idea as to what percentage of the business done should be allowed as a fair overhead?—A. I have it here in two or three different ways. We have our overhead broken down on the basis of per account per month, because we are thinking altogether, you see, for rate-fixing purposes rather than from the standpoint of the business man who is operating. Now, the items of expense run 1·536 per account per month. That includes rent, heat, light, salaries, advertising and everything of that sort.

Mr. EDWARDS: That is operated very efficiently.

The WITNESS: We think so, as I told you this morning. I did not go into the technique of that at all, but it will not take a half a minute now to tell you what we do. In arriving at that, that is not what they actually report as spending; that is what we arrive at as being a fair measuring stick. That is something to shoot at, and we are getting them closer to it every year. Every year when my

[Mr. Ralph L. Bunce.]

examiner goes around he takes that into every office and sits down and analyses their advertising, their salaries, heat and light, and he is showing each licensee just how far out of line he may be. And right away that licensee knows he is losing money. We had one licensee that was backing up on us, an old timer, and the second time our examiner went in there he pointed out something to him in connection with the management of his office, and that man got friendly. He came over and told me, "Your man Johns showed me how to save \$3,000 a year." The way we arrive at that is that we strike an average of the better operated companies. We disregard, in figuring our average, the ones that are clearly out of line, either too high or too low. For instance, here is a man who is not charging up any rent, and he is entitled to. Here is another fellow who owns the building, he takes everything in, even his rent. That has to be thrown out. We have checked our percentages with different states, we have checked them with our Federal Revenue department, and found out how much they will allow as a deduction for income tax purposes; and, frankly, we did not vary one tenth of one per cent in our figures on the average with the Federal Internal Revenue department.

By Mr. Cleaver:

Q. What percentage do you think should be spent for advertising?—A. As I say now, my percentage is figured on a basis of per account per month, not as a percentage of their business. But advertising is—

Mr. FINLAYSON: 1.5.

The WITNESS: No, .15. That would be fifteen-hundredths of one per cent. As long as you have brought up advertising, I would like to say that we consider that that is not only a legitimate item of expense and one that should be covered by this interest charge, but it is desirable. I said this morning that we thought competition was desirable in this business, and we also think advertising is desirable. We have already developed and agreed that the larger volume of business tends to efficiency, tends to better profit and leads to lower costs to the borrower. All right. You cannot develop that larger volume of business unless the companies advertise. Advertising, of course, as I pointed out in my suggestions regarding your law should be controlled somewhat, but your average good operator is conducting an educational campaign in his advertising. Now, you have no desire to legislate into existence an industry here simply for the benefit of those few who are going to invest their money in it. You are thinking of the thousands of people—109,000 of them in our one state last year alone needed this facility. You have the same thing. Now, then, you are thinking of them. All right. That man needs to be told that you as a parliament have created for his use a lending agency, that you are going to supervise, and you are going to regulate the maximum amount of interest that he may be required to pay. He needs to know about it, and the only method to reach him is through advertising that your company will present. Now, that man is not a business man. He is not studying the law of the land that will apply to him in the stress of an emergency. He needs to have this facility pointed out to him the very day when that need becomes pressing. If this law is going to function these companies must be permitted a reasonable allocation for advertising purposes, and I think it is just as important to put that in as to put in the salary, or give him the right to charge enough so that they can pay rent.

By Mr. Finlayson:

Q. May I ask you this. Do the unregulated lenders in Iowa advertise? Are they permitted to advertise?—A. No. If we have such, they are working in the dark of the night.

Q. You have no idea, have you, of the volume of unregulated lenders? Is there any way of getting that?—A. How can you?

Q. I am asking you.—A. I would like to have you tell me. I know of no way.

Q. I have been puzzling with that myself.—A. Except as I said this morning, if we had very much of it we would have received complaints from the people, and certainly it would come to the surface.

Q. Do you think there was some of it before you established your system of regulation?—A. I am satisfied because I say if we go back into our files of ten or twelve years ago we find lots of complaints. We are continually hearing about these old deals.

Q. You cannot get any figures to prove that fact?—A. No.

Q. You feel it is so?—A. It is one of the things you know and you cannot produce absolute evidence.

By Mr. Clark:

Q. Is the loaning company an industry?—A. Yes, I think it is. I said this morning that I approached this study of the business in an unfriendly attitude. I say to you, after working with the licensees in the state for four years rather closely I have come to respect them. I have a very high regard for the business in which they are engaged. This very week, had I not come up here I would be travelling to the four corners of our state attending district meetings of the licensed lenders, and by changing my plans I have sent my examiner out there. He is reading a little statement that I dictated, and included in it, I will grant you, is a certain amount of scolding, because that, of course, is the job of the supervisor, to point out the things that are not actually suiting him. But in that little statement I am saying to our licensees that they have made a remarkable advance in the last three years in public esteem, and that if they continue to advance and improve their ethics they can soon hope to reach a position in our economic system that I feel they are entitled to. Any group of men whose whole energy is devoted to caring for the need of the poor and the distressed should have the respect and esteem of everyone in that community. I do not know a higher calling, and one reason that I am head of this industry,—and understand I have no axe to grind. All I know about it is as a supervisor. I was never in the business and never expect to be. It is by travelling around in the state of Iowa and talking to people in the business, talking to the people who have borrowed from them, that I am continually becoming more and more impressed with the importance of this industry, especially as I think of the homes that it saves and even the lives that it saves. May I take just another minute and tell you about a hard-headed Scotchman. I was in his office the other day. He is probably as keen and as hard-headed a business man as we have in the state of Iowa; and if you heard him talk any place, you would think he was one of the most hardboiled guys that ever loaned money. I said to him, pointing to a man that I had never seen in his office before—"Who is your new man over there, Bill?" He said, "You know we advertise service; and, of course, that means that lots of people come in and talk to us about their affairs where we cannot make loans." "But," he said, "we advertise that we will give them counsel whether we can make them a loan or not." He said, "I have four young fellows sitting out there who know everything out of the book, everything about the family budgets that have been outlined by our government and our social service agencies and they know all the answers that we can teach them." "But", he said, "I just got a shock; there was not a single one of those boys that had ever had the experience of keeping a roof over a home and of feeding the mouths of children that were dependent upon him." And he said, "Those are the people that we advertised were going to give counsel." He said, "This man here has been the credit manager of one of the department stores for twenty-five years, and through a reorganization he got kicked out." He said, "I have employed him because he has gone through all the experiences of life. He has

[Mr. Ralph L. Bunce.]

raised a family. He has had his ups and he has had his downs, and I have got him to talk to all of these people that we can only give counsel and advice to; because I believe that his training, his own life experience, will enable to help the other fellow."

Now, I have come across too many of these cases for me any longer to have an unfriendly attitude; and while, as I say, I hold no brief for anyone, and I have tried to hew just as closely to the line as I possibly could regarding actual experience, in closing I want to say that while I did start on an unfriendly basis, to-day I respect the small loan lenders in our state, and I believe that they are doing about as nice a job of running their business as you will find in any other line of industry.

The CHAIRMAN: Mr. Bunce, you have been of great service to us, and we appreciate your coming from Iowa to Canada. We hope that the opportunity may arise for you to return to us. In the meantime, will you express to your government our sincere appreciation of your visit?

Now, gentlemen, we have with us Professor Macdonald who has come from the other end of the earth—Nova Scotia. What is your pleasure as to adjournment? The professor would like to return tomorrow night. Shall we meet in the morning? Your railway committee is meeting, Mr. Vien, is it not?

Mr. VIEN: We will be using this room in the morning. No doubt you can have one of the other rooms.

The CHAIRMAN: We will adjourn until 10:30 o'clock in the morning.

The committee adjourned at 6:20 o'clock p.m. to meet again tomorrow, Wednesday, March 23rd, 1938, at 10:30 o'clock a.m.

APPENDIX "A"

STATE OF IOWA ANNUAL REPORT TO THE SUPERINTENDENT OF
BANKING FOR THE YEAR ENDED DECEMBER 31, 1937*Of Licensees engaged in the business of making loans of \$300 or less*

CONSOLIDATED REPORT OF 117 LICENSEES

(Used in 1937 Survey)

SCHEDULE B

Balance Sheets—As per Books as of December 31, 1937, and December 31, 1936

Assets Used and Useful in the Small Loan Business	Column 1	Column 2
	Current Yr.	Preceding Yr.
10. Cash in office and in banks.	\$ 488,631 33	\$ 482,028 42
11. Loans receivable of \$300 or less.	7,675,889 79	6,774,521 81
12. Real estate (less reserve for depreciation).	14,833 44	17,826 79
13. Furniture, fixtures and equipment.	94,597 82	87,431 00
14. Deferred charges.	174,831 48	111,577 53
15. Other assets used and useful in small loan business.	303,821 18	271,256 85
16a. Total assets used and useful in small loan business.	\$ 8,712,605 04	\$ 7,744,642 40
16b. All assets not used in small loan business.	9,446,042 45	8,597,984 40
16. Total all assets.	\$18,158,647 49	\$16,342,626 80
Liabilities and Capital—		
17. Borrowed money.	\$ 7,166,947 45	\$ 6,249,519 51
18. Bonds.	419,433 16	421,991 64
19. Other liabilities.	452,118 84	361,007 39
20. Reserves		
(a) Reserve for bad debts.	165,135 04	109,577 67
(b) Reserve for licences and taxes.	182,766 47	124,995 92
(c) Other reserves.	327,738 03	395,963 70
21. Branch office capital.	2,113,279 43	1,842,791 18
22. Net worth (if individual or partnership).	1,628,991 61	1,484,023 50
23. Capital stock (if corporation).	4,155,136 48	3,987,604 14
24. Capital reserve.	417,685 22	261,757 09
25. Surplus (including undivided profits).	1,129,415 76	1,103,395 06
26. Total liabilities and capital.	\$18,158,647 49	\$16,342,626 80
27. Average loans receivable of \$300 or less.		\$7,225,205 80
28. Average total assets used and useful in the small loan business.		8,228,623 72
29. Ratio of total assets used and useful to loans receivable.		113.8%

STATEMENT OF INCOME AND EXPENSE

For Period from January 1, 1937, to December 31, 1937

Gross Income from Small Loan Business—		
30. Interest or charges collected on loans of \$300 or less.		\$2,510,270 38
31. Fees collected on loans of \$300 or less.		1,672 87
32. Charges and fees earned but not collected.		127,411 22
33. Collections on accounts previously charged off.		106,375 29
34. Other income.		6,860 46
35. Total gross income derived from small loan business.		\$2,752,590 22
Expenses and Losses of Conducting Small Loan Business—		
36. Rent.	\$ 77,450 27	Per cent per month \$.087
37. Salaries.	732,099 82	.826
38. Printing, stationery and supplies.	35,252 81	.040
39. Postage and express.	35,617 12	.040
40. Depreciation of furniture, fixtures and equipment.	18,916 87	.021
41. Recording and acknowledging fees.	4,639 66	.005
42. Telephone and telegraph.	24,447 21	.028
43. Travel.	41,701 07	.047
44. Legal fees and disbursements.	24,531 22	.028
45. Auditing.	36,933 60	.042
46. Advertising.	139,559 43	.157
47. Insurance and fidelity bonds.	18,874 97	.021
48. License fees; investigation fees.	16,825 00	.019
49. Supervision and administration.	52,585 59	.059
50. Other expenses, excluding interest.	102,356 03	.116
51. Total (1.554% per month).	\$1,361,790 67	\$1.536

52. Bad debts or reserve for bad debts.	\$ 233,373 55
53. Charges and fees earned but not collected.	127,411 22
54. Membership fees.	6,944 21
55. Other expenses and losses, excluding interest and taxes.	3,187 79
56. Total (5.13% per year; 427% per month)	\$ 370,916 77
57. Taxes: Federal and state (22.78%)	189,286 09
58. Total expenses and losses of conducting small loan business.	\$1,921,993 53
59. Total net earnings derived from small loan business for period.	830,596 69
59a. Per cent net earnings (before interest) in small loan business.	10.09%
Per cent net earnings less interest in small loan business.	8.04%
Per cent net earnings less interest without recoveries.	6.75%

SCHEDULE D

Reconciliation Schedule for Period from January 1, 1937, to December 31, 1937

60. Surplus balance December 31, 1937, as per books.	\$3,991,918 08
Additions—	
61. Total net earnings derived from small loan business for the period.	\$ 830,596 69
62. Total net income outside small loan business for the period.	255,521 47
63. Other credits to surplus for the period.	583,085 61
64. Total additions for the period.	\$1,669,203 77
Deductions—	
65. Interest paid.	168,305 80
66. Amortization.	11,877 10
67. Dividends paid during the period.	595,758 18
68. Other charges to surplus for the period.	635,707 32
69. Total deductions for the period.	\$1,411,648 90
70. Net additions to previous year's surplus balance.	\$ 257,554 87
71. Surplus balance December 31, 1937, as per books.	\$4,249,472 95

SCHEDULE E

Analysis of Charges—Loans of \$300 or Less

72. Charges and fees earned during year from small loan business.	\$2,639,354 47
73. Charges and fees collected during year.	2,511,943 25
74. Charges and fees earned but not collected.	127,411 22
75. Percentage of charges and fees collected.	95.17%
76. Average amount of outstanding loans.	7,542,380 36
77. Actual monthly rate collected.	2.77%

SCHEDULE F

Analysis of Loans of \$300 or Less

	No. of Accounts	Amount	Average
78. Loan balances outstanding at the beginning of the year. Total.	69,999	\$ 6,774,521 81	\$ 96.78
79. Loans made during the year (all loans up to \$300)			
(a) Loans of \$25 or less.	4,729	97,075 71	20.52
(b) Loans of \$25.01 to \$50.	19,222	832,949 67	43.33
(c) Loans of \$50.01 to \$100.	32,743	2,697,371 14	82.38
(d) Loans of \$100.01 to \$150.	19,056	2,522,921 38	132.39
(e) Loans of \$150.01 to \$200.	14,758	2,710,912 88	183.69
(f) Loans of \$200.01 to \$300.	18,802	5,129,023 41	272.79
(g) Total of all loans of \$300 or less.	109,310	13,990,254 19	127.98
80. Loan balances purchased during the year.	923	76,190 34	82.54
81. Loan balances sold during the year.	738	64,298 90	87.12
82. Loan balances charged off during the year.	2,516	213,311 26	84.78
83. Collections of principal during the year.		12,887,466 39	
84. Loan balances outstanding at end of year:			
(a) Loan balances of \$50 or less.	24,994	728,840 29	29.16
(b) Loan balances of \$50.01 to \$100.	22,616	1,706,903 23	77.36
(c) Loan balances of \$100.01 to \$150.	13,307	1,660,658 29	124.79
(d) Loan balances of \$150.01 to \$200.	8,018	1,401,395 32	174.79
(e) Loan balances of \$200.01 to \$300.	8,720	2,178,092 66	249.78
(f) Total of all loan balances.	77,655	7,675,889 79	98.84
85. Average number of accounts outstanding during the year.			73,868
86. Ratio of average loan balance to average loan made.			77.23%

STANDING COMMITTEE

Analysis by Types of Security

	No. of Accounts	Amount	Average
87. Loans made during the year (all loans up to \$300) Based in whole or in larger part on:—			
(a) Chattel mortgages on household goods.. . . .	60,271	\$ 7,881,858 47	\$130.71
(b) Automobiles.. . . .	22,846	2,841,305 36	124.36
(c) Other chattels.. . . .	3,233	430,247 28	133.07
(d) Unsecured notes.. . . .	10,478	1,326,022 22	126.55
(e) Endorsed and/or co-maker notes.. . . .	4,595	689,593 25	150.07
(f) Wage assignments.. . . .	5,938	622,301 66	104.79
(g) Other considerations.. . . .	1,949	198,925 95	102.06
(h) Total.. . . .	109,310	13,990,254 19	127.98

SCHEDULE G

Non-Paying Delinquent Accounts

	No. of accounts	Amount of unpaid principal balance
88. Accounts with no payment either of principal or of charges for:—		
(a) One month.. . . . (6.98%)	5,937	\$535,701 36
(b) Two months.. . . . (1.65%)	1,559	127,076 62
(c) Three months or more.. . . . (2.21%)	2,020	169,963 95
(d) Total.. . . . (10.84%)	9,516	832,741 93
89. Accounts on which interest only is being paid (5.53%)	3,718	424,733 07

SCHEDULE H

Suits, Possession and Sale of Chattels

	No. of acts	Amount due	Amount collected
90. Suits for recovery—			
(a) Suits for recovery pending at close of 1936.. . . .	20	\$ 3,277 53	
(b) Suits instituted during year.. . . .	109	11,322 24	
(c) Suits on which judgment was secured.. . . .	69	8,085 67	
(d) Suits settled before judgment during year.. . . .	27	3,159 48	
(e) Suits pending at close of current year.. . . .	33	3,304 62	
91. Wage assignments filed during year.. . . .	58	4,246 51	
92. Possession of chattels obtained by licensee:—			
(a) Household goods			
By legal process or contract right			
(1) When in use.. . . .	2	418 38	
(2) When not in use.. . . .	13	1,708 70	
By voluntary surrender			
(1) When in use.. . . .	8	1,474 98	
(2) When not in use.. . . .	120	16,535 80	
(b) Automobiles			
By legal process or contract right			
(1) When in use.. . . .	87	12,879 42	
(2) When not in use.. . . .	46	6,362 00	
By voluntary surrender			
(1) When in use.. . . .	199	25,238 44	
(2) When not in use.. . . .	160	19,936 98	
(c) Other chattels and property			
By legal process or contract right			
(1) When in use.. . . .	7	1,169 75	
(2) When not in use.. . . .	5	699 00	
By voluntary surrender			
(1) When in use.. . . .	1	15 00	
(2) When not in use.. . . .	11	781 66	
93. Sale of chattels by licensee:—			
(a) Household goods			
With borrower's consent			
(1) When in use.. . . .	22	\$ 2,628 38	\$ 1,641 98
(2) When not in use.. . . .	103	14,564 66	8,089 04
Without borrower's consent			
(1) When in use.. . . .	1	328 13	150 00
(2) When not in use.. . . .	11	1,479 86	705 37
(b) Automobiles			
With borrower's consent			
(1) When in use.. . . .	145	16,628 03	13,056 43
(2) When not in use.. . . .	215	31,292 16	23,451 40
Without borrower's consent			
(1) When in use.. . . .	42	5,179 84	3,762 06
(2) When not in use.. . . .	20	2,395 91	1,684 19
(c) Other chattels and property			
With borrower's consent			
(1) When in use.. . . .	..	..	..
(2) When not in use.. . . .	10	1,123 46	889 17
Without borrower's consent			
(1) When in use.. . . .	4	542 32	252 61
(2) When not in use.. . . .	5	697 51	449 80

CONSOLIDATED BALANCE SHEET AS OF DECEMBER 31, 1936

ITEM	Individuals and Partnerships	Iowa Corporations	Outside Corporations	TOTAL	Miscellaneous reports not used in survey	GRAND TOTAL
Number of Offices.....	41	52	24	117	9	126
	$ cts.	$ cts.	$ cts.	$ cts.	\$ cts.	\$ cts.
Assets Used in Small Loan Business						
Cash.....	86,859 72	235,516 80	126,254 81	448,631 33	8,348 84	456,980 17
Loans Receivable.....	1,738,439 27	3,891,115 93	2,046,334 59	7,675,889 79	82,764 41	7,758,654 20
Real Estate.....	4,735 36	10,098 08	.....	14,833 44	.....	14,833 44
Furniture and Fixtures.....	27,199 67	48,475 67	18,922 48	94,597 82	2,013 47	96,611 29
Deferred Charges.....	3,816 06	95,068 41	75,947 01	174,831 48	1,121 36	175,952 84
Other Assets.....	39,321 28	123,021 35	141,478 55	303,821 18	315 82	304,137 00
Total Assets (Used and Useful). Assets Not Used in Small Loan Business.....	1,900,371 36 1,063,828 48	4,403,296 24 6,335,743 68	2,408,937 44 2,046,470 29	8,712,605 04 9,446,042 45	94,563 90 427,765 25	8,807,168 94 9,873,807 70
GRAND TOTAL.....	2,964,199 84	10,739,039 92	4,455,407 73	18,158,647 49	522,329 15	18,680,976 64
Liabilities and Capital						
Borrowed Money.....	792,881 98	4,813,816 85	1,560,248 62	7,166,947 45	277,422 17	7,444,369 62
Bonds.....	295 66	419,137 50	.....	419,433 16	.....	419,433 16
Other Liabilities.....	29,089 12	331,959 63	91,070 09	452,118 84	25,626 36	477,745 20
Reserve for Bad Debts.....	28,898 48	78,391 49	57,845 07	165,135 04	4,939 30	170,074 34
Res. for Licence and Taxes.....	9,072 48	88,145 10	85,548 89	182,766 47	571 65	183,338 12
Other Reserves.....	12,572 33	275,876 14	39,289 56	327,738 03	10,777 98	338,516 01
Branch Office Capital.....	396,717 42	43,000 00	1,673,562 01	2,113,279 43	.....	2,113,279 43
Net Worth.....	1,628,991 61	.....	.....	1,628,991 61	46,669 28	1,675,660 89
Capital Stock.....	.....	3,613,163 98	541,972 50	4,155,136 48	152,180 00	4,307,316 48
Capital Reserve.....	.....	159,096 95	258,588 27	417,685 22	.....	417,685 22
Surplus.....	65,680 76	916,452 28	147,282 72	1,129,415 76	4,142 41	1,133,558 17
GRAND TOTAL.....	2,964,199 84	10,739,039 92	4,455,407 73	18,158,647 49	522,329 15	18,680,976 64

CONSOLIDATED PROFIT AND LOSS STATEMENT FOR YEAR 1937

Total Earnings derived from Small Loan Business	Individuals and Partnerships	Iowa Corporations	Corporations	TOTAL	Miscellaneous reports not used in survey	GRAND TOTAL
Number of Offices.....	41	52	24	117	9	126
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Interest Earned on Loans \$300 or Less.....	586,462 39	1,377,937 61	674,954 47	2,639,354 47	15,418 69	2,654,773 16
Deduct Interest Earned but not Collected.....	33,351 12	79,293 34	14,766 76	127,411 22	786 07	128,197 29
Interest Collected on Loans of \$300 or Less.....	553,111 27	1,298,644 27	660,187 71	2,511,943 25	14,632 62	2,526,575 87
Collections on Accounts Previously Charged Off.....	21,142 38	71,578 93	13,653 98	106,375 29	.....	106,375 29
Other Income.....	691 28	5,987 00	182 18	6,860 46	73 55	6,934 01
Total Gross Earnings from Small Loan Business.....	574,944 93	1,376,210 20	674,023 87	2,625,179 00	14,706 17	2,639,885 17
Bad Debt Loss.....	42,203 57	143,988 58	47,181 40	233,373 55	873 14	234,246 69
Miscellaneous Operating Costs...	311,742 16	727,451 22	322,597 29	1,361,790 67	12,757 63	1,374,548 30
General Item Costs.....	3,905 01	3,794 10	2,432 89	10,132 00	94 50	10,226 50
Taxes (State and Federal).....	13,669 49	106,996 14	68,620 46	189,286 09	87 62	189,373 71
Expenses and Losses of Small Loan Business.....	371,520 23	982,230 04	440,832 04	1,794,582 31	13,812 89	1,808,395 20
TOTAL NET EARNINGS (Before Interest).....	203,424 70	393,980 16	233,191 83	830,596 69	893 28	831,489 97
Deduct Interest Paid.....	50,482 34	78,203 23	39,620 23	168,305 80	932 44	169,238 24
TOTAL NET EARNINGS (After Interest).....	152,942 36	315,776 93	193,571 60	662,290 89	-39 16	-662,251 73

APPENDIX " B "

STATE OF IOWA, 1934

IOWA SMALL LOAN LAW

HOUSE FILE 40

FORTY-FIFTH EX. GENERAL ASSEMBLY

EFFECTIVE MARCH 23, 1934

D. W. BATES, *Superintendent of Banking*

HOUSE FILE No. 40

(As Adopted)

AN ACT to define, license, supervise, and regulate the business of making loans in the amount or of the value of three hundred dollars (\$300) or less at a greater rate of interest or charge than the lender would be permitted by law to charge if not licensed hereunder; to prescribe maximum rates of interest or charges therefor and methods of determining the same from time to time; to provide for the classification of such loans for the purposes of this act; to enlarge the powers of the superintendent of banking and the state banking board; to regulate assignments of wages or salaries when given as security for any such loan or as consideration for a payment of three hundred dollars (\$300) or less; to provide penalties; to repeal chapter four hundred nineteen (419) of the Code, 1931, and to enact a substitute therefor; and to repeal all acts and parts of acts, whether general, special, or local, which relate to the same subject matter as this act, in so far as they are inconsistent with this act.

Be It Enacted by the General Assembly of the State of Iowa:

Sec. 1. No person, co-partnership, association, or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of three hundred dollars (\$300) or less and charge, contract for, or receive on any such loan a greater rate of interest or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this act and without first obtaining a license from the superintendent of banking, hereinafter called the superintendent. The word "person," when used hereinafter, shall include individuals, co-partnerships, associations, and corporations unless the context requires a different meaning.

Sec. 2. Application for such license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a co-partnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, of the place where the business of making loans under the provisions of this act is to be conducted and such further relevant information as the superintendent may require. Such applicant at the time of making such application shall pay to the superintendent the sum of fifty dollars (\$50) if the liquid assets of the applicant are not in excess of twenty thousand dollars (\$20,000), and the sum of one hundred dollars (\$100) if the liquid assets of the applicant are in excess of twenty thousand dollars (\$20,000), as a fee for investigating the application and the additional sum of seventy-five dollars (\$75)

if the liquid assets of the applicant are not in excess of twenty thousand dollars (\$20,000), and one hundred fifty dollars (\$150) if the liquid assets of the applicant are in excess of twenty thousand dollars (\$20,000), as an annual license fee and in full payment of all expenses for examinations under and for administration of this act for a period terminating on the last day of the current calendar year; provided, that if the application is filed after June thirtieth in any year such payment shall be seventy-five dollars (\$75) as such license fee in addition to the said fee for investigation.

Every applicant shall also prove, in form satisfactory to the superintendent, that he or it has available for the operation of such business at the place of business specified in the application, liquid assets of at least five thousand dollars (\$5,000), or that he or it has at least the said amount actually in use in the conduct of such business at such place of business.

Sec. 3. The applicant shall also at the same time file with the superintendent a bond to be approved by him in which the applicant shall be the obligor, with one or more sureties, in the sum of one thousand dollars (\$1,000). The said bond shall run to the State of Iowa for the use of the state and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of this act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this act and of all rules and regulations lawfully made by the superintendent hereunder, and will pay to the state and to any such person or persons any and all moneys that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this act.

Sec. 4. Upon the filing of such application, the approval of such bond and the payment of such fees, the superintendent shall make such investigation of the facts as he may deem necessary or proper.

If the superintendent shall determine from such application or from such investigation that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to warrant the belief that the business will be operated lawfully, honestly, fairly, and efficiently within the purposes of this act, and if the superintendent shall find that the applicant has available or actually in use the assets described in section two (2) of this act, he shall thereupon issue and deliver a license to the applicant to make loans in accordance with the provisions of this act at the place of business specified in the said application; if the superintendent shall not so find he shall not issue such license and he shall notify the applicant of the denial and return to the applicant the bond and the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application. The superintendent shall approve or deny every application for a license hereunder within sixty (60) days from the filing of the application and the approved bond and the payment of the said fees.

If the application is denied the superintendent shall within twenty (20) days thereafter file with the banking department a written transcript of the evidence and decision and findings with respect thereto containing the reasons supporting the denial and forthwith serve upon the applicant a copy thereof.

Sec. 5. Such license shall state the address of the place where the business of making such loans is to be conducted and shall state fully the name of the licensee and if the licensee is a co-partnership or association, the names of the members thereof, and if a corporation, the date and place of its incorporation. Such license shall be kept conspicuously posted in such place of business and shall not be transferable or assignable.

Sec. 6. If the superintendent shall find at any time that the bond is insecure or exhausted or otherwise of doubtful validity or collectibility, an additional

bond to be approved by him, with one or more sureties and of the character specified in section three (3) of this act, in the sum of not more than one thousand dollars (\$1,000.00), shall be filed by the licensee within ten (10) days after written demand upon the licensee by the superintendent.

Every licensee shall have available at all times for each licensed place of business at least five thousand dollars (\$5,000.00) in assets, either in liquid form or actually in use in the conduct of such business.

Sec. 7. Not more than one place of business where such loans are made shall be maintained under the same license, but the superintendent may issue more than one license to the same licensee upon compliance, for each such additional license, with all the provisions of this act governing an original issuance of a license.

Whenever a licensee shall change such place of business to another location he shall at once give written notice thereof to the superintendent who shall attach to the license in writing his record of the change and the date thereof, which shall be authority for the operation of such business under such license at such new place of business.

Sec. 8. Every licensee shall, on or before the fifteenth day of each December, pay to the superintendent the sum as provided in section two (2) of this Act as an annual license fee for the next succeeding calendar year and shall at the same time file with the superintendent a new bond or renewal of the old bond in the same amount and of the same character as required by section three (3) of this act.

Sec. 9. The superintendent may, upon at least twenty (20) days' written notice to the licensee stating the contemplated action and grounds, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(a) The licensee has failed, after ten (10) days' notice of default, to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this act or to comply with any rule or regulation of the superintendent lawfully made pursuant to and within the authority of this act; or that

(b) The licensee has violated any provision of this act or any rule or regulation lawfully made by the superintendent under and within the authority of this act; or that

(c) Any fact or condition exists which would clearly have warranted the superintendent in refusing originally to issue such license.

If the superintendent shall find that probable cause for revocation of any license exists and that the enforcement of the act requires immediate suspension of such license pending investigation, he may, upon five (5) days' written notice and a hearing, suspend such license for a period not exceeding thirty (30) days.

The superintendent may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that such grounds for revocation or suspension are of general application to all licensed places of business, or to more than one licensed place of business, operated by such licensee, he shall revoke or suspend all of the licenses issued to such licensee or such licenses as such grounds apply to, as the case may be.

Any licensee may surrender any license by delivering to the superintendent written notice that he thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this act. The superintendent shall have authority on his own initiative to reinstate suspended licenses or to issue new licenses to a licensee, whose license or licenses shall have been revoked if no fact or condition then exists which would have warranted the superintendent in refusing originally to issue such license under this act.

Whenever the superintendent shall revoke or suspend a license issued under this act, he shall forthwith file with the banking department a written transcript of the evidence and order to that effect and findings with respect thereto containing the reasons supporting the revocation or suspension, and forthwith serve upon the licensee a copy thereof.

Sec. 10. For the purpose of discovering violations of this act or securing information lawfully required by him hereunder, the superintendent may at any time, either personally or by an individual or individuals duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business described in section one (1) of this act, whether such person shall act or claim to act as principal or agent, or under or without the authority of this act. For that purpose the superintendent and his duly designated representatives shall have and be given free access to the place of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The superintendent and all individuals duly designated by him shall have authority to require the attendance of and to examine under oath all individuals whomsoever whose testimony he may require relative to such loans or such business.

The superintendent shall make an examination of the affairs, place of business, and records of each licensed place of business at least once each year.

Sec. 11. The licensee shall keep such books, accounts, and records as the superintendent may require in order to determine whether such licensee is complying with the provisions of this act and with the rules and regulations lawfully made by the superintendent hereunder. Every licensee shall preserve for at least two (2) years after making the last entry on any loan recorded therein all books, accounts, and records, including cards used in the card system, if any.

Each licensee shall annually on or before the twentieth day of January file a report with the superintendent giving such relevant information as the superintendent reasonably may require concerning the business and operations during the preceding calendar year of the licensed places of business conducted by such licensee within the state of Iowa. Such report shall be made under oath and shall be in the form prescribed by the superintendent who shall make and publish annually an analysis and recapitulation of such reports.

Sec. 12. No licensee or other person shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, charges, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of three hundred dollars (\$300.00) or less, which is false, misleading, or deceptive. The superintendent may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

If any licensee refers in any advertising matter to the rate of charge to be made upon loans the superintendent may require such licensee to state such rate of charge fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall take a real estate mortgage as security for any loan made under the provisions of this act.

No licensee shall conduct the business of making loans under the provisions of this act within any office, room, suite, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the superintendent upon his finding that the character of such other business is such that the granting of such authority would not facilitate evasions of this act or of the rules and regulations lawfully made by him hereunder.

No licensee shall make any loan provided for by this act under any other name or at any other place of business than that named in the license.

No licensee shall take any confession of judgment or any power of attorney to appear or to confess judgment on behalf of a borrower. No licensee shall take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after execution.

Sec. 13. (a) It shall be the duty of the state banking board, hereinafter called the board, and it shall have power, jurisdiction, and authority, from time to time to investigate the conditions and find the facts with reference to the business of making small loans, as described in section one (1) of this act, hereinafter referred to as small loans, and after making such investigation, report in writing their findings to the next regular session of the general assembly, and upon the basis of such facts: (1) to classify small loans by a regulation according to such system of differentiation as will reasonably distinguish such classes of loans for the purposes of this act, and (2) to determine and fix by a regulation such maximum rate of interest or charges upon each such class of small loans as will induce efficiently managed commercial capital to enter such business in sufficient amounts to make available adequate credit facilities to individuals without the security or financial responsibility usually required by commercial banks.

(b) The board may from time to time, commencing March 1, 1935, re-determine and re-fix by a regulation, in accordance with paragraph (a) above any maximum rate of interest or charges previously fixed by it, but such changed maximum rates shall not affect pre-existing loan contracts lawfully entered into between any licensee and any borrower; all regulations which the board may make respecting rates of interest or charges shall fix and contain the effective date thereof, which shall not be earlier than thirty (30) days after notice to each licensee by mailing such notice to each licensed place of business.

(c) Before fixing any classification of small loans or any maximum rate of interest or charges, or changing any such classification or rate under authority of this section thirteen (13), the board shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard thereon and to introduce evidence with respect thereto.

(d) Until March 1, 1935, and until such further time as a different rate is fixed by the board, the maximum rate of interest or charges upon such class or classes of small loans shall be three per centum (3%) per month on any part of the unpaid principal balance of the loan not exceeding one hundred and fifty dollars (\$150.00) and two and one-half per centum (2½%) per month on any part of the loan in excess of one hundred and fifty dollars (\$150.00).

(e) Every licensee hereunder may lend any sum of money not exceeding three hundred dollars (\$300.00) in amount any may charge, contract for, and receive thereon interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the board under authority of this section thirteen (13) or by the provisions of the preceding paragraph (d).

(f) The following provisions shall apply to any or all loans in the amount or of the value of three hundred dollars (\$300.00) or less made by any licensee hereunder:

Interest shall not be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. The maximum interest permitted shall be computed on the basis of a number of days actually elapsed and for the purpose of such computations a month shall be any period of thirty (30) consecutive days. No licensee shall induce or permit any borrower or borrowers to split up or divide any loan or loans for the purpose of evading any provision of this act nor shall any licensee knowingly permit any borrower, nor any husband and wife individually or together, to be indebted to him under more than one contract of loan at the same time. In addition to the rates of interest or charges herein provided for no further or other charge for examination, service, brokerage, commission, expense, fee, or bonus or other thing shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if any, actually and necessarily paid out by the licensee to any public officer, for filing or recording or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. If any interest or charges in excess of these permitted by this act are charged, contracted for, or received, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever.

Sec. 14. Every licensee shall:—

Deliver to the borrower at the time any loan is made a statement (upon which there shall be permitted a copy of sub-sections (13) (a), (e), and (f) of this act) in the English language showing in clear and distinct terms the lawful maximum rate or rates of interest or charges in effect, the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the agreed rate of charge;

Give to the borrower a plain and complete receipt for all payments made on account of any such loan at the time such payments are made, specifying the amount applied to interest or charges and the amount applied to principal;

Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply such payment first to all interest or charges up to the date of such payment;

Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower with the word "paid" or "cancelled," and release any mortgage, restore any pledge, return any note and any assignment given to the licensee by the borrower;

Display prominently in each licensed place of business an accurate schedule, to be approved by the superintendent, of the charges currently to be made upon all loans.

Sec. 15. No licensee shall directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than three hundred dollars (\$300.00). The foregoing prohibition shall also apply to any licensee who permits any person, as borrower or as endorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently or both to the licensee at any time the sum of more than three hundred dollars (\$300.00) for principal.

Sec. 16. The payment of three hundred dollars (\$300.00) or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall for the purposes of this act be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall be deemed interest or charges upon such loan from the date of such pay-

ment to the date such compensation is payable. Such transaction shall be governed by and subject to the provisions of this act.

Sec. 17. A valid assignment or order for the payment of future salary, wages, commissions, or other compensation for services, may be given as security for a loan made by any licensee under this act, and under such assignment or order a sum not to exceed ten per centum (10%) of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of such salary, wages, commissions, or other compensation for services, from the time that a copy of such assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon such loan, is served upon the employer.

No assignment of or order for payment of any salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure any loan made by any licensee under this act, shall be valid unless the amount of such loan is paid to the borrower simultaneously with its execution; nor shall any such assignment or order, or any chattel mortgage or other lien on household furniture then in possession and use of the borrower, be valid unless it is in writing, signed in person by the borrower, nor if the borrower is married unless it is signed in person by both husband and wife, provided that written assent of a spouse shall not be required when husband and wife have been living separate and apart for a period of at least five (5) months prior to the making of such assignment, order, mortgage, or lien.

Sec. 18. No person, except as authorized by this act, shall directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of three hundred dollars (\$300) or less.

The foregoing prohibition shall apply to any person who, by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than authorized by this act for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

No loan of the amount of value of three hundred dollars (\$300) or less for which a greater rate of interest, consideration, or charges than is permitted by this act has been charged, contracted for, or received, wherever made, shall be enforced in this State and every person in anywise participating therein in this State shall be subject to the provisions of this act, provided that the foregoing shall not apply to loans legally made in any State or Country which then had in effect a regulatory small loan law substantially similar in principle and purpose to this act.

Sec. 19. Any person, co-partnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any of the provisions of section one (1), twelve (12), thirteen (13), fourteen (14), or eighteen (18) of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 20 This act shall not apply to any person doing business under and as permitted by any law of this State of the United States relating to banks, savings banks, trust companies, building and loan associations, credit unions or licensed pawnbrokers, nor shall it apply to any domestic corporation entitled to the benefits of sections sixty-nine hundred ninety-four (6994) to sixty-nine hundred ninety-six (6996) inclusive.

Sec. 21. The superintendent is hereby authorized and empowered to make such reasonable and relevant rules and regulations as may be necessary for the execution and enforcement of the provisions of this act, in addition hereto and not inconsistent herewith. All rules and regulations shall be filed and entered by the superintendent in the banking department in an indexed, permanent book or record, with the effective date thereof suitably indicated, and such book or record shall be a public document.

Sec. 22. Any person having a licence under chapter four hundred nineteen (419) of the code, 1931, in force when this act becomes effective, shall, notwithstanding the repeal of said chapter four hundred nineteen (419), be deemed to have a licence under this act for a period expiring December thirty-first next after the said effective date, if not sooner revoked, suspended or surrendered, provided that such person shall keep on file with the superintendent during such period the bond either required by this act or by the said chapter four hundred nineteen (419). Any such licence so continued in effect under the provisions of this act shall be subject to revocation during such period as provided in section nine (9) of this act, except that it may not be revoked during such period upon the ground that such licensee has not the minimum amount of assets required in section six (6) of this act.

Sec. 22a. That the superintendent of banking is hereby authorized to employ such competent help as he deems necessary to carry out and perform the provisions of this act, and is hereby authorized and empowered to pay such persons so employed from the licence fees and investigation fees referred to in section two (2) of this Act.

Sec. 23. The district court in and for Polk County shall have jurisdiction in an equitable action by an aggrieved party to review any final order, demand, finding, or decision of the superintendent or the state banking board, and to grant such relief as may be warranted by the facts under the provisions of this act. An appeal to the Supreme Court may be taken as in other equitable actions.

Sec. 24. Chapter four hundred nineteen (419) of the code, 1931, is hereby repealed and all acts and parts of acts whether general, special, or local, which relate to the same subject matter as this act are hereby repealed in so far as they are inconsistent with the provisions of this act.

Sec. 25. If any clause, sentence, section, provision, or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect, or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

Sec. 26. This act being deemed of immediate importance shall be in full force and effect after its passage and publication in the Waterloo Daily Courier, a newspaper published in Waterloo, Iowa, and in the Grundy County Register, a newspaper published in Grundy Center, Iowa.

The foregoing Act was published in the Waterloo Daily Courier March 20, 1934, and the Grundy County Register March 22, 1934.

Effective March 23, 1934.

APPENDIX "C"

MEMORANDUM SUBMITTED BY FAMILY LOAN CORPORATION,
LIMITED, HALIFAX, N.S.

March 15th, 1938.

Mr. W. H. MOORE,
Chairman,
Banking & Commerce Committee,
House of Commons,
Ottawa, Canada.

Re Small Loan Companies

DEAR SIR,—You have no doubt received, and will continue to do so, varied information relative to the operations of these companies.

This company is carrying on in a quiet way, materially increasing its business each month and doing so on a basis which precludes us from going to the expense of engaging counsel to appear for us before your Committee, or having one of our executive officers present.

Our Board is therefore of the opinion that while we could not appear, or be represented, and would not "inflict" upon you a complete brief setting forth our position, we might reasonably submit to you a short statement of fact. In the first place:—

- (1) Our interest charges are computed at the rate of 2 per cent on the unpaid monthly balance.
- (2) Our only other charges are:
 - (a) A service charge of 25 cents on each loan.
 - (b) Actual disbursements where chattel mortgage loans are made of: Cost of search at Registry office; costs of filing;—Inventory and appraisal. The total of these not to exceed \$5. (average cost \$3.05) irrespective of amount of loan.
 - (c) Cost of fire insurance on chattels where borrowers do not carry any. No commission received by the Company where such is placed.
- (3) The Federal, Provincial and Municipal taxes assessable on the Company in 1937 were in excess of the amount paid in interest to those financially interested in the Company.
- (4) While our interest rate is 2 per cent as stated in (1) above, we have loans out at lower rates, depending upon the security held.
- (5) Our penalty charges on overdue instalments amounted to approximately \$20 in 1937. We are very lenient in this respect and rarely penalize a delinquent borrower unless he has for three consecutive months allowed instalments to go overdue more than one week on each occasion.
- (6) We operated on a small profit for our last fiscal year.

In the Matter of Credit Unions.

We cannot see where they have up to the present affected us notwithstanding their low interest rate. It is possible that if widely extended they may do so, if, they continue to be exempt from all phases of taxation.

We have the greatest respect for them, at the same time the public should be made conversant with the fact that while they provide a low rate, they pay no taxes, no salaries, no overhead and *give no employment*.

We feel that an interest rate of 2 per cent on unpaid monthly balances is fair.

We feel that a moderate charge on delinquent borrowers should be permitted.

We feel that a moderate service charge might reasonably be favourably considered. At the present time a thorough investigation of the credit responsibility of applicants and guarantors will cost us in excess of our 25c. service charge.

We feel that collateral agreements under which a borrower engages to purchase something, creating an increased liability should not be permitted as a requisite to obtaining a loan.

We feel that the rate of interest should be clearly set forth in the loan contract, and we feel that all companies operating in Canada should be on a parity in the matter of interest rates charges and internal regulations.

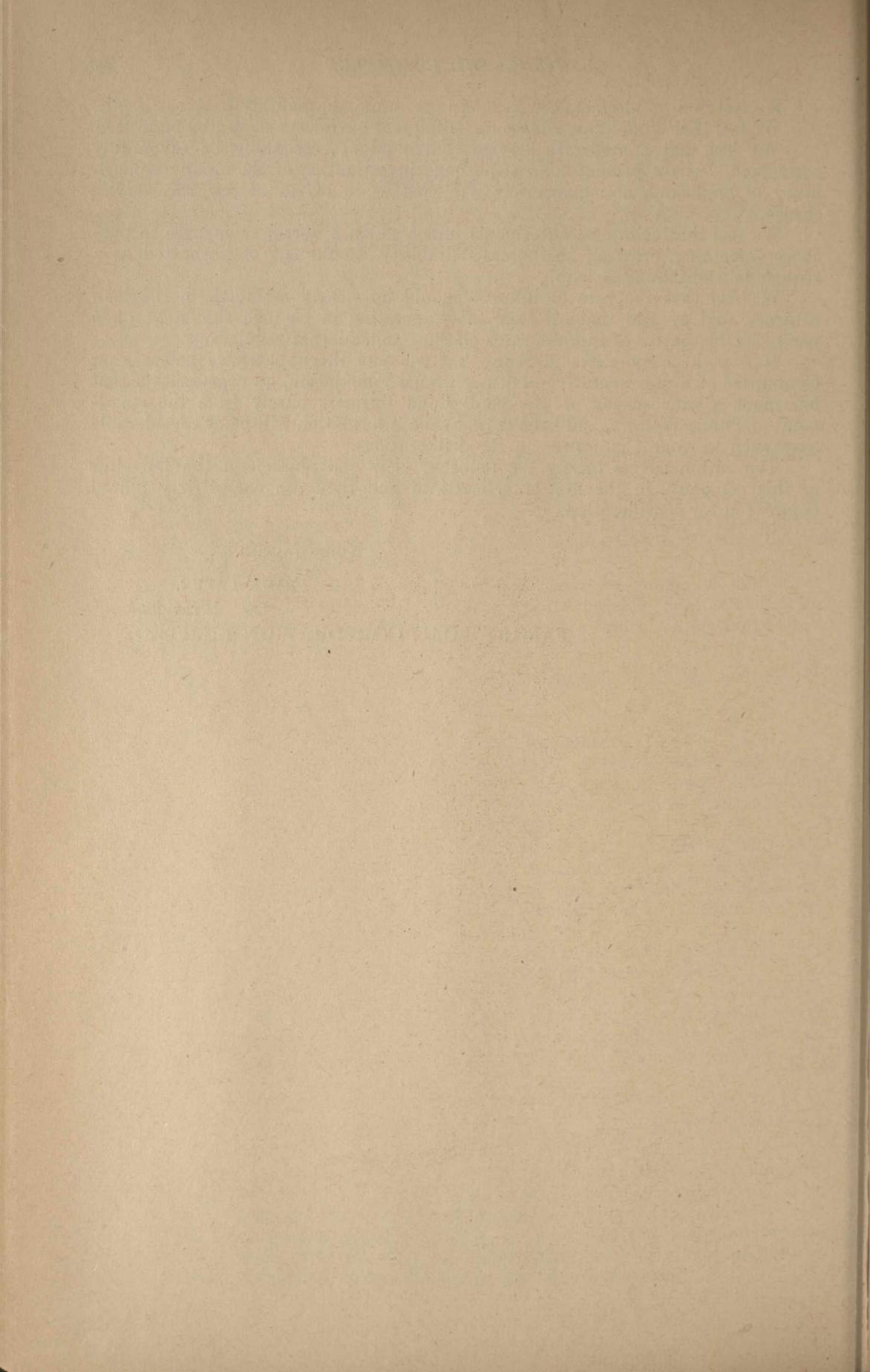
It is with considerable pleasure that we note the appearance before your Committee of a representative of Russell Sage Foundation, an organization that has made a wide survey of the Small Loan Business purely from the standpoint of Public Welfare, and believe that such information will be of considerable assistance to your Committee in its deliberations.

The within covers briefly the point of view and opinion of the Directors of this company, in the matter referred to and they are respectfully placed before you for consideration.

Yours faithfully,

FRANK PAYNE,
President

FAMILY LOAN CORPORATION LIMITED.



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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 8

WEDNESDAY, MARCH 23, 1938

WITNESSES:

Professor A. B. MacDonald, Extension Department, St. Francis Xavier
University, Antigonish, Nova Scotia.

Mr. R. L. Bunce, Deputy Superintendent of Banking, State of Iowa, Des
Moines, Iowa, U.S.A.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938

STANDARD
OFFICE OF BANKING
STANDARD

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS

SMALL LOAN COMPANIES

WEDNESDAY, JANUARY 13, 1909

REPORT OF THE
COMMISSIONER OF BANKING
AND COMMERCE
ON THE
SMALL LOAN COMPANIES
IN THE STATE OF NEW YORK

ALBANY: J. B. LIPPINCOTT COMPANY, 1909.

MINUTES OF PROCEEDINGS

WEDNESDAY, March 23, 1938.

The Standing Committee on Banking and Commerce met at 10.30 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Deachman, Dunning, Edwards, Harris, Hill, Howard, Kirk, Lawson, Leduc, Macdonald (*Brantford City*), McPhee, Mallette, Martin, Quelch, Perley, Vien, Ward.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance, Professor MacDonald, St. Francis Xavier University, Antigonish, N.S., and Mr. R. L. Bunce, Deputy Superintendent of Banking, State of Iowa.

Mr. MacDonald moved:—

“That Standing Order 93, paragraphs (3) and (4), of the Standing Orders of the House of Commons, be suspended with respect to Bill No. 8, an Act respecting Central Finance Corporation, and to change its name to Household Finance Corporation of Canada.”

After discussion, Mr. Macdonald agreed that the motion should stand over for redrafting.

Professor MacDonald was called and examined on the operation of Credit Unions.

Witness retired.

Mr. R. L. Bunce was recalled and further examined.

Witness retired.

A vote of thanks to Messrs. Bunce and Macdonald was moved by Mr. Cleaver and adopted unanimously.

The Committee adjourned until to-morrow, Thursday, at 11 o'clock a.m.

R. ARSENAULT.
Clerk of the Committee

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,

March 23, 1938.

The Standing Committee on Banking and Commerce met at 10.30 a.m. Mr. W. H. Moore, presided.

The CHAIRMAN: Order, gentlemen. Mr. Martin, will you introduce the speaker?

Mr. MARTIN: Mr. Chairman, it was very thoughtful of you to allow me the pleasure of introducing to this committee Mr. A. B. MacDonald of Saint Francis Xavier University in Nova Scotia, who is charged with the responsibility of directing the work of the extension department of that university. Mr. MacDonald comes to us as an authority on the credit union movement and the co-operative movement, and he is in a special manner qualified to discuss these two considerations in the light of the accomplishment and achievements of Saint Francis Xavier University. I do not think that any further introduction is necessary. I think that the work of the university in respect to co-operative efforts among the fishing groups and so on in the maritime provinces is more than an adequate introduction for our distinguished witness.

The CHAIRMAN: Mr. MacDonald.

Professor A. B. MACDONALD, called.

The WITNESS: Mr. Chairman and members of the committee, I should perhaps like to supplement the remarks of Mr. Martin by saying that in addition to directing the university extension work in Antigonish, I am also managing director of the Nova Scotia Credit Union League—this organization is a federation of 120 credit unions in the province—and as such I have been able to come in fairly close contact with credit unions and their practices.

It is somewhat difficult to know just what particular phases of credit union work I should cover here this morning. I take it that you are interested in credit unions and credit union accomplishments. In order to give you a fairly clear picture of how credit unions operate, I rather think it is necessary to give you, at the outset, some history. The first credit union was organized in Germany in 1848 by a man called Raiffeisen. At that time Raiffeisen laid down certain rules and regulations and developed a certain type of procedure for these co-operative credit societies that has coloured the activities of co-operative credit organizations in almost every country in the world. Naturally the movement spread, from 1848, all over Europe until to-day perhaps there are close to 40,000 co-operative credit societies operating in Germany alone. In 1900 the movement was introduced to the western hemisphere. You had before you Mr. Vaillancourt from Quebec, and he told you the story of the development of credit unions—of course, under a different name—in the province of Quebec. If you will recall, that movement started there in 1900. In 1909 the residents of the Province of Quebec who were working in the mill towns of New Hampshire, knowing something about the value of credit unions to the working classes, organized one at Manchester, New Hampshire; and in the same year, that is 1909, the State of Massachusetts passed the first piece of legislation permitting credit unions to operate in the State of Massachusetts. From 1909 up to 1920 a few credit unions developed in the New England states, but it was

not until 1921 that a man by the name of Edward Filene, a wealthy business man of Boston, became interested in the movement. He had observed the fine work of the credit unions in the European countries and in India; and on his return to the United States some time about the year 1921 decided to spend his money, and his fortune, in promoting credit unions for the working classes in the United States. So he selected a man by the name of Roy L. Bergengren, a lawyer in Boston, to act as his educational director. They set up, informally, an organization which was called The Credit Union National Association. From 1921, Mr. Bergengren devoted his time solely to educational and promotional work in the interests of credit unions. He spent the first years in getting adequate legislation passed by the various states, until at the present time forty-three states of the union have acts authorizing the organization of credit unions. Three years ago a Federal Credit Union Act was passed at Washington.

By Hon. Mr. Dunning:

Q. Will you permit an interruption, Professor MacDonald?—A. Certainly.

Q. Will you explain the significance of the Federal Credit Union Act in its relationship to the state Credit Union Act?—A. The real reason why the promoters of credit unions in the United States sought federal legislation was on account of the fact that a few of the states refused to pass adequate credit union legislation. It was thought that a federal act would permit people in any part of the United States to organize these co-operative credit societies. In addition to that, they wanted federal legislation so that credit unions all over the United States could be tied up into a national organization, and they are so tied up at the present time.

The CHAIRMAN: Mr. MacDonald, would you allow a further interruption? I think, gentlemen, that we should extend to Mr. Bunce who is here, the privileges of the committee and allow interruptions for questions, with your consent?

Some Hon. MEMBERS: Yes.

The WITNESS: That is perfectly alright.

Mr. BUNCE: Thank you, Mr. Chairman.

By Hon. Mr. Dunning:

Q. Is there any constitutional difficulty as between the federal and the state credit unions?—A. No, I do not think so because the operations of the credit unions are so definite and exclusive—I shall explain that as I go along,—that there is not any question of interference in the field of jurisdiction.

Briefly, the picture in the United States to-day is that they have 6,500 credit unions operating, with a membership of one and a half million, and with total assets of close to \$100,000,000. These credit unions are scattered all over the country, even in the rural communities, although the development of rural credit unions was not so vigorously carried on in the United States as it perhaps was here in Canada. We find the larger credit unions in the industrial centres. For instance, in the city of Boston, the telephone workers, 14 to 15 thousand of them, have credit unions operating with total assets of approximately \$2,000,000. The postal employees all over the United States, with a membership of about 50,000, are operating credit unions with total assets of over \$3,000,000. So in the United States during the past seventeen years the movement has attained fairly large proportions. In every state where credit unions are organized, these societies are federated into state leagues; and as I mentioned a moment ago, the state leagues are federated into a national organization known as The Credit Union National Association with headquarters at Madison, Wisconsin. Mr. Roy F. Bergergren was selected in 1921 to head that organiza-

[Prof. A. B. MacDonald.]

tion in the United States, as managing director. In 1932, the Extension Department of our university became interested in the credit unions, for the reason that we felt there was no adequate means of meeting the consumer credit needs down in Nova Scotia. So on three different occasions Mr. Roy F. Bergengren was invited to the province to tell us something about these organizations and how they could function in the Province of Nova Scotia. In 1932, the provincial government passed enabling legislation, and in January of 1933 the first credit union was organized at Reserve Mines, which is a coal mining town in the eastern part of the province. To-day there are 120 unions in the province, with a total share capital of \$500,000, and these credit unions loaned out last year approximately \$750,000.

By Mr. Martin:

Q. In the Province of Nova Scotia?—A. In the Province of Nova Scotia alone. Here are the official figures at the end of December, 1937. At that time the number of credit unions was 105, although some of them did not report and others were organized since that date. The total assets were \$446,483.19.

By Mr. Edwards:

Q. How is that share capital distributed?—A. I shall come to that point later on. Perhaps we can postpone answering that question until later.

Q. All right.—A. The total of loans made by the 105 credit unions was \$646,349, and the total membership at that date was 18,000. The credit union movement is spreading throughout the maritime provinces. In 1936, Prince Edward and New Brunswick passed credit union legislation with the result that in Prince Edward Island there are twenty-five operating and in New Brunswick thirty-two. The total assets of the Prince Edward Island credit unions are \$16,000 and the total assets in New Brunswick are \$45,000. During the last three or four years we have met requests from other provinces of Canada such as Manitoba and Saskatchewan for information on credit unions; and to-day those two provinces have enabling legislation. At the present time we are supplying information to the Alberta government, and it seems to me that Alberta is just about ready to pass legislation covering this field of work. So at the present time we have co-operative credit acts in every province of Canada, with the exception of British Columbia. Ontario has had an Act for fifteen years, a rather good Act; although in the light of present credit union development, some minor changes should be made to bring it up to date.

Perhaps right here it would be interesting to group the credit unions in the province of Nova Scotia, just to show you what classes of people are interested in credit union development work. Of 115 credit unions in the province, the railway employees are operating five—in the urban centres of Halifax, Sydney, Kentville and in Truro. The employees of the federal government at Halifax are operating two credit unions and the employees of the provincial government are operating one. The latter is rather unique in so far as it limits membership to the group of civil servants working in the new office building of the provincial government.

By Mr. Macdonald:

Q. Is that not restricted to members of the organization?—A. It is restricted to the employees of the provincial government.

By Hon. Mr. Dunning:

Q. Employees who work in that building?—A. Who work in that building.

By Mr. Martin:

Q. What about the federal credit union? Are they in the same situation?
—A. They are restricted to two groups; the postal employees with headquarters at the post office building and the employees of the other different departments, such as the Customs Department and the Department of Agriculture, stationed in the new federal building in Halifax.

By Hon. Mr. Dunning:

Q. You will explain the reason for that?—A. Yes, that will come later. We have in another group twelve industrial credit unions in the province, that is, groups organized in factories, such as Stanfields, at Truro, employees of the Dominion Steel and Coal at Sydney and the Mersey Paper Company at Liverpool, N. S. We call these industrial credit unions.

By Hon. Mr. Dunning:

Q. Each confined to its members?—A. Each confined to the employees of the industry.

By Mr. Edwards:

Q. Of the one industry?—A. One industry.

Q. Stanfields would be one?—A. One credit union. The employees of Stanfields would be eligible for membership in the Stanfield credit union.

In a third group we have thirteen credit unions operating in the mining towns of Nova Scotia organized on the basis of individual mines.

A fourth group is operating in rural communities, in addition to thirty in fishing districts, and fifteen in mixed communities, partly fishing and partly agriculture.

Then we have seventeen credit unions set up on a community basis, where the credit union is set up to take in all classes of workmen in a restricted area.

That will give you, I think, some idea of the service the credit unions are providing in catering to all classes of people.

There is a certain technique to be followed in organizing credit unions, and that is closely guarded by rules and regulations prescribed under the Act. These permit the appointing of a board of directors charged with the general operating of the credit unions. Then there is a credit committee made up of from three to seven members for the passing on loans, together with a supervisory committee of three whose responsibility it is to check the book-keeping system every month and audit the books every quarter.

There are certain features of a credit union that we perhaps should bring out, and these features distinguish them from other loaning organizations. The first is that a credit union is organized for a specific group having some common bond of interest. That bond may be similar occupation, it may be the bond of residence in a community, it may be membership in a certain organization or lodge, employment in a certain factory.

By Hon. Mr. Dunning:

Q. A bond which involves common knowledge of others?—A. Common knowledge and interest. That is the first requirement for credit union development. The second feature of significance is that a credit union promotes thrift; it helps to foster regular saving habits, because the members of the group, when they come together, agree to save small amounts weekly or twice a month, as the case may be. They agree to turn in to the treasurer of the credit union small sums ranging from 10 cents up to a dollar, depending upon

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how much they can save at stated periods. Members may save in two ways in a credit union: they may turn in their small savings in the form of instalments on share capital, or they may open up deposit accounts.

The accumulated savings of the members—and this is the third feature—is used to loan out to the members for provident and productive purposes, at a rate of interest not to exceed one per cent per month on unpaid balances.

Q. What rate of interest do they pay on deposits and share capital?—A. That is fixed by the board of directors, and the experience so far in Nova Scotia is that in a small credit union where the earning capacity is fairly reasonable from two to three per cent is paid on deposits, and from four to five per cent on share capital.

By Mr. Martin:

Q. By "Provident" you mean consumer credit?—A. Yes, to meet any consumer need; any legitimate reason for consumer expenditure.

By Mr. Macdonald:

Q. Who are the directors?—A. They are appointed by the members.

By Hon. Mr. Dunning:

Q. By the shareholders?—A. Yes.

By Mr. Macdonald:

Q. Each group has its own directors?—A. Each group has its own directors, yes, under the rules and regulations prescribed by the Act.

By Mr. Deachman:

Q. With or without pay?—A. Without pay. No one receives any remuneration in credit unions except the treasurer. The treasurer is the book-keeper and the key man in the credit union.

By Mr. Ward:

Q. Are the books audited or inspected by the government?—A. Two years ago the provincial government appointed an inspector of credit unions who inspects the book-keeping system and the manner in which credit unions are operated in the province, checking up on loose practices, etc.

By Hon. Mr. Dunning:

Q. Not an audit?—A. No.

Q. The audit is local?—A. He may request a credit union to engage an auditor.

By Mr. Clarke:

Q. A member must be employed when he joins?—A. Not necessarily. The only qualification for a man to join is his willingness to adhere to the rules and regulations of the credit union, and to agree to save some little amount weekly or twice a month, as the case may be.

Mr. MARTIN: The Scotch tradition of your people would help in that respect.

The WITNESS: It may help, but they were sometimes unscientific in their thrift before we discovered this organization to help them save. The amounts of the loans vary from \$1 to \$1,000. Some of the credit unions in the province make loans of over \$1,000 at the present time.

By Mr. Macdonald:

Q. Is that the extent to which they can go?—A. No; the limit of the loan depends upon the ability of the credit unions to make the loan, that is, the larger the credit union, the larger the loan that can be made. But with a share capital of only two or three thousand dollars, naturally a member would not expect to get much over \$100 at one time. The credit union operated by the steel workers at Sydney with a membership of 1,800 and a share capital of \$60,000 is in a position to make loans of \$1,500.

By Mr. Edwards:

Q. And that \$1,000, they consider, is for consumer needs?—A. In this particular case the \$1,000 loan was made to buy a motor truck.

By Mr. Martin:

Q. Productive purposes?—A. Productive purposes.

Mr. BUNCE: Do you have such restrictions as ten per cent of the assets on any one loan—ten per cent of the share capital to any one loan?—A. No, no restriction whatever.

Hon. Mr. DUNNING: That will develop.

The WITNESS: I think so.

Hon. Mr. DUNNING: Oh, yes, that has been the experience. Somebody's foot will slip, and after that—

The WITNESS: There is another characteristic of credit unions that perhaps it would be well to develop here. The group is responsible for operating the credit union; it owns, controls and operates it in a democratic manner. Since the ownership is vested in the group, at the end of the year the net profits are paid back to the members in the form of dividends on shares or interest on deposits. I should say that the credit unions in the province of Nova Scotia paid on an average $4\frac{1}{2}$ per cent interest on the money the members saved up during the year.

Perhaps right here it would be interesting for me to give you some idea of what the members borrow money for. The credit union at Stellarton, Nova Scotia, is a community credit union, it being in a mining town. In 1936 they made 460 loans, totalling \$12,484.50. One hundred and seventy-one of these loans were made to buy clothing; 32 to buy furniture; 13 to buy other necessities; 78 to pay bills; 24 to pay taxes; 23 to pay insurance; 34 for medical purposes; 10 for educational purposes; 25 for vacation purposes; 19 for business purposes; 24 for the purchase of vehicles, and 6 for building purposes. That is in a small community in Nova Scotia. Perhaps I should give you this also. A study was made of 4,008 loans in nineteen credit unions in the United States, and the range of use varied as follows: eight hundred and fifteen of these loans were used for paying bills for sickness; 701 for the consolidating of bills, 543 for automobiles; 274 for furniture; 270 for clothing; 222 for repairs to homes; 219 for mortgages on homes; 179 for vacations; 164 for interest rates; 132 for insurance; 99 for taxes, 91 for household expenses; 39 for coal; 60 to assist relatives; 54 for the purchase of tires and batteries. Then there were 52 for the paying of rent; 44 for personal expenses; 44 for moving expenses; 40 for education; 37 for funerals and 32 for real estate.

That will give you some idea for what purposes members borrow money from their credit unions.

I might say a word about the work of the credit committee. As I have already stated, there is a committee of from three to seven members who pass on a loan, and when an application for a loan comes to them the members must assure themselves of three things: first, that the borrower is going to use the money for provident or productive purposes, in other words, that the loan is

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really going to help the borrower. Secondly, the members of the committee must be sure that the borrower will be able to repay the loan at a reasonable time; that the loan is within his ability to repay. And the third point that they must look to is that the loan is secured by endorsements of fellow members or by other collateral, such as chattel mortgages, insurance policies, and so on.

According to the Nova Scotia Act, the credit unions may loan to members up to \$50 without security, but beyond \$50 they must have co-signers or some other form of adequate coverage.

By Hon. Mr. Dunning:

Q. You did not follow Reiffeisen in the matter of joint and several responsibility on the part of the membership?—A. No; in Nova Scotia the responsibility is limited to the extent of the share holdings of the member.

Q. Is there an unpaid liability always in connection with the shares?—A. Well, yes. When a member is saving on a share, the par value of which is \$5, and that share is paid by weekly instalments, if he has \$1 paid on the share, there is an unpaid liability of \$4.

Q. After that, a joint and several liability is paid?—A. Yes.

Q. But only to the extent of the unpaid capital?—A. Yes.

By Mr. Edwards:

Q. In passing on those loans by the committee of an industrial credit union, do you find it generally satisfactory? Are they handled well?—A. Yes, as evidenced by the fact that the loss in Nova Scotia has been nil so far. The evidence produced by Mr. Vaillancourt shows that the making of loans through a credit committee is giving most desirable results in so far as avoiding loss is concerned. Loans made through such credit committees protect the interests of the credit union as well as that of the borrower.

I might say just here that all business transacted between a member and the credit union is held in strict confidence. At one time, or in the early days of credit unions, members were rather timid to go before a credit committee.

Q. Of their own?—A. Of their own, to place their needs before them. But now we are finding that that dread or fear of securing credit in a legitimate way is breaking down and that the members really boast about the service that the credit union is giving them. They no longer think it a disgrace to borrow money for legitimate credit needs. I am quite proud of that phase of the work. It shows that the average consumer is beginning to look upon the use of credit in the right manner.

By Mr. Cleaver:

Q. Do you restrict the amount of the deposits which may be made by any one member?—A. Under the rules and regulations the directors have power to limit the amount of money a member may have in the credit union, either in the form of shares or deposits.

By Mr. Quelch:

Q. Are the deposits withdrawable on demand?—A. They are withdrawable any day the credit union office is open for business, but the directors reserve the right of thirty or sixty days' notice in case of emergency.

By Mr. Cleaver:

Q. Does your enabling Act of incorporation restrict the amount which any one depositor may have on deposit?—A. No, that is left to the discretion of the board of directors.

By Mr. Macdonald:

Q. You mentioned a credit union in the Stanfield Company. About what percentage of the employees of that company belong to the union?—A. I do not know what the membership is now, but the credit union was organized two years ago with a membership of thirty-five. I should say now that there would be well over two hundred members in the credit union there.

Q. How many employees are there in the company?—A. Close to 400. It takes a little time for the members to become acquainted with the work of a credit union.

By Mr. Edwards:

Q. Do you propose to give us your overhead costs, the same as Mr. Bunce did yesterday?—A. Since the movement is new in Nova Scotia we have made no study up to the present time of the operating costs so I cannot give you that.

Q. It would be very small because there are no wages paid?—A. That is right.

By Mr. Martin:

Q. Your rate is about one per cent a month?—A. I should say the average rate on loans in the province of Nova Scotia would be between six and seven per cent per annum. The board of directors again has the power under the rules and regulations to fix the interest rate.

By the Chairman:

Q. Per annum?—A. Yes.

By Mr. Martin:

Q. If a member of a credit union borrows money does he now pay one per cent a month?—A. That is the maximum rate, and we are endeavouring to get all of the credit unions to adhere to that rate.

By Hon. Mr. Dunning:

Q. Rates may vary as between individual borrowers in the same credit union?—A. No; we are attempting to keep the rate uniform for every member of the credit union.

Q. But it is within the discretion of the board which passes on the loan to vary that rate to individuals at the present time?—A. No, I would not interpret the rules in that way. If the board of directors fixes a rate of one per cent per month, then it would apply to every member irrespective of whether he wanted \$5 or \$500.

Q. But your impression is that the average for the province would be about seven per cent per annum?—A. Yes.

Q. What about charges with respect to the loan, chattel mortgage fees and the like?—A. The rate of one per cent per month covers all charges.

Q. It covers all charges?—A. Yes.

Q. The union pays the fees?—A. Yes.

By Mr. Macdonald:

Q. Is that by statute?—A. Yes.

Q. Are you not allowed to charge any more for services, such as chattel mortgages, and so forth?—A. No. Of course, again we get into the question of whether you are going to interpret these charges as interest.

Hon. Mr. DUNNING: That is our ever-present question.

By Mr. Martin:

Q. You could not at this stage, in view of the recent development of this in Nova Scotia, answer Mr. Edwards question about overhead costs, but could

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you give us an estimate, Professor MacDonald, as to what the likely increase per month would be if you had to pay for officers' salaries and do some advertising? Would you care to make an estimate?—A. It will be very difficult for me to make an estimate because conditions vary so very much.

By Hon. Mr. Dunning:

Q. There is a loss ratio?—A. So far as I can find out our loss ratio is zero.

Q. I see.—A. As yet we have made no definite study of losses of credit unions in Nova Scotia. We will come to that shortly, but so far I have been unable to discover yet a single loss.

By Mr. Finlayson:

Q. How old is the oldest one?—A. It was organized in January, 1933.

Hon. Mr. DUNNING: Human nature is working with exceptional perfection there.

By Mr. Quelch:

Q. The percentage of loans covered by chattel mortgages is very small as yet?—A. The percentage of loans covered by chattel mortgages is not very great as yet.

Q. That accounts, possibly, for the low rate of interest. Would not that make the rate higher?—A. We could not increase that rate. That is statutory.

By Mr. Edwards:

Q. Have you credit unions among the fishermen, Mr. MacDonald?—A. Yes, we have. As I stated previously we have 20 credit unions operating in the fishing communities.

Q. I was thinking of the investigation which we had here a few years ago in price spreads—I have forgotten his name, Father somebody or other from down there, talked about some kind of co-operative among the fishermen and gave us a lot of valuable information. Is that working now?—A. We are beginning to have credit unions in fishing communities. They are taking care of the credit needs of the fishermen in very fine fashion. I have in mind a case where a fisherman not having the money with which to purchase fishing gear—rope, twine, etc.—was forced to buy on six months credit. The difference between the cash price and the credit price on the articles he required amounted to a rate of interest of 186 per cent.

Mr. DEACHMAN: I am not surprised.

By Mr. Edwards:

Q. The evidence in the Price Spreads Commission was that the shore-fishermen, I think they called them, were perfectly happy if they could make an average of \$600 a year?—A. In very many communities they have the credit unions, but in fishing communities they were slower to develop than in many other places. For one thing they did not have very much money to save, yet despite that fact we have credit unions that are accumulating capital as high as \$3,000, and with that they are really performing a wonderful service in putting the fishermen on a cash basis and in cutting down the high cost of credit they were accustomed to meeting in the old days.

By Mr. Cleaver:

Q. To what period of time do you limit the loan in regard to repayment?—A. It is generally limited to 12 months. The ordinary policy of credit unions is to try to have all loans repaid in 12 months.

By Hon. Mr. Dunning:

Q. What is your experience on renewals? I mean, what percentage of loans is actually cleared up within the 12 month period?—A. I would say 75 per cent. There would be possibly 25 per cent that would need to be renewed from time to time.

Q. Yes. When you spoke of no losses up to date, Mr. MacDonald, I knew that you touched wood when you said that. There is the other fact; do you know to what extent endorsers have been compelled to pay, and to what extent endorsement is actually taken. That is, what I am trying to get at is to what extent is this joint and several in practice?—A. I understand—

Q. Were they limited to 2, or 3, or 4; because, that is the strength of the system?—A. Speaking generally a very small percentage of co-makers would be called upon to pay the loan of a borrower who defaulted.

Q. Yes?—A. Of course, some of the loans have been charged against the guarantee fund. At the end of the year, according to the rules and regulations, 20 per cent of the net profit must be placed aside in a special guarantee fund that cannot be used for any purposes other than the repaying of bad loans.

Q. You can't tell us what portion has been charged against the guarantee fund?—A. No, we have not made a study of that.

Q. You would not consider that losses?—A. No.

By Mr. Martin:

Q. It is necessary that the co-makers be members of the union?—A. Yes; although, co-makers may be accepted who are not members. The general practice is that the co-maker must be a member of the credit union.

By Mr. Cleaver:

Q. I take then that your experience is that the advantage of having a co-maker is that in that way you ensure that your loans will be made only to people deserving credit?—A. That is right. The credit union creates a friendly fraternal background. When a group of people come together to build up an institution which is going to help each and every one of the group, the result is that there is a desire to escape the disgrace and odium which would fall upon a person who is not playing the game squarely.

By Mr. Martin:

Q. When Mr. Vaillancourt was before the committee I asked him a question, and I think I should ask it of you also, Professor MacDonald; the question was did the practice of having endorsers have the effect of limiting the field of potential borrowers; would you agree with that?—A. At the outset it had, because the members were somewhat fearful to serve as co-makers of notes; but now that they find that the system is genuine and that they can exchange their credit for someone else's credit, they are less cautious, and it is not difficult to secure co-makers on loans.

By Mr. Quelch:

Q. Would you make a loan to a man who is not loan-worthy, providing his endorser were?—A. No.

By Hon. Mr. Dunning:

Q. He has to be a credit-worthy man, regardless?—A. Yes, that is why I explained that. The credit committee must keep in mind the importance of the applicant being loan-worthy, also the fact that the money is going to be of benefit to the borrower, and finally that he is able to repay the loan in the stated time.

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Q. That is a very important point, because when you answer so decidedly, "no," you are answering with respect to a state of mind on the part of the men who are passing upon the loans in the local credit unions; that is, the state of mind of the committee passing on the loan might be, this man cannot pay but his co-maker might. How can you answer this if it is possible that the committee always rested upon the ability to repay of the actual borrower?—A. Mr. Quelch's question is a very important one. It depends on the finesse of the judgment of the credit committee.

Q. Quite?—A. And I suppose that finesse of judgment must come through experience and practice.

By Mr. Martin:

Q. These men have unlimited knowledge of members in a small community?—A. That is right.

Q. That would not work as successfully in a large city like Windsor, Ontario for instance?—A. Well, even there the set up of a credit union should be such that the credit committee is able to get information on the borrowers.

By Mr. Edwards:

Q. Would not that question be answered by the statement that your credit unions are limited to an industry, or a community?

Hon. Mr. DUNNING: Certainly, it is the same as the Civil Service Credit Association here.

The WITNESS: To illustrate, in the Steel company credit union at Sydney, we have 15 directors. These directors are placed throughout the plant in which these men are working. There is one in every department of the steel plant. If a man comes before the credit committee and that committee does not know very much about him it calls in a director from the particular department concerned to obtain more definite information. And so, even in a big industry, or a big city, a credit union can be set up in such a way as to enable the credit committee to get information necessary for passing on loans successfully.

By Mr. Deachman:

Q. That would be a distinct advantage over the banker, wouldn't it?—A. Yes, on account of working through the group.

By Hon. Mr. Dunning:

Q. I suppose the success of the credit union depends really on the high moral sense which is constantly being developed?—A. The high moral sense might not be present at the outset, but it soon develops, for the members of the group soon find out that it pays to play the game.

Mr. DEACHMAN: I suggest that the Minister of Finance will find the same principle applies to the national situation, is that not so Mr. Dunning?

Hon. Mr. DUNNING: I am not on the stand at the moment.

By Mr. Macdonald:

Q. I understand you to say that you required an endorser or other collateral security on loans over \$50?—A. That is right.

Q. Do you also obtain an assignment of or charge on the man's wages?—A. No. In the event of his not paying a loan there is a lien on the cash that a borrower has in the form of shares and deposits with the credit union. In the case of a borrower not paying his loan the money standing to his credit with respect to shares he may own and deposits he may have made legally can be taken for the purpose of repaying the loan.

Q. You do not obtain a charge, or an assignment, of his wages. Is there any notice to the company that he has borrowed this money?—A. No. Payments are purely voluntary. In some credit unions they have what is called check out system; that is, it is taken off wages or salaries and the companies pay in a lump sum the money collected to the credit unions. In Nova Scotia we are striving to keep the credit union payments on shares and deposits on a purely voluntary system.

Hon. Mr. DUNNING: Hear, hear, that is sound.

The WITNESS: We want members to receive their full salary cheques and their full wage envelopes, and then come to their credit union and there deposit what they feel they can save, or repay on the loans that they make.

Hon. Mr. DUNNING: You want to develop their moral sense in relation to it.

The WITNESS: That is right.

By Mr. Martin:

Q. While you are on that point, and having in mind Mr. Dunning's interjection, would not you say that credit unions successfully operate best where there is not only community of interest, but let us say a community of religious interest, of racial interest, as well as occupational interest. By religious interest I do not mean that necessarily as one religion; but it is typical of Nova Scotia generally, of village life, that there is a strain there that is very common among all religious groups. I could take, for instance, in the area from which I come there is a little French village with a curé there who is a leading figure; or, in another place it might be the United Church minister who might be the leading figure—a credit union operates best under circumstances such as those doesn't it?—A. There is no question but under conditions such as you mention it would have an influence. Take the case of a rural community where the people are all of one congregation, a credit union will function more quickly and freely there than perhaps in a mixed community; and the same in a community where you have one race. There is a certain background there that helps to make a credit union function more amicably. Notwithstanding that, credit unions will operate satisfactorily with other groups, such as in industrial centres where you have not that common interest in the way of religion, race, and so on.

By Hon. Mr. Dunning:

Q. Would it not be correct to say that it functions best where there is a maximum of the feeling and desire to retain the respect of one's intimates?—A. That is right. That is probably the biggest factor that makes for the success of a credit union.

By Mr. Macdonald:

Q. In actual practice do credit unions require an endorser for loans of less than \$50?—A. The older credit unions are beginning to use that provision to the limit; that is, to loan up to \$50 on character without any type of collateral other than the note of the endorsers—

Mr. FINLAYSON: You said, on the note of the endorser; do you not mean on the note of the borrower?

The WITNESS: Yes, on the note of the borrower. I am advised that the credit unions who have gone ahead with the making of character loans are having no trouble whatsoever in making collections.

By Mr. Martin:

Q. There is a definite relation between a credit union and a co-operative enterprise?—A. No. A credit union is a form of co-operative enterprise. A credit union is a co-operative society set up to sell credit to its members, to

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meet their credit needs. There are other types of co-operative enterprises. There are consumer co-operatives; through which a group of people come together and organize a society for the purpose of selling and distributing goods to the members of the group. And you might have another co-operative set up for the marketing of farm products, or for the marketing of fish, or what not. A credit union is just one type of co-operative enterprise, and its job is to sell credit to its members at reasonable cost.

By Mr. MacDonald:

Q. Is the interest rate the same whether a man borrows \$50 or \$500?—
A. Some credit unions have arranged a schedule of interest rates in proportion to the amount borrowed; but generally speaking, we are attempting to discourage that practice for the reason that we feel that the man who borrows \$50 should not be charged a higher rate of interest than the man who borrows \$500.

Mr. DEACHMAN: He needs it just as much as the other fellow does.

The WITNESS: Just as much. There are a few comments I wish to make on the requirements of a system of consumers' credit; and perhaps my comments on it will help to bring you to a fuller discussion on credit unions. I would say that the first requirement for a system of consumers' credit is that consumer credit and thrift service should be brought close together. What I mean by that is that the borrower should find it easy to save at the same time as he is borrowing. The credit union will fulfil that requirement in very excellent fashion; that is, a man borrowing money is at the same time saving his money, he is setting up a reserve of share capital at the same time as he is repaying the amount he has borrowed.

By Hon. Mr. Dunning:

Q. And those shares become security for any amount he may have borrowed?—
A. That is true. That is one requirement we feel should be present in any system designed to meet the credit needs of the country.

By Mr. MacDonald:

Q. Over and above the amount paid back to the credit union he also has his savings account?—
A. Yes, his savings account in the credit union is built up; he builds up his shares in the credit union at the same time that he repays his loan.

Q. If he borrows \$50 he pays back \$5 a month—I can't see how he is saving, because that \$5 goes to repay the debt?—
A. In addition to paying back the \$5 on the loan he is also saving, we will say, 10 cents a week—or it may be, putting into the credit union 50 cents a week—which goes to his credit.

By Hon. Mr. Dunning:

Q. On his shares?—
A. On his shares.

Q. What is the share limit?—
A. It is limited by the decision of the directors.

Q. What is the limit that a man may hold as to the number of shares, up to a maximum?—
A. He may hold up to the maximum fixed by the board of directors.

Q. There is no uniform maximum in that respect?—
A. No.

By Mr. Edwards:

Q. What is the average on that. That is a question I was developing—the holding of shares?—
A. I could not answer that question now because we have made no study on that particular phase of it.

By Hon. Mr. Dunning:

Q. Are the par values of these shares all the same?—A. They are all the same, \$5.

By Mr. Edwards:

Q. So a man could hold a hundred shares if he wanted to?—A. Subject to the ruling of the directors. In a small credit union, say with a share capital of \$500, it would be bad practice to permit large holdings, since their withdrawal would weaken the organization. As stated previously deposits may be withdrawn on short notice.

Q. Can he do that with his share capital as well?—A. Yes.

Q. He can withdraw the amount he has invested in share capital at any time?—A. Yes, he can withdraw his share capital at any time on any day the credit office is open for business.

By Mr. Quelch:

Q. What is the difference between shares and deposits?—A. The money which members put into their share accounts is the money which they pay regularly and in fixed amounts. We will say that the rules call for fifty cents a week. The man must pay in every week that fifty cents, regularly, until it amounts to the \$5 which he pays for his share.

By Mr. MacDonald:

Q. That only pays for one share?—A. That would be the payment for one share. As soon as one share in the credit union is paid for he may of course start paying on another share if he wishes to.

By Mr. Edwards:

Q. Do you issue stock certificates?—A. No.

By Hon. Mr. Dunning:

Q. Do you mean to say that any of the members of the credit union can go in and withdraw any monies they have invested either in share capital or on deposit at any time they want it?—A. That is right.

By Mr. Quelch:

Q. You can demand certain notice, can you not?—A. We can if the directors so decide demand either a thirty-day notice or a sixty-day notice—that is to meet conditions of emergency.

By Mr. Cleaver:

Q. What percentage of a man's share application must be paid up before he is qualified as a borrower; that is, he must be a member of the association; must he have one share paid for or only a percentage of it?—A. An applicant must be a member of the credit union. He is entitled to the privileges of borrowing as soon as he becomes a member. He becomes a member as soon as his application has been accepted by the directors and he pays his entrance fee of twenty-five cents along with his first instalment on a subscribed share. Immediately he has complied with these requirements for membership he becomes entitled to all the privileges of the credit union, including that of borrowing.

Q. So that a man seeking a loan could join the association, pay twenty-five cents, and his qualifying down-payment on a share, and he at once becomes eligible for a loan?—A. That is right. As soon as he becomes a member he is

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entitled to all the privileges of the credit union, including the privilege of borrowing.

Q. Then, why should anyone want to carry any money on deposit with a credit union when they only receive two per cent on deposits, and when they would be in exactly the same position as shareholders, able to recall their money at any time, and they receive between four and five per cent of their money invested in shares?—A. He deposits in our credit union for some specific purpose. We will take the case of a member who is anxious to get ready to meet a known need; say he is going on vacation and he needs \$100 for that particular purpose; or, we will say to pay the premium on an insurance policy when it comes due. Well, he sees he must have the money, and he saves to meet a known need; so, in addition to saving his fifty cents a week on shares he is going to place in a deposit account a dollar this week, two dollars next week, or five dollars the next week, or it may only be twenty-five cents the next week; and he goes on doing that until he builds up the amount of \$100 to meet that known need, and then he withdraws it. This provides a great convenience in communities where there are no banking facilities. The idea is to make it convenient for the people to have in the deposit account money to meet their needs and yet keep their share account intact.

By Mr. Cleaver:

Q. The deposit accounts are not for the purpose of securing assets for the credit unions, are they?—A. No. The stress is laid on building up the share capital account.

By Mr. Quelch:

Q. Is there any way for one credit union to borrow the funds of another?—A. A credit union, according to the Nova Scotia Act, may invest in the shares of another credit union.

By Hon. Mr. Dunning:

Q. In the shares?—A. Yes.

Q. Reverting to the right of the individual shareholder to demand his money at any time, I presume you have that worked out in relation to borrowers? I assume that a man who was indebted to the credit union, could not demand his share capital returned?—A. No.

Q. What proportion of the members are actual borrowers?—A. In Nova Scotia I would say that 50 per cent are borrowers.

Q. Then the risk of withdrawal of capital is limited to 50 per cent of your membership?—A. That is right.

By Mr. Deachman:

Q. Has there been a run with regard to withdrawals?—A. No. I understand that the experience in the United States is that they never have any runs on the credit unions.

Mr. BUNCE: I was going to ask about the process of withdrawing deposits. Must I present my own passbook and ask for the money in person or may I give an order or a cheque or something against my deposit to a third person who might go and withdraw my money?

The WITNESS: No, all withdrawals must be made by the member, and on presentation of his passbook.

By Hon. Mr. Dunning:

Q. On thirty days' notice?—A. Yes.

Q. In the case of shares?—A. Sixty days in the case of shares. Thirty on deposits.

Mr. BUNCE: There is no attempt on the part of credit unions to operate and function as a commercial bank, is there?

The WITNESS: No; although there is some agitation in the United States at the present time to introduce such changes that will make the credit union more flexible to give that service—that checking service. I think the demand is from the rural communities in the United States.

Mr. BUNCE: I was wondering whether you have done anything along that line?

The WITNESS: We have not reached that stage in development yet, and I think, probably, never will, because we want to adhere to true credit union principles and practices.

By Mr. Finlayson:

Q. Is the regulation for notice usually enforced?—A. Rarely enforced. I do not know of any case in the United States or the Maritime provinces where a notice has been given.

By Hon. Mr. Dunning:

Q. I was wondering if you have any difficulty in regard to share capital. You spoke of a man who wanted to invest \$1,000 or some large sum because of the return he was being paid on the share, 4½ per cent; have you had experience of having to refuse such applications because of the danger they represent to the structure?—A. Yes. The directors are doing that in almost every credit union, particularly in the month of January when the dividend for the year is declared. We find many people coming in and wanting to take \$500 or \$1,000 or in some cases \$2,000 out of their other investments.

Q. Is there any regulation which would prevent that danger becoming acute?—A. No, that is left entirely to the judgment of the directors who study local conditions and the needs of the credit union.

Q. I think there is a big risk if they fail in that particular.

By Mr. Deachman:

Q. How do you develop uniformity of practice among the different groups; is there a means of educating the directors in the principles of co-operative borrowing?—A. That is one of the special features of credit union development work in the Maritime provinces. Before a group organizes a credit union they go through a six months' period of training, or three months, through their study classes and meetings, and they study the history and principles of the technique of credit unions. Before a credit union is regularly organized, you have a fair percentage of the group knowing how to operate such an organization even to the extent of using the uniform bookkeeping system that applies to all credit unions on the North American continent.

By Mr. Ward:

Q. Is the organization of a credit union branch contingent upon this study?—A. When the movement is under the control of a provincial or national organization that can be insisted on. In Nova Scotia we have the Nova Scotia Credit Union League. The chief objective of that league is to promote sound credit union development in the province, and as such it is able to see that no charters are issued unless the prospective members know how to operate a credit union successfully. That means study and education prior to the formal organizing of the group.

By Mr. Martin:

Q. That is done through adult education?—A. Yes.

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By Mr. MacDonald:

Q. With regard to withdrawals, what is the nature of the securities in which you keep your funds invested?—A. As yet the credit unions are not making any investments other than the investments in the way of loans to the members.

Q. They must have considerable cash on hand—some of the unions?—A. Not as yet; because the credit unions are not large enough to take care of all the credit needs of the members and still have some surplus funds for investment.

By Mr. Martin:

Q. Is not there one instance where you have nearly a half million?—A. Yes, in the Dosco credit union which has \$60,000 in share capital. There is an approximate surplus of \$4,000.

By Hon. Mr. Dunning:

Q. That is deposited in a chartered bank, is it?—A. That is right.

Q. And you spoke of one union being empowered to invest its surplus assets in the shares of another. They are not allowed to deposit with another union—only to buy shares?—A. Yes; and subject to the authority of the Registrar of Joint Stock Companies.

Q. Have you had much experience of that interchange of credit between communities?—A. Yes, for instance, this credit union I spoke of with a surplus of \$4,000 was permitted to buy \$500 worth of shares in a smaller credit union where the share capital was insufficient to meet loan demands of that particular group.

Q. That does go on?—A. Yes. In a limited way.

By Mr. Cleaver:

Q. What percentage of capital liabilities do you find you require to keep on hand as a reserve?—A. That will depend on the nature of the community and the time of the year. In a rural community, say, in February or March, it will be necessary for a credit union to have fairly ample reserves to meet excessive loan demands that come in from rural communities in the spring of the year.

Q. Have you power under your charter to borrow for your needs if you have an emergency?—A. Yes. Under certain regulations credit unions may borrow an amount equivalent to 25 per cent of its total share and deposits, and up to 50 per cent, with certain additional restrictions, all subject to the authority of the Registrar of Joint Stock Companies.

By Hon. Mr. Dunning:

Q. Is that privilege often availed of?—A. No.

By Mr. Quelch:

Q. Would that be to meet the demands for withdrawals or further loans?—A. To meet the demands of further loans. You will find when a credit union is obliged to borrow money it is because the members are using their society as it was intended to be used and the share capital is not adequate to meet the loan demand. Consequently they go outside to borrow a few hundred dollars to give additional service to the members.

By Hon. Mr. Dunning:

Q. Is there any difficulty in making such borrowings?—A. No.

Q. From the chartered banks?—A. Yes, from the chartered banks.

By Mr. Cleaver:

Q. When you make those borrowings, do you find that your directors or committees go on the loans as guarantors?—A. No; because the credit union as a legal entity is responsible for the loan; the signing officers of the credit union sign on behalf of the credit union.

By Hon. Mr. Dunning:

Q. But not with any personal responsibility?—A. Not with any personal responsibility.

Q. In that case do they have to pledge their members' notes to the bank?—A. Yes.

Q. They hand them over?—A. Not necessarily, assign them.

By Mr. Ward:

Q. Would it be a proper question to ask what rate of interest you pay on your borrowings from the bank?—A. The regular rate—the regular bank rate.

By Mr. Martin:

Q. Did Father Tompkins estimate what the cost to each individual borrower in the credit union would be if the service were not as voluntary to the extent that they are? In other words, if they had to pay the officers and the committees and so on and had to pay for advertising—did he not estimate what the increase would likely be?—A. Well, I would not be able to answer that question.

By Miss Macphail:

Q. What interest is paid for the deposits by the credit unions?—A. In Nova Scotia, between 2 and 3 per cent.

Q. And when you borrow from the credit unions?—A. The maximum of 1 per cent per month on unpaid balances may be charged, but the average rate for Nova Scotia is between 6 and 7 per cent per annum.

By Mr. Cleaver:

Q. What is your practice with the small credit unions; does the treasurer have an office? Does he do business in his home or has he an office?—A. The overhead costs of a credit union are kept at the minimum. In the mining communities the credit unions are building little offices where they have a committee room, a place for tellers to receive the deposits, and a board room. It is a small building, perhaps, 24 by 30—just sufficient to meet the office needs. These buildings are placed a few hundred feet from the pay office of the mines, and that brings out a rather important point in consumer credit; a system of consumer credit should be convenient for the borrower; it should be convenient for the borrower to borrow, and it should be convenient for the member to save. So it is rather interesting down in eastern Nova Scotia on Saturday afternoon to watch thousands of miners leaving the pay office with their pay envelopes and walking a few feet over to their own credit office to save 25 cents or 50 cents or \$1 as the case may be and make payment of their loans.

Hon. Mr. DUNNING: With no temptations in between.

The WITNESS: No.

By Mr. Quelch:

Q. Can you envisage a time when by educating the people along cooperative principles it will be possible for the credit unions to displace the small loan companies?—A. I rather think it will be a long time before credit unions will meet the needs of all classes. Perhaps it is safe to say there will always be a

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certain group of people—a small group of people—who will not take advantage of credit union services, and the small loan companies would fill an important function, provided they are properly controlled, in meeting the credit needs of that group. But certainly the emphasis should be put upon credit union development in so far as informing the public of the dangers and pitfalls around consumer credit is concerned. I think the big job to be done at the present time is to educate the people on how to use credit in a scientific fashion and to show them what sources they can go to secure that credit.

By Hon. Mr. Dunning:

Q. And the basis of it?—A. Yes. Unfortunately, some people through fear of embarrassment are not willing to go out into the open and borrow money to meet their legitimate credit needs and, consequently, they are forced into the hands of loan sharks or companies operating at an excessive rate of interest. There is a need for educational work to teach the consumer just what organizations he can use to meet that particular demand.

By Mr. Martin:

Q. Now, Professor MacDonald, you have touched upon what concerns us here, and I am going to ask a few questions. In the Maritime provinces have you from your experience any knowledge of companies that are charging, let us say, over 30 per cent in these small loan companies?—A. Some weeks ago I was in Sydney and I discovered a case of a young man who borrowed \$200 from a personal finance corporation, and I got contracts and took them to a personal friend of mine who was a banker and he figured up the rate of interest and it came to 70 per cent. That was a case of a person who had confidence in the people he was borrowing from. They were most respectable people—at least, supposedly—and the borrower felt safe in going to that organization. That is where education comes in—the giving of the facts and information to the public so that they will not be fooled by all sorts of organizations that are ready to prey upon the hard luck of the average consumer.

Q. Now, Professor MacDonald, you recognize that there is at the moment a place for the small loan company, and looking at the matter as a practical matter, would you expect a small loan company to carry on business at the rate of interest, for instance, that a credit union is able to give?—A. I do not see how a small loan company could operate on the same interest charges as those charged by credit unions, because the overhead charges of the latter are kept at the very minimum. There is no need for advertising or investigation work or expensive office equipment, renting elaborate quarters and all that.

By Miss Macphail:

Q. Is there any reason for renting elaborate quarters?—A. I think they have gone to extremes in the setting up of top-heavy organizations when we have simple little organizations like credit unions who can meet all the everyday credit needs of our people in a simple co-operative way.

By Mr. Quelch:

Q. You do not agree with the small loan companies that it is necessary to make a charge for loans under \$50; you find that you can do it on the character of the borrower without necessarily taking a chattel mortgage in every case. We are told, for instance, that the heavy cost of the small loan companies is due to the fact that they have to take chattel mortgages on a small loan which raises the expense. You do not find that necessary?—A. I think the experience of credit unions in the United States has been the experience

in Nova Scotia, and that is that a \$50 character loan is the safest type of loan made through credit unions.

By Mr. Martin:

Q. Would you say that would apply to a company operating a small loan business?—A. No, the personal fraternal relationship is not there.

By Mr. Howard:

Q. Under the co-operative system you have the help of all your members of the society for your loans and collections?—A. Yes; they are interested in the success of the credit union and will do their best to keep every one straight.

By Mr. Martin:

Q. I think before you sit down you ought to make some suggestions to this committee of what we might do to help you. There is no federal credit union act, and I expect it is better if the provincial Acts are adequate enough themselves; but is there anything we can do to meet your particular problem which is a different problem from the one we are dealing with in this committee but which is, nevertheless, a highly important work?—A. Well, it is rather difficult to make any suggestions on that, but certainly—

Q. What do we do to assist financially the adult educational movement—

Hon. Mr. DUNNING: That is a leading question.

The WITNESS: As I see it, there is a question of meeting the credit needs of the average consumer, and it is a national one. Certainly, we have not enough organizations taking care of that need. The second point is this: in order that that need will be adequately taken care of adult educational work is needed all over Canada. Now, we have in Canada what is known as the Canadian Association for Adult Education. I do not know what finer national contribution they could make than to carry on a vigorous program on consumer credit throughout Canada through their organization; and the Dominion government, recognizing the national need, and recognizing the importance of this work, could assist the Canadian Association for Adult Education by promoting in every province in Canada adult education on the theme of consumer credit—particularly in regard to credit union work. That is one way.

By Miss Macphail:

Q. If we can sell the idea to the finance minister. It is a new field of co-operation too. Is it true, Professor MacDonald, that before you start up any co-operative enterprise you have intensive study over a period of months?—A. Undoubtedly our work, the work of the University Extension Department in Antigonish, is primarily in the field of adult education, and that is so closely linked up with the social and economic needs of the people that we feel it necessary to tie them to a program development in educational work, first, to motivate the people to save money and become better citizens; secondly so that they may improve their general economic conditions.

The CHAIRMAN: The minister must go to council now and I should like to give him an opportunity to say a few words before he leaves.

Hon. Mr. DUNNING: I asked for that opportunity only to express my personal appreciation to Professor MacDonald for the very able exposition he has given us this morning and of the valuable work that is being done in the province of Nova Scotia. I was carried back some twenty-five years to when I had the privilege of signing my name to a report with which you are doubtless familiar which, among other things, recommended the establishment of Raiffeisen credit unions in Saskatchewan. Unfortunately, I was not far-seeing enough

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at that time to see what, evidently, your university did see clearly, that the full adoption of the Raiffeisen principle of joint and several liability would not appeal to our western people, and it did not. But you have, apparently, succeeded in modifying that without losing the full advantage of it, which, really is the basis of all your work, and it is really remarkable the progress which is being made. I do want to say this, that it has its roots in the thing which is the basis of all successful co-operation which is not governmental subsidy for educational work, but an appreciation of the real need among the people affected, with those among them who believe and understand and are willing, as in your case, to give of their time and effort to educate their fellows as to the desirability of adopting the principles of co-operation in relation to credit. I think the work is really remarkable, and I do want to express sincere thanks to Professor MacDonald for taking the time to come here and tell us about this work. I am sorry I have to go, but that does not cut you off.

The CHAIRMAN: Before proceeding with the investigation, I should like to invite, with your permission, Mr. Bunce to make any comments he has to make on what Professor MacDonald has said, because you will recall that yesterday Mr. Bunce told us that he had in his state a considerable number of credit unions, but he spoke more particularly in reference to the small loan companies.

Hon. Mr. LAWSON: Might I ask one question of Professor MacDonald? If the matter has been dealt with before I came in to the committee, he can say so and I shall read it in the report. Have you had any experience with credit unions operating in larger urban centres of population as distinguished from those operating in small urban centres and in rural centres?

The WITNESS: We have in the city of Halifax at the present time seven credit unions operating, and they are functioning just as successfully as credit unions in the small communities, and the history of credit unions in the United States has been quite clearly that credit unions will serve the needs of people in large urban centres as well as in small communities.

The CHAIRMAN: After Mr. Bunce has completed his statement, there will be an opportunity to ask further questions of Professor MacDonald.

Mr. BUNCE: Mr. Chairman, Professor MacDonald, and members of the committee, it has been most interesting to me to learn of the experience in Canada in connection with credit unions, because we ourselves are very much interested in them in our state which, as I said yesterday, has a population of about two and one-half million people and we have about the same number of credit unions as Professor MacDonald spoke about in his jurisdiction in Nova Scotia—about 120. Basing my remarks upon his statement here, I think we are operating under almost an identical law and, generally speaking, our experience is almost identical. We have one little difficulty which, undoubtedly, is due to the different type of occupation and the different type of settlements in our state. I wish I might be able to spend a day or two in Nova Scotia studying the operation of your rural credit scheme, which is our problem. We have many rural communities that are unable to support a bank and that may be quite a distance from credit facilities. There have been a number of experiments tried with various types of credit unions, but almost universally our experience has not been satisfactory with the rural set-up, and that is the problem that we need to study. We find that there must be some change in the credit union set-up that is operating successfully in our state if we are going to make that program answer our rural needs. Just whether it is a question of needing more education I do not know, but we have been studying seriously that problem in the last two years. One of our neighbouring states has gone ahead and attempted to expand the credit union as a direct banking service and they are attempting to give complete banking service to smaller communities. I think they have over one hundred of those so-called community

credit unions that are functioning as banks. They permit people to put in money and draw cheques against the accounts, and they are trying to go ahead with the rest of the credit union operation, and the last report I saw of their operation indicated that better than 80 per cent of them were still operating in that way—

The CHAIRMAN: What state?

The WITNESS: Nebraska. As part of our approach to this subject, our state asked me to go to Nebraska and I spent several days travelling around through the state looking at some of those unions with the bankers and with the state association, and as a result we denied the right of the organizers, and there, unfortunately, professor, there was an unscrupulous organizer at the bottom.

The WITNESS: I know it.

Mr. BUNCE: He went out and charged \$150 for organizing the union and sold them \$150 worth of supplies and hooked them up on a contract requiring one-eighth or one-quarter of the volume for giving them supervision which did not amount to anything. Fortunately, they did make a success of some unions, started in our state, working through a good church organization, and I think there are two of them left. We are liquidating one or two of them now. I will have to correct you when you say you do not know of any so-called credit union that ever had to give thirty days' or sixty days' notice. I am thinking of one that gave sixty days' notice, and upon investigation I think it will be fortunate if those depositors and shareholders recover 25 per cent of their deposits. That is one of the unfortunate experiences.

The WITNESS: Of course, that development, this new type of credit union, was carried on without the approval of the Credit Union National Organization.

Mr. BUNCE: I quite agree.

The WITNESS: It really had no official sanction, from the sound development point of view.

Mr. BUNCE: That is one of the abuses that has crept in.

The WITNESS: That is right.

Mr. BUNCE: That is why I was interested in asking one or two questions about your method of withdrawal. Down in our state, in order to combat that, we have made it mandatory that each member of a union present his passbook in person to make a withdrawal and that the entry in the passbook must be initialed by the officer of the union and the member, which will hold it along the line you are following here; and the unions that are doing that are operating very fine. There is another difference, however, that impresses me quite a great deal. Our credit unions are finding it difficult to employ their assets. There is not sufficient demand for loans among the members and practically all of our unions have been forced to purchase bonds or mortgage loans. I quite agree that our experience with the membership loans is almost as favorable as Professor MacDonald indicated. On the other hand, some of our unions have suffered from losses from their outside investments. I have one union in mind, for instance, that bought \$5,000 worth of so-called domestic bonds and to-day they are facing about a \$2,000 loss. I have in mind one of the larger unions—and the gentleman who asked about the operation of the credit unions in the larger urban centres might be interested in this. In the city of Minneapolis, one of the largest credit unions in our section of the States is in existence. I have just recently learned that they have made, within the past two years, a huge loan of approximately \$300,000 upon one church; and, frankly, the department that is in charge of credit unions is very much worried now about that union which has placed such a large amount of its money in one loan. Regardless of the moral responsibility of our churches, as

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a banker I know that the quality of the paper and the time of repayment is somewhat indefinite.

Mr. MARTIN: Mr. Bunce, we were told by Mr. Vaillancourt of the Caisse Populaire of Quebec that the Levis Caisse had loaned the community, I think, a million dollars.

Mr. CLEAVER: The municipality.

Mr. MARTIN: The city. What would you say about that?

Mr. BUNCE: I would say, just as I had to answer to one of our new credit unions the other day. This credit union wrote in that they had about \$2,500 altogether. They have had practically no demand, and they wrote in and asked whether or not they might place \$1,000 of their reserves in shares of another credit union. I wrote them to this effect, that I did not believe that any financial organization that had a responsibility to its membership for deposits should consider placing that large percentage of its total assets in one place, except as a deposit in a chartered bank and insured bank of in government bonds.

Mr. MARTIN: It is getting out of its field.

Mr. BUNCE: Yes, it is getting out of its field. If a credit union has some idle funds, the purchase of good municipal bonds or government bonds in a reasonable amount might be very fair. In our general banking law we have this provision, that the total aggregate investment in all municipal securities cannot exceed twenty-five per cent of the assets of the bank. Certainly a credit union should not exceed that same percentage in any type of investment. But we are, as I think I said yesterday, quite enthusiastic about the organization of credit unions along the lines that we have found to work out satisfactorily. A good deal depends upon education. Now, in our state we are fortunate in having a state league of credit unions, and that is quite generally the practice. That state league has been able to interest a man of very high calibre who works part time, and really just for a little expense money, as their director. He is the head of the mathematics department in the largest high school in our capital city. That is the type of man who is travelling around over our state, helping to organize, helping to direct and helping to educate the credit unions. I might say this, that the federal union organizers who come into our state advise the groups that they develop to take out a state licence. I think there is only one federal licence in our state at the present time, although there have been a number of unions instigated by federal organizers.

The WITNESS: How many federal organizers are in Mr. Orchard's department now?

Mr. BUNCE: I do not know. He drops in and visits with us every once in a while, but I do not know how many he has. I am not so enthusiastic about one phase. Professor MacDonald did not express himself. I will. I am not so enthusiastic about the idea of having this so-called national organization. That is, we have such a wide diversity of problems in this credit situation that I believe that the state unit is the best method of controlling and directing the credit union work. We have not found the influence of the national organization particularly helpful in our state, and I believe that our movement has gone ahead much better since they have rather divorced themselves from the domination of the national association.

Mr. CLEAVER: I take it that your experience would lead you to believe that credit unions are only successful in communities where the members of the union themselves require credit.

Mr. BUNCE: Well, I would not say that.

Mr. CLEAVER: Well, the illustration which you have given us of grief where unions had funds on hand and where their own members did not wish to borrow would almost lead us to believe that, would it not?

Mr. BUNCE: Well, they can earn two to three per cent upon the shares and still invest their funds carefully in well selected securities; that will enable them to carry forward this idea of thrift, which to my way of thinking is the important thing with the credit union movement. I am more particularly interested in the development of thrift through their educational program than I am in their loaning facilities; because that has been the important thing in the development in our state. They are taking care of a certain percentage of credit needs.

Mr. CLEAVER: I take it that the grief you have told us about that has arisen with respect to several credit unions has almost invariably arisen where credit unions had funds on hand which their own members did not need to borrow and which were used improvidently in securities which should not have been purchased?

Mr. BUNCE: Yes, that is true. There is more danger always in any financial institution where you have surplus funds and you are becoming worried about loss of income. On the other hand, there is another danger. That is very well illustrated in 2 or 3 instances that we have right now. For instance, we have one credit union made up entirely of the railway employees at a particular division point. Practically all of the employees there, by virtue of the shifting of the division point and the changing of the transportation methods, particularly freight, have been thrown out of employment. Practically all of the money of that credit union was loaned among themselves. We have gone there and visited a number of times; there is not a more honest group of fellows any place in our state than that bunch and there never was a more patient group of depositors than we have in that group. But I question whether or not that credit union will ever pay out anything like in full, simply because all of their eggs were in one basket. The repayment of all of their loans depended upon the employment of a certain group of people depending upon one small branch of a large company. If that particular union had had a wider spread of membership in that railroad organization, it might have avoided that; but the fact that it was all yard men made it a serious problem.

Mr. MARTIN: There is a great danger of a credit union lacking in vitality and leadership, as Professor MacDonald apparently has described, becoming very cliquey and killing itself, is there not, Mr. Bunce?

Mr. BUNCE: We found, Mr. Martin, that the life of a credit union depends upon the unselfish service of some one strong personality. We have a strong personality that is the leader in our state league, and he is able to develop one or two strong personalities in each of his unions. With the death of one man, it may almost mean the death of a good credit union. It is awfully difficult to hold a group of people together unless there are one or two strong men giving a lot of time to that work. One of our leaders in one of our industrial credit unions three years ago left that employment and went into a smaller community, and went into business for himself. Being an enthusiastic credit union man, he organized one there. The last time I visited with him he said, "Mr. Bunce, I have tried for twelve months now to get enough of our membership together to vote to pay back the cash that we have on hand. We have nothing but cash." That is the experience that we have had, attempting to cover a whole community where for some reason or other in our country, there is that lack of cohesion, that lack of close association that seems to be so highly essential. But, Professor MacDonald, I am awfully glad to get your information regarding the operation of these unions and particularly the success that you are having in this community service. I hope some day that we may be able to find the answer so that it can give the same service to our communities. It is the thing we are striving for; and frankly it is one of the movements that we, in our department

[Prof. A. B. MacDonald.]

and in our state, have taken a tremendous interest in. But I would say this in closing: In our experience, the credit union does not come in competition with the other lending agencies—in other words, the small loan industry or the banker. Our bankers are very friendly to the credit union movement; and universally, if there is occasion for the unions to borrow money, the banker is ready to make whatever credit they need available at a reasonable rate. The banker recognizes that the credit union movement is encouraging thrift and is obtaining regular weely deposits from people who never on earth could be encouraged to go in and make that small weekly deposit in a bank; and so the banker, generally speaking, is wholeheartedly supporting that credit union movement. He does not look upon it as a competitor; and so far as I know, the small loan operator does not feel that the credit union is a competitor. The fact of the matter is that, I understand, in many of our small loan companies, if they find that a man is a member of a credit union, they will suggest to him before they make him a loan that he make application to his credit union. They encourage him to borrow there. I think that is the general relationship between the three organizations, as I see them function. Each is serving its particular place and purpose; and if a man can borrow for 1 per cent per month from his credit union, there is where he should borrow.

Mr. MARTIN: I just make this observation for the record, Mr. Bunce. When you got up, I thought you were going to take issue with Professor MacDonald.

Mr. BUNCE: No.

Mr. MARTIN: I gather, from what you said yesterday and from what Professor MacDonald has said this morning, that there is no conflict of opinion between the two of you.

Mr. BUNCE: I think we can sit down and get together.

By Mr. Coldwell:

Q. Might I ask Professor MacDonald a question with regard to the urban credit unions of Halifax. What holds them together? Are they of the same economic interest to people who belong to these organizations?—A. Off-hand, we have, as I said, two credit unions operating among the federal employees—employees of the federal government. These are built up on a building basis, if you want to put it that way, with four or five hundred people with offices in one building. That makes up the group. The employees of the provincial government are housed in another building. There is a new group there. The railway employees have another credit union, taking in perhaps eight hundred to a thousand men.

Q. Comprising all the groups?—A. All the groups—the train men, yard men and so on.

Q. Is there a regular plan followed for meetings of the members?—A. Yes, that is taken care of by individual credit unions through their educational committees. At all times we are stressing the setting up of reserves so that a certain amount of educational work can be carried on, perhaps in the way of meetings and social functions, etc., in order to maintain a lively interest in credit union work. We have another union at Moir's chocolate factory.

By Mr. Finlayson:

Q. Do your credit unions make returns to the provincial government?—A. Yes. Every year they must send in a return to the inspector of credit unions.

Q. On a prescribed form?—A. On a prescribed form.

Q. Do you know if these returns indicate the amount of loss charged against the guaranteed fund in each credit union?—A. No, that question is not asked on the official form?

Q. It could be, I suppose.—A. Indeed.

Q. I am trying to make some comparison between credit unions and the small loan companies. A loss of that kind in a small loan company would be reported as a loss.—A. Yes.

Q. Your credit union does not regard that as a loss, so that until we get some information such as that in respect to credit unions, it will be hard to compare the experience as to losses of the credit unions with the losses of small loan companies—A. Yes.

By Mr. Coldwell:

Q. I was going to pursue that, now that you have mentioned the Moir chocolate factory, which is really in the luxury class. What about the danger of having all your eggs in one basket, as Mr. Bunce put it?—A. You will find exceptional cases of where credit unions will be drifting towards the danger zone, but that does not interfere very much with the general program of credit union development.

Q. Do you discourage or encourage organizations within industries of that type?—A. No. A luxury industry, such as the manufacture of chocolates, is fairly stable and permanent, and it may be that the directors should use caution in not letting out all their funds in easy loans. They should perhaps be just a little tighter than with a group where there is more permanency of occupation.

Q. They loan, of course, only to their own members.—A. Only to their own members. But I would say that, although Mr. Bunce has picked out several illustrations of weak or dying credit unions, the percentage of serious losses in credit unions in the United States is very, very small indeed.

Mr. BUNCE: I said yesterday that out of our 120 credit unions 100 were operating.

The WITNESS: Yes.

Mr. BUNCE: So that our percentage is small.

The WITNESS: You will experience grief in credit union work where the organization develops into a one-man organization, one enthusiastic, public-spirited fellow who is taking the whole load of organization and doing all the jobs connected with a credit union. A credit union which has drifted into that chocolate factory, which is really in the luxury class. What about the danger the remedy for situations of that kind is education, being able through the force of knowledge, ideas and information on the movement, to keep the members alive, alert and active in watching every move of the credit union, seeing that the right directors are appointed and that the procedure of the credit union is conducted on a proper basis, and so on. As a matter of fact, it is difficult to carry on any co-operative endeavor successfully unless you have as a background an effective program of educational work for the membership.

Mr. WARD: Mr. Chairman, the point that Professor MacDonald has just now stressed is perhaps the most important point based upon our experience in connection with the establishment of any kind of credit unions. Those members who are here from the west, I am sure, cannot but remember the experience we had in the west with rural credit societies. I think it is now the reasoned and unanimous opinion of governments and all those who have observed the terrible failure of those rural credit societies that in large part it was due to the lack of education; also to the fact that we put into the hands of a board, without any experience whatsoever in the science of management, thousands of dollars—in some cases hundreds of thousands of dollars—to be loaned out. It was all loaned to their own members, it is true. But as one who served on a

[Prof. A. B. MacDonald.]

board of a rural credit society for many years and was a shareholder in one of these societies,—fortunately I never borrowed any money from them—it was clear to me from the beginning that the failure of those societies was lack of education, first, on the part of those charged with the responsibility of loaning all this money, with no sense of weighing values and properly appraising human values, moral as well as physical and, secondly, the failure on the part of the borrowers themselves to understand that it was they who were involved.

So that I think if we are to profit from the excellent information we have gathered from these two very eminent gentlemen who have been with us these last two days—and I hope we do, for we are in need of credit unions or some intermediate means of providing credit to the housewives and to small borrowers—I do not think we can overstress the point of pre-education before we embark upon any large scheme of setting up co-operative societies in this country.

By Mr. Coldwell:

Q. Is that not true of all co-operative societies, and would it not be wise to include in the schools a course concerning co-operative associations?—A. That is not new. Wisconsin and Minnesota have enacted legislation making the teaching of co-operation in all schools compulsory in these states, from the elementary grades up to the teachers' training institutions.

Q. Would you favour that?—A. Yes.

By Mr. Finlayson:

Q. Where do you think your members got their credit before the credit unions were established?—A. Mostly through charge accounts with private business men.

Q. They bought on time instead of for cash?—A. Bought on time, and that time extended to two, three or twenty years.

Q. They paid their interest in that form instead of in the other form?—A. That is true. The business men had to charge an enhanced price to take care of the loss incurred by that system.

Q. Do you think there are still loan sharks operating to any extent in Nova Scotia? I mean the unregulated lenders.—A. Only among certain groups. I have discovered among the railway employees three or four or five or six in a certain group, shrewder perhaps than their fellow workers, who have accumulated a few thousand dollars over a lifetime, and these men are continually loaning that money out to meet the needs of people who are in distress, waiting for their salaries to come in; and I have investigated some cases where the interest charged to help out for a week or two weeks would run as high as 300 per cent.

Q. Have you been able in any case to institute a credit union in a centre or locality like that and so displace the loan shark?—A. Yes, undoubtedly. In the case of the C.N.R. employees in the city of Sydney who have been operating their credit union now for three and a half years, all the people eligible for membership in that credit union have joined. The credit union is now taking care of the small everyday needs of that group including the short-term loans often negotiated a week or so before pay day. Private operators under such conditions soon pass out of the picture.

Q. You have co-operative marketing institutions and co-operative productive institutions in Nova Scotia, have you not?—A. Yes.

Q. Other than the credit unions? Can the credit unions loan to those co-operative institutions?—A. The definition of membership in most of our credit unions permits co-operative societies operating in the community to become members. In other words, co-operative societies, incorporated in the community in which the credit union is operating, may take out membership in the credit union, and, as such, they are permitted to borrow.

Q. They are permitted to become a borrower?—A. Yes. Only with the restriction that the registrar of Joint Stock Companies must give approval or must sanction the loaning of money by a credit union to an affiliated organization.

The CHAIRMAN: Are there any further questions, gentlemen?

Mr. CLEAVER: Mr. Chairman, if the evidence is concluded, I have a motion I would like to make. I am speaking for myself, and I believe for the other members of the committee. We have been very fortunate indeed, during the last three sessions of this committee, in listening to an exceedingly interesting story both from Mr. Bunce and Professor MacDonald. These men have travelled many miles, and have doubtless suffered serious inconvenience in arranging to be present before this committee. I would like to move, Mr. Chairman, that you extend a very hearty vote of thanks to both Mr. Bunce and Professor MacDonald for the very important contributions which they have made to the success of the work of this committee.

The CHAIRMAN: Mr. Bunce and Professor MacDonald, I extend to you the thanks of this committee. I hope that you will both have occasion to return to Ottawa.

At 12.40 o'clock the committee adjourned until 11 a.m. Thursday, March 24, 1938.

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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 9

THURSDAY, MARCH 24, 1938

WITNESSES:

- Hon. Gordon D. Conant, K.C., Attorney General of Ontario, Toronto, Ont.
Hon. Joseph Bilodeau, Minister of Municipal Affairs and Trade and
Commerce, Quebec City, Que.
Mr. Cecil Snyder, K.C., Counsel, Department of the Attorney General
for Ontario, Toronto, Ont.
Mr. George H. Shink, Comptroller of Provincial Revenue, Quebec City,
Que.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

STANDARD BANKING CORPORATION

STANDARD BANKING CORPORATION

NO.

BANKING AND COMMERCE

MINUTES OF MEETINGS AND PROCEEDINGS

OF THE

SMALL LOAN COMMITTEE

NO. 1

1918

STANDARD BANKING CORPORATION

MEMORANDUM

MEMORANDUM FOR THE BOARD OF DIRECTORS
SUBJECT: SMALL LOAN COMMITTEE REPORT FOR 1918
The Small Loan Committee has the honor to acknowledge the receipt of your letter of the 10th inst. regarding the report of the committee for the year 1918. The committee has the pleasure to inform you that the same has been prepared and is being forwarded to you herewith. The report contains a detailed statement of the work of the committee during the year and a list of the loans made. It is believed that the same will be of interest to you and that you will find it contains all the information desired.

STANDARD BANKING CORPORATION

MINUTES OF PROCEEDINGS

THURSDAY, March 24, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs, Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Dunning, Fiset (Sir Eugene), Fontaine, Kinley, Landeryou, Leduc, Macdonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Perley, Quelch, Tucker, Vien, Ward.

In attendance: Hon. Gordon D. Conant, K.C., Attorney-General of Ontario; Mr. Cecil L. Snyder, K.C., Counsel, Department of the Attorney-General for Ontario; Hon. Joseph Bilodeau, Minister of Municipal Affairs and Trade and Commerce, Province of Quebec; Mr. George H. Shink, Comptroller of Provincial Revenue, Province of Quebec; Mr. F. P. Varcoe, K.C., Counsel, Department of Justice; Mr. G. D. Finlayson, Superintendent of Insurance; Mr. Harold Walker, Counsel for Central Finance Corporation, Toronto, and representatives of various loan companies.

Hon. Mr. Dunning made a brief statement dealing with the matters referred to the committee.

Mr. Varcoe also made a statement on the question of jurisdiction.

Hon. Mr. Conant expressed the views of the province of Ontario.

Hon. Mr. Bilodeau made a brief statement and introduced Mr. Shink who submitted the views of the province of Quebec.

During the examination of the witnesses, Mr. Snyder was also called and examined.

By unanimous consent of the committee, it was ordered that the judgment of His Honour Judge O'Connell referred to by the Attorney General of Ontario, be made part of the printed record. (*See Appendix "A."*)

For Appeal case (Privy Council) cited by Mr. Shink, see Appendix "B."

At the suggestion of the Chairman the committee agreed unanimously to have incorporated into the record communications from the Attorneys-General of New Brunswick, Nova Scotia, Manitoba and Saskatchewan, expressing the views of the said provinces on the question of jurisdiction.

At 1 o'clock the committee adjourned until 4.00 p.m.

AFTERNOON SITTING

The committee resumed at 4.20 p.m.

Mr. Shink made a brief statement with respect to the operation of loan companies in the province of Quebec. At his request, the committee agreed that his previous statement on loan companies be deleted from the record, and that he be allowed to file with the committee a revised statement.

Further examination of witnesses followed. Mr. Walker being given permission to take part in the examination.

The chairman informed the committee that a number of written submissions had been referred to the sub-committee and suggested that they be printed together in the record. The committee agreed.

The committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

March 24, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. W. H. Moore, presiding.

The CHAIRMAN: Order. To-day's proceedings are to be confined to a discussion of the question of jurisdiction. We have with us representatives from Ontario, and from Quebec, the Honourable Mr. Conant and the Honourable Mr. Bilodeau; represented also by counsel. We have received from several of the provinces written memoranda; from New Brunswick, from Nova Scotia, from Manitoba and Saskatchewan; and it has seemed to me that we should have these documents printed in the records, although of course we will have them read if we have sufficient time at our disposal.

Appearances:

G. D. Finlayson, Superintendent, Department of Insurance, Ottawa;
F. P. Varcoe, K.C., Counsel, Department of Justice, Ottawa;

For the Province of Ontario:

Hon. G. D. Conant, K.C., M.L.A., Attorney General, Toronto, Ontario;

C. L. Snyder, K.C., Senior Crown Counsel, Department of the Attorney General, Toronto, Ontario;

For the Province of Quebec:

Hon. J. Bilodeau, M.L.A., Minister of Municipal Affairs and Trade and Commerce, Quebec, P.Q.;

G. H. Shink, Controller of Provincial Revenue, Quebec, P.Q.

The CHAIRMAN: I am going to call on the Minister of Finance very briefly to deal with the problem with which we are faced. After the minister makes that statement I would then like to call on Mr. Varcoe to say just a word or two as to the problem of jurisdiction. The Minister of Finance:

Hon. Mr. DUNNING: Mr. Chairman, Mr. Conant, Mr. Bilodeau and gentlemen: The members of the committee are I am sure familiar, after having for two sessions dealt with this matter, with the problem of jurisdiction which has been regarded up to now as affecting it. The chairman is desirous that I should make a statement that would help to clarify the points requiring elucidation for the gentlemen from the provinces who are here this morning. A year ago the Standing Committee on Banking and Commerce held, or instituted, an investigation into the problem of the small loan companies, loan sharks, and that field generally, arising out of the application of some of the dominion companies for amendments to their then existing legislation. Early in our proceedings, both last year and this year, it became apparent that a very large proportion of the abuses connected with small loans arose from the imposition of charges not stated to be interest, but which when paid by the borrower added to the amount stated as interest, producing unconscionable total charges, whether regarded as interest or as charges—the aggregate representing a cost to the borrower which created the abuse which we know as the loan shark

abuse. In that connection it very early became apparent that certain of these charges were for services, for alleged services, connected apparently with provincial jurisdiction; charges, for instance, in connection with chattel mortgages, fees for inspections—various things of that sort—which those engaged in the business had always contended were not under federal jurisdiction. I think I would not be going too far to say that it would be the desire of this committee to recommend some means of controlling the aggregate amount which might be charged to the borrower by the lender with respect to small loans. That question, however, goes beyond the field of a mere finance minister and enters into the realm of law. Some study has been given to the matter during this session. Mr. Varcoe is here from the Department of Justice and will, I gather, again refer to the views of that department with respect to it. The line of jurisdiction, of course, is one that is not easy to determine. You will understand, I am sure, Mr. Conant, that if it becomes a matter of attempted co-operation in control, the charges being controlled on the one hand by the provinces in their individual discretion, and the actual stated interest rate to be controlled by the dominion under the terms of the Dominion Interest Act, we are rather fearful that that method will not succeed in grappling with the loan shark evil that we all know to exist. It is for that reason that we are groping towards some solution which will be applicable in its terms, so far as we can make it so by agreement with you gentlemen, to the dominion as a whole.

That I think covers all you wanted me to deal with, Mr. Chairman, by way of opening the discussion on the point of jurisdiction.

The CHAIRMAN: Thank you, Mr. Minister. Mr. Varcoe:

Mr. VARCOE: Mr. Chairman, I do not know that it is necessary at this time for me to make any prolonged statement as to the problem which has been discussed by the committee so often that I am sure members of the committee themselves must be rather tired of hearing about the question. Whether you can deal with this question of interest as a matter of ancillary legislation, or criminal law, or trade and commerce—those being the three heads of legislative power that the Department of Justice thought could be relied on to justify some comprehensive scheme—the further you go with this problem the more clearly it appears that you are dealing with a problem of evasion, or of disguise, or colourable transactions; and that being the very core of the problem it seems to me to justify the views that we have taken, that you can, as a matter of necessity prohibit and strictly regulate these transactions in order to maintain your regulation rate of interest. Now, the Superintendent of Insurance has mentioned to me to-day that the so-called collateral agreement is a problem which requires special consideration. It has not been dealt with by me specifically in my previous appearances before this committee. I understand the problem to be this, that the money lender apparently complying with the provisions of the Money Lenders Act enters into an agreement in which he charges 12 per cent or less, and then enters into a supplementary or collateral agreement which involves the application of a borrower to pay monthly instalments to him for the same period as the period of the loan, this to be described as an investment transaction. Now, I do not think any court of law is going to be deceived very much in believing that a person who is borrowing \$100 to pay some small debt is at the same time entering into a genuine investment transaction; and I reached the conclusion myself this morning that there should not be any great difficulty from the constitutional point of view from prohibiting that kind of transaction; But Mr. Finlayson thought that perhaps the attention of the provincial attorneys general should be called to that problem, particularly in case they should have any representations to make to the committee on that question.

That is all, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Varcoe. The Attorney General for the province of Ontario:

[Hon. Gordon D. Conant, K.C.]

Hon. Mr. CONANT: Mr. Chairman, Honourable Mr. Dunning and gentlemen: I am not at all assured that I can add anything as helpful as you might desire or as I could desire to these deliberations, but I am very very glad to be here to give you some benefit of our experience and of the views we have developed and that have resulted from that experience. I may say that when I first assumed the office of attorney general less than six months ago and based partly upon previous experience as crown prosecutor in the province of Ontario, I was determined that if the situation could be remedied I was going to do it—

Some Hon. MEMBERS: Hear, hear.

Hon. Mr. CONANT: —and consequently I caused prosecutions to be launched against six firms, or involving six transactions which we thought to be contraventions of the law. Now, these cases involved costs of the loans; and I use the phrase, “cost of loan” because I see it has been previously employed here and I think that it is a valuable phrase as including everything.

Hon. Mr. DUNNING: Yes.

Hon. Mr. CONANT: These cases involved costs ranging all the way from 45 per cent to 400 per cent. Then we found this: I have before me an extract from the judgment delivered by a county court judge—an able county court judge, one who took this matter very seriously (although, I am not suggesting that county court judges do not always take their cases seriously)—a county court judge’s judgment delivered on Tuesday of this week, and I trespass upon your time to the extent of reading some extracts from this case which more or less crystallizes the whole situation as it has presented itself to us and brings it more or less up to date. Here is what the judge said in that case:—

If the sum of thirty dollars, the difference between the amount which Brown and his wife agreed to pay, and included in the said promissory note, and the amount which Brown received, is ascribable solely to interest, there would be no doubt that Brown was lent the money on this occasion at a rate of interest greater than authorized by the Money Lenders Act, as the rate of interest thereby charged is 51·9 per cent per annum.

Undoubtedly some part of the \$30 was appropriated to charges for these services and the balance to interest, but what amount was actually attributable to the charge for services and what amount attributable to interest is left wholly undetermined, and in the face of this inconclusive state of the evidence, it is not possible for me to find that a rate of interest in excess of twelve per cent per annum was actually charged to the borrower contrary to provisions of the Money Lenders Act.

The Brown transaction itself is a striking example of the apparently exorbitant charges that are at times imposed on a borrower of a small sum of money;

Such apparently exorbitant charges in connection with these small loans must necessarily shock one’s conscience, and sense of fair dealing, and excite astonishment that the present state of the law permits such transactions to be carried on with impunity, and that the parties engaged in making such loans and charges are seemingly immune from criminal liability and its appropriate penalties.

So the judgment, in a sense, is a challenge to all jurisdictions in the dominion; both federal and provincial; and I think I may say that that fairly represents the present position and expresses it quite accurately.

Hon. Mr. DUNNING: He was unable to convict in that case?

Hon. Mr. CONANT: That is so, he was not able to convict, the case was dismissed. It was not the rate of interest, it was the cost of the loan, which was 51·9 per cent. I think that was why he could not convict. That was a case of a note for ten months amounting to \$130, and the man got \$100 cash.

Now, the remedy of course can only be found in either federal or provincial jurisdiction. I have listened with considerable interest to the Honourable Mr. Dunning and to Mr. Varcoe. I have read as exhaustively as time has permitted the record before this committee, and from what has been said here this morning and from the evidence that has been produced before you I perceive a desire and perhaps an opinion, that this matter can and should be dealt with as a matter of federal control and federal legislation. Now, I may say this: that we do not approach this as a matter of the exercise of jurisdiction—or may I be more frank and bold, and say as a matter of jealousy with respect to jurisdiction—

Hon. Mr. DUNNING: There is no thought of that.

Hon. Mr. CONANT: —because this situation is quasi criminal in its incidence; and it is a matter that affects a strata of people who have to be protected against themselves. That is what it resolves itself down to. So, in anything I say I hope your minds are disabused of any question of jealousy of provincial rights or federal rights. But I am obliged to express my opinions as I see them, and I may say that I have only arrived at them after consulting with my department, and particularly with our senior crown counsel, Mr. Snyder, who has probably had more experience in prosecuting these cases than anybody in Canada, and who undertook the recent prosecution. Now, I should also preface my remarks with this; that with all deference to the other provinces I think that this is more peculiarly or more particularly a province of Ontario problem. As has been said before in this committee, the problem is aggravated, or it is a greater problem according to density of population, and we have that situation greater in the province of Ontario than in any other province; and we are on that account as anxious—I think I may fairly say more anxious than any other province that the situation shall be improved in some way.

Now, it has been stated before this committee, and Mr. Varcoe briefly reiterates the view, that it can be dealt with as a matter of federal legislation; and as I understand it that might be met in two ways; either as an amendment to the Money Lenders Act, which would be made broad enough to encompass the whole field; or as a matter of an extension of the Criminal Code, or an addition to the Criminal Code. That would perhaps be a desirable end to attain. From my own standpoint I am not sure, Mr. Chairman and gentlemen, however, whether it would be sufficiently elastic to meet situations that may exist in the respective provinces. I do not see how you could by general legislation differentiate for different provinces. That, however, may be more particularly and peculiarly your problem; but it would constitute one of the difficulties, if not one of the defects, of federal legislation intended to meet the entire situation. So, we have this situation: That desirable as the federal legislation might be to encompass the whole field, we are forced to the conclusion, if you like, as a matter of pure law, that it is not a matter which can be dealt with constitutionally by the federal authority. May I develop that, just for a minute. I am not going to stand here and pose before you as a great constitutional lawyer, nor am I going to try to enter into any hair-splitting argument on the law involved; but there is this angle to it. I understand that this proposal has been made on the ground that prima facie these matters of service charges are matters of property and civil rights and are within the jurisdiction of the province. It seems to me, as your advisers have expressed the opinion, that the dominion could undertake successfully to deal with them under the theory of ancillary powers, or under the right of the dominion to constitute and legislate concerning a crime; or under your jurisdiction over trade and commerce. Now, that is offered as an opinion to overcome the prima facie difficulty of these service charges being matters of property and civil rights. Well, with very much reluctance may I say that with every deference, my advisers and I are unable to accede to the view that

[Hon. Gordon D. Conant, K.C.]

that could be accomplished; so that, desirable as it may be that the whole situation should be dealt with by federal legislation, we feel that the practical and also the legal difficulties take it out of your jurisdiction; and we go just one step further, we say that it would be detrimental to the whole scheme of the thing if you were to attempt to do so and fail in so doing.

Hon. Mr. DUNNING: That is right.

Hon. Mr. CONANT: Now, I am not undertaking—and I hope I am not appearing to be rude in so saying—but this is a matter of policy and principle in the administration of my department, and I will not promote legislation in our legislature as to which there is any reasonable doubt concerning our jurisdiction. That, of course, does not need to guide you. But I can assure you of this, gentlemen; that if you set up legislation as to which there is any reasonable doubt concerning your jurisdiction it will be strenuously challenged at the very first opportunity. Now, that is based upon our experience in our recent prosecutions. We prosecuted a number of firms and they have resisted us to the utmost. They brought in high-priced—I do not know anything about their price—but high-powered counsel; and they were not tried by magistrates, they were tried by county judges; so I think that you may assume, if you set up this legislation, it is going to be challenged and it will be challenged to the highest court of the land. And I repeat that if that were done, and if the legislation were successfully challenged, well I think we would be worse off than we are to-day.

Hon. Mr. DUNNING: At least, we would not be any better off.

Hon. Mr. CONANT: Well, we would be crawling up the well one foot and sliding back two. So, that is the view we take from the legal and from the practical standpoint. May I say this further; and I hope it will be an indication of our genuineness and of our bona fides in this situation, that if the federal government sees fit to attempt legislation general in its application and calculated to meet the whole situation, we of the province of Ontario will invoke all our law enforcement machinery in order that the law may be enforced to the utmost, and that the position of it may be determined at the earliest possible moment. And while I am on that point, I notice it was said before this committee, perhaps it was a more or less casual remark, but it occurred to me as being sufficiently important to merit a moment this morning; it was suggested before this committee that the Royal Canadian Mounted Police could be depended upon to enforce the legislation. Well, gentlemen, I do not think that is sufficient. You have got to have a skilled crown prosecutor to handle these cases, and while I have every respect for the Royal Canadian Mounted Police, I have at least an equal if not a greater respect for our provincial police.

Some Hon. MEMBERS: Hear, hear.

Hon. Mr. CONANT: They are not sufficient in themselves. So, may I leave that thought with you, that if you set up general legislation we will invoke it and enforce it to the utmost in the province of Ontario. What we feel, however, is a more practical and a more workable solution of this problem is this: You have on your statute books the Money Lenders Act, and it is beyond question that the federal authority can legislate concerning interest; and I do not think that there can be any reasonable doubt that the provinces can legislate regarding the other charges that enter into the cost of a loan. I do not think there could be any reasonable doubt as to the constitutionality of that position. Now, we would ask you to do this; in view of what I have said and in order to arrive at a practical effective solution of this problem, that you improve your Money Lenders Act in the first place—and I am not going to endeavour to mention all the items that we feel should be dealt with—in the first place, we feel that your definition of money lenders could be very much improved. In the prosecutions that we have had in the past,

and even in recent months, our counsel advised me, and I know it to be the case, that considerable time and a very substantial part of the energies and efforts of the prosecution have been directed to proving whether the individual or firm was in fact a money lender when we knew obviously from the whole situation that he was. Now, surely, gentlemen, it should be possible and it is possible for us or for you to develop a definition of money lender that would at least reduce that proof to reasonable proportions. Then, in the question of interest, we most earnestly suggest this, that in your Money Lenders Act you would require that whatever rate of interest is involved in the transaction it should be clearly stated and defined in the transaction.

Hon. Mr. DUNNING: You mean separately from the other items of charges?

Hon. Mr. CONANT: Yes; separately from the other items of charges, and so and so; so that in the prosecution you avoid the evasion which is always possible where there is any doubt as to which category it falls into. Then we feel that there should be a right of search, and we would be disposed to favour some curtailment in the blatant advertising that is going on in the city of Toronto at the present time.

Mr. LANDERYOU: Hear, hear.

Hon. Mr. CONANT: We have a ridiculous situation there—I don't want to take up your time unduly—

Some Hon. MEMBERS: That is all right. Go ahead.

Hon. Mr. CONANT: We have a ridiculous situation there where a man, I think he is a negro, with a fur cap, is going around the city of Toronto driving a couple of ponies and a fancy cart advertising loans. I think that is an inducement to crime, almost; and we will do everything within our power, and we would invoke your help, to curtail that.

Now, as I said, I am not going to go through the Money Lenders Act with a fine tooth comb at the moment and suggest all the changes that should be made. In that connection we will be very glad, Mr. Chairman, to let you have in the form of a memorandum the amendments that we feel should be made and which we believe are necessary if we are going to meet this situation.

Hon. Mr. DUNNING: Thank you.

Hon. Mr. CONANT: Now, if the dominion government will do that, we feel that we can meet the situation absolutely and amply by taking care of all legislation concerning all of the other items that come into the cost of the loan.

Hon. Mr. DUNNING: You think you could do that?

Hon. Mr. CONANT: Yes. So that if you will by law say to these people "now you have got your rate of interest, it must not be more than so and so; you have got the set rate of interest that you should charge"; we can carry on from that point and we can provide that the cost of the loans exclusive of interest, which you will have taken care of, shall not be more than so and so. And we have no doubt as to the constitutionality of that situation. We have no doubt as to our practical ability to obtain results from it. We have in mind, if that were followed out, that we would inject some further regulations into these people, possibly by way of inspection and return, and so on; but that is a question with which I do not need to deal at the moment.

Now, may I say in conclusion, without repeating myself, we believe that the balance of convenience, when you take everything into consideration—the practical difficulties, the constitutional difficulties, and everything else;—the balance of practical convenience, if I may so term it, lies in that direction. It has a further advantage which you perhaps appreciate better than we do

[Hon. Gordon D. Conant, K.C.]

because you envisage the whole dominion situation whereas we only deal with the provincial situation—it has the added advantage that conditions may not be the same throughout the dominion, and what we in the province of Ontario might regard as a private burden in these matters might not apply in any of the other provinces. I am not going to discuss rates of interest. I understand that that has been discussed in the past here, and is a matter of some controversy. That is your jurisdiction, gentlemen. But I do want to make this observation in conclusion, although it is not new to you because I think it has been mentioned here, that we must always keep in mind that if we so regulate this business federally with regard to interest and provincially with regard to the residue of charges that go into the cost of the loan; if we so regulate it that it becomes unprofitable to conduct business legitimately and legally, then we drive it under cover and promote the bootleg business—if there is such an expression. I think we must always keep that in mind. That is, of course, a thing to be avoided. Our problem and your problem does not arise to-day from what we might call the high-class concern, the legitimate concern; it is always the fellow who is just trying to circumvent the law. We do not want to increase that class; so that if we legislate and deal with it, you in your sphere and we in ours, let us legislate in such a way that we will regulate and deal with the entire business and not just the cream of it, leaving the sharks to crawl from under.

Now, I do not know that there is anything more I can add that is helpful. I do want to repeat this in closing that we in the province of Ontario are most anxious to deal with this situation. It is a real problem. It is a real abuse in our province. But, we are anxious that, after the time that has been spent on it, the discussion that has developed and the thought we have all given to it, when we get it all straightened away we will have a workable scheme and not a scheme that is simply a guess or a surmise as to whether it is going to succeed or not. Thank you.

Hon. Mr. DUNNING: Thank you, Mr. Conant.

Mr. DONNELLY: Have you any suggestion to make as to what you think the rate of interest charged should be, and as to what in your opinion these other charges should be

Hon. Mr. CONANT: I may say this, we have had this in mind, and still have it in mind, this procedure—we intend to examine this very thoroughly, which we have not been able to do as yet, by consulting with the best authorities who are available, and with people in the business in order to set up a basis of charges. Now, that is not as simple as it may seem. There would have to be a graduated charge, according to the amount involved, according to the amount outstanding from month to month, according to the actual result of the loan; and I am not at this moment prepared to say, because we have not by any means exhausted our inquiry, what we would regard as being a proper range of charges covering the legitimate business.

The CHAIRMAN: Gentlemen, just a moment, please. Unfortunately the minister (Hon. Mr. Dunning) has to go to council very shortly. I think I will call upon the representatives from Quebec now, and afterwards you may ask any questions that occur to you. I will now call upon the Honourable Joseph Bilodeau, Minister of Municipal Affairs and Minister of Trade and Commerce of the province of Quebec. Mr. Bilodeau:

Hon. Mr. BILODEAU: Mr. Chairman, Mr. Dunning and gentlemen: The province of Quebec like the other provinces is interested in the question now under consideration. We have asked Mr. Shink, who is our Controller of Provincial Revenue, to make a study of the whole question. He will give you the point of view of the province of Quebec on this problem.

Mr. G. H. SHINK, Controller of Provincial Revenue, Quebec, P.Q., called:

Mr. SHINK: Mr. Chairman, Honourable Mr. Dunning, and members of the committee: I wish to convey our thanks to you Mr. Chairman, and to the members of this committee, for the kind invitation extended to the province of Quebec, an invitation which affords us an opportunity of expressing our views on the subject which you are studying.

May I deal with certain legal aspects of the question. The nature of the business of a loan company is that of making loans, of making small loans of money to a borrower under the obligation of the borrower to return within a given time the amount loaned in addition to a certain amount of interest, and in most cases certain other obligations. The loaning of money is, therefore, a contract entered into by two or more parties: one of the parties disposes of a certain property, a sum of money, and the other party says "I will return a like amount at the time set." It is a contract disposing of and dealing with property and civil rights appertaining to this property. Property and civil rights are as we find in the British North America Act, section 92-13, "of the exclusive powers of the legislature." True it is that in this special contract a rate of interest is invariably stipulated, but a rate of interest is stipulated in hundreds of contracts that take place dealing with property rights. The interest stipulated is only one of the many considerations of this contract. All the essentials and incidents of this contract, and there are many—reservation being made of the interest—are, I respectively submit, of the exclusive jurisdiction of the provinces. The provinces alone can legislate as to the parties capable of contracting—not only contracting a loan but any other contract dealing with civil rights or property. The provinces alone can legislate as to the causes of nullity of a contract concerning property, reservation again being made as to the rate of interest. The provinces alone can legislate on the obligations of the lender and the obligations of the borrower. Also the provinces can legislate alone on the rights of the lender and the rights of the borrower, and the provinces alone can legislate as to the causes of nullity of a contract concerning property. The provinces can legislate solely as to the rules of interpretation of a contract and of a contract of loan—I say that by inference—and, therefore, as to the rules which must govern the interpretation of a contract of loan. The provinces alone can legislate on the effect of contract between the parties, and the effect of that contract with regard to third persons. There are many other legal aspects of a contract dealing with property rights, and from the above I respectfully submit that it is reasonable to conclude that the matter of jurisdiction over loan companies, large or small, belongs to the provinces. The paramount authority is that of the provinces.

As far as the province of Quebec is concerned, there is already in our civil code an article which, without coping entirely with the present situation, refers and deals with it in part. I shall read the last paragraph of the code. Paragraph 1149:—

However, if the debt is made up of interest exceeding the legal rate, and seems to the court to be usurious, or if it includes such interest, whether such interest is called interest or be claimed under the name of discount, reduction in the advance, commission or otherwise, such court may order that such usurious interest, or such portion of usurious interest, be paid by instalments, and fix the amount of such instalments and their term of payment, at its discretion, according to circumstances.

I repeat "fix the amount." To summarize, I submit it is within the power of the dominion legislature to create the person of a company; the provinces also have that right to endow that company with powers to carry on a certain class of business—for instance, either the business of insurance or that of lending money. Also the provinces solely by legislation can prescribe the way in which the business shall be carried on in the province, and I think that has

[Mr. George H. Shink.]

been decided by the Privy Council when matters of insurance have been submitted to the Privy Council. It has been held that the Dominion has not the power to regulate contracts in a particular kind of business.

As to what the committee should do, I have no right to suggest. The committee, I understand, is inquiring into this matter and studying the facts. We in the province of Quebec are following with interest your deliberations and we hope to profit by them. I thank you gentlemen for your attentive hearing.

By Mr. Donnelly:

Q. Have you had any prosecutions under the Money Lenders Act?—A. I understand—I am not personally aware of this—but before leaving Quebec, speaking with a superior officer of the office of the Attorney General on an inquiry about the present situation, he informed me that in 1934 something like fifteen complaints were laid before the courts. At one time complaints were heard more than they are to-day in connection with practices in this kind of business, but since then, since the lodgment of those fifteen complaints in 1934, that has had as an effect a reduction in the rate of interest of several companies in their agreements with their borrowers.

The CHAIRMAN: Mr. Varcoe has a question he desires to ask Mr. Shink.

Mr. VARCOE: I am sure all the legal members of the committee who are concerned with the constitutional problem are indebted to Mr. Conant and Mr. Shink for the very clear position which they have taken. This is not the first time that a difference of opinion has arisen with regard to our constitution. However, I thought, so far as I am concerned, that there was one question which I think Mr. Conant might be asked to enlarge upon, and that is as to the problem as between the different provinces. I understand Mr. Conant to say that that problem in Ontario might be different from the problem in some other provinces. I am thinking, of course, of the legal problem rather than the intensity of the problem, the importance of it. I was wondering if Mr. Conant could say something more about that.

Hon. Mr. CONANT: Yes, I was not referring to the legal problem. I think that the legal aspect of it, the constitutional aspect of it is the same for all the provinces in their relation to the federal authority. But what I had in mind was this, that if the federal jurisdiction were to legislate and cover the whole field of the cost of a loan, which would involve interest and everything else, what might be proper in one province as indicating or as defining the cost of the loan might not apply properly in another province. Now, I am not offering that as a primary reason in the submission I am making; it is a secondary consideration; but I do have this in mind as more or less an indication of that being the case, that in the United States, as you know, these problems are handled entirely by the states, because the respective states have complete jurisdiction over the matter; and I am advised, and I have seen figures to substantiate the statement, that they do not have anything like a uniform basis of charges in the United States. There is a great variation even between these separate states. Now, if that is the case there, and assuming that the charges for the respective states have been set up to meet their particular needs and requirements, it seems to me that the situation would prevail even to a greater extent with our far-flung nation from the Atlantic to the Pacific.

Mr. CLEAVER: I take it that you believe that the cost of supplying these services would vary with the density of population?

Hon. Mr. CONANT: Yes, that is true.

Mr. TUCKER: One of the things bothering me is this: If we only deal with the problem as a matter of interest and leave the provinces to try to control the question of charges, is not this what may happen: a company which intends to do business in Ontario may establish its head office in Montreal

and so carry on its business that a court would have to hold that a contract was between a man in Ontario and a company in Quebec, and therefore your attempt to control them would be got around by that means? Would it not? Because you only have control over property and civil rights in the province. It seems to me that if the question I have just put to you represents the case then we are thrown back and our only hope is dual control.

Hon. Mr. CONANT: I am afraid my friend has in mind some cases that were decided in the courts in the last few years.

Mr. TUCKER: Yes.

Hon. Mr. CONANT: In those cases the principle was involved of what you might call interprovincial rights and status. I can only answer that this way: we have considered that situation and we are satisfied—the law officers and myself—that we can control the situation by provincial legislation amply enough to take care of all transactions that take place in the province of Ontario. We are satisfied we can.

Now, I would be glad to enter into a lengthy argument on the matter, but I do not know that it would be helpful at this stage because if our view prevails that is our problem, and we would not offer the plan of action that we do if we were not satisfied that we can meet the situation.

Mr. TUCKER: It struck me that your proposal was, probably, as doubtful in regard to validity as our proposal to try to deal with it under the head of interest and criminal law.

Hon. Mr. CONANT: No, I think we are a little sounder than that.

By Mr. Landeryou (To Mr. Conant):

Q. Would you suggest that the charter to be given to these companies should be federal or provincial?—A. I do not think it would make any difference. We can deal with it. We have the right in the province to regulate on cases that have been decided, up to the extent only of necessary proper regulation, as long as it stops short of what you might call prohibition. We have no fear of our right to deal with terms.

Q. But you do feel that the charges should be set by the provinces simply because the density of population would set a certain rate in one province and it would differ naturally with the less populated areas?—A. That is one factor, perhaps the most important factor. There comes to my mind the question of the cost of doing business which may be different in different provinces and, perhaps, I should not say so, but there might be the possibility of the difference in the risk in the different provinces. There are several factors that might enter into it.

Mr. CLEAVER: Might I ask Mr. Tucker a question to clear up the point he raised? Mr. Tucker, would not the difficulty which you have brought up be overcome by a province legislating to the effect that before any company is permitted to make these contracts within the province that that company must establish a provincial domicile?

Mr. TUCKER: I do not think you have any right to do that. You have no right to stop a properly constituted body, corporate or otherwise, from entering another province and doing business in that province. You have no right to stop them.

By Mr. Cleaver (to Mr. Conant):

Q. Mr. Conant, coming back to the suggestion which you have made that this parliament should legislate that where a contract is entered into—a loaning contract is entered into—that the parties must designate a certain amount of the charge for interest rate and a certain amount of the charge for these other services which come within the provincial jurisdiction, you agree, I take it,

[Mr. George H. Shink.]

that the parties can by contract make that designation? Now, have you considered the problem that would arise if, after making that designation, a protective rider should be established that if as the result of that allocation or allotment of the two charges an error or an overcharge should be made for either interest, on the one hand, or services on the other—that if that condition arose then at the option of the lender this excess could be charged back to the other form of either interest or charges? Would not that bring you into the position where in every prosecution you would have to charge the lender with an offence under the Dominion Act plus an offence under the Provincial Act in order to be sure to catch him?—A. My answer to that would be this, that if that were attempted it would be apparent to any court that it was an evasion. I do not think any member of the judiciary would stand for that for a moment, and I think it would be an evasion that would be calculated to establish guilt more than anything else.

Q. Mr. Tucker suggests a doubt. Don't you think it might be wise and beneficial if all of the jurisdiction and power with respect to these small loans were vested in one jurisdiction?—A. My answer to that is this, that none of our jurisdictions in our view can accomplish that either by consent or concurrence or anything else.

Q. Would it not be wise if the provinces and the dominion could both join in requesting an amendment to cover that point so as to cover the entire jurisdiction?—A. Amendment to what?

Q. An amendment to the British North America Act.—A. I would be reluctant to go into that this morning.

By Mr. Tucker:

Q. Supposing you have got very restrictive legislation in the province of Ontario and these companies immediately move their head office to Montreal or some convenient Quebec town and have representatives in the province of Ontario and take requests for loans and those requests go to this place in Quebec and are accepted there and the money remitted from Quebec, how in the world are you going to stop that by provincial legislation? That is one of the big difficulties I see in any attempt to control the matter in a provincial way?—A. Since we are bound, apparently, to have a legal discussion, I am going to introduce a man who knows all about it.

Q. It is a matter of great difficulty for this committee. That is one of the reasons why we feel we should attempt jurisdiction if we have it, because we feel the provinces are going to have great difficulty in controlling the matter?—A. I will ask Mr. Snyder to answer you.

Mr. SNYDER: Do you think that the provincial legislature could insist on a contract of this kind being carried out in the province where the borrower was domiciled?

Mr. TUCKER: I do not see how you can stop him coming in from another province and doing business.

Mr. SNYDER: They would come into Ontario and do business in Ontario. Would not the Ontario law, so far as the transaction was concerned, be applicable to that transaction?

Mr. TUCKER: I cannot see. Suppose you have a man coming into Ontario and saying, "here, we are ready to take an offer from you to do business with our firm in Quebec"; by what right have you got to say that that man cannot come into Ontario and take that offer? Have you got the right to stop him?

Mr. SNYDER: It is a hypothetical question that we have not considered so far as I am concerned; but before coming to Ottawa I interviewed the representatives of practically all the loan organizations in Toronto, and if you believe what their representatives say they are just as desirous for legislation as we officials are. In fact, they are asking for it and they asked for it

publicly in a hearing before his honour Judge O'Connell; and I think, myself, that if a certain definite interest rate were specified by the dominion parliament with the improvements made as suggested by the Attorney General for Ontario—that is a better definition of what constitutes a money lender and the proviso that the rate of interest must be specified by a money lender in making a loan—then I think our charges would be such that we would have the co-operation of practically all the loaning organizations in the province; and they have so stated.

Mr. MARTIN: It might be a worth-while suggestion to make that the judgment of Judge O'Connell referred to by the Attorney General of Ontario and by his chief counsel should be made part of the record. If that were done, I should like to ask Mr. Snyder, as he conducted the prosecution, what he would designate as a desirable rate, because I understand submissions were made on behalf of the crown before his honour, Judge O'Connell, in respect of a suggested flat rate of $2\frac{1}{2}$ per cent.

Hon. Mr. CONANT: We will be very glad to file the judgment.

Mr. SNYDER: This is a copy which Judge O'Connell handed to us and I can vouch for its correctness.

Mr. TUCKER: Is it very long?

Mr. SNYDER: There are eighteen pages.

Mr. TUCKER: I think it should be incorporated in the record.

(Judgment appears as an appendix to this report).

Mr. SNYDER: The attorney general read four paragraphs from it.

Mr. LANDERYOU: The attorney general said that the province in his opinion should set the charges and inspect the loan companies, and the question has been raised as to how they could handle the situation in view of the companies setting an office up in Quebec and dealing in small loans in the province of Ontario. Now, if they had a federal charter they would have to be licensed by the province, and would that cover it?

Hon. Mr. CONANT: I think I stated before very briefly that any proper control of this matter can only be attained by complete licensing and, we feel, by inspection also, and even by some system of spot auditing. Now, we would certainly have in mind the licensing of all the companies doing business in the province.

By Mr. Vien (to Mr. Conant):

Q. By Ottawa? Under federal or provincial control?—A. Under the province, of course, because we would have to inspect them and take their annual returns and that sort of thing; and it seems to me furthermore that as long as the enforcement of the law—that is the actual prosecution and setting of the machinery in motion—is a matter for the provinces it actually does dovetail together better than would be the case if that inspection and oversight were undertaken by the federal people.

Then, the question of licensing. Of course, most of you are familiar with the Great West Sadlery case. I think it is fair to say that that case established the right of the province to license so long as it did not prohibit; and following that precedent, which is still good law, we think it would give us ample opportunity to exercise whatever control was necessary as long as it did not shut them out of the field entirely.

Mr. LANDERYOU: I would like to ask the Quebec representative whether there is any difference between the regulations regarding small loan companies in Ontario and the same companies in Quebec, with regard to the security that is given by the borrower? I understand you are not allowed to make small loans on chattel mortgages?

[Mr. George H. Shink.]

Mr. SHINK: The object of this committee, I understand, does not include the study of loans where pledges are given.

Mr. VIEN: No. On mortgages or other things, no. It is only the companies loaning small loans from \$500 or below \$500.

The CHAIRMAN: Chattel mortgages?

Mr. VIEN: But there are pledges they do not have in Quebec.

Mr. SHINK: That is what I understood the question to be. I think you are worried about the difficulties of one province—

Mr. LANDERYOU: —regulating and controlling the business done within its own borders. Now, what I am suggesting is the difficulty of having general legislation covering all the provinces due to the difference in the regulations and the method of handling small loans.

Mr. SHINK: At the present time every incorporating company doing business in the province of Quebec has to submit returns and pay for the privilege of doing business under the caption of the capital tax. The province, has, in fact, control which it could exercise in a strong way if it wanted to.

By Mr. Landeryou (to Mr. Shink):

Q. You see possibly some difficulty in having the federal government pass legislation, general legislation, involving these small loan companies for the whole of Canada. You feel the province should have the regulating of small loan companies and the inspecting of them and the licensing of them?—

A. My view of the matter is that the Dominion parliament has not the right to regulate that kind of business; it can regulate only in the matter of interest. That is my view of the matter, because you are dealing with property and civil rights.

By Mr. Cleaver:

Q. I think Mr. Landeryou's question arises out of this problem: apparently he believes that your law of property and civil rights, which is based on the French civil law, is so different from the law in Ontario and the other provinces, which is based on the English civil law, that that constitutes a problem individually to the province rather than across the whole of Canada?—

A. The Privy Council has already decided that the problem cannot be solved by one jurisdiction encroaching upon the jurisdiction of the other, and the Privy Council has invited each jurisdiction to remain in its own sphere. I think that is right. Now, if in this problem you must have the Dominion parliament legislate and at the same time the provinces legislate, there is not so much of an obstacle in the way to prevent you attaining your end.

Mr. LANDERYOU: I agree.

Mr. SHINK: The dominion and the province could meet if they so desired.

By Mr. Vien (to Mr. Shink):

Q. In what way?—A. In the same way as the borrower and the lender meet—they have got some business to transact. It is done every day in other spheres.

Q. But when we have met and discussed and conferred we have got to come to some practical conclusion?—A. Yes, sir.

Q. And then you have the right of the Dominion of Canada to legislate on interest, and under the British North America Act there is no restriction to the powers of the dominion to legislate on interest?—A. No, sir.

Q. And if there are so many loopholes whereby the legislation of the Dominion parliament can be evaded by way of charges or other ways devised by the money lender, it would become necessary—a necessary incident to the powers of the dominion—to legislate so as to close those loopholes, and in so doing they would have to exercise certain rights and powers as has been done

under the Bankruptcy Act. The Privy Council under the Bankruptcy Act decided that the dominion had the right to even invade property and civil rights in determining the rank and the extent of the privileges of various creditors. Therefore, similarly in dealing with interest, could not dominion legislation be enacted so as to cover all charges, and if it were found desirable to do so and if any question remained unsolved, would it not be more reasonable to expect that the federal legislation could be implemented by provincial legislation so as to avoid duplication of control and centralize more efficiently the enforcement of the Act?—A. In order to answer your question I think one must examine the details and particulars of the loan that takes place between the lender and the borrower. It is an agreement really entered into by two parties. One of the parties, the borrower, undertakes many obligations—not one, many of them. In those particular cases of small loans where you come across other charges than service charges the borrower undertakes many obligations: an obligation to pay a rate of interest, an obligation in some cases to take some insurance, a third obligation to pay service fees. The question at issue is what jurisdiction will deal with each one of these obligations. With regard to the obligation stipulating interest, the answer is given in the British North America Act. The authority is the federal parliament. With regard to the obligation dealing with the undertaking to pay legal fees, that is within the law of the province. With regard to the obligation to have a certain thing insured, to pay certain insurance premiums, that is a civil obligation within the scope of the province.

Q. The same thing is true of the landlord and the tenant. There is the civil code determining the rights and privileges of the landlord and the obligations of the tenant. However, when it comes to bankruptcy, the privileges of the landlord are set aside and it has been decided by this parliament and also by the Privy Council that in determining the rank of various creditors we could overlook the privileges and the rank among privileged creditors?—A. Yes, sir, that is right, it is a good decision.

Q. Why?—A. Because all such matters under the British North America Act are controlled exclusively under the jurisdiction of the dominion.

Q. So is interest?—A. Interest alone; but in a contract on a loan the matter of interest is accessory to it, not accessory to the contract.

Q. Right?—A. A loan may take place with no interest being stipulated.

Q. And it might be a necessary incident of the loan?—A. If we were to extend the argument; and it is not necessarily a necessary condition to the contract, because in the early days of this country, in the old days, in the first days of the world, no interest was allowed.

By Mr. Martin:

Q. As a matter of fact it is useless to say that interest is not a fundamental part of a contract; that must be so because of the nature of the whole arrangement itself. It is inconceivable, having in mind what we are discussing here, that interest is not maintained to the making of a loan, it is not merely an incident, it is a fundamental part of the arrangement.—A. I could not agree with you, sir, that under the law it is a fundamental condition of that contract.

By Mr. Cleaver:

Q. Would it not be an obvious evasion for a lender to attempt to suggest no interest?—A. If I understood Colonel Vien's argument, that comes in the contract of loan; there is a stipulation of interest, that interest is paid; and therefore, the Dominion parliament has jurisdiction over that part of the business. If you accept that you must also accept that the Dominion parliament would have jurisdiction in matters such as insurance contracts. It forms part of practically every agreement that passes between parties to-day. If I sell land I would stipulate a rate of interest which shall be paid if you do not pay me on

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the delivery of the land. The same with any other transaction of the kind taking place between two parties. We really could not accept it, because in a contract loan the consideration of interest takes the place of the stipulation of interest as mentioned in the contract.

By Mr. Tucker:

Q. There is one thing I would like to bring to your attention; your jurisdiction is over property and civil rights, you can legislate to regulate them?—A. That is my view of it.

Q. You claim that you have the right to regulate charges in such a way that they will not be run up too high—suppose there was a case in which the cost of the loan ran up to 100 per cent interest; would you consider it was wrong for a lender to make charges which made the cost of the loan to the borrower so exorbitant as to amount to say an aggregate charge of 100 per cent; or, would you think that was wrong?—A. That would depend on—

Q. Does it not necessarily follow that the reason you arrived at that is because it is wrong; and therefore, the moment you make it a crime and act legislatively in a criminal way, does not that mean in essence that it is a dominion matter, because it is wrong?—A. If the dominion decide it is a crime and not a matter of interest; that has been decided time and time again by the Privy Council.

Q. If it is a potential wrong, or a crime, then we can legislate on it and make it a crime and under that head deal with it. Now then, you will admit that usury is one of the oldest crimes, and it is so regarded—as a crime—by most jurisdictions in the world to-day; why could we not make it a crime in this country?—A. Experiments of that sort have already been made.

Q. Not in regard to usury.—A. By the Dominion parliament, in the matter of insurance.

Q. But, this is a different matter?—A. Why is it a different matter?

Q. Would you not admit that usury is one of our earliest crimes?—A. Yes.

Q. And we certainly would not be invading any jurisdiction if we made it a crime here?—A. The case to which reference was made was Appeal Cases, 1932, at page 41—an appeal from the court of King's bench in the province of Quebec.

Mr. MARTIN: Is that the case known as the Parsons case.

Mr. FINLAYSON: That is the Insurance Act Case of 1931.

Mr. TUCKER: You will admit that there is a difference between trying to make—

The CHAIRMAN: Just a moment, please, Mr. Tucker; Mr. MacDonald wants to ask a question.

Mr. MACDONALD: I thought Mr. Tucker was through. Mr. Walker who is counsel for one of the companies concerned, has a few questions which, with the permission of the committee, he would like to ask.

Mr. CLEAVER: Before the committee rises, there is one question which I would like to ask Mr. Snyder. Mr. Snyder is undoubtedly an expert on this matter and I would like to put the question to him: If you have not considered this, Mr. Snyder, I will not press you for an answer. In going through the records of the proceedings of this committee you have perhaps noticed that the suggestion has been made that inasmuch as the right to collect interest comes under dominion legislation the suggestion has been made that consequent from that the Dominion parliament could legislate to the effect that any lender who permits a borrower to be charged an amount in excess of a certain percentage should have the right of charging no interest at all. Have you considered that suggestion? Do you think it is constitutionally sound?

Mr. SNYDER: That is, if a borrower went to a loaning organization and say wanted a loan of \$100, the situation would be what?

Mr. CLEAVER: The situation would be that that loaning organization would be prohibited by the Dominion parliament from charging the borrower any interest at all if the loaning organization permitted the borrower to pay costs for his loan in excess of a certain percentage.

Mr. MARTIN: Yes, that is it.

Mr. SNYDER: I frankly say—are you not there getting into the provincial field?

Mr. CLEAVER: No; the right to impose an interest rate at all being within the jurisdiction of the Dominion parliament, could not the Dominion parliament say to any lender of money, we will not allow you to charge any interest rate at all—

The CHAIRMAN: Or, we will lower the interest you may charge.

Mr. CLEAVER: —in view of the fact that your borrower has been put to an expense in connection with that loan which is in excess of a certain percentage.

Mr. SNYDER: Do you mean, to make it a crime to do that?

Mr. CLEAVER: I do not know what the penalty should be for the commission of an offence; the nullification of the contract; or the agreement, would be sufficient. I do not see that very much depends on that point.

Mr. SNYDER: The problem to me would be, how would you regulate it? Supposing some person did that very thing which you contend should not be done. What would the procedure be?

Mr. CLEAVER: Make the contract null and void.

Mr. SNYDER: That would invite a lawsuit in every case. We are trying to get something where there are penalties. How would you prosecute if a situation such as you suggest came up; would you proceed under the Dominion Interest Act or under the Dominion Money Lenders Act.

Mr. CLEAVER: Should we make it a crime?

Mr. SNYDER: I am not prepared at the present moment to admit that it is a crime.

Mr. CLEAVER: Would you admit that it could be made an offence under the Money Lenders Act?

Mr. SNYDER: I suppose you would have the power to do it.

The CHAIRMAN: Mr. Cleaver, Mr. Varcoe desires to say something.

Mr. VARCOE: Would not nullification of the contract be a sufficient penalty?

Hon. Mr. CONANT: Oh, no.

Mr. VARCOE: The borrower then is in a position where he could decline to repay; surely, that is a pretty severe penalty.

Mr. SNYDER: Penalties of that kind are contained in our provincial Act. I have made a search and I find there has been nothing under that Act in the Toronto courts in the last seventeen years. It means a law suit between the parties, and people who borrow money are not the ones who want to go into open court and have the public know of their difficulties.

Mr. VARCOE: The situation has difficulties.

Mr. SNYDER: Yes. We went into that in our department and we were not able to find of any case that had been brought up under the provincial Act at any time during the last seventeen years.

The CHAIRMAN: Mr. Walker wanted to ask some questions.

Mr. TUCKER: When you say your object is not to regulate the incidence of the contract but rather to make it a quasi crime, by making it a punishable

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offence to enter into a certain contract, you are thereby admitting that it is a matter of criminal jurisdiction. That is, as I understand the right to legislate in regard to contracts, or to legislate as to the terms of contract, when you say that certain contracts should not be entered into because of certain facts you are practically granting that it is subject to criminal law.

Mr. SNYDER: The same argument could be made about the Liquor Control Act.

Mr. TUCKER: And if that is true, then for the same reason we can legislate about liquor, and prohibit it.

Mr. SNYDER: You mean, in the province?

Mr. TUCKER: In the dominion.

Mr. SNYDER: Yes, there is the Canadian Temperance Act. But, in the provinces we have the right under provincial rights to have our liquor Act and we make things a crime in our provincial Acts; so, the suggestion of Ontario is that the Dominion of Canada should set a certain maximum interest rate, and then we in Ontario will be in a position to say that in addition to the interest which you may charge, you may not charge—you may not make the cost of the loan any greater than so much, say, on a loan of \$100; and not more than so much on a loan of \$150.

Mr. TUCKER: Your idea is that in the event of there being such a law they would be liable to penalty?

Mr. SNYDER: Yes, the same as we are doing under the Liquor Control Act.

Mr. WALKER: Might I ask one or two questions of either the Attorney General or Mr. Snyder? Is it your proposal that you put a group of charges as apart from interest, and would you fix the maximum of the charges as apart from the maximum interest to be fixed under the federal Act?

Hon. Mr. CONANT: Yes. We have in mind what you might call an omnibus charge, to cover the whole thing, to cover the cost of the loan exclusive of interest.

Mr. WALKER: Yes; but did I not understand you to say that you thought it was essential that the federal Act would fix the maximum interest?

Hon. Mr. CONANT: Yes; of course, we presume they would do that. But my remarks were directed particularly to a provision by the federal parliament, by the federal legislation, that the interest involved in a transaction should be definitely stated in the transaction, or in the document relating to it.

Mr. WALKER: Quite so. Do you not think it essential that all borrowers of the same size, within the same brackets, should be charged the same aggregate amount; you appreciate that from the operating standpoint in one company at least, that would be so.

Hon. Mr. CONANT: I do not think it involves a change in charges. It involves that not more than a certain maximum shall be charged; they may graduate below that and be quite within the law.

Mr. WALKER: Yes; but from the operating standpoint it is utterly impossible to run a whole chain of offices and have a borrower of \$300 in Toronto pay one cost and a borrower of the same amount at Oshawa pay another cost. The point I am trying to make is this: my clients service a lot of loans in Oshawa from Toronto. In the actual cost, exclusive of interest on these loans, the total is different from a loan made from the same Toronto branch to a borrower who lives just around the corner. Now, it is beyond me how you would take care of a contract of that kind to prevent in some cases the lender charging so much interest. Our suggestion is, because of the various difficulties that have developed this morning, and a whole lot of other mornings, that it has become apparent that you cannot regulate interest without regulating these other charges which are not interest. Do you agree with that, Mr. Conant?

Hon. Mr. CONANT: Yes, of course.

Mr. WALKER: That it has become abundantly apparent?

Hon. Mr. CONANT: Oh, yes.

Mr. WALKER: Well, if that is so, does it not then follow that the ancillary doctrine can be made use of? Once a case like the one you have just defined has been tried and it has been established that the present interest regulation is ineffective, and after you have satisfied yourself that it is necessary to regulate the whole field in order to limit interest, how can you escape the ancillary doctrine?

Hon. Mr. CONANT: Let me repeat this: As I said in my opening remarks, or in my remarks rather, I am not going to debate this constitutional question to a conclusion. It is a very nice point, I agree. I might add this; that in my opinion, and I think in the opinion of my departmental men, the ancillary category is the only one in which you might reasonably hope to deal with the matter. We think that you are rather out on the criminal aspect—trade and commerce, which has not been mentioned. But, there is this to be kept in mind, on the ancillary theory—if you want to call it that—there is no knowledge, I do not think we have any record of the issue having been squarely before the courts in any case. Perhaps the nearest that it has ever been brought is in the bankruptcy incidents, recently. When you get it all boiled down it is simply a matter of opinion as to whether the ancillary theory would work in these cases.

Mr. TUCKER: That is true.

Hon. Mr. CONANT: It might, and it might not. When Mr. Walker says that is an incident to the operation of the interest jurisdiction it must be borne in mind that it is only an incident of the operation of the jurisdiction, or the enforcement of the interest jurisdiction in this particular class of cases. This does not arise, perhaps it is fair to say, in most transactions in the country, where the interest law of the dominion applies. It is only in this class of case, and if these were going to the courts for adjudication if I were counsel I would very strenuously argue that to say that the ancillary power must apply in these cases simply because it is an incident of the small loan business—I would argue that the application of the ancillary power was rather exaggerated. However, we might go on perhaps for hours on this. Mr. Vien evidently does not subscribe to our view and that is not to be wondered at. But I do return to my original position, as to the uncertainty of the law, as to my reluctance to ask our legislature to pass legislation as to which there is reasonable doubt. I think it would be bad procedure in these things to set up such an uncertainty—such an uncertain, inconclusive situation; because, I still think we would be worse off than when we started.

Mr. WALKER: Would you not necessarily, in passing provincial legislation, if you fixed an omnibus scheme, regulate interest?

Hon. Mr. CONANT: No.

Mr. WALKER: Perhaps you can explain that to me, because it does not seem to me to be possible to fix the cost of the loan without regulating interest.

Hon. Mr. CONANT: Oh, no, we are not going to regulate interest. We would provide specifically that the charges that pertained, that were dealt with in the Act, would be exclusive of interest as determined by the dominion legislation.

Mr. WALKER: Nobody as yet has been able to determine the border line. It is because of the impossibility of determining the border line that we are here to-day.

Hon. Mr. CONANT: If the legislation would say that in all transactions such as we are contemplating the interest must be definitely stated, we will take our chances of convicting the fellow that goes beyond that.

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Mr. WALKER: Then, suppose in the case of a loan made at Oshawa, the cost of servicing a loan, as happens with my clients—when they make a loan at Oshawa from the Toronto office it has to be investigated from Toronto and there is the cost of the automobile for the man who goes down there to value the chattels—the cost of operating the automobile, is that interest or charges?

Mr. TUCKER: Are we going to continue this afternoon?

The CHAIRMAN: I think we are going to try to finish up now. We are going to adjourn almost immediately.

Mr. TUCKER: They are all coming back here, aren't they? There are some other questions I wanted to ask the gentlemen from Quebec, particularly. I wondered if they were going to be here this afternoon.

The CHAIRMAN: What is your pleasure as to that, gentlemen?

Mr. MARTIN: I would suggest that we meet this afternoon.

Mr. LANDERYOU: I would move that we adjourn until four o'clock.

The CHAIRMAN: The committee is adjourned until four o'clock this afternoon.

The committee adjourned at 1.07 o'clock p.m. to meet again this day at 4 o'clock p.m.

AFTERNOON SITTING

The committee resumed at 4 o'clock.

The CHAIRMAN: Order. Mr. Shink has a statement he wishes to make to the committee.

Mr. SHINK: I propose, if it is agreeable to your committee, to look into the matter of small loan companies and submit to the committee the results of my examination of the business of loan companies operating in the province of Quebec. I shall find out if they should be classified as companies engaged in small loans such as come within the purview or scope of the enquiry referred to this committee, and shall file a statement in this regard.

The CHAIRMAN: Thank you, Mr. Shink. Are there any further questions of these gentlemen?

Mr. MACDONALD: I understand that Mr. Walker was in the middle of a question when we adjourned at noon. I thought possibly he might continue.

The CHAIRMAN: Mr. Walker.

Mr. WALKER: Mr. Conant, I understood your suggestion this morning to be that there would be an omnibus provision in the provincial Act, and I asked if you meant you would have to define the whole cost of the loan and then limit it; am I right?

Hon. Mr. CONANT: Yes. We would deal with the entire cost of the loan, exclusive of interest.

Mr. WALKER: And your provincial Act would limit the entire cost of the loan exclusive of interest?

Hon. Mr. CONANT: Yes.

Mr. WALKER: So that your suggestion would be that the federal parliament would limit the interest and you would limit all the other elements in the cost?

Hon. Mr. CONANT: Yes.

Mr. WALKER: So the total amount that the lender could charge would be "x" per cent interest, permitted by the federal parliament, and say "y" per cent charges permitted by the provincial parliament?

Hon. Mr. CONANT: Yes.

Mr. WALKER: Now then, it occurs to me that that would work so long as in any particular case the actual charge made to the borrower did not exceed "x" per cent interest and "y" per cent charges; but that if in a particular case the costs were unusually low; I say that because the cost were less than "y" you would instantly have that company breaching the federal statute; how do you propose to take care of that?

Hon. Mr. CONANT: If I understand your question it seems to be quite obvious that we are only dealing with the maximum whether it is interest, or whether it is service charges. The company could charge as much less than that as it sees fit to, and it would not run contrary to the law as long as they did not exceed it. There would be no consequences to flow from it.

Mr. WALKER: No; but my difficulty, Mr. Conant, is a practical one urged upon me by my clients and by my knowledge through some years of experience in this—that you must have a uniform charge to a borrower. Now suppose that uniform charge is say 2·5 per cent. If you merely by contract, and by these two proposed statutes; say for instance that there shall be no more than 2·5 per cent per month interest and charges not interest not exceeding 1 per cent per month, then the instant the actual charges—that is, the charges which in law are not interest—drop below 1 per cent a month, any lender who charges the total of 2·5 per cent per month would be breaching the federal statute; would he not?

Hon. Mr. CONANT: I cannot follow that at all.

Mr. WALKER: Let me try once more. Supposing—first of all, will you agree with me that from the operating standpoint it is just unworkable to have two different charges for a loan of say \$100? From the business man's point of view you could not charge John Smith one rate and John Jones another rate in the small loan business.

Hon. Mr. CONANT: I do not know why you could not as long as you did not exceed the statutory limit in either case.

Mr. WALKER: I am not speaking of the legal problem, I am speaking of the business problem. Can you imagine developing a volume of business to an amount such as we have of \$7,000,000 where you charge a borrower in this end of the town who borrows \$100 a certain sum and a borrower close to the office a lesser sum? Surely you will agree with me that from the operating point of view that is an impossible situation.

Hon. Mr. CONANT: I do not see that, because there might be entirely different elements of risk in the two loans.

Mr. WALKER: There is, unquestionably; but it has been—perhaps if you do not agree with me there is no use in pursuing that.

Hon. Mr. CONANT: After all, Mr. Chairman and gentlemen, that is a matter of domestic concern or internal arrangement with the company; we are not concerned with that. We set up a statutory maximum as to how the business operates, then that maximum is their concern.

Mr. LANDERYOU: In this particular case the interest would not make any particular difference between the man Jones and the man Smith, the difference would be in the service charges, and that is to be under the jurisdiction of the province.

Mr. WALKER: I will try to make the point clear, Mr. Landeryou; that in order to operate a small loan business in one town you cannot charge John Smith "x" dollars on his loan and John Jones "y" dollars for \$100 of a loan. It just does not work.

Mr. LANDERYOU: But, the interest on both would be the same.

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Mr. WALKER: Let me get that basic principle—don't you agree with that; that is a matter of business, isn't that so?

Mr. LANDERYOU: I would not say so. The charges for different services and different conditions would vary.

Mr. WALKER: But this is a volume business. It is absolutely dependent on volume remember, and you cannot have two charges, one of $2\frac{1}{2}$ per cent and the other infinitely more. The borrower has got to pay to get the service.

Mr. DONNELLY: As I understand it your view is that in order to carry on your business you must have that 2·5 per cent.

Mr. WALKER: That is total charges.

Mr. DONNELLY: But your service charges in the one case where you are serving the man in Oshawa would be greater than the service charged for the man who is next door to your office. For the man right next door to your office 2 per cent might be sufficient, but in the case of the man in Oshawa you feel that you must have the 2·5 per cent in order that you may be able to carry on.

Mr. WALKER: That is my point. My point is that in a business such as ours we have to recognize the fact that in a volume business you have to even up the situation. Now, we have had discussions in this committee between the average rate and the aggregate rate. It is pretty much the same thing. It seems to me that that principle should be accepted by this committee; that it ought to be the object of this committee to evolve some kind of legislation that will permit this business to operate at a reasonable profit so that if this committee finds that the service is desirable the service may be given. Do you not agree with me, Mr. Conant, that it should be the object of this committee to evolve a type of legislation that will permit these companies to operate, if this committee decides the service is needed?

Hon. Mr. CONANT: Well it seems to me Mr. Chairman and gentlemen, that these statements are directed to control, whether it is provincial or federal. I do not understand these remarks to be a criticism of provincial control of charges any more than of dominion control. But it does make it more apparent if the observations that are being made are correctly applied it only accentuates the remarks I made this morning of the difficulty of applying a uniform rate throughout the whole of the Dominion of Canada. It is inconceivable to me that whether it was dealt with as a matter of federal jurisdiction or provincial jurisdiction that the federal realm should say that this scale should apply in the Maritimes and this scale should apply in the central provinces and this scale in the west. I do not think that would be attempted, nor would it be attempted in the province of Ontario; to set up an elaborate scale and say that in certain districts this would apply and in certain districts that would apply, and it might be increased if the lender was 50 miles away from head office. That is not workable in legislation whether it is a federal project or a provincial project. I think we must be driven to the conclusion and to the result that it must be uniform, and if the company cannot take on its books a certain class of business within that limitation then it is too bad for the company or for the borrower, I do not which it will be.

Mr. WALKER: We urge before this committee that it would be too bad for both.

Mr. PLAXTON: In what respect?

Mr. WALKER: If the legislation were drawn in such a form it would make it impossible for the commercial lenders to take a certain class of lending business. It would be too bad for the borrowers as well as for the lenders, and we think that it ought to be the object of the legislation to conduct, if possible, a lending business at a reasonable commercial profit; not merely to view this problem from the local point of view but to approach it from the practical business point of view.

Mr. LANDERYOU: If the maximum rate allowed the companies was high enough it would give them ample room to have all classes of borrowers.

Mr. WALKER: The practical difficulty that I am trying to resolve is that no one has ever been able to distinguish the line between interest and charges; and what I understand Mr. Conant to say is that he limits the charges and that the federal government limits the interest; but, it is insufficient to say that their charges are so and so, and that their interest is such and such. Who will determine whether they are or are not interest? It is exceedingly difficult. Possibly there would be a lawsuit each time to find out if this particular loan—a particular loan—exceeded the charge limit or the interest limit. And now, Mr. Conant, would you agree that if you limit the cost of a loan you necessarily limit the interest?

Hon. Mr. CONANT: How is that?

Mr. WALKER: Would you agree that if by the provincial statute you define and limit the whole of the cost of the loan you would limit the interest as well?

Hon. Mr. CONANT: No, my wording never read that way.

Mr. WALKER: No?

Hon. Mr. CONANT: I said the entire cost of the loan, exclusive of interest.

Mr. WALKER: Yes?

Hon. Mr. CONANT: I do not believe I ever said it or put it in any other way.

Mr. WALKER: So that in each loan there would be a statutory definition of interest, and of charges other than interest; is that correct?

Hon. Mr. CONANT: And we are suggesting that the federal authorities should require that the interest should be stated specifically, so that it is removed from the realm of speculation or argument as to what the interest is.

Mr. WALKER: But is it removed from speculation if the company in a particular loan takes advantage of the maximum charge allowed by the proposed provincial legislation and charges something in the name of a service fee which is found by law to be interest? Let me give you an example, my clients did not employ me or my firm to draw up chattel mortgages. They drew them up themselves. Now, I do not know yet whether the cost of drawing that chattel mortgage is something that should be borne by the interest element of the charge or by the provincial service charge element; and I am wondering whether anyone can tell that with finality.

Hon. Mr. CONANT: It does not seem to me that it would take any particular skill in draftsmanship to draft legislation which would provide that the cost of a loan exclusive of interest should not exceed so and so. Now, whether that interest is determined by the courts or how it is determined, it is at the risk really of the man who lends it; and if he assumes and puts into charges things that are matters of interest it seems to me that he would be doing it at his peril; and if we fix the maximum exclusive of interest I do not see how there is any possibility of escape.

Mr. WALKER: Whichever side did it, this parliament or you, would make little difference. My suggestion is that it ought to be the object of this committee to find some legislation that would allow me to operate without being at peril; to do at least a loan business, to supply a real need, without being everlastingly at the peril of the courts. I am seriously asking for help as to some way of defining that boundary line between interest and charges; because we have been studying it here for two and a half years and we have not been able to draw that line ourselves, and we would like your help.

Mr. TUCKER: I would like to ask a question that might clear up the point being asked by Mr. Walker. If we were to pass legislation putting a limit in regard to interest, and other charges in there, limited to a certain maximum amount which would cover interest and everything else, as we might do—and

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you suggest that you are ready to co-operate with us in every way—might you not then consider the possibility of passing legislation that any company entering into that business, or making any loan should make no other charge excepting the amount that we will be permitting them to charge in our law authorizing them to do business? In that way you would get away from the difficulty brought up by Mr. Walker. In other words, there would be an absolute rule as to the charges they could make on any ground whatsoever, and you people by providing that they could not make any charges under the head of property and civil rights whatever would cover that ground, and we would say that these other charges—we would call them interest—and in any event if they were not all interest they could not charge them on any other ground, because you would say they could not charge them; would not that be one way around it?

Hon. Mr. CONANT: It seems to me there is enormous ingenuity being exhibited in these deliberations—but, would not you come back to this position; obviously in such a case if there was a violation of the law, if there was a prosecution, it might legally be under your federal legislation—then you would come back to the original hypothesis that we started off on, at least that I started off on; you would be confronted with the problem as to whether your dominion legislation was *intra vires* in so far as it purported to deal with items or charges other than pure interest. I am not saying—I do not think that the passing or the implementing of your legislation, or of provincial legislation which would be calculated to cut off that form of escape or evasion, would add anything to the constitutionality or otherwise of the federal legislation.

Mr. TUCKER: No. What I had in mind was this, supposing—these loan companies have been asking us for 2½ per cent interest per month.

Hon. Mr. CONANT: Yes.

Mr. TUCKER: As the absolute top limit they can charge a borrower. Now, supposing some of the companies wanted to evade that and charge 4 per cent; that would be a charge breaking the law—for charging more than that amount. They would try to justify themselves by saying, well that is a charge which we have a right to make as a service charge, it is not within your jurisdiction at all; that would be met by the courts with the statement that you have no right to make these charges because the provinces control that. I suggest that it would help us enormously, help our legislation. I just throw that out as a suggestion.

The CHAIRMAN: Mr. Walker.

Mr. WALKER: Would you agree that the federal parliament in legislating in respect to interest could fix a rate for a section of the community territorially in some other way—in other words, that it could grant the privilege of charging a high rate of interest to a select class?

Hon. Mr. CONANT: I have never considered it. I would think that they could if it were practical. It is a question as to whether or not it would be feasible to do so.

Mr. WALKER: By a licence system or something like that.

Hon. Mr. CONANT: By some method.

Mr. WALKER: If that is so, would you also agree that they could do that—that they could say something like this, we will grant you the privilege of charging 2.5 per cent per month upon certain conditions?

Hon. Mr. CONANT: Well, what are the conditions?

Mr. WALKER: That you take out a licence, and that you do not charge anything else.

Hon. Mr. CONANT: I do not know. I could not answer that offhand.

Mr. WALKER: It is my own personal submission that this is the most practical scheme of controlling the making of these loans, and I would like to hear the views of your department, if they are contrary or otherwise.

Hon. Mr. CONANT: When you are speaking of that you are referring to the revocation of charter. I would think that the federal authorities if they were granting a charter with certain conditions, and if those conditions were violated the federal government could revoke the charter. I would not think there is much doubt about that.

Mr. WALKER: The actual clause I had in mind reads like this: "Every licensee may charge, contract for and receive in respect of any loan interest at a rate not exceeding blank per cent per month, provided however that no other amount or consideration of any nature or kind whatsoever other than the principal shall be directly or indirectly charged, contracted for or received, or the cost of the loan increased in any manner whatsoever." Would you think that there was any question about the constitutional right of this parliament to pass such a provision?

Mr. PLAXTON: That is your suggestion?

Mr. WALKER: Yes.

Mr. SHINK: Mr. Chairman, may I submit this in answer to the question put? Assuming that the matter of interest is within the exclusive jurisdiction of the Dominion parliament, and answering the question put, I really think so far as the Dominion parliament is concerned that the matter could be dealt with in this way; when any charges other than interest are made the Dominion Parliament could stipulate a certain rate of interest. I submit that it would be within the jurisdiction of the Dominion parliament to stipulate also a maximum rate of interest when charges other than interest are stipulated.

Mr. WALKER: Then, you would agree, I take it, with this provision, which is the general provision I have suggested.

Mr. WALKER: What I read was merely a privilege to be granted the licensee.

Mr. SHINK: Yes, I would agree with that.

Now, I think I have got your mind, and I would like to read what I suggest might be suitable: "No person shall directly or indirectly, charge, contract for or receive interest in respect of any loan any interest whereby the cost of loan shall be made to exceed the rate of 12 per centum per annum except as authorized in this Act, without having first obtained a licence hereunder." Do you follow?

Mr. SHINK: Yes.

Mr. WALKER: That is, that if there is any element of charge other than interest in the cost of the loan the interest element sinks until the level of the two together equals 12 per cent, and as the charge element goes up and reaches 12 per cent the interest element has sunk and disappeared. Now, I would suggest the possibility of provincial legislation doing the reverse of that and saying that if you have any interest in this at all your charges shall not exceed the equivalent of 12 per cent per annum, and your charges drop as the interest rises—you could reverse that in the provinces.

Mr. SHINK: On the principle as to the right of the Dominion parliament to make a stipulation with regard to interest in the one case and in the other case to make a maximum with no other charges, or to fix a maximum when charges are made other than interest—what I do not agree with is that the licence would have to be a dominion licence.

Mr. WALKER: Surely, if this privilege is to be granted—

Mr. SHINK: It has already been decided that it is necessary for a company doing business in one province to have a dominion licence. The dominion can

[Mr. George H. Shink.]

legislate on matters of interest and affect any company, a dominion company or a provincial company; and I think that the dominion can stipulate, as I said, a maximum rate of interest with any other charges made, and a maximum rate of interest on other charges that are not made.

Mr. WALKER: But do you not agree, it being obviously within the jurisdiction of parliament to grant the privilege of charging a certain rate of interest, do you not agree that that privilege can be surrounded with conditions one of which would be that it should only be granted to a licensee of this parliament?

Mr. SHINK: No.

Mr. WALKER: You do not agree with that?

Mr. SHINK: No.

Mr. TUCKER: It follows along what you said.

Mr. SHINK: In those cases that went before the privy council in the matter of the insurance company the decision was different.

Mr. TUCKER: Following on what was said, there will be one solution to the thing; the dominion parliament providing a maximum rate of interest when no other charges were made, then a lower maximum rate when other charges were made. In that way you might be able to provide a maximum rate of charges when there was no—that is, in all cases where, as Mr. Conant has suggested, the two legislatures are working together in law, that would certainly cover the whole field.

Mr. SHINK: They would supplement one another.

Mr. TUCKER: What I had in mind was this; in order to have the thing quite clear I was just wondering if your company would consider the possibility that any man borrowing money should not be obliged to pay more than a fixed amount for the use of that money whether by way of interest or otherwise—

Hon. Mr. CONANT: Do you mean, fix your maximum?

Mr. TUCKER: We would say that our legislation was simply in this field, that anyone borrowing money from the small loan company or from a money lender would not be required to pay more than a certain amount of money, a maximum rate of interest, then you would certainly be in a serious condition—

Hon. Mr. CONANT: Yes.

Mr. TUCKER: Supposing we were to set that rate high enough that nobody should be required to pay any higher than that either for interest or otherwise; that is, that we set the maximum high enough that any person borrowing from a money lender would be able to borrow with the money lender not being permitted to make any other charges whatever. Now then, I am not dealing with the question of licensing. I know that is a matter you have a right to hold your own views on, and that is a matter which we will study. If we set a maximum rate of interest which is ample to cover interest and everything else, and then you come along and say that the money lenders shall not be permitted to make any other charges for service or otherwise whatever—then, of course if they charge more than what we fix as a limit for interest they could not come along and demand other service charges because that is against the law of the province. At the same time, if you people want to co-operate with us you could throw the whole field of jurisdiction right into our hands in regard to control. Of course, so far as licensing is concerned it can continue the way it is now.

The CHAIRMAN: Mr. Landeryou.

Mr. LANDERYOU: Do you believe that the small loan companies should be licensed?

Mr. SHINK: Yes.

Mr. LANDERYOU: You do. Do you believe they should be licensed by the federal or by the provincial government?

Mr. SHINK: In my view they should be licensed by the provincial government. I would like to know what you understand by licence—do you mean, the right to do business?

Mr. LANDERYOU: In order to conduct a small loan business in the province then they must take out a licence or they would be subject to a fine and/or imprisonment; or some such arrangement.

Mr. SHINK: They would have to take out a provincial licence.

Mr. LANDERYOU: And again, do you believe that these small loan companies should make financial returns to the provincial government or to the federal government?

Mr. SHINK: To the provincial government.

Mr. LANDERYOU: Then, I gather that you would not be in favour of general legislation enacted by the parliament of Canada to have complete jurisdiction over the operations of small loan companies. You would not be in favour of such a general scheme?

Mr. SHINK: If that control is to be exercised on the matter of interest it is within the right of the Dominion parliament to exact that control and to exercise it.

Mr. LANDERYOU: Well, evidence has been submitted to this committee by these small loan corporations to the effect that they cannot operate at the maximum rate of interest allowed by the federal government, that charges must be made, or that charges must be incorporated in the interest charge; and considering that, you do not believe it would be possible to pass legislation that would incorporate charges of interest under federal authority?

Mr. SHINK: I believe in calling things by their proper names; interest is interest, and service charges are service charges.

Hon. Mr. CONANT: Mr. Chairman, Mr. Tucker has submitted a very ingenious if not an intriguing proposal I thought, and while I certainly have no settled opinion on it myself I would very much like to hear Mr. Varcoe's views on it. He perhaps has given it some thought.

Mr. VARCOE: No, that is a new idea. I have not thought of it before.

Mr. VIEN: It is my opinion, and I think I am right in interpreting the mind of members of the committee when I say that nothing is further from our minds than encroaching on the provincial jurisdiction, unless the provinces themselves through the proper machinery were willing to give it up. I for one would protest against any action which would invade provincial territory. Provincial autonomy is the thing which is dear to my heart, and I would like to support it to the full, unless by actual agreement we should find ourselves on common ground by provincial conference or as the result of the royal commission—the Rowell commission—or some other recommendation which would be accepted by the provinces, wherein for practical purposes some new machinery can be devised. I do not believe that we are invading the provincial territory and jurisdiction when we suggest what we have been suggesting so far. Our opinion is at variance with that of the Honourable the Attorney General of the province of Ontario and the provincial government of Quebec on this point. We believe, as instructed and helped by the Department of Justice, that dealing with this question under the ancillary powers, as we are used to call them, either under the heading of interest or under the heading of trade and commerce or under the heading of usury or under the heading of criminal acts—there are four headings in the British North America Act. Mr. Tucker properly points out that there is no heading in the British North America Act relating to usury, but that is a sub-title under interest rate, and it has always been dealt with under that heading. I would suggest that there would be ample provision therein to give the Dominion parliament the right to legislate. Even

[Mr. George H. Shink.]

if we do go on discussing it—and I speak with the greatest possible deference for the views of those who do not share my opinion—in the court we are used to that. One tribunal may say we are right and another may say we are wrong, and I think the tribunal of final resort will have to determine the point. We shall not be very much further advanced in determining whether we are right or whether we are wrong—who is right and who is wrong. In my opinion I think that, guided as we are by the opinion of the Department of Justice, it might not be impracticable to adopt some measure whereby we would deal with interest and as a necessary incident of our powers to deal with interest also deal with other charges connected with a loan, and which involve compensation for the lending of money, whether direct remuneration for the value of money or compensation for the service rendered in connection with the loan. It will not be a violent attempt to encroach upon the provincial jurisdiction, but I believe it would serve to test our powers and to test our jurisdiction in court. It has been done time and time again. It was done when we enacted the Bankruptcy Act.

Mr. TUCKER: It was also done in connection with the Farmers' Creditors Arrangement Act and other legislation.

Mr. VIEN: Also the Farmers' Creditors Arrangement Act and others. We have not refrained from ascertaining our jurisdiction because there was some opinion to the contrary. We simply passed legislation. In some cases the legislation was declared *ultra vires*; in a number of other cases the legislation was declared *intra vires*. And I do not believe that we can cut the Gordian knot otherwise than by testing the legislation in the courts when our powers are challenged. We all agree on one point, which is that abuses are being committed, and a number of abuses. Mr. Finlayson has put some cases on record. In one case that came to his attention the interest rate was 91,000 per cent, and in another case it was 11,000 per cent and in other cases which the Honourable the Attorney General of the province of Ontario quoted this morning it ranged between forty per cent and 400 per cent. A situation of that kind should be corrected, and I think on that point we are all agreed that we should correct it; and it would be too bad if we were to refrain from attempting to correct it just because there might be a question as to our powers. I would suggest that we should take the reasonable step; namely, follow the advice of the Department of Justice that we are within our powers and that we should enact legislation, and that if anybody should challenge it the courts will decide. If we are wrong then we shall come back to parliament in due course and enact legislation on interest alone, leaving it to the provinces to implement it by legislation on other charges. And I desire to go on record, and I think it is the sentiment of the committee, that in doing so it is not an attempt to invade provincial jurisdiction, but it is only a desire to correct an evil against which all the powers that be are desirous of taking some effective step. And I would suggest, Mr. Chairman, that in such circumstances the only practical course is to take the view expressed by the Department of Justice and proceed accordingly.

The CHAIRMAN: Mr. Varcoe wants to ask a question with regard to the statement made by Mr. Tucker.

Mr. VARCOE: It just occurred to me that while the matter is quite new perhaps I should say something about Mr. Tucker's proposition which is that we might limit the rate of interest to $2\frac{1}{2}$ per cent—fix it at $2\frac{1}{2}$ per cent or $2\frac{1}{4}$ per cent or two per cent, and at the same time provide that no other charges made. In that way you might be able to provide a maximum rate of charges the Dominion parliament would be within its field of legislation if it attempted to legislate with respect to service charges.

Mr. TUCKER: But if you say they shall not charge more than two per cent a month by way of interest, then if they charge that they cannot be

punished for it; and if they cannot charge anything else on that—you have set a limit on it—you could pass anything like that by way of interest regulation.

The CHAIRMAN: Mr. Tucker, suppose you allow Mr. Varcoe to finish his statement.

Mr. VARCOE: Then you would leave it to the provincial legislation to say that you shall not make any service charges at all?

Mr. TUCKER: No charge other than what is provided for as interest by the Dominion government.

Mr. VARCOE: Do you mean that you would consider part of that two per cent as a service charge; and that through legislation Ontario would be saying you shall not charge any service charge except such as is permitted by this parliament? There is that thought in my mind about your proposal.

Mr. TUCKER: What I have in mind is that the federal parliament might limit the amount which could be charged by way of interest and in that rate of interest include all the charges that could be made; and then that the provincial legislature can come along and say to these companies that they shall not charge any service charges other than those allowed in the federal legislation.

The CHAIRMAN: Mr. Landeryou.

Mr. LANDERYOU: I would like to ask the Attorney General of the Province of Ontario if he would not consider that to be a direct invasion of the field of provincial rights; the suggestion made by Mr. Tucker?

Hon. Mr. CONANT: As I said before, it is an ingenious idea; and I am afraid that a court would smell in that something more than interest, that it would be regarded by the court as an attempt to take unto itself legislation concerning what are after all property and civil rights in the form of service charges. May I say this, while I am on my feet: Mr. Vien has enunciated his view of the situation, and whether it is an expedient such as Mr. Tucker proposes or whatever form the legislation may take, I think it comes back to the original proposition as enunciated by Mr. Varcoe, that if you are to assume jurisdiction over the whole field it is then a matter of ancillary powers, or criminal law or trade and commerce. I cannot think of any other category. Now, Mr. Vien has stated his views. That statement involves in my judgment a matter of policy for the federal parliament. I do not feel that we have any right to say whether you should or whether you should not undertake that as a matter of policy. If you decide to do so it will of course determine once and for all whether this field can be occupied by the federal legislation entirely, and if it is found—as I am sure it will be found—that you cannot, then we will be back to the position that I have enunciated as what we regard as being sound and unchallengeable, or incapable of being successfully challenged. But I do not think we can contribute anything more than our own view as to whether you should as a matter of governmental jurisdiction attend to that or not; after all that is your policy and yours alone. I can only say, as I said before, that if you feel as a matter of policy it is wise to do that we will invoke that law and enforce it with our administration of justice to the utmost, and perhaps ours will be the first province from which a test case may arise.

Some Hon MEMBERS: Hear, hear.

Mr. CLARK: May I quote from a letter from the Attorney General of the Province of New Brunswick? It says this: It is from John B. McNair:—

There is no legislation in this province regulating the operations of small loan companies, and no supervision has heretofore been exercised over their operations.

[Mr. George H. Shink.]

The CHAIRMAN: Mr. Clark, just a moment. I regret to say that the representatives of the government of Quebec must leave in order to catch their train.

Mr. TUCKER: I am sorry they have to go. There is one question I wanted to ask and I wonder if they could answer it before they go. The representatives of Les caisses populaires was explaining the possibilities of expansion for that organization—I do not want you to miss your train and if you cannot answer this conveniently just say so—In your opinion what are the possibilities with regard to the expansion of Les caisses populaires in Quebec; and do you agree with their statement that in their view to permit other companies to enter the field and charge rates of interest up to $2\frac{1}{2}$ per cent, would not be a good thing for the province? I was just wondering if you would care to express an opinion as to that, if not, I would like on behalf of the committee to express our appreciation of your appearance before us to-day—

Mr. SHINK: With regard to the question of the high rates charged in certain instances; the present committee is studying the matter and most probably will reach the conclusion that in many cases high rates and high service charges are exacted; but we have no mandate to express any view on that. As far as I am concerned I have not made any study in that field.

Mr. TUCKER: I thought perhaps you would want to express an opinion on that.

Mr. SHINK: No, I think not.

Mr. TUCKER: In view of the fact that the representatives of Quebec are about to leave I would like to express the appreciation of this committee for their goodwill and for their kindness in coming here to assist us in our deliberations. I think so far as the Banking and Commerce Committee is concerned—I am just a new member—that we, the Banking and Commerce Committee of the parliament of the Dominion of Canada, have had the advantage of the views of both the Attorney General of the province of Ontario and the representatives of the government of the province of Quebec, who have come here and discussed this matter with us, and they have been very helpful to us in dealing with the problem which faces us. I feel that we owe a debt of gratitude to them in permitting us to take up their time in coming here. We are appreciative of the contribution made by the Honourable Mr. Conant and his adviser Mr. Snyder, and likewise of the contribution made by the Honourable Mr. Bilodeau and his adviser Mr. Shink. I am sure we have enjoyed their evidence and it has been a great help to us and I am sure that we may hope for the closest possible co-operation between the different governments involved and the dominion. I would like to express our sincere appreciation and thanks for their having come here to assist us in our deliberations.

Mr. CLARK: As I stated, this is a letter from the Honourable J. B. McNair, Attorney General of the province of New Brunswick. He says:—

There is no legislation in this province regulating the operations of small loan companies, and no supervision has heretofore been exercised over their operations. As your question suggests, the practice here has been to grant them a charter and then permit them to carry on.

I was very much interested in the opinion that Mr. Varcoe submitted to the committee as reported in the press yesterday, in which he expressed the view that the additional charges exacted by these companies are in the nature of interest, and could be regulated by the Dominion. I have not given any special study to this question, but think that we would have a happy solution if the Dominion could enact legislation to cover the whole problem.

We have loan companies operating in New Brunswick, but they are not regulated at all, as stated by the Attorney General. I understand that one plan is to make no reference to interest at all; but in the case of a man desiring to borrow, for instance, something like \$200 they will make a contract with him, get him to sign a contract to pay \$25 a month for twelve months and give him \$202.28. At the end of the twelve months they will refund him \$58. If he carries it out in full, he has paid them \$39.72, which would be an effective interest of $3\frac{1}{2}$ per cent per month. Now, I think there is no reference to interest in the arrangements at all. I would ask if that could be regarded as interest or other charges or what it would be regarded as.

The CHAIRMAN: Mr. Varcoe, can you answer that?

Mr. VARCOE: I did not get his proposition. I am sorry to say I did not hear the first part. I did not hear the preliminary part. I was having a word with Mr. Tucker. I must apologize for that.

Mr. FINLAYSON: Give us the figures again.

Mr. CLARK: The figures that have been given to me are these: the borrower gets \$202.28 and signs an agreement to pay \$25 a month for twelve months. At the end of the twelve months he is refunded \$58, and that closes the transaction. He has paid in interest or charges or whatever they call them \$39.72. I think it would figure out at $3\frac{1}{2}$ per cent.

Mr. VARCOE: It must be interest, must it not?

Mr. CLARK: It would be interest or charges which would be regarded as interest.

Mr. VARCOE: It would be interest unless it was specifically described as something else.

Mr. QUELCH: Mr. Chairman, I think it must be quite evident that the service charges for this business must vary in different parts of the Dominion, and undoubtedly each province will be in a better position to tell what those charges should be than the Dominion. For that reason I am opposed to the idea of saying there shall be a set flat rate to apply to the whole Dominion. I was wondering if the Attorneys General would not agree to providing that the federal government restrict its operations to setting the maximum interest rate and doing away with the Dominion charters, and allowing each province to pass legislation to grant a provincial charter, providing the companies set the maximum rate for all charges other than interest. Would not that cover the situation?

Hon. Mr. CONANT: That is substantially the solution I offered. There may be some variation to it, but I think that is substantially our solution. May I say, referring to the letter that was read, from the Attorney General of New Brunswick; was it not, in which he made the remark that it would be a happy solution if it could be dealt with by some general legislation. We do not quarrel with that statement. We do say, however, from the practical and legal standpoint, that it is impossible to do that. The desirability of so dealing with it is with us as it is with him, evidently; but still the difficulty remains from a legal and constitutional standpoint.

Mr. QUELCH: The point I understood the attorney general to make is as to who would grant the charter. In that case, I would imagine it would be the province which would issue the charter, because they would pass the enabling legislation. The dominion would set the definite rate for the whole of the dominion as far as interest was concerned, and each province would have to set the amount of the service charges and grant the charter, providing the companies did not charge in excess of those charges.

Hon. Mr. CONANT: Well, control of the cost of the loan other than interest.

Mr. QUELCH: Yes, other than interest.

[Mr. George H. Shink.]

Hon. Mr. CONANT: That would depend upon the statute. It would not depend upon the charter in the case of any company. It would be a matter of provincial statute.

Mr. QUELCH: Yes.

The CHAIRMAN: Are there any further questions, gentlemen? If not, shall we adjourn?

Mr. VIEN: Mr. Chairman, I would suggest that the sub-committee should meet tomorrow some time, and that this committee might sit tomorrow to receive the report from the sub-committee, if that meets with your convenience and that of the members.

The CHAIRMAN: I think we might just explain to the main committee, what we have in mind as we have a few minutes yet.

Mr. TUCKER: Could I ask a question before you do that?

The CHAIRMAN: Another question?

Mr. TUCKER: Just one more.

The CHAIRMAN: All right.

Mr. TUCKER: We have legislation now in Saskatchewan, recently passed, dealing with a provision for the establishment of credit unions; and of course it is following along the Nova Scotia experiment, I think. Then they have recently—I think they are passing legislation in Alberta along that line; and I was wondering if you had legislation providing for credit unions in Ontario. I will not ask you if it is the policy of your government.

Hon. Mr. CONANT: We are not sufficiently up-to-date for that.

Mr. TUCKER: I hope you will give consideration to it.

Mr. FINLAYSON: You have got a co-operative credit act.

Hon. Mr. CONANT: Yes, we have a co-operative credit act.

Mr. SNYDER: Yes, we have received a good many applications from Ontario citizens asking us to do the very thing you have asked about. Quite a number are interested in that—the credit unions or credit societies.

Mr. TUCKER: It has gone quite a way towards solving the situation in Quebec, giving cheap credit to people in small circumstances; and apparently if that is done all over the dominion, it will deal to a certain extent with this difficulty of providing cheap credit.

Hon. Mr. CONANT: Would not its application be rather limited? It would not apply to the fellow who suddenly found himself in an emergency and wanted a loan, would it?

Mr. TUCKER: As we understood the evidence given on behalf of the Caisse Populaire, that would depend on his standing in the community, and so on.

Mr. SNYDER: He has to be a member, does he?

Mr. TUCKER: Yes. But he can join and get a loan right away if he pays up six months' fees, and the evidence on it was a rather surprising thing to the members of our committee. It was given on Thursday, March 10th, to this committee and it really indicated the wonderful bit of work that is being done in the way of co-operative extension of credit in Quebec and it is something I think we could all learn from in regard to that problem. I would suggest if you have not seen the evidence, Mr. Conant, that you get the evidence for March 10th. We were all surprised at the wonderful work they are doing.

The CHAIRMAN: Well, gentlemen, we have had several sessions—Mr. Finlayson thinks that this is the eighth session—and we should have about concluded taking evidence. It is, of course, for you to determine as to whether or not we shall continue taking evidence. But if not, we had thought to place on a separate record the briefs that have been received. We have a number

of briefs. Then it was thought we might have a meeting next week for the purpose of formulating our report. Does that meet with your approval?

Mr. CLARK: Mr. Chairman, there was a brief to be sent from a company in Saint John. They were to have it in before, but they will be sending it in at the last of the week.

The CHAIRMAN: We will hold over the record for that purpose. Does that meet with everybody's approval?

(Carried.)

The CHAIRMAN: Then we will adjourn to meet at the call of the chair, some time early next week.

Before we do adjourn, I just want to thank Ontario and Mr. Conant, as we have thanked Quebec, for their attendance. I wish just to refer to what Mr. Tucker said about the new high record in, shall I say, consultation—because this is consultation—as the practical way of working out a most difficult problem. Thank you, gentlemen.

The committee adjourned at 5.35 p.m. to meet at the call of the chair.

**COMMUNICATIONS FROM PROVINCIAL ATTORNEYS GENERAL
PROVINCE OF NEW BRUNSWICK**

OFFICE OF THE ATTORNEY GENERAL,

FREDERICTON, N.B., March 3, 1938.

W. H. MOORE, Esq., M.P.,
House of Commons,
Ottawa, Ontario.

DEAR SIR,—The Attorney General has handed me your letter of the 18th ultimo for attention and reply.

This letter relates to the regulations of companies making small loans. I have carefully considered the matter and cannot suggest anything at the moment which would be of value.

I believe that Mr. Varco has given an opinion to the effect that the Dominion has authority to deal with the matter. Certainly this province would like to have it dealt with by the Dominion and would have no desire to question jurisdiction.

If your committee has any suggestion as to how this province can co-operate by legislation supplementing any legislation of the Dominion we would be pleased to give the suggestion careful consideration.

Yours very truly,

J. BACON DICKSON,
Deputy Attorney General.

PROVINCE OF NOVA SCOTIA

HALIFAX, N.S., February 28, 1938.

Re: Small Loan Companies

Dear Mr. FINLAYSON,—I have to-day forwarded to Mr. A. S. Barnstead the completed questionnaires in connection with small loan companies operating in the province of Nova Scotia, which you requested in your letter to him of the 7th December. I have sent these documents to him as the request in the first instance was made to his Department.

As you know, an Act was passed in 1936 by the province of Nova Scotia providing for the supervision and inspection of small loan companies and the administration of this Act is under me. Mr. H. J. Egan, of this department, has been studying the situation in Nova Scotia respecting small loan companies and has carried out any administrative work that has been done in connection with this Act. He advises me that the questionnaires which have been completed by the Loan Companies in this province have not been checked and have been forwarded without any comment as to their accuracy.

You will note that in a number of cases the questionnaires state that the Department of the Attorney General supervises the companies. I wish to explain this situation so that there will be no misunderstanding in this connection.

Chapter 4 of the Acts of 1936 was passed with the idea of providing enabling legislation to permit the inspection of these Loan Companies by your Department, and to provide the necessary authority to enforce any regulations, requirements or recommendations that you considered necessary. No fees are payable for registration under the Act nor is any renewal registration required. The companies doing business in the province have registered. Financial statements have been filed by the companies and a study has been made of their

methods of operations so that the Department is quite familiar with the plans under which monies are being loaned.

No direct supervision has been exercised nor has any attempt been made to regulate these Companies in any way whatsoever. No inspections have been made by the Department. The Act has been used to date for the purpose of providing the Department with information concerning the small loan problem and the extent and methods of operation of the companies operating in this province.

An Act has been drafted by Mr. F. F. Mathers, which is being considered at the present time, to provide relief to borrowers where the interest rate, plus charges, commissions or any other similar costs, exceeds in total the rate of interest provided by the Money Lenders' Act. I believe in this way we are providing the necessary relief to borrowers should they decide to commence civil action. Mr. Mathers will be writing you direct in respect of this proposed legislation.

On the other hand, I feel that there is nothing further that can be done by the province of Nova Scotia until first the Federal government finally deals with the situation. I am quite willing to co-operate with you, or any other Department of the Federal government, in connection with the matter, as I feel the situation requires a certain amount of regulation and control. I think we will have, after this Session, the necessary enabling legislation in this province to provide relief to the borrowers, and we have now the necessary authority to inspect and supervise these companies under Chapter 4 of the Acts of 1936. Under the Act, the Attorney General has the power to cancel the registration of any company for any reason that is deemed sufficient, and there will be no difficulty in the enforcement of regulations in so far as they refer to Nova Scotia companies. I wish to assure you that if your department intends to undertake the supervision of all these companies you will have our fullest co-operation.

Yours very truly,,

J. H. MACQUARRIE,
Attorney General.

Mr. G. D. Finlayson, Superintendent,
Department of Insurance,
Ottawa, Canada.

PROVINCE OF MANITOBA

18th March, 1938.

W. H. MOORE, Esq., M.P.,
Chairman, Banking & Commerce Committee,
House of Commons,
Ottawa, Canada.

Re Money-lenders

Dear Sir.—Under date of 18th February you wrote me in respect to the inquiry by the Banking and Commerce Committee into the practice of individuals, partnerships and companies in making small loans on personal security and the consideration of the maximum rate of interest and charges which should be permitted for such loans. This letter was duly acknowledged and the present is the first time I have had an opportunity to give attention to the points which you raise. It will not be possible for a representative of this province to appear before the committee, so that I will endeavor to deal with the various points herein and this may be considered as our submission.

The third and fourth paragraphs of the said letter read as follows:—

The Committee was of the opinion that, since the question of the division of jurisdiction between Parliament and the Legislatures of the Provinces on the question of charges other than interest so-called which

may be made in respect of small loans is a vital one from the standpoint of remedial legislation, it would be desirable to draw to the attention of the Provincial Governments the fact that the sessions of the Committee have commenced and to invite representations from those Governments if they feel that their interests or the interests of the public in their Provinces are likely to be affected by the recommendations of the Committee.

The Committee feels that any such representations might be of material assistance to it in its consideration of the reference.

It would appear that there are two points in respect to which this province is interested, firstly, the question of the constitutional limitations upon the province and the Dominion and secondly, the form of remedial legislation necessary to meet the situation.

Perhaps before dealing specifically with the two points raised above it would be advisable to give a short resume of what this province has attempted to do to meet this situation.

In 1931 it appeared that in a number of instances finance companies who were money-lenders within the meaning of the Dominion Act were attempting to evade the provisions thereof by charging conveyancing fees, inspection fees, etc., which were excessive and by requiring large insurance policies as collateral. The latter evil was particularly drawn into question at that time. As a result of this I instructed our Legislative Counsel to give consideration to the matter and he, after an examination of the question, prepared an amendment to "The Mercantile Law Amendment Act", c.34, S.M. 1921. This amendment was introduced into the House and the same was passed, becoming chapter 27, S.M. 1932. The section which is important for present purposes is new section 8 added by the amending Act. I enclose six copies thereof.

You will note that said section 8 in part covers the ground covered by section 7 of The Money-Lenders Act (Canada) but differs therefrom in four particulars, namely:—

- (a) It provides for relief for unnecessary or excessive conveyancing charges;
- (b) It provides for relief from insurance which is more than reasonably sufficient for the security of the loan;
- (c) It permits the debtor to make a summary application to the court for relief without the necessity of waiting for proceedings to be commenced against him by the lender;
- (d) It gives an extended jurisdiction to the court to review the loan transaction and grant relief.

The effect of these provisions, in so far as it is possible to form an opinion thereon, has been salutary and it would appear from the information received that excessive insurance as collateral is now rather exceptional.

At the present session two Bills were introduced into the Legislature by Mr. Hyman, M.L.A. These were "An Act to amend 'The Distress Act'" and "An Act to amend 'The Mercantile Law Amendment Act.'" I enclose for your information six copies of these. In addition I enclose six copies of suggested amendments to "The Distress Act" amendment as drafted. These two Bills were given second reading and referred to the Law Amendments Committee, but the decision of that committee was not to report the same in view of the fact that this whole matter was under investigation by your committee and also in view of the fact that the members of the committee did not think that these two Bills offered a very adequate solution to the problem.

In so far as the first point is concerned, that is to say the constitutional problem, it would seem that there is some ground for saying even the present section 7 of *The Money-Lenders Act* goes beyond the powers of the Dominion, either under the heading of interest or that of criminal law. It seems to be arguable that it is beyond the jurisdiction of the Parliament of Canada to legislate with respect to fees, conveyancing charges, insurance requirements, etc. *Prima facie* at least these would be matters of property and civil rights, that is

to say matters of contract within the province. It is open to question as to whether or not the Dominion Parliament can authorize the courts to reopen a loan transactions where the complaint is that excess fees, etc., have been charged.

It must be understood that these arguments are not put forward with any idea of opposing the assumption by the Dominion of jurisdiction, but rather to emphasize what you already well know, that any such attempt will give rise to litigation which may seriously impair the effectiveness of even the present remedies. We are most desirous of seeing the matter adequately and properly dealt with, and if remedial ancillary provincial legislation would serve any useful purpose we will be most willing to co-operate.

In so far as the second point is concerned, while we feel that our legislation has in a measure alleviated the situation, it cannot be claimed that it has corrected all abuse. We feel that unless the Dominion legislation can be worked out which will stand the test, it would be infinitely better to consider the enactment by the provinces of a uniform ancillary provision prohibiting those matters which fall outside the field of interest, such as legal fees, inspection fees, etc., exceeding a given proportion of the amount of the loan.

If there is any further information that you think we could furnish which would be of assistance, kindly advise us and we will endeavour to obtain this.

Yours truly,

W. J. MAJOR,
Attorney General.

PROVINCE OF SASKATCHEWAN

OFFICE OF ATTORNEY GENERAL

REGINA, March 14, 1938.

W. H. MOORE, Esq., M.P.,
House of Commons,
Ottawa, Ontario.

DEAR MR. MOORE,—I am in receipt of your letter of February 18th wherein you ask that representations be made on behalf of this Province with regard to the control of personal loan companies.

I regret my delay in answering your letter but I wanted to discuss the same in Council and only secured this opportunity within the last few days.

We are all agreed that it is highly desirable that some definite control should be exercised over the activities of these companies and in particular to control the rates of interest which they charge.

They should only operate, whether Dominion or Provincial companies, under licence.

Many of these companies are Provincial companies and, therefore, subject to control of the Provincial authorities, but nevertheless, subject to the provisions of the Federal Interest Act.

In so far as rates of interest are concerned or other charges made by these concerns in lieu of interest, we feel that there is an abuse which should be dealt with by legislative action and we are more than satisfied to do anything which may be necessary to vest in the Federal Government the right to control charges made by companies of this kind.

In the case of companies doing this type of business and incorporated as Dominion Companies, they are subject to Dominion control, but, in the case of Provincial Companies incorporated under The Provincial Companies Act, they are subject to control by the Province and, so far as I can see, it would not be necessary to interfere with this provided the Federal authority had sufficient scope to control rates of interest and other charges.

Yours very truly,

T. C. DAVIS,
Attorney General.

APPENDIX "A"

IN THE COUNTY COURT JUDGES' CRIMINAL COURT OF THE
COUNTY OF YORK

BETWEEN:

THE KING.....*Plaintiff;*

AND

ALEX. G. CLIMANS and S. D. ELLENBERG.....*Defendants.**Before His Honour Judge O'Connell*

The COURT: The accused Alex. G. Climans and S. D. Ellenberg, are charged, amongst other counts in the indictment, that in the year 1937, at the city of Toronto, in the county of York, being money lenders, they unlawfully did lend to Harold Brown and Ivy Brown, a sum of money less than Five Hundred Dollars, at a rate of interest greater than twelve per cent per annum, contrary to The Money Lenders Act, and The Revised Statutes of Canada.

There are three other counts in the indictment, each of them charging a somewhat similar offence, and relating to similar transactions with different persons.

At the opening of the trial, counsel for the accused made an application to have the trial proceed upon the first count only, and that each of the counts be tried separately, upon the ground that if all the counts were tried together, it might prejudice a fair trial. The application was acceded to, and the trial proceeded upon the first count only.

Upon the conclusion of the evidence adduced on behalf of the Crown, counsel for the accused moved that the case be dismissed upon the ground that the Crown's evidence was not sufficient to warrant a conviction. Before calling upon the defence, I adjourned the case until to-day, the 22nd of March, 1938, for the purpose of giving further consideration to counsel's application.

It is provided by The Money Lenders Act, R.S.C. 1927, Chapter 135, Sec. 6, and also Section 11:—

Notwithstanding the provisions of The Interest Act, no money-lender shall stipulate for, allow or exact on any negotiable instrument, contract or agreement, concerning a loan of money, the principal of which is under \$500, a rate of interest or discount greater than twelve per centum per annum; and the rate of interest shall be reduced to the rate of five per centum per annum from the date of judgment in any suit, action or other proceeding for the recovery of the amount due.

And Section 11 is as follows:—

Every money lender is guilty of an indictable offence and liable to imprisonment for a term not exceeding one year, or to a penalty not exceeding One Thousand Dollars (\$1,000), who lends money at a rate of interest greater than that authorized by this Act.

It appears from the evidence that Mr. Brown, the person mentioned in the indictment, requiring a loan of a small sum of money, went to the office of The Acme Finance Corporation, in the city of Toronto, for the purpose of procuring it. He says that he saw an advertisement of The Acme Finance Corporation in the advertising pages of the telephone book, and he thinks that he also saw it in the newspapers, and from that source he learned where a loan could be procured. On going to this office, he saw there the accused Ellenberg, and informing him of the purpose of his visit, arrangements for a loan were finally made for one hundred dollars for a period of ten months.

These arrangements having been made, Brown and his wife gave a promissory note payable to The Acme Finance Corporation for the sum of \$130, payable in ten equal monthly instalments, the first of such instalments being payable one month after the date of the promissory note, July 3, 1937. At the same time, Brown and his wife gave a chattel mortgage securing the payment of the said sum of \$130, and in this chattel mortgage the accused, Alex. G. Climans is described as the mortgagee, trading as The Acme Finance Corporation, and an assignment of Brown's wages, and accompanying these documents, Brown signed a statutory declaration to the effect that there were no liens or mortgages upon the chattels mortgaged. The documents being completed and signed, Brown received a cheque for One Hundred Dollars and continued to make payments, substantially as provided by the promissory note, and in the month of February, having become somewhat in arrears, he obtained another loan from the Central Finance Corporation, and paid off the balance to The Acme Finance Corporation, amounting to \$92.50.

During the trial for the purpose of establishing the fact that the accused were money lenders, evidence was given of several other loans made by the Acme Finance Corporation and of the accused's actions in connection therewith. In connection with these loans similar documents were drawn up and executed, including chattel mortgages. In one of these mortgages the accused Climans is described as trading as the Acme Finance Corporation, and in another as trading as Acme Loan Corporation, and in the affidavit of bona fides of another he is described as the manager of Acme Finance Corporation, and in the affidavit of bona fides of the other as manager of Acme Finance Corporation. These facts, considered with other cogent evidence adduced on behalf of the prosecution, and in the absence of explanation by the accused, would warrant the conclusion that Climans was a money lender, and on the occasion in question made the loan to Brown, the subject of these proceedings.

The evidence respecting Ellenberg is not so conclusive. Evidence was given, however, by several parties who had procured loans from the Acme Finance Corporation that they dealt with Ellenberg, and Ellenberg's office seemed to be closely associated with that of the Acme Finance Corporation, so that not unreasonably it might be inferred that if he did not actually himself lend the money, that he was an accomplice to the offence, and therefore would be equally guilty with the principal if an offence in fact had been committed, but owing to the view I am taking of the case, it is not at present necessary to decide that question.

If the sum of thirty dollars, the difference between the amount which Brown and his wife agreed to pay, and included in the said promissory note, and the amount which Brown received, is ascribable solely to interest, there would be no doubt that Brown was lent the money on this occasion at a rate of interest greater than authorized by the Money Lenders Act, as the rate of interest thereby charged is 51.9 per cent per annum.

However, the contention of the defence is that the said sum of thirty dollars is not wholly attributable to interest, but includes payment for services performed by the accused at the time the loan was made and in connection therewith, such services being the drawing and preparing of the chattel mortgage, the assignment of wages, the statutory declaration, the inspection and valuation of the chattels covered by the chattel mortgage, the search made in the county clerk's office and the sheriff's office for encumbrances, liens and executions that might affect the borrower's property, and the fee paid in connection with the searches and the registration of the chattel mortgage.

In my opinion, in so far as the provisions of the Money Lenders Act are concerned, the accused were at liberty to make proper and reasonable charges for services performed in connection with the loan, provided that the same were reasonably and necessarily performed and in good faith.

Apart from the fact that these documents were prepared at the instance of the lender, and presumably either by himself or by someone employed by him for that purpose, and entered into in connection with the loan, and that similar documents were customarily made use of by other money lenders in similar transactions, no evidence has been given by the prosecution that all the documents made available on this occasion, or if not all, what part of them were not reasonably necessary for the purpose of assuring the lender that the loan would be repaid, nor has any definite evidence been given of what would be proper charges for the services performed in the preparation of these documents, other than evidence of charges usually made by solicitors practising in the city of Toronto and suburbs thereof, as evidenced by the conveyancing and general tariff of the Law Association of the County of York. It is provided by that tariff that the minimum fee for drawing a chattel mortgage shall be \$10, for drawing an assignment \$7.50 and for drawing a statutory declaration \$3, and for searches \$4 respectively, and the evidence of a professional valuator is that the minimum fee for valuing household furniture is \$10, and in addition to these charges there would be the fees paid on the searches.

If the charges made by the lender for services in connection with this transaction were on the scale it is clear the sum of \$30 would have been exceeded. Undoubtedly some part of the \$30 was appropriated to charge for these services and the balance to interest, but what amount was actually attributable to the charge for services and what amount attributable to interest is left wholly undetermined, and in the face of this inconclusive state of the evidence, it is not possible for me to find that a rate of interest in excess of 12 per cent per annum was actually charged to the borrower contrary to provisions of the Money Lenders Act.

I can quite understand that satisfactory evidence of the character indicated may be very difficult to obtain in a case of this kind, but as the evidence in my opinion is not sufficient to warrant a conviction, the case will have to be dismissed.

Having heard the evidence in this case relating to the Brown loan and of several similar transactions with the Acme Finance Corporation, I think (the subject of small loans being at present considered by a Parliamentary Committee) it is not improper that I should give an expression of my opinion respecting the somewhat harsh treatment to which these borrowers of small sums of money are at times subjected. The Brown transaction itself is a striking example of the apparently exorbitant charges that are at times imposed on a borrower of a small sum of money; in fact in procuring a loan on this occasion the borrowers obligated themselves to pay a sum which, if it were ascribable solely to interest, would amount to 51.9 per cent per annum. The evidence disclosed respecting the other transactions with the same company, where similar services were performed and somewhat similar charges for those services were made, that if the whole amount charged for interest and services were considered as interest alone, the rate would be, in one case 94.1 per cent per annum, and in another case 223 per cent per annum, and still in another case 385 per cent per annum. It is, however, only fair to say that the Defendants' conduct in connection with these transactions is not at present being tried, and they have not had an opportunity of giving any explanation respecting it, nor in the transaction at present being enquired into, as the defence has not been called upon, and consequently I say nothing as to its legality.

However, such apparently exorbitant charges in connection with these small loans must necessarily shock one's conscience, and sense of fair dealing, and excite astonishment that the present state of the law permits such transactions to be carried on with impunity, and that the parties engaged in making such loans and charges are seemingly immune from criminal liability and its appropriate penalties.

It must be borne in mind that in a great many of these cases, if not in the majority of them, where small loans are required, the borrower finds himself in circumstances of distress and is confronted with a very urgent need of money, so pressing that for the purpose of obtaining immediate relief, he is willing to assume obligations of a harsh and excessively oppressive character, only to find himself in course of time, as a result of his efforts to relieve his present financial need, in still greater financial embarrassment, if not in fact in a mesh of financial obligations from which he is unable to extricate himself. It seems to me imperative that steps should be speedily taken by the Legislature having for their object the prevention of these unjust and oppressive transactions in which these exorbitant charges are made for services rendered and which result in unjust and oppressive burdens being placed on the shoulders of the necessitous small borrower.

These harsh and inequitable transactions might be effectively dealt with, if not actually stopped, by legislation making it a criminal offence, with appropriate penalties, to charge, impose or collect in respect to a loan for less than \$500, interest, and for services of any kind, nature or description whatsoever in connection therewith, a sum of money amounting in the aggregate, in respect to both interest and charges, to more than two and one half per centum per month on the monthly balance owing by the borrower. This, of course, is merely a suggestion prompted by the evidence coming before me during the present trial. Whether the remedy suggested is sufficient to deal with the unsatisfactory condition referred to, or whether other or additional remedies should be provided, is a matter for the consideration of those who are charged with the duty of proposing appropriate legislation.

D. O'CONNELL, J.

MARCH 22, 1938.

APPENDIX "B"

CASE CITED IN EVIDENCE BY MR. SHINK
LAW REPORTS—APPEAL CASES

1932

(Privy Council)

In re THE INSURANCE ACT OF CANADA

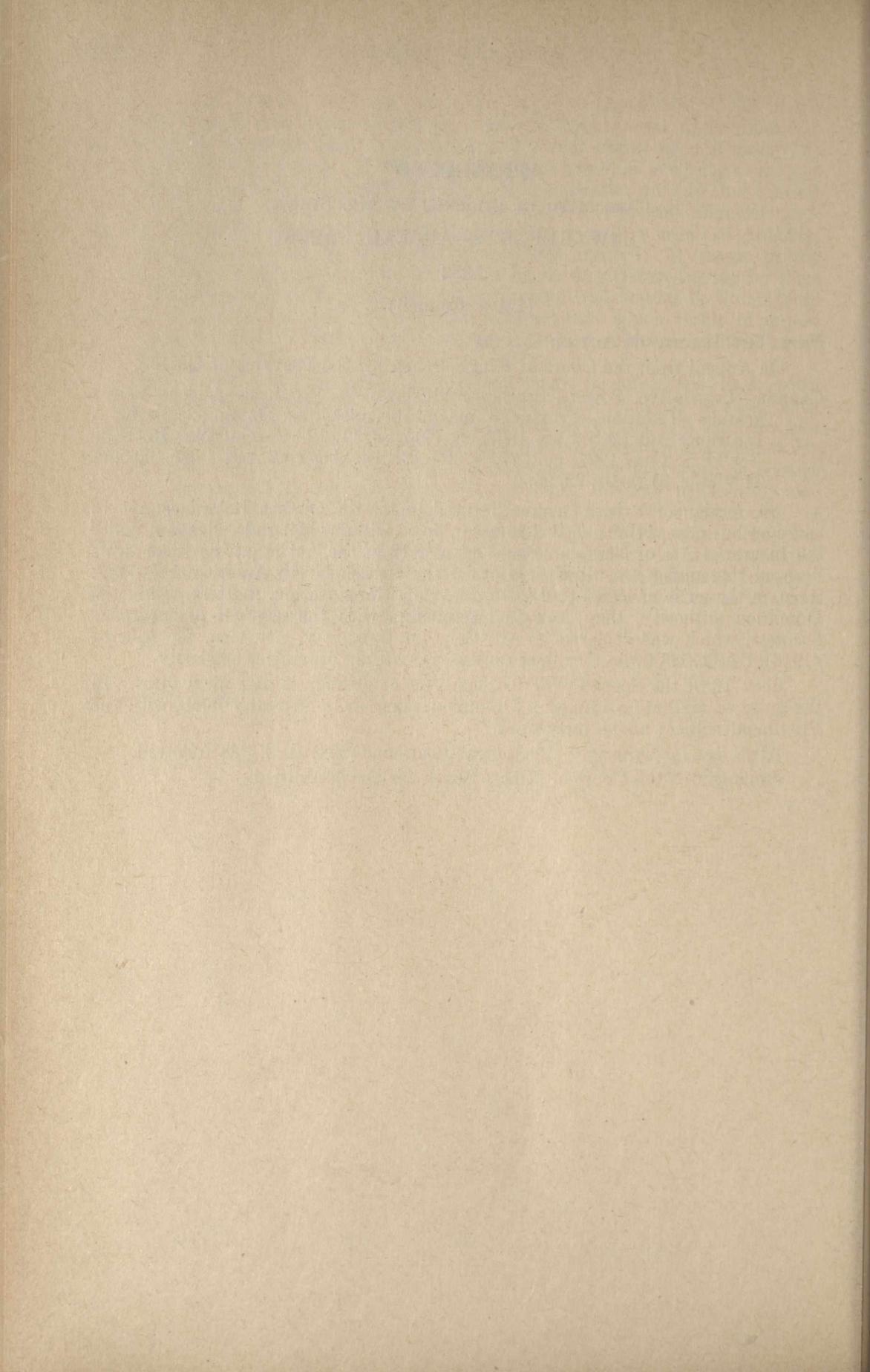
On Appeal from the Court of King's Bench for the Province of Quebec.

Canada—Legislative Power—Insurance Business in Province—Aliens—Immigration—Taxation—Provincial matter disguised as Dominion matter—Insurance Act (R.S. Can. 1927, ch. 101), ss. 11, 12—Special War Revenue Act (R.S. Can. 1927, ch. 179) s. 16—British America Act, 1867 (30 and 31 Vict. c. 3) ss. 91, 92, 95.

"A foreign or British insurer licensed under the Quebec Insurance Act to carry on business within the Province can do so without being also licensed under the Insurance Act of Canada. Sects. 11 and 12 of the Act requiring them to be licensed thereunder are ultra vires under the British North America Act, 1867, since, in the guise of legislation as to aliens and immigration, matters within the Dominion authority, they seek to intermeddle with the *conduct of insurance business*, which was declared in *Att.-Gen. for Canada v. Att.-Gen. for Alberta* (1916) 1 A.C. 588 to be a subject exclusively within Provincial authority.

Sect. 16 of the Special War Revenue Act of Canada is also ultra vires. In the guise of legislation imposing Dominion taxation, it in reality deals with the Provincial subject above mentioned."

Att.-Gen. for Ontario v. Reciprocal Insurers (1924) A.C. 328 followed.
Judgment of the Court of King's Bench for Quebec varied.



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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

No. 10

WRITTEN SUBMISSIONS

Respecting

SMALL LOANS

by

VARIOUS FINANCE CORPORATIONS

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

INDEX

This issue contains written submissions to the Committee from the Loan Companies listed below, viz:—

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CAMPBELL AUTO FINANCE COMPANY LIMITED

Head Office: Toronto

Branches: Hamilton, Ottawa, Windsor

Our company was incorporated under the laws of Ontario in 1930.

We make loans secured by chattel mortgage on an automobile, truck, trailer, tractor or bus. We also handle conditional sales contracts arising out of the sale of a motor vehicle by one individual to another, when neither one is a "dealer." In 1937 we opened 4,486 such accounts for \$1,187,090.12.

A great deal has been said about the Small Loan problem in recent years but it all boils down to 4 headings:—

1. Necessity for the business to exist.
2. Cost of doing the business.
3. Required rate to cover such costs plus a fair profit.
4. Jurisdiction of the necessary rate and regulatory law.

Since our counsel, Mr. H. Fred Parkinson, K.C., has already addressed the committee on the subject of jurisdiction, this brief will deal with the first three headings only.

A great deal has been said this year and in other years about the necessity of providing small loan sources for the public. Human nature has long ago answered the question "Shall we borrow?" in the affirmative. As far as we can see, there will always be people in need of money for worthy purposes. In spite of the wishes of the socially-minded, life itself runs on an individual basis, and adequate agencies to supply money needs are as necessary as agencies for physical relief. Lord Hewitt, the present Lord Chief Justice of England, said that he had often heard of the English masses but every case presented to him resolved itself into a particular problem involving particular individuals.

Mr. Leon Henderson told this committee, "Failure to provide adequate loan sources only compounds the borrowers misery," and then described the mistakes in West Virginia, Missouri, and New Jersey when too low a rate was set. Canada should benefit from those experiences and evolve an act that will provide complete coverage of the small loan demand.

With these points in mind, we should remember throughout that if regulations and rates are too restrictive, we defeat the very objective we have just started out to reach.

TYPES OF LOAN SERVICE AVAILABLE

In connection with the sources where borrowers can get small loans, that we are about to name, the percentage used is purely an approximate division of the share of borrowers accommodated thereby:—

At Banks—5 per cent of all those needing small loans in the true sense of "small loan."

By life insurance policy loans—another 5 per cent.

Via credit unions—5 per cent again.

Through Bank of Commerce personal loan department on their 3-name note basis—5 per cent.

By small loans secured by chattel mortgages on household goods, automobile, truck, business equipment, etc., a total of 80 per cent.

NOW WE WOULD LIKE TO DESCRIBE THE DIFFERENT COMPANIES THAT GRANT
LOANS TO THIS 80 PER CENT GROUP

We can speak with particular knowledge of this group. There are several aspects of such loans that appeal to the borrower over the other sources for money.

It can be a one-signer service—therefore no friends or relatives have to be asked for help, and thus no intangible obligation is incurred.

It is a quicker service—usually a few hours completes the matter instead of a few days. It is another trait of human nature to put off arranging such money matters until almost the last minute.

There is the choice of the type of security that the borrower wishes to use.

Then there are the several different companies in each channel of security from which to choose. This permits "shopping" and comparisons.

All of these features give the borrower the benefit to open competition. He enters the market place free to seek and choose what suits his particular case best.

Since quite a little has been said about loans on household goods, we want to refer now

SPECIFICALLY ABOUT AUTOMOBILE LOANS

1. They cannot be renewed as readily as household accounts as the vehicle depreciates rapidly, thus a second loan is seldom as much as the first loan, and the borrower is headed out of debt. With fewer renewals, the danger of pyramiding and compounding is reduced. But these very factors create higher acquisition costs and re-investment costs.

2. Turnover. On a rate per month basis, automobile loans would produce less total dollar revenue per account than co-maker or household loans because cars are frequently sold or traded, with a peak of this turnover in the spring. Again we run into higher acquisition costs, also document and handling costs. Again, since many accounts are closed by a dealer instead of the customer, the final accounting shows an even greater loss of income because frequently a dealer gets a balance quotation one day, yet his cheque does not go forward for 1, 2, or 3 weeks after the pay-out figure has been quoted, due to delay in delivery of the new car. This "slippage" of income diminishes the potential gross rate even more than on other types of small loans.

3. There are fewer people with acceptable collateral for an automobile loan, therefore again, the acquisition and handling cost per account is higher than other types of loans. The same newspaper lineage rate has to be paid as by other loan advertisers, but eligible borrowers on automobiles are only one-fourth as numerous as borrowers on household goods.

4. Registration of an automobile mortgage is almost mandatory by custom. Re-registration in another county is necessary when the borrower moves thereto. Unless such move is known and re-registration completed within 60 days, preferred lien position is lost and the lender may face a charge-off.

5. The lack of a modern index system in Highway Departments makes it impossible to obtain the number of the current year's licence, which adds to collection and tracing expense, or ultimately results in a charge-off.

6. Nevertheless, many people want the one-name feature of an automobile loan, and the quicker service, and are willing to pay for it.

In considering the different types of loans that are offered to the small loan borrowers, we recently read the report of a U. S. National Bank official who said: "The personal loan departments of banks and the small loan companies each have their separate function and one will never replace the other. The public has a taste for budget repayment and banks attempt to supply it within their limits. Bank costs are always less because the rent and salary and money employed comes to them on an entirely different cost basis." You will recall

Mr. Henderson's statement that the wide demand for loans goes beyond credit unions, etc., and is fully satisfied only by the commercial companies organized for profit.

WE ARE IN FAVOUR OF BETTER REGULATION OF ALL CHANNELS IN THE SMALL LOAN FIELD

Our company, and some other Provincially incorporated companies first sought regulation in 1933 by presenting a memorandum to the Ontario Government providing for registration, regulation and a method for rate limitation. Our company has always been, and is, decidedly in favour of a uniform maximum rate—a roof, a top limit—one that will cover every *reasonable* type of loan service and security in any location and within proper amounts. Competition will very quickly offer loans at less than such a top maximum, where volume and other conditions permit it. Before outlining the rate we recommend, we would point out that operating requirements are quite different as between Toronto and Timmins, Welland and Winnipeg, Verdun and Vancouver. But the most important point to study before arriving at an equitable rate is

THE COST OF DOING BUSINESS

We have attached a clip of forms required to service an account, excluding letterheads, envelopes, and desk supplies. There are 23 in all. Some are used 12 times per account so it is reasonable to say 50 forms are required per account. They constitute the stationery and office supplies in our expense records. The labour of using these creates our salary outlay. The place to use them necessitates rent. And so on. As Mr. Henderson said: "Few of you realize the full service that lenders give." This creates expense in one form or another. There is an inescapable expense on every account whether it is a \$50 loan or a \$450 loan.

In the more specialized channels of loans, such as those made against automobiles, trucks, business equipment, etc., losses are like lightning... they come suddenly and in unexpected places. Usually a good credit report has nothing to do with it.

Last year a customer started for Washington D.C. with a Chrysler sedan. A heavy snowstorm caused him to leave his car in Syracuse. He stayed in Washington and the east beyond is 60-day touring permit and the U.S. Government seized the car, whereupon he stopped paying us. After we located the car, we had to pay the U. S. Government a \$100 fine, lawyers costs and storage, and then bring the car back to Canada. I think we lost \$150 on this deal besides several days of staff work.

I want to relate another unusual loss story, although the majority of losses can be always classified as "unusual". We made a loan to a man in Brockville on his car. He sent us his fire and theft insurance policy and we duly completed the loss payable endorsements with his insurance company. One day the car was reported stolen. Later it was found in the St. Lawrence river, partly submerged. The car was also well burned. His insurance company claimed neither theft nor fire liability, saying the owner had tried to drown it, then, failing had set fire to it. The owner was arrested for arson. The car remains were held by the Fire Marshal for evidence. Our note maker being in jail, he could not work and pay us. The insurance company *would* not pay us, and we had no collateral worth seizing even if we could get it. The balance to be charged off in this case was \$297.00. Here we had security and insurance but still lost the balance.

Some otherwise fine citizens conceal in their car, goods purchased in the United States, and do not declare such goods when re-entering Canada. We have had two or three cars per year thus seized, and to recover these is a matter of great time and expense plus payment of a fine that is levied on the car itself.

Further, we cannot tell at the outset, when a borrowers' work will change causing him to put excessive mileage—thus faster depreciation of security—on his car, and it is usually the high-mileage cars that are abandoned, with corresponding loss.

Losses can be reduced by employing extra-capable men, but that is immediately reflected in our salary total. When losses are small, expenses are relatively higher for the preventive work done.

Losses in depressions are several times greater than in good times—just when volume and incomes drop. Surpluses must be accumulated out of profits in good years to absorb these depression losses and carry on the loan service at the time when the need for loans is often more pressing.

THE COST OF DOING BUSINESS IN DIFFERENT CITIES

is quite noticeable. It is quite apparent, that, lacking volume, a lending office in a city with 25,000 population needs a higher rate than an office in a city of 250,000 population. There probably are more borrowers in New York City than in all of Canada.

Northern Ontario districts embrace a less stable credit type. Automotive security in those areas depreciates much faster than in York County, because of road, climatic and usage conditions. We provide loan service in 28 counties in Ontario and find many different operating conditions.

Small lending offices in small centres need to do other financial business on the same premises to share, and thus reduce, the overhead on a small loan. A man may have a \$450 loan requirement and security one year, and the next year have a \$550 problem that he wants handled right where his credit and experience have been established.

Finally, good management encourages the early finding of the cost-profit breaking-point, and once again, where possible, less than the top maximum rate will be common practice—the going rate.

We would like you to refer at this point to the attached diagram showing the disbursements of a dollar of small loan *income*.

The size of the segments have been determined after discussion with several small loan companies in Canada and the United States.

Data for this Diagram:—

	Per Dollar of Income	In Dollars and Cents in a case of a \$15.00 charge on a \$100.00 loan
Cost of acquiring..	\$.12	\$ 1.80
Cost of handling—		
Rent, stationery, postage, registra- tion fees, auditing, legal, credit reports, collections, insur- ance, travelling, sundry.. . . .	.22	3.30
Staff salaries.. . . . .	.21	3.15
Executive salaries.. . . . .	.09	1.35
Interest on borrowed money.. . .	.20	3.00
Taxes.. . . . .	.05	.75
Losses.. . . . .	.02*	.30
Profit.. . . . .	.09**	1.35
	\$1.00	\$15.00

* This loss in relation to *volume* would be 3/10 of 1 per cent.

** This profit in relation to *volume* would be 1.35 per cent.

Please begin at the left centre of the diagram, with "cost of acquiring" and follow around clockwise.

The main purpose of this diagram is to show that the "interest" portion of a small loan charge is $\frac{1}{5}$ th of the total charge. This brings out the fact that in addition to constitutional reasons, the small loan problem is one for Provincial control because about 80 per cent of the charge to the borrower is not "interest".

Our own company's costs for year ending April 30, 1937, show average for all sections except interest and profit to be \$19.63 per account. With bank interest paid of \$5.03 per average account, we need \$24.66 to cover all actual outlays. We therefore conclude that we lose money on any loan under \$135.

Further statistics of our company have been given to Mr. Finlayson on his questionnaire.

RATES

The Great Britain rate is, as you know, a rate that revolves around 4 per cent per month.

In the United States, of those States having the Russell Sage Foundation approved Uniform Small Loan Law,—

- 9 States have a $3\frac{1}{2}$ per cent per month maximum
- 12 States have a 3 per cent per month maximum
- 3 States have a $2\frac{1}{2}$ per cent per month maximum

We would now like you to refer to the attached map showing the rates and regulatory situation in the States that border Canada, which is summarized in the following table:—

	1st \$100 % per month	2nd \$100 % per month	3rd \$100 % per month
Maine	3	3	3
New Hampshire	$3\frac{1}{2}$	$2\frac{1}{2}$	$2\frac{1}{2}$
Vermont	$3\frac{1}{2}$	$2\frac{1}{2}$	$2\frac{1}{2}$
Michigan	$3\frac{1}{2}$	$3\frac{1}{2}$	$3\frac{1}{2}$
Wisconsin	$2\frac{1}{2}$	2	1
		1st \$150 % per month	2nd \$150 % per month
New York, Minnesota, North Dakota, Montana, Idaho, Washington		3	$2\frac{1}{2}$

There are no effective small loan laws in these States. The general usury laws are ineffective and lending at very high rates is being conducted on a large scale in all cities of these States.

It seems to us that the man living in Brockville eats, wears, works, earns, spends, and thinks a great deal the same as the man across the river in Morris-town, New York. Likewise the man working in the Ford factory in Windsor is not much different than the employee at a similar machine in the Ford factory near Detroit, Michigan. The Canadian customs man at Niagara Falls, Ontario, has the same standard of living as the United States customs man in Niagara Falls, New York. And so, their borrowing conditions cannot be much different.

Our own company does not have as thorough an analysis as we wish we had, but after cross-checking in various ways, we believe we are quite accurate in saying that the average rate per month we collected last year is 2.5 per cent. To obtain this 2.5 per cent we charged 3 per cent on a \$50 loan and tapered to 2 per cent on a \$500 loan. In territory adjacent and surrounding our operations, the rates are:—

- In New York State: 3 per cent on the 1st \$150 and $2\frac{1}{2}$ per cent on the next \$150
- In Michigan: $3\frac{1}{2}$ per cent per month throughout

with both States stopping at \$300.00.

A NEW REGULATORY RATE AND LAW SHOULD RECOGNIZE

that as not more than *one* law may be passed even for each Province, the rate thereunder should be adequate to cover the smallest small loans or no licensed company will make them; it should recognize that larger loans should carry a lesser rate of charge; it should allow for small volume in small centres, not just large volume in large cities; it should avoid creating a monopoly; it should embrace the difference in risk in the different types of loans and different types of security and varying localities.

Too low a maximum may easily have the effect of creating a monopoly, as Mr. Henderson explained about Wisconsin. You cannot bring all varieties of loans and different circumstances *down* to the very *lowest* rate of the *largest* company in the biggest city. Casualty insurance companies charges are kept *up* to an established rate. The well-operated casualty company cannot charge *less* than the rate that is used by the poorly managed company. But under an adequate maximum for small loans, the top rate is only a roof, and well-operated companies will *certainly* charge *less* than such maximum, where possible. The rate should not be so low that small local lenders are eliminated. Finally the average loan can be quite accurately forecast by the pitch of the rate: the higher the rate, the lower the loan size, and conversely, the lower the rate, the higher the loan size.

THE RATE WE PROPOSE AND RECOMMEND IS

- 3 per cent per month on that part of any balance \$100 and under
- 2 per cent per month on that part of the balance \$101 to \$300 inclusive
- 1 per cent per month on that part of the balance \$301 to \$500 inclusive

This is known as a graduated rate. We have attached a chart that shows the dollar cost and actual monthly percentage, also attached detailed computation by the chartered accounts, Oscar Hudson and Company, who did the computing. The summary is:—

Amount of Loan	Dollar Cost	Potential Gross Yield Per Annum per cent	Maximum Yield Per Month per cent
\$ 50..	\$ 9.75	36.00	3.00
100..	19.50	36.00	3.00
150..	28.02	34.44	2.87
200..	35.50	32.76	2.73
250..	42.59	31.44	2.62
300..	49.50	30.48	2.54
350..	55.54	29.28	2.44
400..	61.00	28.20	2.35
450..	65.89	27.00	2.25
500..	70.41	26.04	2.17

(The full maximum is never actually collected in full).

These rates would *include* registration fees and every charge of every nature whatsoever.

This scale is not complex to draft nor difficult to use. It is commonly used in many States. It is scientifically as perfect and up-to-date as any yet devised.

Since one flat rate is not right for every size of loan, for every kind of security, for every city large or small amongst 11,000,000 people, this graduated rate permits the flexibility needed amongst these variable conditions.

(We all know that freight rates vary according to long haul and short haul, for carload and less-than-carload, and that the rate is different for a ton of coal and a ton of corn flakes).

It provides for the smallest small loans.

It gives the larger borrower the benefit of a lower rate.

Since some fraction of accrued income is never actually collected, this loss of gross income offsets the fact that the larger charge would be paid in the earlier months.

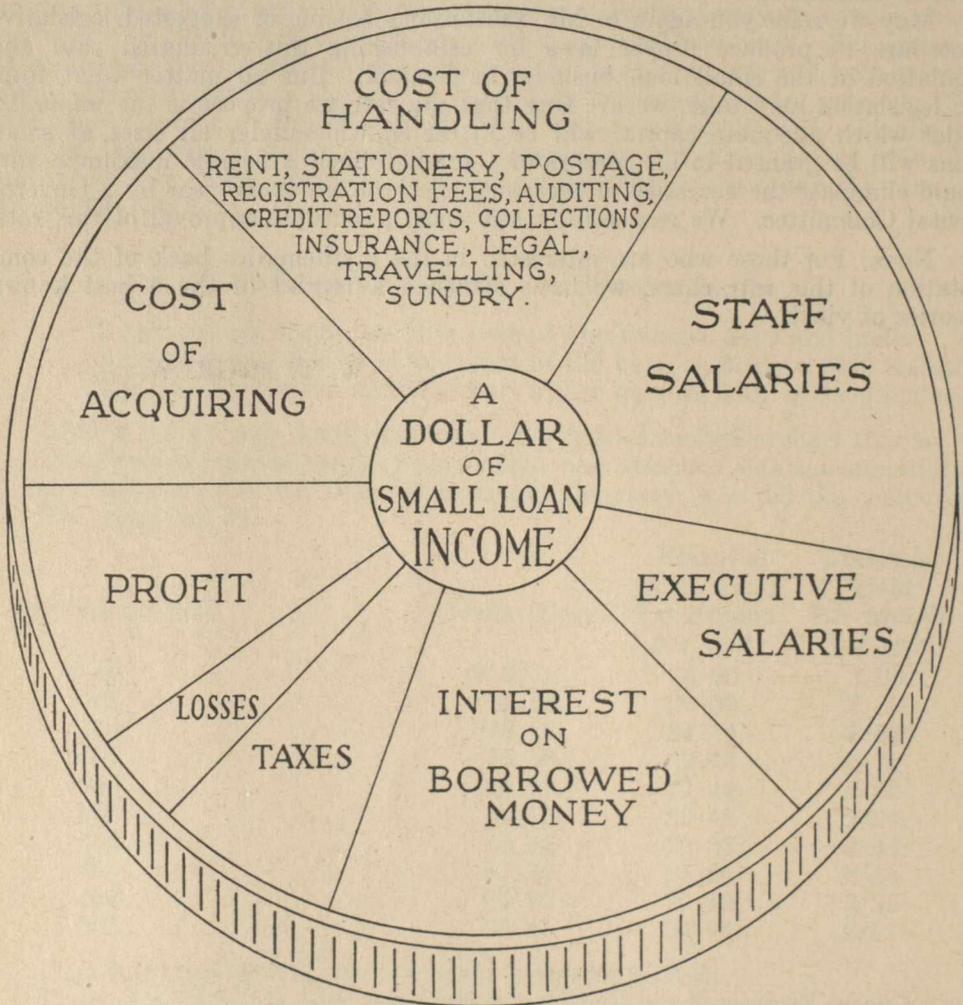
Rates in Canada might easily be higher than U.S. rates, if for no other reason than that bank interest is more in Canada. Regardless of money cost, General Motors' new car financing rate in Canada is $16\frac{2}{3}$ percent higher than in the United States. But the rate we propose is less than the majority of rates in the States.

May we refer you again to Mr. Parkinson's outline of suggested legislative procedure to produce proper laws for establishing this graduated rate and regulation of the small loan business in Canada. But no matter what form the legislation may take, we are sure that the rate we propose is the *minimum* under which adequate capital will be attracted whereunder all sizes of small loans will be granted in all corners of Canada. Such a flexible maximum rate would eliminate the necessity of reviewing the problem every year by a Governmental Committee. We respectfully ask your favourable approval of this rate.

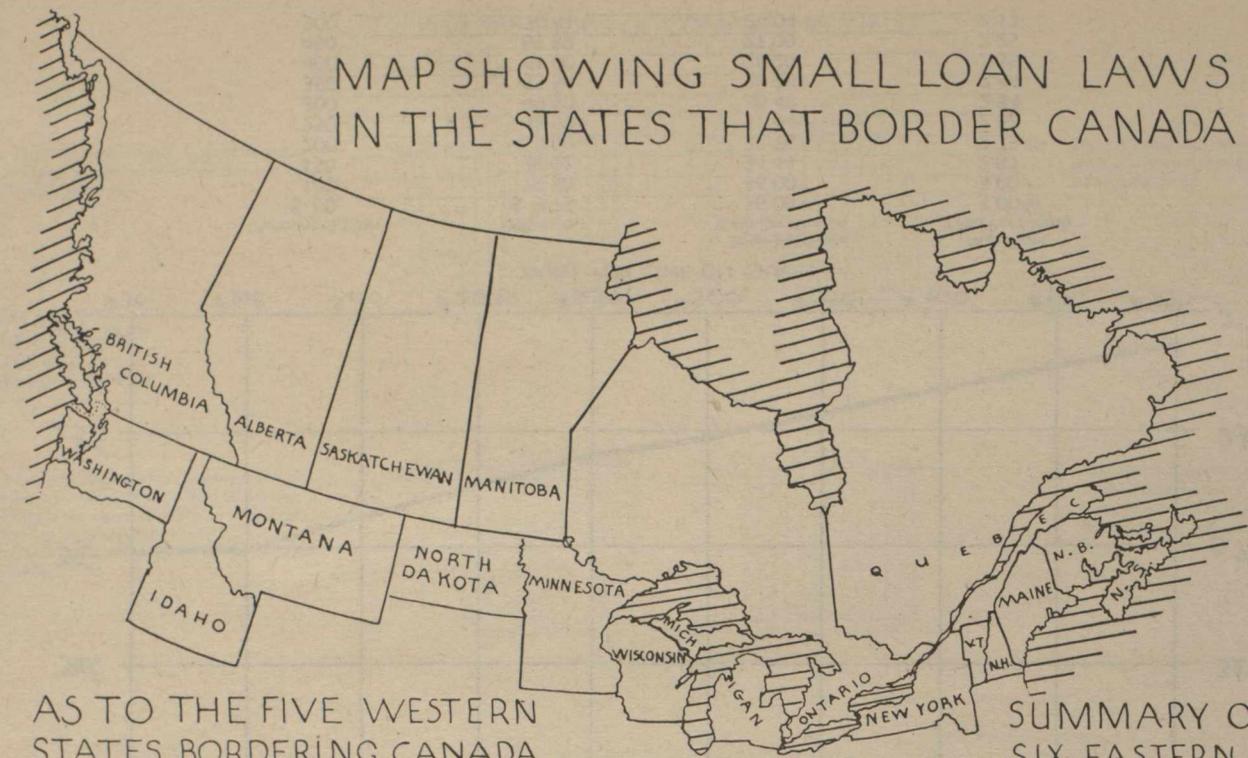
NOTE: For those who are interested in the mathematics back of the computation of this rate chart, we have attached a reprint of the 5 best known theories of yield.

W. T. McGREW.

Diagram Showing Disbursement of One Dollar of Small Loan Income



MAP SHOWING SMALL LOAN LAWS IN THE STATES THAT BORDER CANADA



AS TO THE FIVE WESTERN STATES BORDERING CANADA.

SUMMARY OF THE SIX EASTERN STATES

RUSSELL SAGE FOUNDATION SEPTEMBER 9, 1937:
 "THERE ARE NO EFFECTIVE SMALL LOAN LAWS IN IDAHO, MONTANA, AND NORTH DAKOTA, BUT WASHINGTON AND MINNESOTA HAVE INEFFECTIVE REGULATORY LAWS WHICH HAVE ATTRACTED NO CAPITAL INTO THE SMALL LOAN BUSINESS. THE ONLY RESTRAINT ON MONEY LENDING IN THIS AREA IS THE INTEREST LIMITATIONS PROVIDED BY THE GENERAL USURY LAWS. THESE ARE INEFFECTIVE AND LENDING AT VERY HIGH RATES ON SMALL LOANS IS BEING CONDUCTED ON A LARGE SCALE IN ALL CITIES OF THESE STATES."

	1 1/2% \$100.	2 1/2% \$100.	3 1/2% \$100.	
MAINE	3	3	3	% PER MONTH.
NEW HAMPSHIRE	3 1/2	2 1/2	2 1/2	.. ..
VERMONT	3 1/2	2 1/2	2 1/2	.. ..
MICHIGAN	3 1/2	3 1/2	3 1/2	.. ..
WISCONSIN	2 1/2	2	1	.. ..
	1 1/2% \$150.	2 1/2% \$150.		
NEW YORK	3	2 1/2		% PER MONTH.

CHART SHOWING AVERAGE MONTHLY RATE
ON SMALL LOANS OF \$50 TO \$500.

WITH GRADUATED RATES OF

3% per month on that part of balance \$100. and under
2% " " " " \$101. to \$300. inclusive
1% " " " " \$301. to \$500. "

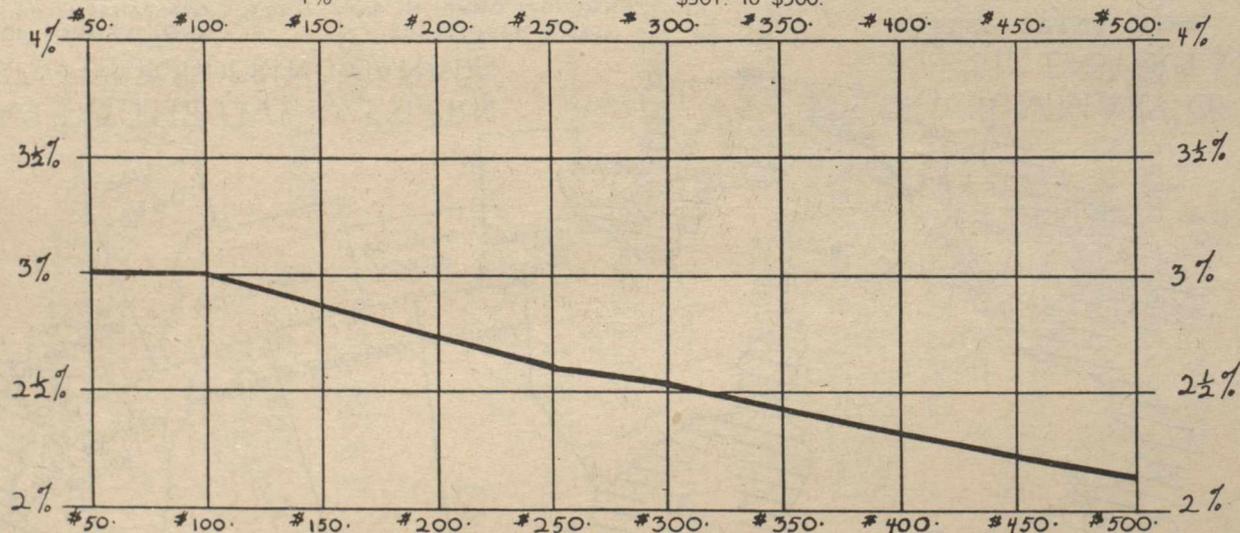
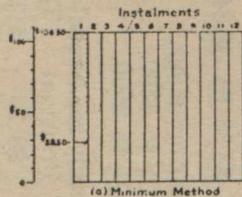


TABLE FOR LINE ON GRAPH

Amount of Loan	Dollar Cost	Potential Gross Yield Per Annum	Maximum Yield Per Month
\$ 50.	\$ 9.75	36.00%	3.00%
100.	19.50	36.00	3.00
150.	28.02	34.44	2.87
200.	35.50	32.76	2.73
250.	42.59	31.44	2.62
300.	49.50	30.48	2.54
350.	55.54	29.28	2.44
400.	61.00	28.20	2.35
450.	65.89	27.00	2.25
500.	70.41	26.04	2.17

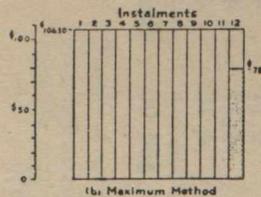
FIVE METHODS OF COMPUTING YIELD

- (a) The Yield Minimum Method; assumes that the entire charge is collected before any payment is made on the principal.



(a) Minimum Method

- (b) The Yield Maximum Method; assumes that the entire principal is collected before any payment is made on the charge.

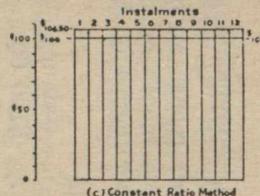


(b) Maximum Method

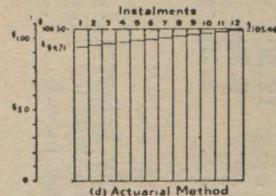
\$100.00 advance
 \$6.50 charge added
 \$106.50 note
 12 monthly payments

- (c) The Constant Ratio Method; assumes that each instalment contains the same ratio of the principal to charge as the original principal was to the original charge at the time of purchase.

These five methods for the above example are shown graphically below:



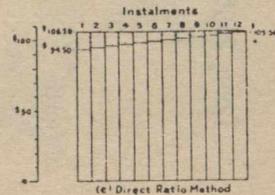
(c) Constant Ratio Method



(d) Actuarial Method

- (d) The Actuarial Method; assumes that the portion of the charge contained in each instalment collected at the end of each period is in direct proportion to the principal outstanding during the preceding period.

- (e) The Direct Ratio Method; assumes that the portion of the charge contained in each instalment collected at the end of each period is in direct proportion to the principal outstanding during the preceding period, such principal amount being determined in the same manner as in the Constant Ratio method.



(e) Direct Ratio Method

The yields computed under these five Methods are as follows:

- (a) 11.374 %
- (b) 12.698 %
- (c) 12.000 %
- (d) 11.739 %
- (e) 11.784 %

White indicates Principal.
 Shaded indicates Charge.

LOAN INTEREST AND PRINCIPAL REPAYMENT CALCULATIONS

Loan \$50—Principal repayments per month, \$4.16(4) \$4.17(8)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$50.00	\$1.50	\$4.17	\$5.67
2..	45.83	1.37	4.17	5.54
3..	41.66	1.25	4.16	5.41
4..	37.50	1.13	4.17	5.30
5..	33.33	1.00	4.17	5.17
6..	29.16	.87	4.16	5.03
7..	25.00	.75	4.17	4.92
8..	20.83	.62	4.17	4.79
9..	16.66	.50	4.16	4.66
10..	12.50	.38	4.17	4.55
11..	8.33	.25	4.17	4.42
12..	4.16	.13	4.16	4.29
		\$9.75	\$50.00	\$59.75

Total of monthly balances ..\$324.96
 Average monthly balance... 27.08
 Interest rate per month... 9.75
 -----=3%
 324.96

Loan \$100—Principal repayments per month, \$8.33(8) \$8.34(4)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$100.00	\$3.00	\$8.33	\$11.33
2..	91.67	2.75	8.33	11.08
3..	83.34	2.50	8.34	10.84
4..	75.00	2.25	8.33	10.58
5..	66.67	2.00	8.33	10.33
6..	58.34	1.75	8.34	10.09
7..	50.00	1.50	8.33	9.83
8..	41.67	1.25	8.33	9.58
9..	33.34	1.00	8.34	9.34
10..	25.00	.75	8.33	9.08
11..	16.67	.50	8.33	8.83
12..	8.33	.25	8.34	8.59
		\$19.50	\$100.00	\$119.50

Total of monthly balances ..\$650.03
 Average monthly balance... 54.17
 Interest rate per month... 19.50
 -----=3%
 650.03

LOAN INTEREST AND PRINCIPAL REPAYMENT CALCULATIONS

Loan \$150—Principal repayments per month, \$12.50

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$150.00	\$4.00	\$12.50	\$16.50
2..	137.50	3.75	12.50	16.25
3..	125.00	3.50	12.50	16.00
4..	112.50	3.25	12.50	15.75
5..	100.00	3.00	12.50	15.50
6..	87.50	2.63	12.50	15.13
7..	75.00	2.25	12.50	14.75
8..	62.50	1.88	12.50	14.38
9..	50.00	1.50	12.50	14.00
10..	37.50	1.13	12.50	13.63
11..	25.00	.75	12.50	13.25
12..	12.50	.38	12.50	12.88
		<u>\$28.02</u>	<u>\$150.00</u>	<u>\$178.02</u>

Total of monthly balances ..\$975.00
 Average monthly balance.. . . 81.25
 Interest rate per month. 28.02
 -----=2.87%
 975.00

Loan \$200—Principal repayments per month, \$16.66(4) \$16.67(8)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$200.00	\$5.00	\$16.67	\$21.67
2..	183.33	4.67	16.67	21.34
3..	166.66	4.33	16.66	20.99
4..	150.00	4.00	16.67	20.67
5..	133.33	3.67	16.67	20.34
6..	116.66	3.33	16.66	19.99
7..	100.00	3.00	16.67	19.67
8..	83.33	2.50	16.67	19.17
9..	66.66	2.00	16.66	18.66
10..	50.00	1.50	16.67	18.17
11..	33.33	1.00	16.67	17.67
12..	16.66	.50	16.66	17.16
		<u>\$35.50</u>	<u>\$200.00</u>	<u>\$235.50</u>

Total of monthly balances ..\$1,299.96
 Average monthly balance.. . . 108.33
 Interest rate per month. 35.50
 -----=2.73%
 1,299.96

LOAN \$350—PRINCIPAL REPAYMENTS PER MONTH

\$29.16 (4) \$29.17 (8)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$400.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$350 00	\$7 50	\$29 17	\$36 67
2..	320 83	7 21	29 17	36 38
3..	291 66	6 83	29 16	35 99
4..	262 50	6 25	29 17	35 42
5..	233 33	5 67	29 17	34 84
6..	204 16	5 08	29 16	34 24
7..	175 00	4 50	29 17	33 67
8..	145 83	3 92	29 17	33 09
9..	116 66	3 33	29 16	32 49
10..	87 50	2 63	29 17	31 80
11..	58 33	1 75	29 17	30 92
12..	29 16	87	29 16	30 03
		<hr/>	<hr/>	<hr/>
		\$55 54	\$350 00	\$405 54

Total of monthly balances \$2,274 96
 Average monthly balance 189 58
 Interest rate per month 55 54

$2,274\ 96 = 2.44\%$

LOAN \$400—PRINCIPAL REPAYMENTS PER MONTH

\$33.33 (8) \$33.34 (4)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$400 00	\$8 00	\$33 33	\$41 33
2..	366 67	7 67	33 33	41 00
3..	333 34	7 33	33 34	40 67
4..	300 00	7 00	33 33	40 33
5..	266 67	6 33	33 33	39 66
6..	233 34	5 67	33 34	39 01
7..	200 00	5 00	33 33	38 33
8..	166 67	4 33	33 33	37 66
9..	133 34	3 67	33 34	37 01
10..	100 00	3 00	33 33	36 33
11..	66 67	2 00	33 33	35 33
12..	33 34	1 00	33 34	34 34
		<hr/>	<hr/>	<hr/>
		\$61 00	\$400 00	\$461 00

Total of monthly balances \$2,600 04
 Average monthly balance 216 67
 Interest rate per month 61 00

$2,600\ 04 = 2.35\%$

Loan \$450.00—Principal Repayments per month \$37.50

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$450.00	\$8.50	\$37.50	\$46.00
2..	412.50	8.13	37.50	45.63
3..	375.00	7.75	37.50	45.25
4..	337.50	7.38	37.50	44.88
5..	300.00	7.00	37.50	44.50
6..	262.50	6.25	37.50	43.75
7..	225.00	5.50	37.50	43.00
8..	187.50	4.75	37.50	42.25
9..	150.00	4.00	37.50	41.50
10..	112.50	3.25	37.50	40.75
11..	75.00	2.25	37.50	39.75
12..	37.50	1.13	37.50	38.63
		\$65.89	\$450.00	\$515.89

Total of monthly balances..\$2,925.00

Average monthly balance.. 243.75

Interest rate per month. . . . 65.89

—————=2.25%

2,925.00

Loan \$500.00—Principal Repayments per month \$41.66 (4) \$41.67 (8)

Interest—3% per month on balances \$100 or under.
 2% per month on balances \$101 to \$300.
 1% per month on balances \$301 to \$500.

Month	Balance	Monthly repayment		
		Interest	Principal	Total
1..	\$500.00	\$9.00	\$41.67	\$50.67
2..	458.33	8.58	41.67	50.25
3..	416.66	8.17	41.66	49.83
4..	375.00	7.75	41.67	49.42
5..	333.33	7.33	41.67	49.00
6..	291.66	6.83	41.66	48.49
7..	250.00	6.00	41.67	47.67
8..	208.33	5.17	41.67	46.84
9..	166.66	4.33	41.66	45.99
10..	125.00	3.50	41.67	45.17
11..	83.33	2.50	41.67	44.17
12..	41.66	1.25	41.66	42.91
		\$70.41	\$500.00	\$570.41

Total of monthly balances..\$3,249.96

Average monthly balance.. 270.83

Interest rate per month. . . . 70.41

—————=2.17%

\$3,249.96

NOTE.—The ten preceding repayment calculations prepared by *Campbell Auto Finance Company, Limited*, and certified correct by *Oscar Hudson & Co., Chartered Accountants.*

THE PERSONAL FINANCE BUSINESS IN CANADA

Brief submitted by Mr. ARTHUR P. REID, Vice-President, Central Finance Corporation, Head Office, Toronto, Ont., March, 1938

I. INTRODUCTION

This memorandum has been prepared by Central Finance Corporation which is by far the largest Personal Finance Company in Canada, and is therefore vitally interested in the regulation of the small loan industry. The memorandum covers some ground already covered by experts who have given evidence before the Committee. Presumably the Committee will wish to consider conditions as exemplified by the experience of the largest Canadian company, and as most of the material for this memorandum was prepared in 1936 and 1937 in connection with our earlier efforts to obtain general legislation even those parts that are in a sense repetition may be valuable corroboration of the recommendations already made. Nothing that has been said this year has necessitated any change or even any modification of the recommendations that we made to the Senate Committee on Banking and Commerce in 1936.

We believe that proper legislation can only be secured when Parliament has been honestly and fully informed as to the problems and all the relevant facts and arguments, from the consideration of which proper and permanent solutions may emerge. We have therefore made an earnest effort to state facts accurately and to present arguments with scrupulous fairness to all points of view. We welcome the most searching investigation of our business, believing that the more fully it is understood the more certain we may be that workable legislation will be enacted.

II. THE GROWTH OF PUBLIC DEMAND FOR SMALL LOANS

Money lending is as old as history—it has been practised as long as there has been any recognized medium of exchange, but until about fifty years ago the small loan problem was one of human poverty and human improvidence. It was not considered a business problem, and laws dealt with the small loan business only by prohibiting it. Toward the end of the last century there were two great developments, one being the movement of population to the cities, the other being mass production by machine methods. This industrial revolution changed the entire structure of society, but neither men's understanding nor the statutes kept up with the change. An insatiable demand for small loans for consumptive purposes arose from the rank and file of our citizens, and that demand was filled. Farmers and independent artisans, now become wage earners, were crowded together in cities and were without reserves of food or clothing. When their regular pay ceased or their necessities increased, they had to borrow. What had been a problem of poverty became a problem of economics. The small loan industry did not have its beginning in a plethora of funds which an individual or a group of individuals decided to rent at rates highly profitable to themselves. It arose out of borrower demand.

One feature of our economic life which has not kept pace with the development of mass production in industry is the supply of consumer cash credit in sudden emergencies. No one denies that the ideal way to meet sudden demands for cash is from savings, but evidence shows that for a majority of families, large savings are out of the question. The modern city worker is dependent for his very existence on the contents of his pay envelope. He is only one small wheel in a tremendous producing machine and does not, of himself, produce a

single completed article which he or his family consume. He may play his important part daily in the manufacture of a tractor which helps to increase the production of wheat which he eventually buys in the form of bread from his local baker. Any interruption to his steady supply of cash income, or any sudden emergency which requires more credit than he has been able to set up as the difference between his "income" and his "outgo" may mean very sudden disaster to the urban worker and his family, and thus rob the primary producer of part of his market. Such sudden, wholly justifiable and reasonable demands for cash credit constitute an amazing total in any large city.

The position of the industrial worker, who, through misfortune or ignorance, has not made sufficient provision for emergencies, may be a desperate one. Often in a very natural spirit of optimism he has tried to maintain a higher standard of living for his family than his income justified. A sudden decline in demand for the product which he helps to make may mean a sudden temporary reduction in income which is not compensated by a proportionate reduction in the cost of food, clothing, rent, fuel and taxes and he may have to exhaust his reserves and strain his credit before his income is restored to the level on which he has based his standard of living. Sometimes he lacks financial sense, spends his money thoughtlessly and is suddenly faced by a lion in his path in the form of a sudden emergency expenditure which threatens the security and well-being of his home and his family.

With conditions as they are rather than as we might like to have them, savings often are not available when they are most needed. On such occasions when extra cash would be very helpful—in sickness, accident and death, during temporary unemployment, for rescue from a tangle of piled up debts, or to take advantage of sudden opportunities—credit is often the only recourse. Provided a budget can be worked out by which a loan can be repaid within a reasonable time without undue strain on the borrower's income, the cost of a loan is money well spent.

These are the conditions which have created a tremendous demand for a widely distributed, readily accessible and openly operated source of consumer cash-credit.

William Green, President of the American Federation of Labor, in a letter to Governor Albert G. Schmedeman of Wisconsin, dated Nov 11, 1933, said:—*

This class of necessitous borrowers is a very important group, having grown greatly in numbers with the transition from rural to urban life during the past generation. Providing adequate facilities for them is just as important a duty of the state as providing for industry and agriculture.

III. METHODS FOR MEETING THIS DEMAND

The available agencies to meet this demand fall naturally into three classifications which are here placed in the order in which they logically occur to the sincere and unbiased student of this problem:

- (A). Philanthropic.
- (B). Co-operative.
- (C). Commercial.

This order coincides with the order of study and experiment undertaken by the Russell Sage Foundation when they began their extensive survey and experiments in the United States about 1910.

(A) *Philanthropic*

The first thought that occurs to the socially minded student of this subject is that the desperate need of the borrower makes him a fit subject for philanthropy. Through ignorance, misfortune, emergency or bad management

* The Personal Finance Business in New York—p. 24.

—due to circumstances for which he may be responsible or which may be beyond his control—he has been placed in a position where he must have cash immediately in order to maintain his home and the welfare of his family; maintain his reputation in the community, or help some relative or friend who merits his assistance. He is in no position to bargain for the cash he needs any more than the patient with a ruptured appendix can afford to bargain over the cost of an ambulance and hospital services. He is, therefore, ripe for exploitation by the unscrupulous lender and may be considered as a fit subject for philanthropy or charity.

There are, however, three very potent objections to the philanthropic solution. The most important is the need for saving the pride and independence of the borrower who bitterly resents the imputation that he is not a valuable and productive unit in his community, and requires some charitable organization to take over responsibilities which he has, in all good faith, assumed.

The second difficulty is that no adequate supply of capital from philanthropic sources has yet been found.

The third and most practical objection is that even where philanthropic capital has been found, the cost of giving the service is so close to that of the supervised commercial agencies that the philanthropic source of the capital fades from the picture and leaves only two alternatives—either an additional burden on the public treasury or a cost to the borrower almost indistinguishable from that of the well-organized commercial agency operating on a purely profit-making basis. It might be recalled that Mr. Leon Henderson stated that the rates charged by semi-philanthropic agencies for making chattel loans ranged from 2 per cent to $2\frac{1}{2}$ per cent per month.*

(B) *Co-operative*

Credit Unions were first developed in Europe to serve small rural communities which lacked normal banking facilities, and involved the pooling of individual financial resources, controlled by a selected group of volunteer officers, usually under the leadership of the parish priest or the local schoolmaster. The founders of the credit-union principle made the first condition of their operations that loans should be granted for productive purposes only. That is, to provide capital for the purchase of seed, stock, tools or the financing of some productive and profitable enterprise.

Capital was supplied by the deposits of members, services were given free and there was no overhead. Loans were granted on approval of the loan committee who had intimate knowledge of the personal affairs of all members of the union. The idea has been very successful in the field for which it was designed. No sincere student of economics or sociology will deny the value of the credit union and the service it is giving.

When the credit union enters the field of "consumer" loans in large cities, however, conditions change entirely.* Successful operation of a credit union implies two things—(1) intimate knowledge by the loan committee of the borrower's business and family affairs, and (2) the endorsement of at least one and generally two or more members of the union who have funds on deposit and are willing to guarantee the loan.

The first requirement is for the most part impracticable in a large community or in a large industry, and the endorser requirement places this type of loan in the same class with commercial agencies who charge approximately the same rate as the generally accepted 1 per cent per month for the Credit Union Loan.

* Minutes B. & C. Committee, 1938—p. 96.

* See evidence of M. Vaillancourt, Caisse Populaire statistics for city of Montreal, B. & C. Committee, 1938, part 6.

One of the most successful credit unions in Canada is that operated by the Civil Service employees in Ottawa. Due to the fact that overhead expense is negligible and there is no risk of loss, loans are made on the endorsement of fellow-members at the rate of 6 per cent per annum (interest, not discount). Yet even this very low rate is not enough to attract all the eligible borrowers. A great number of those eligible for loans from the credit union prefer the quick and confidential service of the supervised personal finance companies even though the cost is greater.* This is evidenced by the statistics submitted to this committee by Mr. Vaillancourt, manager of the Caisses Populaires, which show that in the six years from 1930 to 1935 inclusive the total amount of note loans in sums of from \$50 to \$500 by all Caisses Populaires in Montreal amounted to only \$310,041—an average of \$51,673 per year. In contrast with this, the Industrial Loan and Finance Corporation lends nearly \$750,000 annually in Montreal at rates almost five times those charged by the Caisse Populaire.

Credit unions are good and should be encouraged, but after twenty-six years of systematic nursing in the United States they were (in 1935) doing only about one-sixth of the volume of business done by personal finance companies.**

(C) *Commercial:*

There are a number of commercial agencies which supply consumer cash credit in Canada.

1. Banks lending on negotiable security such as stocks, bonds and partially paid-up insurance policies. Such loans cost from 5 per cent to 7 per cent per annum.

2. Insurance companies lending directly on the cash-surrender value of their own policies. These loans also cost from 5 per cent to 7 per cent per annum.

3. Personal loan departments of chartered banks, which make loans on the security of the signature of guarantors satisfactory to the bank. These loans cost 6 per cent discounted in advance, plus certain fees, charges and penalties, and are repaid through the medium of a deposit account in which the borrower agrees to deposit one-twelfth of the face amount of his loan each month. He cannot draw on this account for any purpose other than the liquidation of his loan.

The 6 per cent "discount" rate is roughly equivalent to 12 per cent per annum or 1 per cent per month when the borrower makes equal monthly payments over a period of one year.*

4. The chartered, licensed and supervised personal finance companies, of which there are only three, Central Finance Corporation, Industrial Loan and Finance Corporation and the Discount and Loan Corporation.

5. The provincially incorporated personal finance companies whose methods and rates are not subject to supervision and control.

6. Individuals and partnerships, popularly branded as "loan sharks."

7. The pawnbroker who lends money on the pledge of some valuable personal possession left with the lender until redeemed, or until the expiration of the contract permits the pawnbroker to sell the goods in liquidation of the loan.

It is not suggested that there should be any curtailment of the operations of banks, insurance companies and pawnbrokers in making loans for consumptive purposes. But while each has a particular field for which it is adapted,

* B. & C. Committee evidence, 1938, pages 132-133.

** See p. 21, "Credit for Consumers."

* B. and C. Committee evidence, 1938, p. 113.

there is left a very large field which they have never covered and which they are not equipped to cover.

The field that remains consists of borrowers with the poorest security and often the greatest need, and is covered by the Personal Finance Companies and the "loan-sharks."

That there is a large and growing demand for the type of loan service supplied by Central Finance Corporation is proved by our own experience. During the last five years this company made 132,471 loans for sums of \$500 or less, amounting to a total of \$23,001,655. These loans were made in the Province of Ontario alone and through a maximum of only thirteen offices. The growth in public demand for this type of service is reflected by the following figures for this Company: —

	No. Loans Made	Average Loan Made	Amount Loaned
1933.....	7,930	\$ 185	\$ 1,471,360
1934.....	17,216	188	3,245,140
1935.....	23,987	176	4,227,713
1936.....	37,071	169	6,269,586
1937.....	46,267	168	7,787,856
	<hr/> 132,471	<hr/> \$ 174	<hr/> \$23,001,655

It is submitted, therefore, that the object of any general small-loan law should be to make available to the borrower the type of loan service supplied by this Company but under strict supervision and regulation, and at the same time as far as is humanly possible to eliminate the "loan-sharks."

IV. SMALL-LOAN LEGISLATION IN OTHER COUNTRIES

Except for the historical development of the credit union movement, profitable study of small-loan legislation in other parts of the world appears to be confined to Great Britain and the United States.*

In Great Britain the first attempt to enact legislation to cope with modern economic conditions was made in 1925, when a Joint Select Committee of the Lords and Commons under the chairmanship of Lord Darling studied and reported on an amendment to the British Money-Lenders Act which was passed in 1927. Under this amended Act the borrower has the right of appeal to the Courts if he believes the rate charged him for a loan is unconscionable. If the rate charged is less than 4 per cent per month the borrower must prove, if he can, that the rate is harsh or unconscionable. If the rate is greater than 4 per cent per month, the Court assumes that it is unconscionable and the lender must prove, if he can, that the charge is fair. The Court may rewrite the contract on terms which it may deem equitable.**

During the British Parliamentary debates and the committee discussions there appears to have been no doubt either as to the demand for the service or the need for some form of regulation.***

The most progressive and effective legislation has been developed in the United States where, since 1910, the Russell Sage Foundation has been very active in studying, experimenting with and urging the adoption of effective and workable small-loan laws.****

Mr. Leon Henderson described very fully the working of small-loan laws in the United States in his evidence.*

* See Mr. Henderson's minutes B. & C. Committee.

** See "Money Lending in Great Britain."

*** See British Parliamentary Debates and Evidence of Joint Select Committee of Lords and Commons, 1925-1927.

**** See "Regulations of the Small Loan Business."

* See minutes B. & C. Committee, part 4.

Because of the similar living and social conditions in Canada and the United States, and because of the evident benefit to the borrowers following the adoption of workable small-loan laws in 26 of the States, it seems reasonable that we should make every effort, in drafting Canadian legislation, to profit by the experience of our neighbours.

V. CANADIAN SMALL LOAN LEGISLATION TO DATE

In his latest report on Small Loan Companies Mr. Finlayson has set out a very excellent historical review of the Dominion legislation. It may, however, be of some value to tabulate, without unnecessary repetition, the number of occasions on which Parliament has recognized the two fundamental features of this type of legislation, first, the protection of the borrower and second, an authorized rate of charge high enough to induce an adequate amount of efficiently managed commercial capital to enter the small-loan field.

Parliament, recognizing that the type of citizen who borrows sums of \$500 or less needs special protection, passed the Money-Lenders Act as long ago as 1906. This Act recognizes the possibility of disguising interest and attempts to limit the cost of the loan to a maximum of 12 per cent per annum on loans of \$500 or less. The Committee heard Mr. Varcoe and others explain how easily the law may be evaded and the cases mentioned in Mr. Finlayson's report and in the public press make it clear that this law is in fact being evaded every day.

In 1928 Parliament recognized the other essential feature—that 12 per cent per annum is not enough for a commercial small-loan company—by incorporating Central Finance Corporation and authorizing it to charge rates, including charges, in excess of 12 per cent per annum.

After only four months' operation, Parliament at its next session in 1929 was convinced that still higher rates were necessary and accordingly passed an amendment to the Special Act incorporating Central Finance Corporation. In 1930, 1933 and 1934 Parliament reaffirmed its stand with regard to rates and regulation in connection with money-lending by passing private Acts incorporating the following small loan companies:—

Industrial Loan and Finance Corporation—1930 cap. 68

The Discount and Loan Corporation—1933 cap. 63

Personal Finance Corporation—1934 cap. 69

The Small Loan Company of Canada—1934 cap. 72

In 1934 Parliament recognized a third important principle in relation to small loans—that while the costs of obtaining and servicing a loan of \$50 are practically the same as for a loan of \$500 it is better that the borrower of the larger sum (having presumably a better credit rating and a wider range of choice) should pay a little more than that the borrower of the very small amount should pay the full costs attributable to his loan. Though the fee of \$10 first authorized in 1929, might fairly represent the additional cost of a chattel loan as opposed to an endorsed loan, yet on the very small loan this additional fee represents a very high percentage of the principal sum loaned. Parliament therefore passed the 1934 amendment to the Loan Companies Act limiting the maximum charge for interest and costs of all kinds to $2\frac{1}{2}$ per cent per month. This amendment was only applicable to the Dominion companies incorporated by special Acts and could not therefore be used to regulate provincially incorporated loan companies or to combat the "loan sharks."

During the same year (1934) both Mr. Finlayson and the representatives of Central Finance Corporation were strenuously advocating a clearer, simpler statement of the rate and general legislation to regulate all lenders for the borrowers' protection. Draft legislation was prepared but was never introduced into Parliament.

In 1936 a lengthy study of the whole subject was conducted by the Banking and Commerce Committee of the Senate and again Central Finance Corporation took an active part in advocating legislation identical in all essentials with the recommendations made to this Committee by Mr. Leon Henderson. While no legislation resulted from this study, the Senate Committee became convinced that—

- (1) The commercial small loan company is now economically and socially necessary in Canada;
- (2) That the maximum authorized rate should be $2\frac{1}{2}$ per cent per month; and
- (3) That the rate should be all-inclusive and clearly stated.

At the end of this lengthy study, the Honourable the Minister of Finance, speaking in the House of Commons on June 9th, 1936, said that it was the intention of the Government to initiate a further examination of the matter with a view to amending existing general legislation. In the Autumn of 1936, Central Finance Corporation circulated a petition for the appointment of a Royal Commission to investigate the whole matter, including its own operations. This petition filed in November 1936, was signed by 135 very representative men and women, corporations, chambers of commerce, etc., but no action was taken.

Having failed to get either general legislation or even a further study of the problem, this Company introduced a Private Bill last year which had in it many of the restrictions recommended by the Russell Sage Foundation. During the deliberations of this Committee on the Private Bills introduced by this Company and by Industrial Loan and Finance Corporation, this Company again urged that $2\frac{1}{2}$ per cent per month was the proper rate for the industry as a whole, though it could itself operate profitably in the larger centres at a slightly lower rate. Under pressure and upon the distinct understanding that the matter would be gone into again this year, this Company offered to experiment for one year at a rate of 2 per cent per month, but emphasized its opinion that this rate was too low and that a year's operation would establish this beyond question. The short session of Parliament ended before the much altered Bill that came out of Committee could be given third reading.

This brief résumé will serve to remind the Committee of two things. The first is that this Company, as the Canadian pioneer, has been continuously endeavouring to remedy what for at least four years we have realized is a serious situation. The second is that nearly every year since 1928 this Parliament has affirmed the need for commercial small loan companies, the need for supervision and regulation and the need for a maximum rate in the neighbourhood of $2\frac{1}{2}$ per cent per month on unpaid balances.

We point with pardonable pride to the fact that the recommendations made by this Company to the Senate Committee in 1936 were in all essentials identical with those made this year by Mr. Leon Henderson. Mr. Henderson's evidence is the result not only of his own extensive experience but also of the cumulative experience of the Remedial Loans Department of the Russell Sage Foundation extending over more than thirty years.

VI. THE ESSENTIALS OF IDEAL LEGISLATION FOR CANADA

Regulatory legislation, if effective, must recognize the following basic facts:—

1. There is in every urban community a persistent and growing demand for what we conveniently call small loans.
2. Since lenders cannot be forced to lend, this demand will only be met if, and so long as, the lender can meet it at a profit to himself.
3. Borrowing cannot be stopped by legislation.
4. The conditions under which the borrower and lender meet are so unequal that some form of State intervention is necessary in order to prevent the unscrupulous lender from pressing his advantage unfairly.

The essentials of ideal legislation may be conveniently discussed under three main headings:—

- (A) The rate of charge that is necessary in order to induce lenders to make loans.
- (B) The supervision and regulation necessary to protect the borrower from exploitation.
- (C) The steps to be taken to eliminate the loan shark.

(A) *RATE*:

If a working man in urgent need cannot borrow on reasonable terms he will borrow on unreasonable terms and no legislation will stop him. Legislation can, however, protect him by supplying some source from which he may borrow at fair rates. When a man sees his wife or child in need of the doctor's care, or the bailiff is threatening to put his family out on the street or seize his possessions or garnishee his wages, he will go to a money-lender, and if he cannot find one who has been allowed to make a reasonable profit *within* the law, there will always be someone who will be willing to make him a loan at an illegal rate. Most men prefer to do business with the law's protection and the approbation of their fellow citizens, but there are "bootleggers" in this business as in so many other businesses and as usual the bootlegger's customer pays dearly for the extra risk involved in breaking the law.

It is a common and not unnatural misconception that a very low rate will eliminate illegal competition. In fact the contrary is true.* Obviously there is some point below which it becomes unprofitable to make loans no matter how gilt-edged they may be, because it costs money to sell, make, service and collect loans even under absolutely ideal conditions. Once a profitable business has been established, some loans can be made which by themselves would be unprofitable but the tail must not be allowed to wag the dog, and as the rate becomes lower the lender is forced to become more selective in the loans that he makes. Each borrower whose loan must be rejected is forced to become dependent upon charity or to borrow from bootleggers at bootleggers' rates. The "loan shark" is best controlled by a rate that will be high enough to produce aggressive competition amongst legal lenders.

It is also important to bear in mind that the rate to be determined is a maximum rate. The word "maximum" itself has certain implications. It presupposes a range of action below the maximum—a competitive business. Any so-called maximum rate so low that it in fact permits only one agency to operate would actually be a minimum rate as well and would create a practical monopoly of the legal business.

The business of small-loan companies is at its best during the *recovery* periods following a depression, and the statistics of earnings of the Canadian supervised companies for the years 1933 to 1936 inclusive are, therefore, probably higher than the average would be over a prolonged period.

The profits of the three supervised Dominion companies to date have been small. The only two other companies with similar charters never even commenced business. As one company had plenty of financial backing and as the group which organized the other preferred to carry on its lending through a provincially incorporated company, it may be safely assumed that the reason they allowed these charters to outlaw was that they did not consider the maximum rate of 2½ per cent per month sufficiently attractive.

* Regulations of the Small-loan Business, p. 245.55.

The Personal Finance Business, p. 235.

Banking and Commerce Committee, 1938, p. 94.

The gross income of Central Finance Corporation expressed in terms of "rate of interest per month collected from borrowers" is as follows:—

1933—	2.65%	per month
1934—	2.56%	per month
1935—	2.38%	per month
1936—	2.45%	per month

If, during these years, Central had charged its customers on the basis of a flat rate of $2\frac{1}{4}$ per cent per month the average net annual return on employed assets (before paying interest on borrowed funds) would have been 5.34 per cent.

We cannot calculate accurately what the corresponding profits of Industrial Loan and Finance Corporation and the Discount and Loan Corporation would have been at a $2\frac{1}{4}$ per cent rate, but from Mr. Finlayson's latest report the actual average profits for the same period at the present permitted rates, which reach a maximum of $2\frac{1}{2}$ per cent per month, are as follows:—

Industrial—4-year average before interest—4.78 per cent (Mr. Finlayson's Report, 1936—p. 29)

Discount and Loan—4-year average before interest—1.88 per cent (Mr. Finlayson's Report, 1936—p. 28)

It should be borne in mind that as the plan now proposed is a true interest plan, no charges will be deducted in advance, and it will be a practical impossibility to collect more than 97 per cent of the interest earned. This means that the gross revenue will be less than $2\frac{1}{4}$ per cent per month on loan account—perhaps only 2.18 per cent per month.

A study of the evidence will show that only a large volume of business will permit profitable operation at $2\frac{1}{4}$ per cent per month. Any reduction from this rate will therefore tend to restrict the legal commercial service:—

- (a) To the most thickly populated industrial areas.
- (b) To the largest and most profitable sums.
- (c) To the most select risks

and will effectively prevent any possible extension of such service to smaller cities, smaller loans or the most needy class of borrowers.*

The danger of forcing the rate down too low is illustrated by the experiences of the States of West Virginia, New Jersey and New York.

In 1925 West Virginia passed a small-loan law with a rate of $3\frac{1}{2}$ per cent per month. In 1929 that rate was reduced to 2 per cent per month. On June 30, 1929, there were 62 licensees. By June 30, 1932, the number had shrunk to 22. The volume of outstanding loans had shrunk from \$3,600,000 to \$900,000 at the close of 1932. *The amount of illegal lending increased tremendously.* At that time John B. Easton, President of the West Virginia State Federation of Labor wrote to the legislature:

"You have not alone made it impossible for a man to borrow at $3\frac{1}{2}$ per cent, but you have gone further. You have prevented him from borrowing at all, except through the 20 per cent loan shark."

By March, 1933, West Virginia had had enough of its experiment and increased the maximum rate to $3\frac{1}{2}$ per cent per month up to \$150 plus $2\frac{1}{2}$ per cent per month on any excess.

Similarly New Jersey had a rate of 3 per cent per month, reduced this to $1\frac{1}{2}$ per cent per month and had to increase it again to $2\frac{1}{2}$ per cent per month.* New York State had an effective rate of approximately $2\frac{1}{4}$ per cent per month, but in spite of the density of population, there were, after the law had been in effect seventeen years, only 21 licensees with outstanding loan balances

* B. & C. Committee evidence, p. 77-8.

* Personal Finance Business, p. 132.

totalling \$8,071,481. Effective June 1, 1932, the rate was increased to 3 per cent on the first \$150 plus $2\frac{1}{2}$ per cent on any excess. In seven months of operation under the new law there was a 25 per cent increase in the volume of outstanding legal loans. Apparently the $2\frac{1}{4}$ per cent rate which we are asking for ourselves in Canada was not sufficient to attract commercial capital to New York in any considerable volume.

In England the maximum loan rates are not fixed by law. The English Money-Lenders Act provides that where the rate exceeds 48 per cent per annum (4 per cent per month) the Court shall, unless the contrary is proved, presume that the interest charged is excessive, but Courts have in recent years held that much higher rates are justified by particular circumstances.*

In Australia experience in the small-loan industry dates back well over 50 years. The rate in New South Wales apparently ranges from $2\frac{1}{4}$ per cent to 3 per cent per month according to the type of security taken. In Tasmania anything over 100 per cent per annum is by law declared to be excessive, but the rates actually charged are in the region of 50 to 60 per cent per annum.

Having given due consideration to the factors affecting the borrower we turn logically to a consideration of how a fixation of rate will affect the flow of capital into the small-loan industry.

Personal Finance Companies are not permitted to obtain cheap working capital by accepting deposits, nor are they allowed to sell bonds, debentures or preferred stock, and their capital must therefore be supplied normally by the expensive method of selling common shares.

The ordinary purchaser of securities looks for income, capital appreciation, or a combination of the two. He knows that if the judgment of the majority is accepted as correct, the general rule (to which there are frequent exceptions) is that the investment offering the best security for principal, yields the lowest income and the one that offers the most attractive opportunity for capital appreciation perhaps does not yield any income at all. The gap between these two extremes is filled with many variations. On the one hand, as the security of principal decreases the income yield increases,—while on the other hand stocks that offer an attractive gamble are nicely graded with those that are rising out of the gambling class and are beginning to yield some income. The public likes a good gamble with a touch of romance in it and will take great risks if there are possibilities of great profits, but if the profits are to be limited by law, great capital appreciation cannot be expected and therefore the investor will look for security of income and principal or high income yield. These elementary principles are, of course, complicated by all sorts of other factors. The public takes time to recognize good management. Some industries are more stable than others—some are free from Government intervention—some are not.

The legislative hazard in constantly having to justify earnings before state legislatures, has been of great importance in the United States, and is obviously of great importance in Canada. The age-old prejudice against the business of money lending makes any legislation relating thereto a target whenever it is brought before Parliament. No investor likes to invest his money in an unseasoned business in which the profits in good times are unreasonably restricted and in bad times may disappear.

If the borrower is to be adequately served and the illegal lender eliminated the legal rate must be, not one *that ought* to attract capital, but one that in fact *does* or *will* attract capital to enter the business. Parliament should therefore bear in mind that this business must compete in the open market with other businesses seeking to attract the investor's dollar. No statute can *compel* anyone to invest money in the small-loan business or even to *keep* in the business what may be *already* invested in it.

* Money Lending in Great Britain, p. 109.

Relevant to the consideration of this point is the annual report of the Massachusetts Bureau of Loan Agencies, September 1935 which says:

"The experience of other states proves conclusively that to fix the rate of charge too low is to invite disaster. It is not only that the licensed agencies are forced out of business. The great trouble is that the demand for loans continues and with the law-abiding agencies closed, the borrowers are forced to turn to bootleg lenders who promptly come into the state, do not take out licences, operate in defiance of law, employ harsh collection methods, and charge all the traffic will bear—from 10 per cent a month to 120 per cent a month. In short, if rates are fixed too low, it is the citizens of the state who need to borrow who are the chief sufferers."

(B) *Supervision and Regulation:*

Borrowers of small sums are almost invariably poor people who are in urgent need of cash. The very urgency of the borrower's need makes it impossible for him to bargain advantageously and he is, therefore, frequently victimized by unscrupulous lenders unless he is protected by effective legislation adequately enforced. We have already demonstrated that to make the legislation effective the rate must be one that will in fact induce a sufficient amount of efficiently managed capital to enter the field. The next step is to anticipate and guard against the unsocial practices of unscrupulous lenders. This should be done by:—

- (a) Seeing that a licence to charge the maximum permitted rate is only granted to lenders who possess carefully prescribed qualifications.
- (b) By surrounding this business of money lending with regulations which long experience in other countries have proved desirable, and
- (c) By setting up a complete system of supervision designed to detect evasions of the regulations and supported by provision for drastic penalties both civil and criminal.

Experience in Canada and the United States indicates that the following general points should be covered:—

(1) The field should be defined by fixing the maximum loan. In Canada the Money-Lenders Act deals only with loans of \$500 and less. In the United States it has been usual to fix the maximum at \$300 but it is submitted that this maximum is not desirable for Canada and that even in the United States it may soon be increased.

When in 1916 the Russell Sage Foundation commenced its campaign to have its Uniform Small Loan law enacted in various States it had to establish before each State legislature that the regulatory law was for the protection of a certain class, otherwise the law would have been unconstitutional. Experience at that time indicated that the abuses which the Foundation sought to correct, chiefly occurred in loans under \$300 and that lenders rarely made a practice of lending more than that amount. In Canada the \$500 classification has already been established both by the Dominion Money-Lenders Act and by the practice of some of the companies. That there is a demand for loans over \$300 in Canada is borne out by the fact that in 1935 Central Finance Corporation made 16.11 per cent of its total number of loans in amounts of \$300 and over, and that in dollar volume these loans represented 34.97 per cent of the total money loaned. The evidence of Mr. Rettie, the President of the Civil Service Co-Operative Credit Society Limited not only supported this view, but stated that it was often desirable to lend more than \$500.

We are advised that in two industrial States, namely Ohio and Michigan, the State Supervisors are recommending at the next session of the Legislature that the maximum be increased from \$300 to \$500.

The maximum amount of the loan has a direct bearing on the rate. It has been generally admitted that the principle of making the borrower of larger

sums contribute towards the cost of making the very small loans, is sound. The unit cost per loan being practically the same for all loans, it follows that if a flat rate of $2\frac{1}{4}$ per cent per month would yield a satisfactory profit with loans properly distributed over the whole bracket up to \$500, such a rate would yield an unsatisfactory profit if the maximum was reduced to \$300 and would result in an actual loss if all loans were made in the bracket of \$100 and less.

Having established that a borrowers' demand exists in Canada for personal finance companies to make loans up to \$500, we may consider which of the two following rates is the better:—

- (a) A rate of $2\frac{1}{2}$ per cent per month for the first \$300 portion of the loan balance and 1 per cent per month on that portion of the loan balance in excess of \$300.

This form of combination rate would be the equivalent of the following flat rates on ten-month loans:—

\$500,	2·23	per cent per month.
\$450,	2·30	per cent per month.
\$400,	2·38	per cent per month.
\$350,	2·45	per cent per month.
\$300,	2·50	per cent per month.

- (b) A flat rate on all loans of \$500 or less at $2\frac{1}{4}$ per cent per month.

When Mr. Leon Henderson spoke in favour of a \$300 maximum he also recommended a flat rate of $2\frac{1}{2}$ per cent per month—not $2\frac{1}{4}$ per cent. Naturally if the limit is reduced the potential loan market and, of course, the lenders' income is also reduced and it becomes necessary for the lender to charge a higher rate on the loans of \$300 or less.

A further result of limiting the maximum to \$300 is to discriminate against the man who needs to borrow an amount between \$300 and \$500. If he can qualify for a loan at a credit union or bank personal loan department and prefers these types of service there is no problem, but is it fair to say to him that even if he wants to do so he cannot use the services of a personal finance company? Experience has proved that he will borrow if he really wants the money and is entitled to it. The demand is bound to be met by someone—perhaps in one or more of the following ways:—

- (a) He can borrow the extra \$200 from another personal finance company at $2\frac{1}{2}$ per cent per month, or
 (b) From a personal loan department of a bank at 1 per cent per month, or
 (c) From any unlicensed lender legally at 1 per cent per month, or
 (d) From a loan-shark possibly at 10 per cent per month.

If he does any of these his \$500 loan will cost him as much or more than it would under either of the first two rate plans (a and b) suggested above.

The only effect of such a limitation in so far as the would-be borrower of \$400 or \$500 is concerned is that the field within which he may borrow legally is restricted without saving him any money. The borrower of smaller amounts receives no advantage, but on the contrary must pay to the lender a rate of $2\frac{1}{2}$ per cent instead of $2\frac{1}{4}$ per cent.

(2) Lenders must be licensed. The privilege of charging the necessarily high rate of interest must be restricted. The most satisfactory way to accomplish this is to establish a licensing scheme. Such a scheme may be supported constitutionally upon the argument that in order to prevent evasion of the regulation of interest, it is reasonably necessary to require that the privilege should be granted only to those who are not likely to abuse it. This also

justifies constitutionally a requirement that applicants for a licence should possess certain qualifications, such as the following:—

- (a) The experience, character and general fitness of the applicant should be such as to warrant belief that the applicant will honestly, fairly and efficiently lend money without attempting to evade the provisions of the Act.
- (b) The applicant should be possessed of net assets of, say, \$100,000 available in Canada for the making of loans. Some such money qualifications have been found highly desirable as abuses are more frequently committed by lenders with too little capital.
- (3) Machinery should be provided for the investigation by the superintendent of applications for licences and for an appeal from his decision if it is adverse.
- (4) The superintendent should be given wide powers of examination of all lenders, even if not licensed, with the view of seeing whether the Act is being evaded.
- (5) Safeguards against subterfuge and evasion should be provided.
- (6) Penalties for exvasion of the Act should be of three types—revocation of the licence, voidance of the loan contract with a heavy fine or imprisonment in bad cases.

(c) *The Elimination of the Loan Shark:*

The Act should contain in addition to a licensing scheme, a general prohibition aimed at all lenders who do not take out a licence.

This prohibition would take the place of the present Dominion Money-Lenders Act, and should prohibit the making of loans by others than licensees at a total cost to the borrower of more than 12 per cent per annum. In order to combat the extraordinary ingenuity of the unscrupulous lender, it will be found necessary to deal with the amount that the borrower pays for his loan rather than with the amount that the lender receives. The constitutional problem involved in this prohibition has already been fully dealt with by witnesses before the committee.*

It will also be necessary to provide against the abuse of certain transactions which are not, in form, loans. The practice of "purchasing" wages is very widespread and so vicious when employed by unscrupulous lenders that it is of great importance that some constitutionally sound provision be incorporated to prevent its abuse. The amount by which the wages assigned exceeds the consideration paid by the purchaser is in effect—and usually in law—interest.

Any violation of the more important provisions of this Act expose the lender to a severe fine or imprisonment, and in addition the loan contract should be made unenforceable.

It should, however, be borne in mind that by far the most effective method of eliminating the "loan-shark" is to take his business away by encouraging vigorous competition from legal lenders. Legal lenders will, in their own interest, do far more to police the industry than can ever be done by the ordinary agencies of either Federal or Provincial Governments. No one of these features is adequate; but by making his business unprofitable, by making him a criminal and by having him watched by those who know the tricks that he can play, the "loan-shark" may be eliminated as far as it is humanly possible to do so.

* B. & C. Committee evidence, 1938, p. 41-2.

SUMMARY

The evidence of experience in the small-loan industry both in Canada and elsewhere may be summarized as follows:—

- (1) The modern urban worker is periodically faced with financial crises which make cash advances against future income an urgent necessity in order to avert disaster. Such crises may be either the result of misfortune, mismanagement or a sudden opportunity for advancement.
- (2) The wage-earning family is seldom possessed of tangible security sufficient to qualify for a loan from a bank or pawnbroker.
- (3) The endorsed or co-maker loan, whether from co-operative or commercial sources, has never yet proved sufficient to meet more than a small part of the demand.
- (4) The operating cost of chattel loan service is considerably greater than that entailed in bank, pawnbroker or credit union loans, but is the most in demand of all forms of personal loan service.
- (5) The urgency of the borrower's need and his desire for confidential treatment of his loan transactions place him in an unfair bargaining position, and leave him easy prey to the unscrupulous lender.
- (6) Abuses of the secret transactions between necessitous borrowers and unscrupulous lenders have developed to "racket" proportions and are causing misery and humiliation in every large city.
- (7) The demand for loans of this type can be met by commercial agencies, operating for profit but willing to submit to strict regulation and supervision.
- (8) Such commercial agencies must be permitted a possible profit high enough to ensure an adequate supply of capital and reasonable competition.
- (9) Experience in other countries proves that an "all-inclusive" charge of less than $2\frac{1}{2}$ per cent per month on balances outstanding so reduces the possibility of profit to the legal lender that he confines his operations to the more profitable centres and the more profitable loans. As the rate is forced down the loans become more selective until the point is reached when the legal lender is forced out of business, leaving the field entirely to the illegal "loan-shark" or "bootlegger."
- (10) Failing the cultivation and development of supervised commercial agencies, those needy borrowers who cannot qualify for loans from banks, pawnbrokers or credit unions have only three alternatives open to them:—
 - (a) Charity or public relief with its consequent lowering of morale and added burden on the public treasury.
 - (b) Bankruptcy, resulting in heavy loss to creditors and a long-enduring stigma on the social standing of the bankrupt.
 - (c) Illegal and secret dealings with the "loan-shark" with its attendant fears, worries and abuses which plunge the victim deeper into trouble instead of helping him to re-establish himself.

Household Finance Corporation, of which we are the Canadian Subsidiary has been engaged in the personal finance business in the United States for sixty years. Today it is operating about 240 branch offices and last year made 715,002 loans totalling \$120,973,721.

Its policy has been and is now to make personal loans at the lowest possible rates consistent with a fair and reasonable profit on its investment.

It has been a consistent leader in rate reductions and a large portion of its loans are made at rates lower than those permitted by the regulatory laws.

Its efficiency is demonstrated by the following comparison with its competitors.

1. It collects lower rates of interest from its customers.
2. Its expenses in proportion to the amount of business done are lower.
3. The splendid acceptance of its securities by the investing public is second to none in the small loan industry.

Any recommendations we make are backed by ten years of experience in Canada where we are currently doing about 75 per cent of the business done by the three regulated companies and by sixty years of experience under most efficient management in the United States.

Our recommendations are the result of much research work and years of dearly bought experience. They are not theoretical or born of fancy, but are realistic and practical.

We strongly urge that this committee approve a flat all inclusive monthly rate of $2\frac{1}{4}$ per cent on balances of loans of \$500., and less, because:—

- (a) From experience we believe that any lower rate will not justify the employment of our money in this business in Canada.
- (b) That any lower rate will not begin to accomplish what should be the primary aims of small loan legislation:—
 - (1) Making a legal service available to those who need it most.
 - (2) Elimination of the loan shark.

VII. STATISTICAL INFORMATION:

We are including in our brief the following statistics which should prove helpful in explaining the nature of our business:—

1. Classification of loans according to size of loan—
 - (a) By number of loans made
 - (b) By Dollar Volume of loans made
 - (c) Number of loans made and volume loaned in notes of various sizes
 - (d) Loan balances and number of accounts outstanding.
2. Classification of loans according to Borrower's Income—
 - (a) By number of loans made
 - (b) By Dollar Volume of loans made
3. Relation of loans to income of Borrowers—
 - (a) Average amount of loan made in various income brackets
 - (b) Average monthly income of borrowers in various income brackets
 - (c) Ratio of 1/12 face of note or monthly instalment payment to monthly income in various income brackets
4. Classification of Borrowers by Occupation.
5. Classification of Borrowers by Industries in which they are employed.
6. Percentage Distribution of Borrowers by principal cause of borrowing.
7. Principal Uses of Money Borrowed.

CENTRAL FINANCE CORPORATION YEAR—1937

1. CLASSIFICATION OF LOANS ACCORDING TO SIZE OF LOAN

1a. Size of note—	Number of Loans in each size Group	Per cent of total	Cumulative* per cent
\$ 1— 49	.....	.....	.....
50— 99	28.91	28.91	28.91
100—149	31.94	60.85	60.85
150—199	12.44	73.29	73.29
200—249	10.91	84.20	84.20
250—299	1.92	86.12	86.12
300 & over	13.88	100.00%	100.00%
Total	100%		

* Classification by *number* of loans made.

1b. Size of note—	Face of Note in each size Group	Per cent of total	Cumulative* per cent
\$ 1— 49	.....	.....	.....
50— 99	12.67	12.67	12.67
100—149	24.13	36.80	36.80
150—199	13.30	50.10	50.10
200—249	14.99	65.09	65.09
250—299	3.02	68.11	68.11
300 & over	31.89	100.00%	100.00%
Total	100%		

* Classification by *dollar volume* of loans made.

1c. Loans made during the year—1937—

	Number of Loans	Amount	Average
Loans of \$ 50 to \$ 99	13,374	\$ 986,928	\$ 74
100 to 199	20,532	2,914,680	142
200 to 299	5,940	1,402,704	236
300 to 399	4,504	1,493,988	332
400 to 499	732	333,792	456
500 and over	1,185	655,764	553
Totals	46,267	\$7,787,856	\$168

1d. Loan Balances Outstanding—

	Number of Accounts	Amount	Average
As at Dec. 31st, 1936.. ..	26,491	\$3,115,033	\$118
As at Dec. 31st, 1937.. ..	33,063	\$3,736,056	113

2-a.

NUMBER OF LOANS MADE IN EACH INCOME BRACKET AS PER CENT OF TOTAL

Family Income (Annual Basis)	Per cent of total*
Not reported.. . . . .	.01
Unemployed.. . . . .	.....
\$ 1- 600 .. . . . .	.71
601-1,200..	25.80
1,201-1,800..	40.78
1,801-2,400..	19.55
2,401-3,000..	7.47
Over-3,000..	5.68
Total..	100 p.c.

* Classification by *number* of loans made.

2-b.

FACE OF NOTES MADE IN EACH INCOME BRACKET AS PER CENT OF TOTAL

Family Income (Annual Basis)	Per cent of total*
Not reported.. . . . .	.01
Unemployed.. . . . .	.....
\$ 1- 600 .. . . . .	.40
601-1,200..	17.09
1,201-1,800..	36.73
1,801-2,400..	24.03
2,401-3,000..	11.14
Over-3,000..	10.60
Total..	100 p.c.

* Classification by *dollar volume* of loans made.

3. RELATION OF LOANS TO INCOME OF BORROWERS

3-a.

Family Income (Annual Basis)	Average Face of Note
Not reported..	162
Unemployed.. . . . .	...
\$ 1- 600 .. . . . .	.95
601-1,200..	111
1,201-1,800..	152
1,801-2,400..	207
2,401-3,000..	251
Over-3,000..	314
Total..	168

3-b.

Family Income (Annual Basis)	Average Monthly Income
Not reported.. . . . .	...
Unemployed.. . . . .	...
\$ 1- 600	43
601-1,200..	87
1,201-1,800..	126
1,801-2,400..	174
2,401-3,000..	225
Over-3,000..	324
Total..	143

3-c. Only 9.78 per cent of average monthly income is required to pay the average loan. This includes principal and interest.

Family Income (annual basis)	Ratio of $\frac{1}{12}$ face of note to monthly income
Not reported..	—
Unemployed..	—
\$ 1- 600..	18.70
601-1,200..	10.69
1,201-1,800..	10.03
1,801-2,400..	9.89
2,401-3,000..	9.30
Over-3,000..	8.09
Total..	<u>9.78</u>

90.21 per cent of income is available for other purposes.

4. Percentage Distribution of All Borrowers by Occupation

Occupation	Per cent
0. Unskilled labourers..	5.85
1. Skilled and semi-skilled labourers..	42.20
2. Sales persons..	5.90
3. Office, clerical and other non-manual workers..	19.82
4. Managers, superintendents and foremen..	9.62
5. Owners-Managers..	9.73
6. School teachers..	1.11
7. Professional persons (except teachers)..	2.21
8. Unemployed recipients of independent incomes..	3.14
9. Not reported..	0.12
Total..	<u>100.00</u>

5. PERCENTAGE DISTRIBUTION OF ALL BORROWERS BY INDUSTRIES IN WHICH THEY ARE EMPLOYED

industry	Per cent
1. Agriculture..	1.43
2. Mining.. . . . .	.13
3. Manufacturing—	
Building and construction..	2.20
Food..	7.16
Iron and steel..	4.26
Machinery and transportation equipment..	4.57
Auto factories..	4.11
Textile..	4.62
Other..	13.46
Printing and publishing..	2.68
Total..	<u><u>43.06</u></u>

4. Transportation and communication—	
Postal service	1.62
Railroad and street cars	7.31
Telephone and telegraph	1.11
Truck and taxicab	1.49
Miscellaneous	2.73
	<hr/>
Total	14.26
	<hr/> <hr/>
5. Trade—	
Banking, insurance, real estate brokerage	4.16
Retail trade	9.35
Wholesale trade . . . . .	.82
Miscellaneous . . . . .	.45
	<hr/>
Total	14.78
	<hr/> <hr/>
6. Public service	13.35
7. Professional service	5.14
8. Domestic and personal service	4.23
9. Not reported	3.62
	<hr/>
Total	100
	<hr/> <hr/>

6. PERCENTAGE DISTRIBUTION OF BORROWERS BY PRINCIPAL CAUSE OF BORROWING

Principal Cause of Borrowing	Per cent
Loss of Income	
1. Lack of Employment	3.10
2. Wage earner sick or injured	1.01
3. Other loss of income	1.75
4. Unusual large expenditure	45.94
Miscellaneous	
5. Failure to save for periodical expenses such as taxes, interest, insurance, clothing, coal, etc.	37.05
6. Failure to keep ordinary current expenses within normal income	10.46
7. Not reported . . . . .	.33
No New Money	
8. Renewal of balance . . . . .	.36
Total	100

7. PRINCIPAL USES OF MONEY BORROWED

Amount loaned	Per cent of total	Purpose of borrowing	No. of loans	Per cent of total
\$1,356,816	17.42	Medical, dental and hospital.	8,520	18.41
747,576	9.59	To consolidate sundry overdue bills.	4,698	10.15
541,968	6.95	Taxes.	2,564	5.54
479,184	6.15	Fuel.	3,152	6.81
527,364	6.77	Real estate mortgages and interest.	2,470	5.34
640,176	8.21	Clothing.	4,554	9.84
148,272	1.93	Insurance.	822	1.78
269,136	3.45	Rent.	2,000	4.32
412,164	5.29	Repairs.	2,345	5.07
398,844	5.11	Furnishings.	2,686	5.81
453,132	5.81	Automobiles.	2,329	5.03
147,504	1.81	Moving expenses.	1,072	2.32
107,412	1.37	Food.	739	1.60
59,472	.76	Funeral expenses.	332	.72
		To pay debts already contracted or for unusual emergencies.		82.74%
662,352	8.54	Business needs.	3,121	6.75
405,636	5.20	Travel and vacation.	2,378	5.14
57,456	.73	Education.	289	.63
327,576	4.26	Assist relatives.	1,985	4.29
39,600	.58	Miscellaneous.	174	.37
		For above purposes.		17.18%
6,216	.07	Purposes not specified.	37	.08%
<u>\$7,787,856</u>	<u>100.00%</u>		<u>46,267</u>	<u>100.00%</u>

VIII. Bibliography

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8. Ten Thousand Small Loans by Robinson and Stearns—(Russell Sage Foundation).
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Various reports, booklets and transcripts of evidence during debates on small-loan legislation in Great Britain and the United States.

SUBMISSION BY GENERAL FINANCE CORPORATION, LIMITED

HEAD OFFICE—HALIFAX, N.S.

March, 1938.

The CHAIRMAN,
Banking and Commerce Committee,
House of Commons,
Ottawa, Canada.

SIR,—We desire to respectfully submit herewith, for the consideration of yourself and your Committee, certain thoughts and ideas, which in the opinion of this Corporation and its affiliated Companies, are pertinent to the study of necessary small loan legislation, which is presently receiving the consideration of your Committee.

Before proceeding to a submission of the representations which we shall make to your Committee, we wish to be put on record as being whole-heartedly in accord with any effort which may be made, looking to the enactment of fair and equitable legislation, having as its objective, the regulation of small loans throughout Canada, on a basis which will give due regard to local conditions which exist in various communities throughout the Dominion.

However, there are certain stubborn facts solely confined to the Maritime Provinces, which we feel should be considered by your Committee in preparing the report, that will serve as the foundation for any legislation that may be enacted by the Federal Government.

(1) The first of these facts has to do with the possible volume of business obtainable in certain areas of the Dominion, and we respectfully submit that conditions as maintain in the Maritime Provinces, both as to area in square miles (51,237), and population (1,009,103), are such as to place all Small Loan Companies operating in the Maritime Provinces in the category of those Companies referred to by the Superintendent of Insurance on page 6 of his report, from which we quote as follows:—

For a Company operating in a restricted area, it is doubtful if the demand for small loans is sufficient to produce the volume of business necessary for that purpose, and the rates of interest and charges imposed on borrowers must be comparatively high.

(2) There is next the fact, as will, we believe, be generally agreed, that the great bulk of the business of Small Loan Companies is obtained from industrially employed wage earners, and small business and professional men of urban communities.

On the other hand, experience has indicated that the percentage of small borrowers among the rural portion of our population is comparatively small, and in this connection we would invite a comparison of the population of the three Maritime Provinces, as well as the division of same into rural and urban, with that of the province of Ontario and the province of Quebec. (Reference, page 120, Canada Year Book 1937.)

(3) There will be general agreement we believe, with the statement that a prospective borrower must be "credit worthy," and that also "he must be employed for a reasonable length of time and with every prospect of his continuing in employment."

We therefore respectfully submit that those sections of Canada which enjoy large industrial, and manufacturing development, should not only supply

the greater demand for small loans, but should also enable companies operating therein, to obtain their business at considerably less cost to themselves, which reduction in costs, can, and perhaps should be, passed on to borrowers, in the shape of a lesser rate of charge than that permitted in the restricted areas.

Statistics with respect to manufacturing production and wages paid in Canadian manufacturing industries are contained on pages 219, 409, 441, 442, 443, 444, 445, 457, 471, 472 and 473 of the Canada Year Book 1937, to which we would respectfully invite the attention of your Committee.

(4) May we again refer to the implied statement that credit worthiness and prospects of steady employment form the prime requisites to the granting and securing of a loan, which carries with it the further implication that ability to repay as governed by wages and salaries earned, is of paramount importance.

Statistics dealing with the gainfully occupied population of both sexes of the three Maritime Provinces, as compared with those of the provinces of Quebec and Ontario, and further statistics with respect to wage earners, ten years of age or over, will be found on pages 135 and 789 of the Canada Year Book 1937, to all of which we respectfully invite the attention of your Committee.

It is submitted that the statistics heretofore referred to, form a sound basis for the suggestion that a rate of charge which might be adequate for the larger industrial centres of the Dominion, would not satisfactorily meet the requirements of those companies which have heretofore operated, and are now operating, in the so-called restricted areas, and who are desirous of continuing so to do.

It is conceivable therefore, that if one general rate of charge equally applicable to all parts of Canada were adopted, those companies now operating in the restricted areas, would be compelled to withdraw from the field by reason of the loss which further operations would entail, thus leaving the residents of such areas to the mercies of unregulated loan sharks, or otherwise, denying to them the privilege of securing finances with which to meet their requirements.

It is agreed that some question may arise as to the actual need in such areas, of the services now supplied by so-called small loan companies, but it is suggested that an answer to such question is indicated in the volume of small loan business now being transacted in such areas, of which volume General Finance Corporation Limited and its affiliated companies have negotiated in the Maritime Provinces, during an average period of 3 years, a total of 13,823 loans, for an amount of \$2,132,206.51, averaging \$154.25 per loan.

It was our pleasure to have been accorded the privilege of appearing before the Senate Banking and Commerce Committee in May of 1936, and to have been permitted to place before the Committee certified data as to the operations of our various companies and to make certain representations for their consideration.

Presumably it is to such representations that the Superintendent of Insurance makes reference on page 73 of his report, from which we quote in part as follows:—

When the foregoing draft bills came before the full Committee on Banking and Commerce, evidence was taken to enable the Committee to determine what maximum monthly rate of interest should be fixed. The first decision reached by the Committee established a rate of 2½ per cent per month on original loans of \$100 or less and 2 per cent per month on original loans of over \$100, the said rates to be computed on outstanding monthly balances. Later, representatives of certain provincially incorporated companies appeared and stated that that rate would be insufficient to enable them to continue in business and by a later decision, the Committee substituted for the rate aforesaid a rate of 2½ per cent per month on loan balances of \$300 or less and of 1 per cent per month on loan balances above \$300, the instalment payments to be supplied first to the repayment of the element bearing 2½ per cent.

Other than in respect of the rate to be charged, nothing has occurred during the interval since our appearance before the Senate Banking and Commerce Committee in May of 1936 to indicate other than a strengthening of our belief in the representations made by us at that time.

We are more strongly convinced than ever in the correctness of our submission, that local companies, managed and operated by men of character, who are well and favourably known to the people of their respective communities, and who have invested their own money, as well as influenced the investment of the funds of friends and relatives, has enabled such companies to operate more economically and efficiently than would have proven so with more or less absentee management, in the shape of a head office located elsewhere.

We are further convinced that such management has provided adequate assurances, not only to the public at large, but to clients and shareholders of such companies as well, that no practice will be considered or permitted, which would in the judgment of those responsible for the management of such companies, reflect adversely, or place the ethics of their conduct in jeopardy.

It would seem opportune, to at this point, make mention of the fact that General Finance Corporation Limited entered the small loans field in March of 1931, and thus became the first company to undertake this type of business in the Maritime Provinces.

The corporation and its associated companies are, and have been, entirely financed by maritime capital, and have no ambitions, which cannot find full and complete expression within the bounds of the maritimes.

The combined subscribed share capital of the various companies, amounting to approximately \$435,000.00, is not confined to a few individuals or groups, but is distributed in the names of 802 shareholders, all of whom have taken an active interest in the affairs of their respective companies, as well as having contributed their financial support to the progress of such companies.

The position which this corporation holds in its relations with affiliated companies, is purely of an advisory and supervisory character, for which it neither stipulates for, or receives compensation of any nature or kind; with the result that the net profits of such companies have not been lessened by payment of supervising fees, travelling expenses, or similar costs, when such services are required.

We respectfully submit however, that certain factors have combined during the interval, to indicate the necessity for a higher rate of charge to those companies operating in the Maritime Provinces, than that provided for in the draft bill of 1936, which we shall attempt to enumerate in their order of importance:—

(1) Increased taxation. (Provincial and Municipal.)

(2) The prospect of increased costs made necessary by regulation, in explanation of which we would quote from page 6 of the Report of the Superintendent of Insurance, as follows:—

Regulation involves accurate accounts and records with the overhead expense which that implies, and if the ratio of that expense to revenue is to be kept within reasonable bounds, a substantial volume of business is essential.

(3) Adverse publicity which has necessitated the appropriation of a greater portion of revenue to advertising, and allied publicity, in an effort to counteract the unfavourable impressions which have been created with respect to all small loan companies.

(4) Increased costs of investigations as efforts to cover, and make available our services to the remotest parts of the Maritime Provinces, have begun to find a response.

It is possible that insofar as numbers 3 and 4 above are concerned, such conditions may not apply with equal force to all companies, and that adverse publicity and costs of investigations may be overcome by the general knowledge

of the management which local communities may possess, and which the management may in turn possess, as to individuals in such communities.

For this reason, we would presume to suggest that your Committee may find it advisable to recommend the enactment of legislation similar to that enacted by the State of Massachusetts, which gives to the Commissioner of Banks, subject to a named maximum, powers to grant licences to small loan companies, and to fix the rates that may be charged thereon in various communities, or your Committee may deem it advisable to recommend the enactment of legislation similar to that obtaining under the English Money Lender's Act which provides that the onus of proving a rate in excess of 4 per cent per month to be concionable rests upon the money lender, and that a rate of 4 per cent per month or less must be proven to be unconscionable by the borrower.

We might further suggest that if either of the above suggestions meet with the approval and final adoption of your Committee, and inasmuch as the period for which licences are granted would be for only one year, the official, or department of Government, responsible for the granting of such licence, would thus be enabled to study the adequacy of such rate for each individual company during its first year of operations under supervision, and could thereafter determine and fix a rate of charge, which would be fair, and equitable, in its application to all parts of the Dominion, subject of course to a general maximum rate.

We have not the temerity to suggest to your Committee a draft of the form which your report may take, but we do feel that consideration should be given to those factors, which are essential to the best interests of both the borrower and the lender, among which we would submit the following:

(1) Our experience has indicated the undesirability, from both the viewpoint of the borrower and the lender, of a maximum amount of loan in excess of three to three hundred and fifty dollars, and we therefore suggest that the maximum amount of loan be fixed within those limits.

We believe that the average small borrower is financially unable to successfully meet the obligation which any amount in excess of this suggested maximum would entail, and that as a result the account oftentimes becomes delinquent and additional collection charges accrue, and further that in those instances where exceptions will occur, the applicant will have accumulated sufficient collateral, or credit standing, to insure the borrowing of such amount from a chartered bank at less cost.

(2) We suggest that the requirement of net liquid assets of One Hundred Thousand Dollars, is not in the best interests of either the borrower or the lender, as in those instances where the demand for loans is more or less limited, such an amount could perhaps not be kept profitably employed at all times, in which event the company would be either forced to discontinue its operations, or otherwise increase the charge to borrowers, in order that some compensation might be had on that portion of its capital, which while required by regulation to maintain, could not be kept employed at all times.

(3) May we suggest that a minimum charge of seventy-five cents on all payments, which if required at the authorized rate of charge, would be less than that amount, be permitted, in keeping with similar privileges enjoyed by chartered banks.

(4) May we suggest that rebates on all contracts paid out before maturity be figured on a basis of 60 per cent of charge allocated to expenses in connection with the loan, and 40 per cent of charge allocated to interest thereon, and that no rebate be allowed on the expense portion of the charge, but that rebates be allowed on that portion of the charge which is interest for the full time which contract has yet to run.

(5) We believe that if the contract becomes in default by reason of the carelessness, or unwillingness of the borrower to make the required payments thereon, that the lender should not be penalized as a result of such delinquency,

and that provision should therefore be made whereby such delinquency would operate to make the entire remaining unpaid balance due and payable, and that the lender should not be required to make a rebate in full for the entire unearned charges, but that rebate should be computed on the basis of 60 per cent expense charges, and 40 per cent interest charges, and that only the interest portion should be considered in computing such rebate.

Having in mind the evidence given before your Committee by Mr. Leon Henderson, former Director of the Department of Remedial Loans, of the Russell Sage Foundation, we are frankly concerned with the suggestion, that a rate of charge which is too low, to permit of profitable and competitive operation in certain areas, may have the effect of creating a monopoly in such areas.

It is also desired to submit that if the rate of charge is such as to permit of little or no net profit to Companies operating in such restricted areas, that the effect may well be that the facilities of Small Loan Companies will not be available to residents of such areas at all, by reason of the fact that more profitable employment for the funds of Small Loan Companies may be found in the more industrialized sections of Canada, where costs of operation are considerably less, and where therefore, greater net profits may be realized.

It is, therefore, our respectful representation and plea, to your Committee, that your recommendation to the Federal Government shall provide for the fixing of rates on a basis of "regional" or "zoned" rates, and that in so far as the Maritime Provinces are concerned, such rate should be fixed at $3\frac{1}{2}$ per cent per month on the first \$150.00 of loan and 3 per cent per month on the remaining balance up to \$300.00, which latter amount, we suggest should be fixed as a maximum amount, at least, within the Maritime Provinces.

In the representations which we have made herein to your Committee, we have endeavoured to be guided by principles of fairness and justice, both to ourselves and to the small borrower, and we wish to again reiterate our desire to meet with the recommendations and wishes of your Committee to the fullest extent of our abilities.

Whatever the result of your deliberations and studies may be, we shall endeavour to in all things, abide strictly by the result of your findings.

For the convenience of your Committee, we have attached hereto, certain data and appendices dealing with the capital structure and personnel of our various Companies, as well as a detailed statement of income and expenditures, and a statement of the apportionment of income to expenditures, both of which latter statements are certified, as to their correctness, by the Audit Firm of Nightingale, Hayman & Company, Chartered Accountants, the senior member of which firm, Mr. F. A. Nightingale, is president of the Canadian Chartered Accountants Association.

All of which is respectfully submitted.

Sincerely yours,

L. D. MORRIS,

President.

GENERAL FINANCE CORPORATION LIMITED.

EXCERPTS FROM THE WORKS OF "HUGO DE GROOT", OR AS PERHAPS BETTER KNOWN "HUGO GROTIUS", WHO WAS BORN AT DELFT, HOLLAND, APRIL 10, 1583, AND BECAME KNOWN AS ONE OF THE WORLD'S GREATEST AUTHORITIES ON INTERNATIONAL LAW.

The next topic, that comes under consideration, is the lawfulness of taking interest for the use of a consumable thing; the arguments brought against which appear by no means such as to command our assent. For as to what is said of the loan of consumable property being a gratuitous act, and entitled to no return, the same reasoning may apply to the letting of inconsumable property for hire, requiring a recompence for the use of which is never deemed unlawful, though it gives the contract itself a different denomination.

Nor is there any more weight in the objection to taking interest for the use of money, which in its own nature is barren and unproductive. For the same may be said of houses and other things, which are unproductive and unprofitable without the industry of man.

There is something more specious in the argument, which maintains, that, as one thing is here given in return for another, and the use and profits of a thing cannot be distinguished from the thing itself, when the very use of it depends upon its consumption, nothing more ought to be required in return for the use, than what is barely equivalent to the thing itself.

But it is necessary to remark, that when it is said the enjoyment of the profits of consumable things, whose property is transferred, in the use, to the borrower or trustee, was introduced by an Act of the Senate, this does not properly come under the notion of Usufruct, which certainly in its original signification answers to no such right. Yet it does not follow that such a right is of no value, but on the contrary money may be required for surrendering it to the proprietor. Thus also the right of not paying money or wine borrowed till after a certain time is a thing whose value may be ascertained, the delay being considered as some advantage. Therefore in a mortgage the profits of the land answer the use of money. But what Cato, Cicero, Plutarch and others allege against usury, applies not so much to the nature of the thing, as to the accidental circumstances and consequences with which it is commonly attended.

The Mosaic law indeed prohibited the lending of money upon usury. But this was a political and not a moral precept. It only prohibited the Jews from taking usury of their brethren the Jews, but in express words permitting them to take it of a stranger: which proves that the taking of moderate usury, or a reward for the use, is not an evil in itself, since it was allowed where any but an Israelite was concerned.—Blackst. Com. b. ii. ch. 30. p. 454, 455.

The objections made to it by Cicero and others, our author observes, are founded more upon the consequences of usury than upon usury itself. Because it deters men from borrowing. But, on the other hand, if there were no advantage attached to the lending of money, none would be found willing to lend; consequently the benefits arising from the facility of borrowing money to carry on trade would be defeated.

SUPPLEMENTARY BRIEF

On behalf of General Finance Corporation and Associated Companies

The CHAIRMAN,
Banking and Commerce Committee,
House of Commons,
Ottawa, Canada.

March 25, 1938.

SIR,—When Mr. L. D. Morris, President of General Finance Corporation Limited, prepared his brief for submission to your committee, it was expected that we should have the opportunity of presenting our case for the companies in the Maritime Provinces by having witnesses appear before your committee. However, last night I was advised that your committee had completed the hearing of evidence in regard to the circumstances and conditions existing in connection with the small loan business as carried on in Canada.

The directors of the Maritime companies are at a loss to know from what information the committee will proceed to shape and to make law which will be applicable to the circumstances and conditions existing in this part of Canada.

We have read the reports of the hearings of the committee and, outside of the evidence given by Professor A. B. McDonald, in connection with Credit Unions, there is no evidence before the committee on which to base its findings as to what the proper rate should be in the Maritime Provinces.

Had we known that the companies of three provinces of Canada would be deprived of the privilege of making oral submissions, we would have endeavoured to cover the field more comprehensively by brief.

You will note that there are, in our association of companies, eight companies operating in the Maritime Provinces, incorporated under the laws of the provinces of New Brunswick and Nova Scotia. These companies in all have fifty directors who are prominent citizens in their respective communities, and 802 shareholders, being Maritime people who have invested approximately \$435,000 in these companies.

Complete data respecting the capital structure and personnel of our various companies is set forth in statement attached to the brief of Mr. L. D. Morris. We would respectfully request that this statement, along with the other statements attached thereto, be printed as evidence into the record of the committee.

These facts show that our companies operating in the Maritime Provinces are purely of a Canadian character, as contrasted with those of a foreign character, financed by foreign capital, with apparently nominal shareholders in this country.

To-day, we were advised that our brief must be sent forth immediately to be incorporated in the records.

Owing to the short time at our disposal, we are unable to collect all the information we desire to place before the committee. However, we do wish to emphasize certain facts which are particularly applicable to the carrying on of small loan business in the Maritime Provinces.

Much of the evidence which has been placed before the committee has dealt with the operation of small loan companies in the thickly populated, industrialized sections of Canada.

It is respectfully submitted that a rate which is satisfactory for such sections of Canada is not suitable for the sparsely populated territory of the Maritime Provinces.

We set forth, for comparison, the figures on page 120 of The Canada Year Book, 1937, in respect to urban and rural population in the three Maritime Provinces, Quebec and Ontario, for the year 1931:—

	<i>Rural</i>	<i>Urban</i>
Prince Edward Island..	67,653	20,385
Nova Scotia..	281,192	231,654
New Brunswick..	279,279	128,940
Quebec..	1,060,649	1,813,606
Ontario..	1,335,691	2,095,992

Experience has shown that a large percentage of the borrowers are wage-earners in industrial and manufacturing concerns. Consequently, in view of this circumstance, the demand for small loans is smaller than in the highly industrialized sections of Canada. Therefore, with a smaller demand, there should be a corresponding increase in the rate allowed to be charged.

We cite the following from The Canada Year Book, page 219, to show the gross production of industries for the year 1934 in the three Maritime Provinces and in the provinces of Quebec and Ontario:—

Prince Edward Island..	\$ 17,864,849
Nova Scotia..	132,936,541
New Brunswick..	98,700,994
Quebec..	1,054,450,210
Ontario..	1,799,433,421

We further cite from pages 441, 442, 443 and 445 the figures for 1934, showing the number employed in all industries in the Maritime Provinces, Quebec and Ontario, together with the total salaries and wages paid:—

	<i>Number of Employees</i>	<i>Salaries and Wages</i>
Prince Edward Island..	1,093	600,216
Nova Scotia..	15,041	12,401,325
New Brunswick..	13,522	11,367,625
Quebec..	181,546	161,197,908
Ontario..	259,621	270,834,102

We further cite from page 471 of The Canada Year Book, 1937, figures respecting the number of persons employed in Montreal, and Toronto, Halifax and Saint John, for the year 1934:—

Montreal..	88,131
Toronto..	81,629
Halifax..	2,861
Saint John..	3,046

Further statistics, pages 471, 472 and 473 bear out the fact that there is a much smaller market for small loans in the Maritime Provinces, therefore requiring a higher rate charge, in order to make a reasonable profit, and thus insure the availability of the small loan service to the people of the Maritime Provinces.

Should the rate fixed by Parliament be insufficient to allow small loan companies to operate throughout the Maritime Provinces, then, undoubtedly, the field will be taken over by unscrupulous loan sharks. We refer you to the statement of Mr. Leon Henderson in his evidence given before you on March 2, last, as shown in the minutes of the proceedings and evidence respecting small loan companies at page 94, as follows:—

As far as rates are concerned it requires that the rate shall be adequate enough so that there will not be a monopoly; so that there will be the possibility of small companies and small loan balances that would leave a service available to small communities.

Perusal of the audited statement of General Finance Corporation Limited, attached to the brief of Mr. L. D. Morris, will show the following:—

Average loan	\$157.76	
	Average	Average
	per loan	per \$100
Total income	22.39	14.19
Operating expenses before interest paid or dividends, etc.....	16.79	10.64
Profit from operations prior to interest, dividends, etc.....	5.60	3.55

We desire to submit that the above figures clearly demonstrate that operating income per average loan, operating expense per average loan, and net operating profit per average loan before interest, is less in the case of General Finance Corporation Limited than corresponding figures published by similar companies.

The figure \$3.55 per \$100, before the payment of interest and dividends, leaves a very small margin of profit. As a rule, investments in other types of business will net a greater return than the figures shown, and unless this margin can be increased, the small loan companies operating in small communities will find it increasingly difficult to service the public. It is a known fact that the net earning of chartered banks is considerably greater than that of these companies, notwithstanding the fact that they have available large quantities of free capital.

The type of borrower serviced by the small loan companies necessitates a greater risk than that imposed upon the chartered banks, and, consequently, small loan companies should have a higher profit in order to induce capital into this field.

One chartered bank has entered this field and, according to the evidence given before you, the results speak for themselves. The Superintendent of Insurance has shown that the effective interest charged by this chartered bank is in the vicinity of 13.7 per cent, at which rate this bank showed a loss, notwithstanding the free capital at its disposal.

With respect to operating expenses as detailed in schedule "B," in the aforementioned brief, we would particularly invite your attention to the fact operating profits have not been lessened by payment of large salaries, expensive advertising, and costly supervision.

It has been recommended to your committee that a company to qualify under the proposed new law must have net liquid assets of \$100,000. We submit that such a requirement is extremely dangerous, and is liable to create a monopoly in certain parts of the country, and also to deprive other sections, particularly the less populated, of an adequate small loan service, and thus defeat the whole purpose of the proposed legislation. In this connection we would again refer you to the evidence of Mr. Leon Henderson, at page 95:—

Q. I notice you are not including Wisconsin?—A. In the way the question was framed I would not include Wisconsin, because I am against monopoly, except it be a state monopoly; and that goes for the whole frame and reference of enterprise.

Further, on this point, we refer you to the judgment of the Russell Sage Foundation as set forth in the Sixth Draft of the Uniform Small Loan Law as revised January 1, 1935. See section 4, subsection (c): "that the applicant has available for the operation of such business at the specified location liquid assets of at least twenty-five thousand dollars (\$25,000)."

Further, we quote from the New York State law, dealing with the operation of small loan companies, section 341, which sets forth in part: "Every

applicant shall also prove, in form satisfactory to the superintendent of banks, that he or it has available for the operation of such business at the location specified in the application liquid assets of at least twenty-five thousand dollars."

Further, we would point out that under the laws of the states of Maine and Massachusetts no fixed amount of liquid assets is required.

The findings of the Russell Sage Foundation and the laws prevailing in the states mentioned being based, as they are, on long and comprehensive investigation and experience with the loan shark problem is, we submit, a sound basis on which to fix the requirements of a company to qualify in the matter of available liquid assets.

It may be advanced that the requirement of but small liquid assets would allow too many companies to operate, and thus raise the cost to the borrower. We, however, wish to submit that such is not the case. Our own experience has shown that branch offices in this business in the Maritime Provinces do not operate as effectively and efficiently as the small company controlled and operated by a local board of directors who, to a large extent, possess first-hand knowledge as to the character and financial ability of the individual prospective borrower. Such branches as we have in operation show a greater percentage of delinquency and a higher investigation cost than that of the affiliated companies run by their own directors who are invariably local men. This method of operation is one of the cardinal principles of the Credit Union system operating so extensively in the Maritime Provinces.

Having regard to our experience during the past seven years in the Maritime Provinces, it is our respectful representation and plea, to your committee that your recommendation to the Federal Government shall provide for the fixing of rates on a basis of "regional" or "zoned" rates, and that insofar as the Maritime Provinces are concerned, such rate should be fixed at $3\frac{1}{2}$ per cent per month on the first \$150 of loan, and 3 per cent per month on the remaining balance up to \$300, which latter amount, we suggest, should be fixed as a maximum amount, at least, within the Maritime Provinces.

Since we have entered this business we have looked forward to the day when adequate legislation would be provided to regulate and control this important field, which has become a permanent institution and an integral part of this country's financial structure.

Two years ago, before the Senate sub-committee of Banking and Commerce, we gave evidence of this fact, and submitted to them our earnest plea that this important matter be dealt with.

Again, we humbly plead your earnest consideration of this matter, and trust that your recommendations to our Government, now in session, may result in legislation which will provide for the satisfactory operation of companies covering this important field.

In the representations we have made herein to your Committee, we have endeavoured to be guided by the principles of fairness and justice, both to ourselves and to the small borrower, and whatever the result of your deliberations and studies may be, we shall endeavour in all things to abide strictly by the result of your findings.

All of which is respectfully submitted.

Yours sincerely,

REGINALD D. KEIRSTEAD,
*Counsel for General Finance Corporation
Limited and Associated Companies*

CONSOLIDATED INCOME AND EXPENSE STATISTICS

March 1, 1931–February 27, 1937

HALIFAX, NOVA SCOTIA,

March 21, 1938.

Mr. L. D. MORRIS,
President,
General Finance Corporation Limited,
Halifax, Nova Scotia.

Dear Mr. MORRIS,—We are attaching hereto statistics in connection with the General Finance Corporation Limited, Halifax, for the years March 1, 1931, to February 27, 1937, inclusive, and for the purpose of identification have marked these statements "A" and "B."

We hereby certify that the information contained in these schedules is in accordance with the Books of Record, and in agreement with the published Financial Statements of your Corporation.

Respectfully submitted,

NIGHTINGALE, HAYMAN & COMPANY,
Chartered Accountants.

SCHEDULE "A"

GENERAL FINANCE CORPORATION LIMITED, HALIFAX, NOVA SCOTIA
LOANS FROM DATE OF OPENING OF BUSINESS TO FEBRUARY 27, 1937

Year	Total Amount of Loans	Number of Loans
March 1, 1931—Feb. 29, 1932.....	\$ 62,712 19	351
March 1, 1932—Feb. 28, 1933.....	115,379 08	671
March 1, 1933—Feb. 28, 1934.....	144,858 69	968
March 1, 1934—Feb. 28, 1935.....	168,347 88	1,176
March 1, 1935—Feb. 29, 1936.....	205,228 39	1,356
March 1, 1936—Feb. 27, 1937.....	224,327 76	1,315
	<hr/>	<hr/>
	\$920,853 99	5,837
Total Value of Loans.....		\$920,853 99
Total Number of Loans.....		5,837
Average Value of Loan.....		\$157 76

STATISTICAL INFORMATION

		Average per Loan	Average per \$100
Total Income from Loans.....	\$130,694 52	22 39	14.19
Operating Expenses before Interest paid or Dividends, etc.	99,569 26		
Less—			
Cash Value Life Assurance.....	1,569 30	97,999 96	16 79
Profit from Operations prior to Interest, Dividends, etc....	\$32,694 56	\$5 60	\$3 55
Other Income	35,159 52	6 02	3.818
Sub Total	\$67,854 08	\$11 62	\$7.368
Total Dividends Paid.....	45,398 50		
Total Interest Paid on Certificates.....	18,460 79	63,859 29	10 94
	<hr/>	<hr/>	<hr/>
General Reserves	\$3,994 79	68	.434
Net Surplus—February 27, 1937.....	2,000 00	34	.217
	<hr/>	<hr/>	<hr/>
	\$1,994 79	34	.217

NIGHTINGALE, HAYMAN & COMPANY,
Chartered Accountants.

CONSOLIDATED STATEMENT OF EXPENSES

Year Ending	Feb. 27, 1937	Feb. 29, 1936	Feb. 28, 1935	Feb. 28, 1934	Feb. 28, 1933	Feb. 29, 1932	Total Mar. 1, 1931 Feb. 27, 1937	
	\$ cts.	\$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
INCOME—								
Interest.....	34,680 45	31,904 10	20,720 45	17,450 50	13,737 75	7,738 77	126,232 02	
Special Fund Earnings.....				4,462 50			4,462 50	
Sub Total.....	34,680 45	31,904 10	20,720 45	21,913 00	13,737 75	7,738 77	130,694 52	
Dividends, etc.....	144 07	430 49	295 27	182 10			1,051 93	
Profit—Sale of Investments.....	15,931 20		9,426 39				25,357 59	
Capitalized Holdings.....	2,000 00	3,750 00		3,000 00			8,750 00	
	52,755 72	36,084 59	30,442 11	25,095 10	13,737 75	7,738 77	165,854 04	165,854 04
EXPENSE—								
Salaries.....	8,380 00	8,650 00	7,638 83	5,149 98	4,213 00	2,080 00	36,111 81	
Rentals.....	1,000 00	1,000 00	860 00	480 00	460 00	330 00	4,130 00	
General Expenses.....	1,520 78	1,095 09	906 00	954 81	784 27	219 72	5,480 67	
Mercantile Agencies.....	482 48	265 00	275 00	200 00	194 00	125 00	1,541 48	
Telephone Expenses.....	331 99	101 83	226 76	142 39	104 38	123 93	1,031 28	
Stationery and Office Supplies.....	802 72	786 75	700 14	513 06	262 90	202 19	3,267 76	
Travelling Expenses.....	587 98	581 30	360 00	185 00	61 68		1,775 96	
Legal Expenses.....	287 00	567 60	323 08	53 65	25 00		1,256 33	
Interest Paid.....	1,598 41	461 82	641 68	791 15	78 66	171 47	3,743 19	
Taxes—Municipal and Provincial.....	1,338 37	944 11	402 31	348 77	245 41	37 50	3,316 47	
Commissions.....			182 45			120 50	302 95	
Advertising.....	2,468 48	1,161 13	428 26				4,057 87	
Donations.....		80 00	61 00				141 00	
Branch Expenses.....	1,500 00	1,500 00	1,350 00	1,200 00	600 00		6,150 00	
Depreciation—Furniture and Fixtures.....	20,298 21	17,194 63	14,355 51	10,018 81	7,029 30	3,410 31	72,306 77	
Life Assurance.....	323 10	294 46	282 58	197 27	114 64		1,212 05	
Prior Year Charges.....	643 25	648 40	643 25	600 63	354 81	246 60	3,136 94	
		1,100 00					1,100 00	
Sub Expense Total.....	21,264 56	19,237 49	15,281 34	10,816 71	7,498 75	3,656 91	77,755 76	77,755 76
Profit prior to Commissions, Interest, Reserves, Dividends, etc.....	31,491 16	16,847 10	15,160 77	14,278 39	6,239 00	4,081 86	88,098 28	88,098 28

53144-13

OTHER DEDUCTIONS—								
Federal Income Tax.....	331 24	776 31	523 96	1,484 88	824 23	256 13	4,497 76	
Adjusted 1932 Income Tax.....				301 01				
Reserve for Doubtful Debts.....	7,500 00		2,000 00	3,000 00			12,500 00	
Commissions on Investment Certificates.....	2,379 48	2,324 69					4,704 17	
Interest Paid on " ".....	9,115 46	9,345 33					18,460 79	
Dividends—Class "A" Stock.....			8,750 00	7,000 00	4,410 00	3,675 00	23,835 00	
Class "B" Stock.....	9,000 00	7,500 00					16,500 00	
Class "C" Stock.....		420 00	1,925 00	1,750 00	968 50		5,063 50	
General Reserve.....	2,000 00						2,000 00	
Loss Sale of Bonds.....					111 57		111 57	
Total Other Deductions.....	30,326 18	20,366 33	13,198 96	13,535 89	6,314 30	3,931 13	87,672 79	87,672 79
Life Insurance—Cash Surrender Value.....	1,164 98	3,519 23	1,961 81	742 50	75 30	150 73	425 49	425 49
Increase Cash Value Life Assurance.....	420 00	1,149 30					1,569 30	1,569 30
Surplus for Period.....	1,584 98		1,961 81	742 50		150 73	1,994 79	1,994 79
Deficit for Period.....		2,369 93			75 30			

SUBMISSION BY A GROUP OF INDEPENDENT FINANCE COMPANIES

Filed by Duncan K. MacTavish, Esq., K.C., Ottawa.

To the Chairman and Members of the Committee on Banking and Commerce:

It is most probable that in making this submission to this Committee we are merely repeating what has already been presented to you by other companies engaged in what is known as the Small Loan business. At the risk of being redundant, we wish to put before you the circumstances of our operation which we hope will assist you in obtaining an accurate impression of the function of this business in this part of the Dominion, and, with your permission, our opinion with regard to the proposed legislation to regulate the operation of this business throughout Canada.

We are known in the Small Loan Business as Independent Finance Companies. Our business divides itself into three types of transaction,—

- (1) Discounting Time Sales Contracts.
 - (2) Re-Financing.
 - (3) Loans secured by Chattel Mortgages on Motor Vehicles.
- (See Appendix.)

DISCOUNTING TIME SALES CONTRACTS

These are transactions in which automobiles, refrigerators, heating equipment, printing machines, electric signs and commercial equipment of a like nature are sold on a time payment basis. The Vendor enters into a Conditional Sale or Lien Contract with the Purchaser whereby the property in the chattel sold remains in the Vendor until it is paid for. We purchase these Contracts from the Vendors.

The Purchasers of this type of goods are, with rare exception, people engaged in business or regularly employed skilled workers whose earnings are in the higher brackets.

The Vendor and Purchaser agree on price and the terms of payment without any intervention on the part of the Finance Company. Many Vendors carry these Contracts themselves, others, who haven't sufficient capital to carry these time sales, discount these Contracts with us.

These transactions do not come within the letter or spirit of Small Loan legislation as it is enacted in most of the States in the United States that have statutes regulating the operation and interest rates of Small Loan Companies. There are two important reasons why they should not come within the operation of a statute, the intent of which is, to protect the necessitous borrower.

- (a) As between the Vendor and Purchaser, this is not a loaning transaction and is in no way analogous to the borrowing of money. The Vendor has a right to decide for himself what the mark up on his goods should be and if his retail price for goods sold on credit is higher than for a cash transaction, it cannot reasonably be contended that the Vendor is loaning the Purchaser the unpaid balance of the purchase price and is exacting interest for the consideration. Since many of these contracts are retained by the Vendors, to attempt to regulate these sales as loan transactions would involve the Dominion Government in fixing the price of a variety of articles ranging from vacuum cleaners to automobiles.
- (b) As between the Vendor and the Finance Company the conditions attached to the negotiation of these Contracts vary. The Vendor may sell the Contract without recourse to himself; he may give the Com-

pany a limited recourse against him, or negotiate it with his guarantee for ultimate payment. The rate of discount varies with these circumstances as well as with other considerations such as the amount outstanding under the Contract, its rate of repayment, the financial status of the purchaser, the quality of the chattel sold.

To fix a rate of discount on these transactions would be to entirely ignore these material factors which justify a variable rate. Many small businesses would find themselves unable to carry on because they haven't the resources to extend credit and it would be perilous to take Contracts which they could not discount because the rate fixed by law did not warrant the risk.

There is a market for this type of security and competitive factors operate to keep the discount rate as low as practicable. From our experience it is impossible to conceive of small businesses wishing to place these transactions within the category of Small Loans. These Contracts are and should remain articles of commerce to be bought and sold freely the rate of discount being governed by their market value.

RE-FINANCING

These are transactions where a final bulk payment under a Conditional Sales Contract is extended and made payable over a period of time in instalments. It is usual under these circumstances for the Finance Company to advance the cost of insurance and this sum plus the carrying charges are added to the unpaid balance and divided into uniform payments spread over the period of time agreed upon. In our Province the original Conditional Sales Contract must be substituted by a Chattel Mortgage if we are to have a charge upon the chattel for any sum in addition to the unpaid balance. An extension agreement is inadequate for this purpose as the transaction must be brought within the Bills of Sale and Chattel Mortgage Act. We point this out because there are a considerable number of these transactions and if they be included under the definition of Small Loans and an all inclusive rate is to be fixed, consideration should be given to the indispensable conveyancing in each jurisdiction.

LOANS SECURED BY CHATTEL MORTGAGES ON MOTOR VEHICLES

In collecting data for a representation before the Law Amendments Committee of the Manitoba Legislation this session, we found that in only three-fifths of one per cent of the money loaned did Companies engaged in the Small Loan business make repossessions under their Chattel Mortgages. This would indicate that the loans were made on such terms as were not oppressive to borrowers.

The borrower with this type of security is able to shop for rates among competitive lenders. The automobile is in a preferred security class and no owner need submit to unreasonable rates or charges when he finds he requires to borrow on its security.

We submit that loans secured on motor vehicles and chattels of the class, where recourse against them would not interfere with essential family assets, should be differentiated from loans made on other personal security.

The Finance Company is practically the only source from which owners of automobiles can obtain loans on the security of their cars and it is to their advantage that there be plentiful credit available for this purpose and that credit well distributed. This is assured only where there is the most complete freedom of contract. The competition for this class of business can be depended upon to keep the rates down to the lowest practicable minimum.

In our opinion, our law should follow the English law in loans of this nature, and provide that the interest should not be excessive and set out a procedure to

make every loaning transaction easily reviewable. This would allow for the variability of risk and assure a reasonable rate in every case.

Should you not consider this proposal consistent with the intention of making the regulation of Small Loans uniform, we submit, as the most satisfactory alternative, that the Federal Government fix a maximum rate to include every nature of charge that may enter into a loaning transaction.

A rate on the first \$100.00 of less than 3 per cent per month, payable on the unpaid balance, is not practical, from our point of view, in Western Canada. While a lower rate may be adequate in Ontario and Quebec, where the greater and more concentrated population makes for greater volume and consequently reduced cost, it would be inadequate in the Western Provinces, where our centres of population are far apart and their populations comparatively small. The latter factors make for greater cost.

A workable rate for the West would be a graduated rate of 3 per cent per month on the first \$100.00, 2 per cent per month on the next \$200.00, and 1 per cent per month on the balance.

The fixing of a lower rate would tend to create a monopoly as, under present conditions, it is very doubtful whether the majority of the companies now in the field could continue even if operated with the greatest efficiency.

Since you have before you the reports of the Russell Sage Foundation on their research into the Small Loan problem in the United States and their experience with the application of the Uniform Act perfected by the Foundation, reference to the data is unnecessary. The proportion of the population dependent upon this source of credit and the costs of operation is the same in this country. It is to our disadvantage that this material cannot be made as exciting and accessible to the reading public as the articles that appear from time to time in our papers "exposing" the money-lending business by citing the operations of an obscure racketeer operating from an alley office and exacting from 75 to 500 per cent on an advance of \$35.

As you know, there is no more effective appeal to prejudice in times of economic recession than the denunciation of the person who loans, or more correctly, who has loaned money. It is a prejudice that it is impregnable to fact, reason or demonstration. That is the reason why we have been silent under this barrage of abuse that has also fallen on the banks and our other financial institutions. It is futile to rejoin to these strictures. They are never factual and obviously written to inflame rather than to inform. A few truths which any uninformed but honest man can easily ascertain are that this business is a vital and indispensable component of our economy, that the great volume of it is done by institutions whose ethics and public interest do not suffer in comparison to any other reputable business, and that we render a service for which we are as much entitled to reward as the butcher, the baker and the host of others, who purvey the long list of human needs.

Let it not be forgotten that in the last depression when our credit institutions, in the interest of safety and their fiduciary responsibilities, shut off their credit, we hazarded our private resources, in many cases not on the vanishing values of our customers' securities, but on the faith we had in these people to rehabilitate themselves even in difficult times. We do not like to mention the hundreds of balances we forgave and forgot. They are unmentioned pages in the story of debt adjustment, at least we do not recall them being mentioned in discussing the money-lender. We do not ask consideration on this score, but we feel we have the right to request that the problem be realistically considered from all points of view.

The small finance and loan business has a legitimate place in any civilized society. It is a stimulus to thrift as well as the production and consumption of necessary commodities and we submit that any legislation that may be brought in bearing upon this business, should be predicated on it's

necessity as well as the necessity of its control and shall not have the practical effect of stultifying the business, but regulating it where regulation is necessary and that the law be equitable to the borrower without being unequitable to the lender.

Respectfully submitted by

BLACK & ARMSTRONG LTD.,

Winnipeg, Man.

CARNEGIE FINANCE & INVESTMENT CO. LTD.,

Winnipeg, Man.

THE CRESCENT FINANCE CORP. LTD.,

Regina, Sask.

STANDARD FINANCE CORP. LTD.,

Winnipeg, Man.

PUBLIC FINANCE LIMITED,

Winnipeg, Man.

APPENDIX

Included under the heading of "Loans Secured by Chattel Mortgages on Motor Vehicles," are loans secured by Chattel Mortgages on household furniture and effects, which loans are made by Public Finance Limited and Crescent Finance Corporation Limited and are governed by the same conditions as apply to loans secured by Chattel Mortgages on Motor Vehicles.

NOTE: To the above brief should be added the following statement by Mr. MacTavish in filing the brief with the Committee, viz.:—

I am instructed to supplement the submissions contained in the enclosed brief by stating that the companies on whose behalf this brief is filed carry on a general loan and discount business and they feel that any restriction in the type of business which they are permitted to carry on would not be in the interests either of themselves or the borrowers. I have particular reference to the statement of Mr. Ralph J. Bunce in connection with the method of operation in Iowa where it appears that small loan companies are restricted to, say, personal loans and are not allowed to do any other business in the office which carries on the business of small loans. The parties on whose behalf the enclosed brief is filed feel that any such restrictive measure would seriously hurt their business.

(Signed) DUNCAN MacTAVISH.

INLAND FINANCE LIMITED

PARIS BUILDING, Winnipeg, Man., March 9, 1938.

SUPERINTENDENT OF INSURANCE,
Ottawa, Ont.

DEAR SIR,—We have yours of the 4th instant and would advise that we carry on a general financing business in addition to our personal loan connection, such as the financing of stokers, of automobiles and other forms of time sales. One of our principle clients is a large fur dealer. Our charge on this class of financing is 7 per cent discount with contracts running not longer than a year. A further class of investment has been the loaning of money on leasehold interests where the ordinary land mortgage company, owing to the status of title, would not be able to loan. We have considerable money invested in Flin Flon in this type of security, loans being over \$500. Our return on such investments has averaged 12 per cent per annum. We have also invested a limited amount in Preferred Stocks and Bonds.

We would be very glad to have you make use of the correspondence which has passed between us on this matter. As indicated before, we feel that a 2 per cent monthly charge would be sufficient to enable the successful operation of the personal loan department of our business. We have stated in previous correspondence that we have not made a practice of charging interest on overdue payments. In considering any legislation, we think that some provision should be made determining the maximum interest rate that could be charged. The notes taken by us have allowed for a charge of interest at the rate of 10 per cent per annum on overdue payments, although we have never taken advantage of it. It would seem that a maximum rate of 8 per cent or 10 per cent per annum could be provided for, this to be at a simple interest rate, not compound.

As stated, our experience in this field runs only from our incorporation in March of 1936 and consequently there will be others who will have a better knowledge of this field of investment based on broader experiences but we have come to the conclusion that if the risks are carefully chosen and the costs of administration are kept well under control, that at the rate stated, the business can be profitably operated, providing its shareholders a reasonable return on their investment.

Yours truly,

(Sgd.) H. M. SCOTT,
Secretary.

THE SMALL LOAN BUSINESS IN CANADA

PRESENTED BY MORRIS J. WEISS, MANAGING DIRECTOR OF THE

NATIONAL PLAN CORPORATION LIMITED

TORONTO, ONT., CANADA

Date of Incorporation, November 11, 1930

Head Office, Toronto, Ontario, Canada

Branches, Hamilton, Brantford, London, Kirkland Lake, Timmins.

Volume of business transacted for year ending, November 30, 1937, \$900,668.18.

The Company which I represent has been engaged in making small loans for the past eight years, and in addition, I am authorized to speak on behalf of several other non-affiliated Ontario companies, engaged in the same field.

We are deeply appreciative of the work your Committee is doing, believing you are rendering a timely and essential service, but only through a careful and exhaustive study can a proper conclusion be drawn which will give consideration to the small loan business, not only from the viewpoint of the large corporations and large loans, but also from the viewpoint of the small company and the borrowers in the smaller bracket.

You have already heard from numerous existing agencies which make small loans, such as (1) chartered banks (2) personal loan departments of chartered banks (3) credit unions (4) car loan companies (5) companies which make loans on the security of household furniture, but we are in a different category from these, inasmuch as we make loans on any or all of the above securities or a combination of them, and the need for enlarging the legalized and regulated credit agencies has been clearly shown by expert witnesses.

We may point out that by virtue of the fact that we are locally controlled, we are not restricted as to policy and risk in the same way that a local branch of a large organization is, and consequently are able to make loans to types and risks which can not be accommodated by any of the above organizations. The branch managers of large chain organizations are limited in their scope by the rules and regulations of their head offices, which only permit them to take certain salaried risks and certain definite types of security. Let us illustrate this point more clearly, by giving you an example of a loan which was recently made by our organization, and which without doubt could not have been handled by any of the above existing agencies. A certain manufacturer in a small town, found himself financially embarrassed, and was compelled to close up his plant due to the fact that he had not sufficient money to pay his hydro deposit in the amount of approximately \$300.00. It was absolutely impossible for him to obtain banking accommodation, owing to the condition of his affairs. He was in his own business, and therefore, did not come under the salaried classification required by most companies, and the Hydro Commission did not see their way clear to extend him credit on his hydro bill. By virtue of the fact that our manager is not compelled to discuss this situation with any head office, but has a free hand in the granting of loans, using his own discretion, he was able to arrange financing for this borrower. It was with considerable satisfaction therefore, that we received the following wire from this manufacturer on the next day after the completion of these arrangements:—"Many thanks for prompt answer factory running night and day."

We understand from this man that he employs approximately 40 workers in his plant, and it was only through our intervention that they were able to resume their normal occupations. A further case which we wish to cite, is the one of a former railroad employee who due to the decline in railroad activity a few years ago, was laid off work. This man was a borrower of ours at the time, and found it impossible to pay his account due to his unemployment, so that we were compelled to write his account off to our "Bad and Doubtful" Ledger. Recently, he was notified by the railroad company to go back to work, but before doing so, it was necessary for him to purchase a certain "Hamilton" watch which is required by the railroad of all employees, I need not tell you what happened to his previous watch, but when unemployed, food is often more necessary than a watch. This man had no possibility of purchasing this article from any instalment jewellery house, as he was not employed, and no loan company would grant him a loan for the same reason. We had always been impressed by this man's honesty and his sincere attempt at all times to take care of his obligations, and therefore due to the fact that we were not restricted by policy, were able to grant him a loan, despite the fact that he was already in our "Bad and Doubtful" books, and in that way rehabilitated him to the point where he became a steady worker, earning his own living, and not finding it necessary to obtain relief any longer. These cases are by no means rare or exceptional, but are quite a common occurrence in our everyday business.

This Company has always maintained a policy of employing in our branch offices, local managers, who have a thorough knowledge of the customs and circumstances of the community in which they are engaged, and by virtue of that fact, are enabled to entertain applications for loans which no other company could consider. We may point out that by this policy, it is necessary for us to maintain a higher salaried type of employee in our offices, as we require men of considerable experience, stability and initiative, and who can not be replaced by ordinary routine trained clerks from any other city. Our managers must have a deep and sympathetic understanding of the needs and requirements of the borrower, for it is their duty to act as friendly counsel in times of trouble, as well as financial advisers.

It seems logical to assume therefore, that privately controlled loan companies in the different centres of the country are a thing of necessity, and should be encouraged just as well as any other recognized agency for the loaning of money. It stands to reason that due to the class of risk which it is also necessary for them to take, if they are to be of service, and the additional amount of detail involved in investigating loans of this type, that they must require a rate in excess of any organization which grants loans only to certain definite select classes, and on a routine basis. To further establish the fact that a higher rate must be allowed in the case of exceptional risks, we wish to point out to you, a transaction where a judge of the Superior Court in Montreal, authorized a Trustee in Bankruptcy to borrow money for the bankrupt company at a rate of interest which might possibly shock you. The court order confirms a rate of 40 per cent per annum, to an officer of the court. The transaction was one where the Trustee was unable to obtain funds through the bank or from any other lender to carry on the business. It might interest you to know however, that even though such a rate was paid, it enabled the debtor firm to repay its creditors one hundred cents on the dollar, remain in business, and last year showed a large profit. The following is an extract from a letter written by the Montreal Daily Star, wherein they state, "You are to be congratulated on re-establishing this business on such a sound basis that all the creditors were paid one hundred cents on the dollar." We are also proud of the quotation made by one of the creditors, who stated that in his thirty years business experience, he had never seen a more worthy transaction than the one above mentioned.

THE RATE SITUATION IN CANADA

There is no doubt that with the legislation at present existing in Canada, it is impossible for any loan company to provide a loan service which would be complete coverage for all classes of small loan borrowers at reasonable rates, and at the same time, to conduct its business with safety, dignity, and at a reasonable return for the service rendered.

To say that the present situation creates a new problem in Canada, is misstating the position. The problem is an ancient one, not only in Canada, but in every country of the world. As far as Canada is concerned, our problem is due to the lack of comprehensive legislation, due no doubt, to the fact that no extensive study has been made prior to this time. It does not seem practical to enact legislation without dealing, firstly, with the results of contemporary legislation in other countries, and to adjust such contemporary legislation to our country's needs, and to consider our problems in the light of their problems, with a view to avoiding the mistakes that were made in other countries.

It is not our intention to overburden this Committee with a restatement of the facts and figures given to this Committee by previous expert witnesses, but merely to provide for the convenience of this Committee, a compilation of statistics and statements prepared by authorities and institutions, who have had the opportunity and experience to study the conditions from all angles, together with our own views, arrived at by practical and continued experience in the small loan field in Canada for the past eight years, and arrive at conclusions which have a basis of fact derived from such actual experience.

We heartily concur with a statement made by the Honourable Mr. Dunning on page 27 of Section 2, Minutes of Proceedings and Evidence Respecting Small Loan Companies, before this Committee, where the Honourable Mr. Dunning takes a hypothetical case under the Criminal Code. He assumes that if a friend came to him to borrow \$50, and he is a prudent Minister of Finance Minister would, refers this man to a solicitor in order to prepare the necessary chattel mortgage papers to secure himself, then who in the opinion of this Committee would be the guilty party, and the one who could be committed for trial, the Honourable Mr. Dunning, who receiving no interest whatsoever on his transaction, but yet being the party responsible for the necessary fees or charges being made, or the innocent solicitor who made a charge for what were his rightful duties. We may say here, that after investigation, we find an actual case similar to the one quoted above which took place in the City of Toronto where a loan of \$50 was made for a period of one month, and the Taxing Officer taxed the bill for what seemed to him to be a reasonable and just charge, and this charge was \$13.25. Translating this service charge into terms of interest, we arrive at an approximate rate of 318 per cent per annum, although the assumed case provided for no charge whatsoever for interest.

DETAILS IN MAKING A SMALL LOAN

Before commencing the discussion of charges in the small loan business, we feel that it may be of interest to the members of this committee, to understand fully the detail which is necessary in the granting of a loan of this description. As we have explained before, we must maintain fully equipped and modern offices, properly staffed, and in order to procure business, we must advertise regularly in the newspapers and other mediums. An application upon reading our advertisement calls at our office, and is interviewed by a trained member of our staff. Before a loan is approved of, it is necessary for us to complete an application form and then obtain a credit report on the individual at a cost of 50 cents, then to make a search at the Registry Office for prior mortgages, liens, etc., at a further minimum cost of 50 cents. Our appraiser must then make a personal call at the home of the borrower to investigate and value the

household effects, or a car, depending upon the type of security offered. If the loan is then approved of a promissory note and chattel mortgage are duly completed and properly checked by our legal department, and, when necessary, are registered in the Registry Office at a further cost of 50 cents. We may pause here to state that there has been considerable discussion of the fact that personal finance companies do not register their chattel mortgages in a great many cases, and therefore, do not take this type of security, considering it of any value. May we point out, that a chattel mortgage is perfectly valid against the borrower giving the same, despite the fact that it is not registered, and the main reason why most companies do not register their mortgages is because of the ensuing publicity which very often follows. For registered chattel mortgages may be, and are, shown in the regular bulletin of Duns & Bradstreets, and in many cases, our borrowers are loath to be subjected to this type of publicity. Upon the completion of a loan, if approved, we must open up a folder to contain the borrower's documents, and we must then prepare the necessary payment card and various collection cards required by the office for book-keeping, collection, etc. It is needless for us to point out that during the course of the loan, if payments are not made on the due date, many reminder notices must be sent out, and the incidental cost of postage and forms alone is a considerable amount for each account. When the account is fully paid up, our staff prepares a discharge of chattel mortgage, and mails to the borrower all his original documents, together with a letter acknowledging his final payment. We have just attempted to give a brief outline of the terrific amount of detail work which is necessary for the granting of a loan, and we do not wish to dwell unduly upon the fact that a great many loans are rejected, upon which we receive no revenue whatsoever, despite the fact that we have had a considerable outlay in investigation costs.

It seems peculiar to the loan business for the onlooker to conclude that all charges made in the procuring, granting and collecting of a loan, should be figured out in terms of interest, and the interest arrived at is naturally greatly in excess of interest as is normally discussed in ordinary banking circles. It is not logical to interpret overhead and service into terms of interest.

This committee should have in mind that a rate of charge must be set which will be adequate enough to allow all legitimate lenders, in no matter what locality, to operate at a fair return on capital employed, and still provide a complete service at a reasonable rate to the borrower. Unless this is provided for, then without doubt, the evil of the unscrupulous lender will still exist, because if a legitimate lender cannot operate his business at a reasonable return, he will not attempt to remain in the field. The creation of what is tantamount to a monopoly will neither serve the needs of the entire community, nor will it remedy the present situation with its legion of "loan sharks."

THE SMALL LOAN COMPANY IN THE SMALL COMMUNITY

If this committee sets a rate which is so low that it will permit operation of loan companies in the larger cities or communities of the Dominion only, then what is to become of the smaller community? We must fully appreciate the fact that social and economic problems in the smaller communities are the same as in larger centres, and it is with this thought in mind and with complete understanding of our widespread territory and our localization of population, that we must establish a rate that is all-embracing. It has been our experience to supervise operation of branch offices in various small centres.

For the purpose of discussion, let us consider an office in the community of Brantford. The population of the City of Brantford is approximately 18,000, which taking into consideration the surrounding territory is increased to 30,000. An office in a city of this size employs a manager, collection clerk and stenographer, and is situated in a reputable building and is fully equipped to give an

efficient service to the community. This office is in every physical respect, the same as an office in say, the City of Hamilton, except for a slight difference in overhead. Each applicant receives the same attention, and each transaction requires the same amount of detail as a transaction in any of the larger offices. In other words, the overhead of doing business in Brantford is practically the same as the overhead in any large city. One can easily understand that whereas we have approximately 350 accounts in Brantford, we have approximately 800 accounts in Hamilton, and that inasmuch as the overhead varies but slightly, the cost of each individual contract in Brantford, must of necessity, be considerably higher. The volume of business that one can obtain in a small community is limited by comparison to the volume of business that can be obtained in a larger centre, and one can not simply set a rate that would be equitable for Toronto, and at the same time, expect that rate to apply to smaller cities. We submit therefore, that the general rate must be sufficient to embrace all types of communities, large and small, and to include all types of loan services which may be required by that community.

DISCUSSION OF THE MODEL LOAN STATES

We can fully appreciate the problem facing this Committee when we note that Mr. Leon Henderson in answer to a question submitted to him as regards to what States were considered to have model loan supervision, gave a list of six States, whose rates we have checked. The States are:—

NEW YORK—Interest, three percent per month on the first \$150 of any loan and $2\frac{1}{2}$ per cent a month on the balance.

INDIANA— $3\frac{1}{2}$ per cent a month plus a reasonable attorney fee in foreclosure action.

OHIO—3 per cent a month, inspection fee \$1 (collectable every four months) on loans not exceeding \$50.

CONNECTICUT.— $3\frac{1}{2}$ per cent a month.

MASSACHUSETTS—Not to exceed three per cent a month.

NEW JERSEY— $2\frac{1}{2}$ per cent a month for each callender month and 1/31st of $2\frac{1}{2}$ per cent for each elapsed day in any period less than a calendar month.

In reviewing the rates allowed in various States where the Uniform Small Loan Law is in effect, we note that they vary from a minimum rate of $2\frac{1}{2}$ per cent per month to a maximum rate of $3\frac{1}{2}$ per cent per month, so that it becomes apparent that what may be considered satisfactory legislation in one part of the country, would not necessarily apply to a different community with its different problems and its variance in population. For example, the state of Connecticut being sparsely settled, is allowed a rate of 40 per cent more than the state of New Jersey which is densely populated.

THE SMALL LOAN UNDER \$50

We are rather surprised to note that no one as yet, has enquired as to why a loan of less than \$50 is not made by any of the loan companies in Canada, outside of credit unions, while these loans are made by licensed companies in the United States. May we attempt to supply the answer. A loan of less than \$50 can not be made at a reasonable rate, unless the inclusive rate covering all loans is sufficient to partially absorb the expense and overhead of the loan in the low bracket; and it is this small borrower who is the most ready prey of the unlicensed lender or "loan shark."

OUR SUGGESTED RATE

For this reason, we respectfully submit that the graded rate as now used in the State of New York has considerable merit, as it will encourage companies to grant loans under \$50. The Uniform Small Loan Law in New York State is as follows:—

3 per cent per month on the first \$150.

2½ per cent per month over that amount to \$300.

In addition to their limit, we suggest 1 per cent on that balance to \$500. We believe it advantageous in Canada to set the limit at \$500 in order to avoid the necessity of the borrower being compelled to obtain from two companies, when the larger loan would accommodate his needs. We believe that as conditions warrant, the graded scale can be lowered, as suggested by Mr. Bunce. If you will recall, he stated he would recommend in his own State a new schedule of rates as follows: 3 per cent the first \$100; 2 per cent on the amount from \$101 to \$300 and 1 per cent from \$301 to \$500, although the rate now in force in Iowa is similar to that in New York State. This was due to the fact that the companies operating in Iowa last year, had an unusually successful year in operation, owing to improved economic conditions in that area. He further stated when a company makes a loan under \$75, even at a 3 per cent per month rate, it cannot break even on the transaction. It follows that on a loan of \$30, for example, the entire charge of 90c. for the first month cannot possibly cover the expense involved in granting this loan.

We do feel however, that it is the desire of every legitimate lender to remove from his business the unscrupulous persons who prey on the small borrower, and if it is at all within his possibility he will do more than his share to take up the needs of the various small borrowers, provided his loss on this end of the business is partially absorbed by a higher rate in the lower brackets and a fair all inclusive rate.

To confirm our statements that if a reasonable rate is allowed, legitimate licensed companies will venture into the field of the less than \$50 loan, we attach herewith, copies of advertisements of licensed companies operating in Ohio, which shows that they are granting loans in amounts from \$10 up. The entry into this field by licensed lenders, is the strongest weapon against the high rate lender, and the most direct method of correcting the abuses in this type of loan.

844 UNION TRUST BLDG., 8TH FLOOR,

Prospect 2327

\$10 TO \$500 ON YOUR NAME ONLY

Money in 1 day—25 Months to Repay—Phone Your Request—Call at the office,
get your money

PUBLIC LOAN CORP.

AUTO LOANS

SIGNATURE LOANS

\$10 to \$500 on any make car. Extensions granted when sick or out of work. Refinance, cut payments in half and get additional cash in 15 minutes. \$10 to \$300 on your signature. No comakers or mortgages. Come in and see me personally.

CHAS. FENDELL, Mgr.

1938 Appraisal Values

Make	1932	1933	1934	1935	1936	1937
Ford	\$100	\$150	\$175	\$225	\$300	\$400
Chev.	150	175	225	275	375	450
Plym.	125	175	235	285	375	475

Easy Pay Back Plan

Borrow \$ 50—Pay Back \$ 3 monthly
Borrow \$100—Pay Back \$ 4 monthly
Borrow \$150—Pay Back \$ 6 monthly
Borrow \$200—Pay Back \$ 8 monthly
Borrow \$300—Pay Back \$12 monthly
Based on 17 to 25 Months to Pay

Convenient parking at our door

AETNA FINANCE CO.

E. 12th and Superior

LOANS \$25 TO \$1,000

Wouldn't you like to take the cash and pay up every last one of your bills and personal obligations? What a relief? Besides you often earn substantial discounts for settling up balances in full. Phone us the amount it takes plus enough for new auto licences and other miscellaneous needs.

Tune in WTAM Cleveland, Sundays, 4 p.m. "Saluting Ohio Cities"

THE CITY LOAN

Downtown	Eastside	Westside	Southeast
2037 E. 14th	10536 Euclid	1840 W. 25th	5613 Broadway

Cleveland Plain Dealer—March 20, 1938

The danger of establishing a flat rate for all loans, has been clearly shown in numerous states, particularly in Michigan and Missouri, where after the flat rate of 2½ per cent per month was fixed, it was found that the amount of loans granted was restricted to amounts of over \$100.00, thereby neglecting the needs of the small borrower.

Mr. G. D. Finlayson, Superintendent of Insurance, to whom we acknowledge our indebtedness for his patience and consideration, but to whose views we are strongly opposed, will no doubt introduce his theory that small loan companies should be prepared to operate at a rate of 2 per cent per month, basing the correctness of his assumption on the facts and statistics as supplied by one of the largest companies in the field. We wish to point out that the company on whose figures Mr. Finlayson is basing his theory, is now making an application before the House for 2¼ per cent per month rate, and that their rate has varied from an average of 2.45 per cent per month in 1936, to 2.58 per cent in 1933.

We have had considerable opportunity to familiarize ourselves with the viewpoint of the Superintendent of Insurance, but hope that his opinions have been altered by the direct testimony of previous expert witnesses. In anticipating the arguments that will be used by him in support of a low rate, we wish to point out that it seems manifestly unreasonable in accepting statistics of this company, to use the figures arrived at after many years of operation, and to accept these figures as a basis for the operation of all companies. If you review the picture of this company (Central Finance) from the beginning, you will find that had it been compelled to operate throughout at the rate now applied for, the loss suffered in the building up of that business would have been far too great for any small organization to withstand. It must be realized that on some loans for almost half of that period, they were allowed a much higher rate than now used. It has only been after a period of a great many years, and after control of this company was taken over by one of the largest corporations in the small loan field in the United States, that it is possible for them to attempt to operate under the rate now applied for. We may further remark, that by their affiliations with this

American group, it is possible for them to obtain a practically unlimited amount of low interest-bearing American capital, which is a situation that very few Canadian companies are able to compete with. Furthermore, it does not seem equitable to us to assume that because a company of this proportion, whose advertising appropriation for one year is almost as much as the amount of capital originally required for the formation of most companies, should have their statistics used as a yardstick for all other companies. Let us also point out to you that despite the fact that special charters under Federal supervision have been obtained by (1) a large American corporation—The Small Loan Company of Canada, and (2) ourselves—The Personal Finance Corporation (after a great deal of expense, difficulties and unfair publicity) that due to the fact that the rate was finally limited to $2\frac{1}{2}$ per cent per month, graded to 1.84 per cent per month, they and we felt this rate inadequate to permit operations in our country. If Mr. Finlayson's theory is correct that all loan companies should be regulated by the requirements of this one company, are we to then assume that business of all nature in this country is to be regulated on the basis of the company or organization which can operate at the lowest cost or mark-up? For example, in reviewing the Life Insurance field, a department under direct supervision of Mr. Finlayson, we find, on similar forms of policies from various companies, a wide variance in the net returns to policy holders. For definite statistics and confirmation of this fact, refer to Stone and Cox Manual. Is it logical to suggest therefore, that all Insurance Companies should be compelled to operate on the basis of the company which offers the greatest return to policy holders, or leave the field entirely? To continue with further examples of differences in rate in the insurance field, we find for example, that on a policy placed on a 1934 Dodge in the Toronto district, the rates of tariff companies are approximately 40 per cent greater than that of recognized reputable strong non-tariff companies, but surely there is no desire on the part of the Department of Insurance to refuse tariff companies the right to issue automobile insurance, because of the fact that they can not compete in rate with a non-tariff company. It takes only a few minutes study to discover that industrial insurance costs considerably more than ordinary life insurance. As a matter of fact, the accrued benefits to an insured under an ordinary life insurance policy is 136 per cent greater than those of an industrial policy with the same company, both based on the same age of the assured, but surely, it would be unreasonable to say that industrial insurance does not serve a useful and needy field, giving protection to those who possibly could not afford to buy any other type of insurance.

Using the life insurance field as a further parallel, we find that it is common practice for a life insurance company to issue policies on what are known as sub-standard risks (people who are not in perfect health) at greatly increased rates, and it is also a universally recognized theory that certain hazardous occupations in applying for life insurance are only issued policies at greatly increased premiums. To reduce this to the terms of the small loan problem, does it not seem logical to assume that if a borrower can not obtain a loan from a company, which only makes loans to Grade "A" risks, he should be entitled to obtain accommodation from a company which is prepared to accept a sub-standard risk by virtue of a higher rate.

A reported statement has been made by the Superintendent of Insurance to the effect that "as there is always good ground for avoiding discrimination in rates as between large and small companies, it follows that a rate high enough to enable the small lender to live, tends to become the standard for the large companies which are operating at lower rates." With due deference to his statement, we wish to point to the fact that while the rate in the State of New York, for example, permits of a charge of 3 per cent per month on loan balances up to \$150 and $2\frac{1}{2}$ per cent on all amounts over \$150, one of the larger finance corporations has voluntarily reduced their charge in larger cities to 3 per cent on balances up to \$100 and 2 per cent thereafter. For confirmation of this fact, we attach herewith, an ad taken from a New York City paper.

BORROW WITHOUT GUARANTORS

LOANS

AT HOUSEHOLD FINANCE REQUIRE NO CO-SIGNERS
QUICK ACTION . STRICTLY PRIVATE

You need a loan? You can apply for \$20 to \$300 if you can make regular monthly payments. No stocks or bonds required. You get your loan quickly, simply, without embarrassment. No one need sign with you. (Married couples sign together.) No one will know about your loan but you. Read the 7 features of Household Finance's famous loan plan. Then phone or call at the nearest office.

7 FEATURES OF THE HOUSEHOLD FINANCE LOAN PLAN

1. Household Finance's rate is 3 per cent per month on balances of \$100 or less, 2 per cent per month on balances above \$100 to \$200, 1 per cent per month on balances above \$200.
2. If you can make regular monthly payments you can apply for a loan of \$20 to \$300 on furniture, car, or a plain note.
3. Small monthly payments. Example: \$21.00 first month decreasing each month to \$15.45 last month, repays a \$300 loan in 20 months including charges.
4. You do NOT need co-makers or endorsers. No salary or wage assignment required.
5. Quick action. No long drawn out negotiations.
6. Loan may be repaid ahead of schedule. Charges made on the unpaid balance only.
7. No inquiries made of friends or relatives.

"Doctor of Family Finances"

The New York Times—Sunday, March 20, 1938

We therefore see that the maximum rate established, in no way becomes a definite and general practice, for competition in a company's desire for volume will automatically cause a normal reduction where circumstances will logically permit. It is quite a simple matter to assume that a borrower desiring to procure a loan of \$100 on a 1938 automobile will shop around and obtain a lower rate than a similar borrower desiring a loan of \$100 on a 1932 car. For here we will have the every day rudiments of business and common sense producing a desire on the part of the lender to obtain the better secured loan at a slight reduction in income. A maximum rate can at all times be lowered by competition, whereas a minimum rate has the disastrous effect of creating a monopoly.

We respectfully submit for the careful consideration of this committee the advisability of allowing Personal Finance Companies to grant loans of over \$500, in conjunction with their regular small loan business. It is not uncommon for loans on recent model cars or trucks to be made in excess of the \$500 limit. The inclusion of this type of loan tends to reduce the general overhead of an office at a benefit to the small loan borrower.

Let us recapitulate the above remarks and emphasize more strongly this one fact, that the creation of what is tantamount to a monopoly will neither serve the needs of the entire community, nor will it remedy the present situation with its legion of "loan sharks." A rate must be set at a level which will permit the small loan companies to take all classes of risks, with the opportunity for discretion by the lowering of rates to that type of risk which warrants that lower rate.

It is respectfully submitted, and it is our sincere hope, that your Committee by appropriate regulations and guidance, will remove from the small loan business in our Dominion, the stigma and uncertainty that has heretofore been attached to it; that will permit capable men of broad understanding and intellect to enter the field to render an efficient and all-embracing service to the community.

"The laws of this country must be passed not to aim at an elusive ideal but towards overcoming the evils at which they are directed."

In conclusion, may we assure the Members of this Committee, that in their desire to intelligently legislate on this difficult loan problem, they have the whole-hearted support of every legitimate loan company operating in Canada.

Respectfully submitted for your due consideration,

MORRIS J. WEISS.

Dated at Toronto, this 23rd day of March, A.D. 1938.

PAY-DAY OR SALARY LOANS

MEMORANDUM SUBMITTED BY MR. JOSEPH A. SWEET, BARRISTER AND SOLICITOR,
HAMILTON, ONT., ON BEHALF OF CERTAIN PERSONS MAKING PAY-DAY
OR SALARY LOANS

March 25, 1938.

To: Mr. W. H. MOORE, M.P.,
Chairman, Standing Committee on Banking and Commerce,
House of Commons,
Ottawa, Ontario.

Certain lending organizations desire to submit to the Committee that they specialize in the making of small loans ranging from \$5 to \$50 for short periods of time averaging less than two weeks and that their type of business will require consideration in any new legislation enacted. This is the type of loan similar to those sometimes known as Pay-Day or Salary Loans.

It is submitted that this branch of the business provides a service quite different from the usual loan ranging from \$50 to \$500 repayable over a period of perhaps a year.

This memorandum is not meant to be a complete brief on the subject but merely an attempt to give a general outline of the situation. It is respectfully requested that the standing committee also hear a verbal statement.

A. NATURE OF BUSINESS

A borrower would apply for a loan of from five to fifty dollars to be repayable on the day when his next payment of salary or wages becomes due. Usually these salary dates are about two weeks apart. Accordingly the loan would at least usually become payable within a period of less than two weeks. For this loan, regardless of the amount of it, namely, whether it be for five dollars or for fifty dollars or any intermediate amount, it is desired to be permitted to charge fifty cents without any other charges under any name or guise whether it be service, interest, penalty or otherwise if the loan is paid at maturity. It is suggested that if the loan is not paid at maturity any amount in default should continue to bear interest after the date of maturity but only at whatever rate may be payable on loans of this type without the addition of any penalty or other charges unless suit is entered thereon. In that event, it would, of course, be desired to collect costs which might become payable by any defendant in an action brought against him for any debt in the usual way.

To take specific instances, what is desired is the following:—

If A. applies for an amount involving \$25 on August 3, 1938, until his next pay-day on August 15, 1938, and repays the loan on August 15, 1938, the total charge would be fifty cents. In other words A. would obtain \$24.50 on August 3, 1938, and pay \$25 on August 15, 1938.

If he does not pay on August 15, 1938, and if the legal rate of interest is 12 per cent per annum there would be payable \$25 plus interest at the rate of 12 per cent per annum computed on the time that the payment of \$25 is in default.

If he does not pay and suit is entered and judgment is obtained the judgment would include any party and party costs payable by the ordinary judgment debtor under similar circumstances.

B. LEGISLATION

The need of a small minimum charge has apparently been recognized by legislation for many years. At the present time there is incorporated in The Money Lenders' Act (R.S.C. 1927, Chapter 135) the following section numbered 4:

This Act shall not apply to any loan or transaction in which the whole interest or discount charged or collected in connection therewith does not exceed the sum of fifty cents.

It is merely desired to retain in any new legislation which may be enacted a provision somewhat similar to the above. It is respectfully suggested however that the situation would be clarified if there were some amendment to the wording of that particular section. A wording suggested for consideration is the following:

Notwithstanding anything in this Act contained, any person, firm or corporation may charge, collect or retain in connection with any loan or transaction the sum of fifty cents and in the event of default in payment at maturity interest thereafter at the rate herein authorized.

C. DISCUSSION REGARDING COST OF DOING BUSINESS AND THE POSITION OF THE LENDER

There has been submitted what is claimed to be a summary taken from the books of an office carrying on this type of business for the purposes of analysis. No assurance is given that this is correct but the person submitting the same has stated that, if required, a statement certified by a recognized auditor will be furnished in substantiation.

DATA SUBMITTED

Place of operation—Hamilton, Ontario.
 Capital invested—\$7,600.
 Period of operation covered—June 1, 1937, to February 28, 1938 (nine months).
 Number of loans made—11,019.
 Total amount lent (approximately)—\$134,431.80.
 Average amount of loan—\$12.20.

TRADING STATEMENT

(Approximate)

Gross income from loans on basis of 50 cents per loan not including amounts received from borrowers for purpose of paying for credit report from Hamilton Credit Bureau		\$5,059 50
Cost of operation—		
Rent	\$ 432 00	
Salaries and drawings by owner said to be engaged in active management	3,167 50	
Telephone	117 02	
Advertising	423 70	
Insurance and business tax	158 30	
Office expense	357 00	
Audit	90 00	
Hydro	32 83	
Provision for bad debts said to be based upon total amount of accounts more than one month overdue	593 00	
		<u>5,371 35</u>
Surplus		\$ 138 15

N.B.—This unit is said to be affiliated with a company which makes other types of loans and some of the above costs supply facilities also used in connection with the other business. Accordingly, in order to use the above figures for the purpose of ascertaining exact actual cost and returns it would in any event be necessary that some adjustment be made and the comments hereinafter set out based on the above figures are meant to be taken subject to qualification accordingly. However, it is claimed by the organization that the major portion of the above costs are properly chargeable to the pay-day loan section. The statement is submitted for the purpose of showing generally what one organization claims would be the approximate cost of conducting a pay-day loan business. The organization claims that the adjustments necessitated to indicate the actual costs would not be so great as to change the general nature of the situation.

The above would indicate an average surplus of about \$15.35 per month. This would be about one-fifth of one per cent per month computed on \$7,600 or less than a rate of 3 per cent per annum computed on that amount. And this, too, in spite of the fact that the organization would appear, from the above statement, to have had efficient management. In this connection reference is made to the number of loans granted during the period of nine months indicating that the invested capital must have been kept in very active use. The efficiency of this organization would seem evident from the fact that out of \$7,600 it claims to have made, in nine months, 11,019 loans aggregating almost \$135,000.

The efficiency of the organization is further evidenced by the relatively small provision for bad debts. It would appear that even a figure of 1 per cent on the amount of loans made on this type of security would not be unexpected. If that were the case such bad debts would total about \$1,350 computed on total loans of about \$135,000. Actually the provision for bad debts is shown only at about 0.44 per cent or less than one-half of one per cent.

It is interesting to note the evidence of the economist, Mr. Leon Henderson, regarding losses, given before the committee and recorded at page 106 in Part 4 of the Minutes of Proceedings and Evidence, namely:—

By Mr. FINLAYSON:

Q. I just want to ask if you think a loss of one-half of one per cent would be large or small?

A. It would be small for licensed companies. Probably the only time I have seen them use that was when they were trying to sell some of the securities.

The above references are made for the purpose of indicating the efficiency of the management of this office. Even with that efficiency the surplus is indicated as being very small.

In this Office it is obvious that without having regard to any provision for bad debts it would seem necessary to make approximately 9,556 loans at fifty cents per loan in order to cover the items included under the heading "Cost of Operation" not including the provision for bad debts. On that basis and including the provision for bad debts the average cost per loan on 11,019 loans would be something over 48 cents. This unit therefore, based on the above indicated cost of operation, would appear to have netted on each loan averaging about \$12.20 the small amount of something less than two cents. All of this is, of course, subject to the qualification mentioned above.

It is submitted accordingly that on the basis of these figures it would be impossible to operate this type of organization unless a minimum charge of fifty cents is paid.

D. SOME EVIDENCE OF MR. LEON HENDERSON GIVEN BEFORE THE COMMITTEE
REGARDING A HIGHER RATE ON VERY SMALL LOANS

The necessity for a higher rate on very small loans would appear to be recognized in the evidence given by Mr. Leon Henderson before the standing committee. The following are extracts taken from page 101, of Part 4, of the Minutes of Proceedings and Evidence respecting small loans indicating certain questions put to Mr. Henderson and his answers:

Mr. FINLAYSON: In principle, what is the object of the graded rate?

The WITNESS: In general terms, the object of the graded rate was to see that loans of a smaller denomination were made, and since there is a fixed cost applicable against any loan, there has been a tendency for the average loan to move up, particularly with increasing costs that have been taking place in the various states.

Mr. FINLAYSON: So that with a flat rate there is the danger that a man who only needs a small loan would not be able to get it?

The WITNESS: Yes, there is.

Mr. FINLAYSON: If $2\frac{1}{2}$ per cent were fixed as the rate, the company might be quite able and willing to make \$150 loans at that rate, but they would not want to make \$50 loans?

The WITNESS: That is quite possible.

Mr. FINLAYSON: Therefore, the man who only needed a \$50 loan would have to look elsewhere for his money?

The WITNESS: There is that possibility.

E. THE VALUE OF AND NECESSITY FOR PAY-DAY LOANS

There are numerous occasions when a person needs temporary assistance in a small amount to tide him over until the next pay day. He may need to borrow say, twelve or fifteen dollars. He might, if he is fortunate, have a friend from whom he might borrow it. This, however, is often not the case. His circle of acquaintances would probably be in the same wage or salary strata which ordinarily would not be expected to leave a surplus for the purpose of assisting friends. Even if the loan were available from a friend, in many cases he would prefer to pay fifty cents for the accommodation rather than embarrass his friend or himself by using such friendship as a reason for making a request for a loan.

The occasions when such loans might result in an actual saving to the borrower are numerous. One example would be in the matter of purchasing food-stuffs. It is true that if a salary or wage-earner of good standing found himself temporarily devoid of sufficient funds for the purchasing of food-stuffs there are certain stores where he could probably obtain the goods on credit. However, it is submitted that this type of store which extends credit often charges a substantially higher price, perhaps as much as 10 per cent more, than the cash groceries or similar sources of supply which sell only for cash. It could easily be to the pecuniary advantage of the borrower to pay fifty cents for the use of say, \$12.00 if he required that \$12.00 for food which, having the cash, he could purchase in the cheapest market, than to pay possibly \$1.00 or \$1.50 more for the same food in a store which, charging higher prices, would extend him credit. It may be that some of this type of purchaser would not acquire \$12.00 worth of food at one time but spread over a period of say ten days he could easily require it for himself and his family.

At many times too there are available reduced prices in stores on an article needed by a borrower or his family which bargain or sale price may be available only for a day. Just at that time he may not have say \$15.00 with which to make the purchase. If he had to wait until pay-day the price, going back to normal, might result in his paying considerably more than the fifty cent borrowing charge.

There are many occasions also when emergencies arise in the matter of sickness when medicines and similar supplies are required which must be quickly available.

It is claimed that even some persons with money on deposit in a savings bank prefer to make a loan in this way for the short period of time at a cost of fifty cents rather than withdraw the money from the savings bank, fearing that if the money is withdrawn from the bank that the temptation not to re-deposit would be great. It appears that the borrower being under an obligation to repay the loan on the due date feels that he will repay it and does repay it but being under no obligation to re-deposit it in his savings account he might spend it unnecessarily if withdrawn from the account. In this way he might actually be cash ahead if he borrows instead of using savings.

If these very small loans are not available there might be an inclination to obtain larger ones in order to have available a small amount immediately and urgently required. In this there is of course danger to the borrower. The larger loan would necessitate the payment of larger charges. Possibly even more serious than that would be the difficulty in repayment of the larger principal. To many people having a considerable portion of free cash there is the temptation to spend it on items which are not essential and there becomes then a major problem of getting out of debt. It is submitted that the taking of only small loans for actual immediate necessities discourages extravagance and puts the borrower in the position where he can liquidate the indebtedness. The problem of repaying say \$15 is a lesser one than repaying say, \$150.

F. CONCLUSION ON MATTER OF FIFTY CENT CHARGE

That the lenders of these very small short loans provide a definite needed service would appear to be beyond doubt.

Such service cannot be supplied unless it is economically possible to provide it. It is claimed that in order to provide it the lender must have the right to make a minimum charge of fifty cents.

It is submitted that it is no hardship on a borrower needing a small amount of money for a short time to pay fifty cents for the accommodation and that it is to his advantage to have the service available.

AS TO AMOUNT OF INVESTMENT REQUIRED PRIOR TO THE GRANTING OF A MONEY LENDER'S LICENCE

There has been a suggestion made that the granting of a money lender's licence be made contingent on the lender having a net worth represented by liquid assets of at least \$100,000 available in Canada for the making of loans. It is submitted that if such a requirement were made effective the type of business referred to in this memorandum could not be carried on and services available through this type of business would have to be discontinued.

It is submitted that it would be economically unsound for any lender to have invested in any one office of this type any amount of money approaching anything like \$100,000. In the office referred to above 11,019 loans totalling about \$135,000 are claimed to have been made in a period of nine months on an investment of \$7,600. On a proportionate basis the total number of loans and the amount thereof on an investment of \$100,000 would be stupendous. It is claimed that they would have to be beyond any reasonable expectation for one office.

Moreover, it is submitted that a required investment of \$100,000 would so restrict operations in the loan business generally that it might tend towards a monopoly. It would, of course, mean that only large operators could continue in business. The result might be a lessening of competition. One of the im-

portant economic factors in the keeping down of prices and costs is the increasing of competition. It is submitted that the compensation obtainable for the use of money is based on the same law of economics as that applying to prices of commodities. If there is a large supply available through many sources the normal reaction is that the commodity or, in this case, the money, would be cheaper, and the commodity or money more readily available to those who need it.

Legislation limiting legitimate competition in this field would be, it is submitted, at cross purposes to what it is intended that the legislation should accomplish, namely, the making of money available at reasonable prices.

The purpose of the legislation would, it is thought, not be to have fewer people in the business, or richer ones, but that those who are in it be so regulated and their business so supervised that the public shall be dealt with fairly. It is submitted that the amount of available capital in any one business is not important from the point of view of regulation but that the important factor is how the capital, whatever its amount, will be employed. All of which is respectfully submitted.

ECONOMY FINANCE CORPORATION LIMITED*Head Office—Toronto, Ont.*

(Submitted by Mr. Lewis Samuels, Barrister, Toronto.)

Directors, Frank Adelberg, Louis Schwartz, Celia Schwartz.

How Incorporated,—By letters patent under the Ontario Companies Act and by Supplementary Letters patent dated November 20, 1937, to limit rates to 2½ per cent per month computed and paid only on the unpaid monthly principal balance.

Date of Incorporation, June 14, 1935.

Date of Commencement of Business, June 15, 1935.

Fiscal Year, June 15th.

Authorized Capital—\$40,000 divided into 400 shares of \$100 each. The Company is a private Company and no shares have been offered to the general public.

As at December 31, 1937

Total Assets—\$105,224.91.

Balance of Loans outstanding—\$103,873.51.

Number of Loans outstanding—620.

Average amount of loans outstanding—\$167.42.

For the Year 1937

Amount of loans made—\$240,340.34.

Number of loans made—1,168.

Average amount of loans made—\$205.77.

Loans made on Security of—Chattel Mortgages on

Household Furniture—No. 696 amount \$103,142.09.

Business Equipment —No. 49 amount \$ 39,614.50.

Automobiles —No. 351 amount \$ 85,078.64.

Endorsed or Co-make notes—Nil.

Wage or salary assignments—Nil.

Investment Certificate or other form of Collateral Agreement—Nil.

Miscellaneous (Give details)—No. 72 amount \$12,505.11. All discounted notes and liens.

Number of reposessions of security covered by chattel mortgage—1.

Number of sales of Chattels reposessed—1.

Number of suits for recover of judgment—5.

Percentage of profits of amount of average assets employed in business before paying interest on any borrowed money employed in loan business—4.28 per cent.

SMALL LOAN BUSINESS

The Company provides a complete service making loans of all kinds from \$50 and up to wage earners, executives, retail merchants, business men, contractors, manufacturers, builders and corporations.

SECURITY

All loans are made on security of a chattel mortgage on household furniture, car, personal effects or business equipment and in addition the borrower must sign a promissory note. By virtue of the fact that the President and Secretary-

Treasurer (who are the chief shareholders) are actively employed in the business of the Company many loans are made on moral risk rather than on security obtained.

CHARGES

The charges made by the Company are limited by Provincial Charter to a maximum of $2\frac{1}{2}$ per cent per month on the unpaid monthly principal balance owing. These charges are allocated as follows: (1) A loan bears interest at 1 per cent per month on the monthly principal balance owing. 2 A maximum charge of $1\frac{1}{2}$ per cent per month is made on the unpaid monthly balance covering (a) cost of investigation, (b) conveyancing charges which includes preparation of chattel mortgage; discharge of chattel mortgage; wage assignment (if any); declaration by the borrower under oath (if necessary); (c) cost of collection. All loans are not made at the maximum rate, competition and bargaining power forces the rate down on loans according to the value of the security offered.

METHOD OF MAKING A SMALL LOAN

The borrower when he comes into the office is interviewed by one of the staff and is required to fill out an application form setting out his name in full, his age, the name of his wife (if any), residence, phone, how long there, previous address; occupation, type of business, how long there, firm name, address, phone, salary; other revenue; number of children, occupation; rent per month, arrear (if any), name and address of landlord; any dealings with other finance companies; name and address of relative; name of bank, branch, account number; reasons for loan; amount of loan required; list of furniture for the purpose of a chattel mortgage; motor vehicle (if any). The borrower is required to sign a promissory note to the Company. Before he leaves he is told that the loan bears interest at 12 per cent per annum and that in addition he will have to pay a stated amount for conveyancing and other charges and signs an agreement to this effect. The borrower is then told to come back the next day.

The Company then checks the application for loans by (1) obtaining a credit report from the Toronto Credit at the cost of 50 cents, or in case of small loans one of the staff checks the information given by the borrower (2) one of the Company's staff attends at the City Hall and checks chattel mortgages and liens at the minimum cost of 50 cents, and in larger loans checks executions at a minimum cost of an additional 30 cents.

If the application upon being checked is satisfactory a chattel mortgage is drawn and completed at the direction of the borrower and registered. The registration fee that is paid out is 50 cents. The borrower is then given a payment card setting out the schedule of payments and the Company's cheque for the amount of the loan. The Company opens a file for the borrower and a ledger sheet.

If the application for the loan is rejected no charge is made by the Company to the applicant for the disbursements incurred; 90 per cent of the rejections are on loans of \$100.00 and under.

COLLECTIONS

Loans are usually made for a period of one year repayable in monthly instalments. If a payment is not made within three days of due date one of the Company's collection staff telephones the borrower; if a payment is not made within one week a letter is written to the borrower; if a payment is not made within two weeks a second letter is written to the borrower and to the endorsers (if any); if payment is not made within a month the account is turned over to the Company's solicitor for attention. The Company's collection staff does every-

thing in its power to assist the borrower; if the borrower states that he will bring in a payment within a week the account is set over, if he does not pay after the extension he is telephoned again before any collection letter is sent out. No charges are made for collection letters. A survey by the collection department shows that 25 per cent of the payments are made within 10 days, 75 per cent are made within one month and 90 per cent are made within two months. The payments most difficult to collect are on loans of \$100.00 and under; the reason being that in most cases the borrower's budget is stretched to the limit in this orbit of loan. The Company quite agrees with Mr. Ralph L. Bunce, who recently appeared before your committee, that on a 2½ per cent rate loans of \$100.00 and under are conducted at a loss.

ADVERTISING

The Company's advertising is done solely through the daily press. All advertisements are merely a statement of fact and do not make it attractive to borrow. The Company's volume of business has been obtained first through advertising and subsequently through goodwill. As the Company's volume of business increased the Company was enabled to drop its rate to the present level because of the decreased cost of acquisition. The Company's experience in advertising entirely supports the statement made by Mr. Ralph L. Bunce on page 207 of your committee's Minutes of Proceedings and Evidence Respecting Small Loans. For the observation of your committee I am setting out a duplicate advertisement used by the Company.

LOANS

\$50 \$1000

On your car, furniture, or business
Convenient monthly payments

ECONOMY FINANCE CORPORATION LIMITED

331 Bay Street

Ad. 9343

PAYMENT OFF

When a loan is paid off a discharge of chattel mortgage is prepared and mailed together with the cancelled note, chattel mortgage and any other documents signed by the borrower in connection with the loan at no additional charge to the borrower.

SUPERVISION

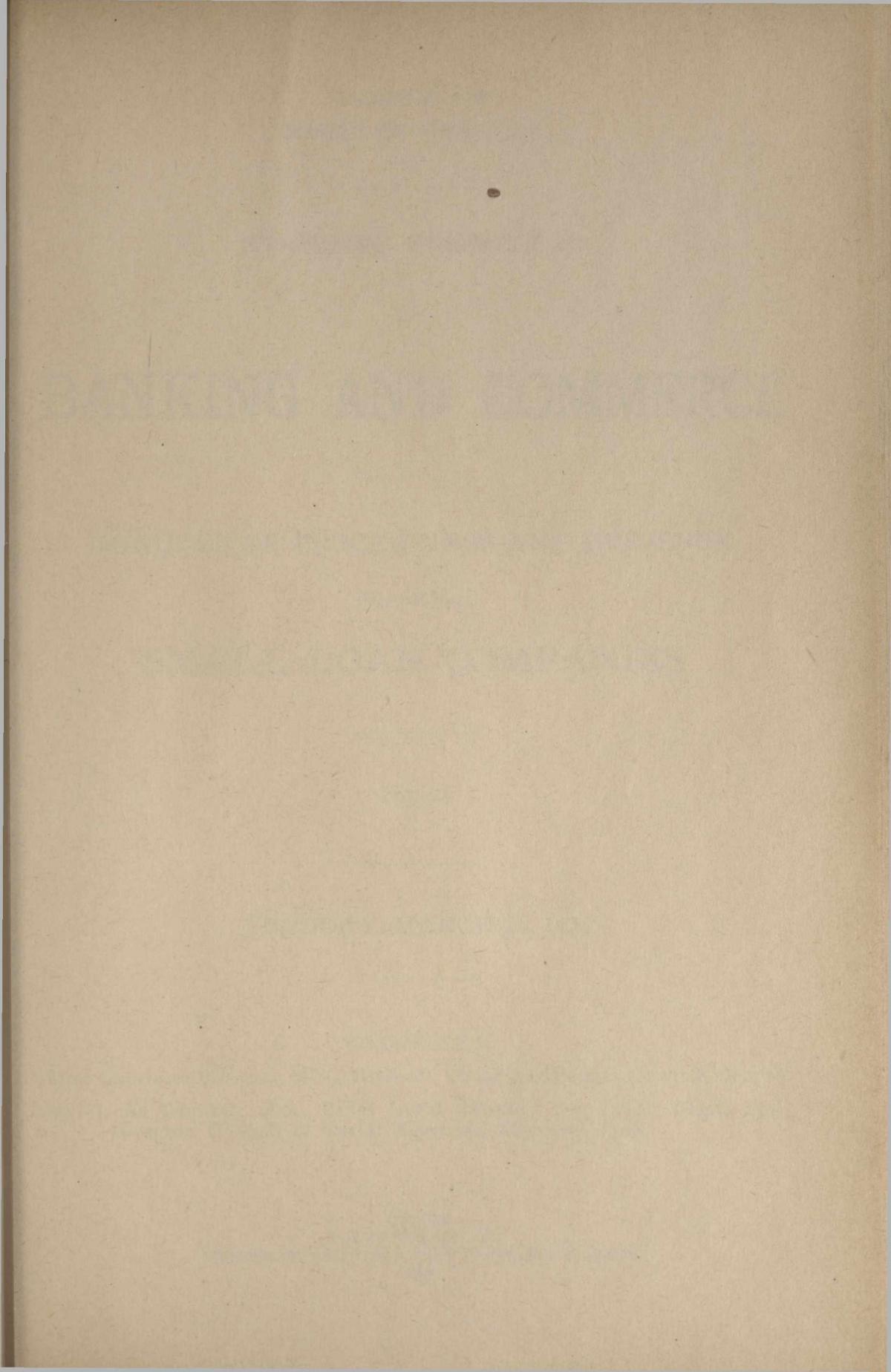
The Company is not under any government department supervision. Its books are audited regularly by its own auditors and municipal, provincial and dominion taxes are paid. In general matters of policy the company, through its solicitors, have on various occasions consulted Mr. G. D. Finlayson, Registrar of Small Loan Companies. The Company has always been in favour of legislation in regard to finance companies and to general supervision.

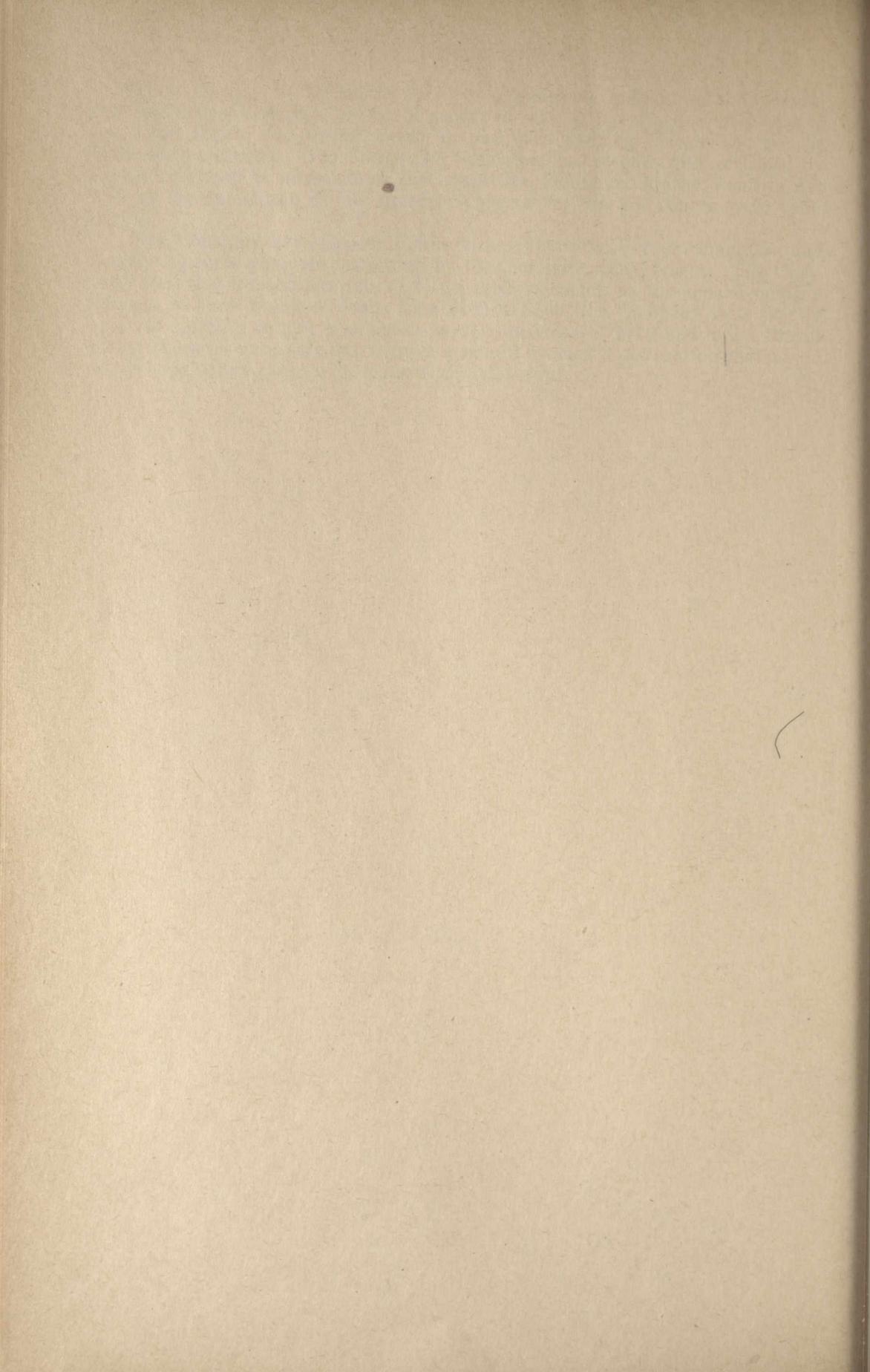
JURISDICTION AND LEGISLATION

The Company is a private company incorporated under the Ontario Companies Act with the power to make small loans. The Company since its inception in business has operated under the interest plan together with a service and conveyancing charge; the aggregate amount of charges are not in excess of 2½ per cent on the unpaid monthly principal balance.

The Company on the advice of its solicitors have maintained that service and conveyancing charges are not a matter of interest but a matter of Property and Civil Rights and therefore service and conveyancing charges can not be construed as interest. The Company's contention has recently been affirmed by Judge O'Connell in prosecutions laid under the Dominion Money Lenders Act and by the contention of the Attorney-General for Ontario before your committee.

The Company nevertheless desires to co-operate with your committee and heartily supports adequate legislation by the Dominion Government. The Company feels that a maximum rate of $2\frac{1}{2}$ per cent per month on the unpaid monthly balance on loans is fair on loans from \$100 to \$500; the Company feels that in order to continue to give a complete service on loans of \$100 and under that a higher charge is necessary and suggest a rate of at least 3 per cent on the unpaid monthly principal balance on loans within this orbit.





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SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 11

TUESDAY, MARCH 29, 1938

WITNESSES:

Miss Charlotte Whitton, M.A., Director, Canadian Welfare Council, Ottawa.

Mr. J. A. Edmison, B.A., Chief Legal Counsel, Bureau of Legal Aid;
Director, Council of Social Agencies, Montreal, Que.

STANDING COMMITTEE

STANDING COMMITTEE

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND REPORT

REPORT

SMALL LOAN COMPANIES

NO. 11

REPORT OF THE

STANDING COMMITTEE ON SMALL LOAN COMPANIES
IN RESPONSE TO RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES
MAY 15, 1907

COMMISSIONER OF THE GENERAL INVESTIGATION
OF THE HOUSE OF REPRESENTATIVES

MINUTES OF PROCEEDINGS

TUESDAY, March 29, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Edwards, Fontaine, Howard, Jaques, Kinley, Kirk, Lacroix (*Beauce*), Landeryou, Leduc, McPhee, Mallette, Martin, Moore, Perley, Plaxton Quelch, Vien, Ward, Woodsworth.

In attendance: Mr. G. D. Finlayson, Superintendent of Insurance; Miss Charlotte Whitton, M.A., Director, Canadian Welfare Council, Ottawa, and Mr. J. Alex. Edmison, B.A., Chief Legal Counsel, Bureau of Legal Aid, Montreal, Director, Council of Social Agencies, member law firm Creelman & Edmison, Montreal.

The Chairman read a letter from the Rev. Peter Bryce, Moderator of the United Church of Canada, Toronto.

Miss Whitton was called and examined.
Witness retired.

Mr. Edmison was called and examined.
Witness retired.

On motion of Messrs. Howard and Plaxton a vote of thanks was extended to Miss Whitton and Mr. Edmison.

With permission of the Committee, Mr. G. B. Isnor, member for Halifax, filed a submission on behalf of General Finance Corporation, Halifax, N.S.

On motion of Mr. Vien,

Ordered,—That the following corrections be made in the record with respect to the evidence given by Mr. Cyrille Vaillancourt, Manager, Les Caisses Populaires Desjardins, on March 10, viz:—

Page 145, line 19, for the figure \$5 substitute \$500.

Page 153, line 2, for the words "one-quarter of one per cent or twenty-five cents" substitute the words "one-third of one per cent or thirty-three cents."

Page 154, line 6, for the words "I suppose" substitute the words "for instance."

Page 154, line 15, to the words "To \$1,000," add: "in some cases."

Page 155, line 32, in the answer given to a question by Mr. Donnelly, for the figure "fifty-seven" substitute "thirty-seven."

Page 156, to the answer "no drafts but notes" given to a question by Mr. Kinley, add the following explanation: "When a school board overdrafts the amount of its deposit in the 'caisse,' it gives the latter a note for the amount of the overdraft."

Page 157, line 3, to the words "to our city" add the words "at different times."

Page 158, line 12 from the bottom, for the words "four per cent" substitute the words "five per cent."

Page 161, line 7, in the answer given by witness to Sir Eugène Fiset, strike out all the words following the words: "Take my case," and substitute the following: "I am the manager of the Quebec Maple Sugar

Producers Association, a co-operative organization. Our co-operative organization is connected with the Central Caisse. Our Maple Sugar Producers Association is connected with the Quebec Regional Caisse and this Central Caisse lends us money every year, guaranteed by our organization."

Page 162, line 23, for the answer "No" in reply to a question by Mr. Vien, substitute the answer "Yes."

With respect to Mr. Vaillancourt's evidence as a whole, add the following explanation:

"It is to be noted that all the figures shown in the statements appearing from page 146 to page 152, relate to 251 units as at June 30, 1936. To-day's figures would show 393 units with assets of \$17,000,000. The amount of loans outstanding at the present time would be quite different as compared to the figures of 1936."

The committee adjourned at the call of the chair.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

March 29, 1938

The standing committee on Banking and Commerce met at 11 a.m., the chairman, Mr. W. H. Moore, presiding.

The CHAIRMAN: At the last meeting of your sub-committee, it was decided that before closing expert evidence we should have those interested in social service work in Canada appear before us. The sub-committee met on Thursday last and assigned to the chairman of the committee the task of securing experts on this particular branch of the subject. You can well imagine, if you think for a moment, that the sub-committee apparently have more confidence in the chairman's ability than he deserves. However, fortunately I knew very well Miss Charlotte Whitton, and I thought of her at once. Miss Whitton reminded me this morning that we graduated together from Queen's. However, I have to admit that my degree was not earned by faithful four years' attendance.

In the course of our enquiries, I tried to secure from the churches their views of the subject. We have a letter which I received this morning from the Reverend Peter Bryce. I will either place it on the record, or, if you prefer, read it.

Mr. PLAXTON: Read the letter, Mr. Chairman.

The CHAIRMAN:

Dear Mr. MOORE:

I am, of course, keenly interested in anything which tends toward a betterment of conditions for the people in Canada and from the social service viewpoint cannot but be concerned with the conditions which have surrounded the thousands of people who, from time to time find themselves in urgent need of money to relieve emergencies of sickness, death, or even of those contingencies which, possibly due to human failings, have nevertheless taken on the aspect of tragedy for the individuals.

For this reason I wish to express my pleasure in the fact that such a careful study is being made in the committee of which you are chairman, with regard to the Small Loan business in Canada, and would like to take an opportunity here to express my hope that general legislation will be enacted which will lift the need for cash credit on the part of many people from dependence upon illegal and conscienceless lenders, and place it in the hands of responsible and supervised agencies.

In talking of this need some time ago, I expressed myself as having decided that philanthropic and co-operative methods of meeting this need would not be satisfactory, and that commercial enterprise offered the proper solution.

I see no reason in the light of recent development to change that opinion; rather is it strengthened. I may say also that having been acquainted for some time with the methods and objectives of one of the companies working under Dominion Government supervision, and having knowledge also of some of the personnel connected with that Company, my sincere hope is that the parliament of Canada will not delay longer, but will enact whatever legislation is essential to place the undisputed need for some source of cash credit for needy borrowers under the direction and supervision of those who can operate cleanly, openly and with an acknowledged sense of social responsibility.

Your very truly,

PETER BRYCE.

Mr. MALLETTE: Mr. Chairman, with what church is the Rev. Peter Bryce connected?

The CHAIRMAN: He is the Moderator of the United Church of Canada.

Mr. MALLETTE: Thank you.

The CHAIRMAN: We are now in negotiation, and you will realize that we have had only a short time, to secure from the head of the Catholic Charities in Toronto an appearance. Whether we shall succeed or not yet remains to be determined, but we will probably know to-day.

And now I bespeak for my friend, Miss Whitton, a careful hearing, remembering this, please, that Miss Whitton has only had a few hours' notice that she was to appear before the committee and is appearing on a matter that to most of you is highly technical. We would have waited a while, I think, but Miss Whitton has been called to Geneva and will leave within the week, I think, so that her appearance before the committee this morning is a hurried one.

CHARLOTTE WHITTON, M.A., *Director Canadian Welfare Council*, called.

Mr. Chairman, thank you very much for your kind introduction and explanation.

I might say in the first instance that in Canada we have not, among our social agencies any such service as The Russell Sage or similar foundations of the United States. No person of considerable means has yet felt called upon to endow such a service in Canada, and the very youth of our development and of our social services and the pressure on them have meant that we have not been able to set aside funds for research and study of that nature. It must be done incidentally to the actual day-to-day operation of the social agencies.

I would also like to add another word of explanation; that I am the director of the Canadian Welfare Council which is the clearing house in social work of the public and voluntary agencies in different fields. As such it is a loosely knit federation, representative of all the types of services, of different races, religions, nationalities (where there are separate ones), agencies along these lines and I think it may be said to contain the more representative services in the different fields of childrens' work, of family work, community service, and so on. That being the case, when a question like this arises, the Welfare Council immediately seeks its reference to a committee which it will specially constitute, if need be, and include thereon, representatives from the schools of social work, from the operating agencies, and so on, in that field. That has not been possible in view of the short notice in this case; consequently, what I shall say will have to be said entirely on my own personal responsibility. I do think that the committee is following the correct line in summoning directly agents or workers from the agencies right in the field, because we have not been able to constitute that clearing committee in this case; and I might say that the Catholic Charities of Toronto, whether represented by Father Gallagher or Miss O'Gorman, or any of the agencies there, will have adequate information on this matter. The Montreal Council of Social Agencies has collaborated by sending here Mr. Edmison who is the chief counsel of the Bureau of Legal Aid.

The Chairman has referred to the fact that some of our evidence would be technical. I might explain what the Legal Aid Service is. It is a device worked out among groups of social agencies in the larger cities whereby, when our clients, who are our clients because they have not the means of livelihood, lack equally the means of retaining legal counsel, the agencies within a federation may refer them to its Bureau of Legal Aid. The Bureau of Legal Aid with which Mr. Edmison is associated is the Bureau of Legal Aid of the group of agencies in the Montreal Council. In Montreal, the agencies are in four divisions: the French Roman Catholic Agencies, the English-speaking Roman

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Catholic Agencies, the Jewish Philanthropies and the Federation of the Protestant and non-sectarian agencies. The Bureau is attached to the latter. It functions entirely on voluntary funds, and it is at the disposition of the various agencies. Mr. Edmison is also a director of the Montreal Council of Social Agencies. He will have with him files to illustrate the different aspects of this problem.

As you will see from this set-up the Bureau's cases may appear in any one of a group of agencies,—the loan might affect the unmarried mother searching desperately for financial assistance, the family in need, the single man, or the family suddenly faced with a fine imposed on a boy whom they wished to keep out of jail. The type of clearing services that covers all our types of agencies will be represented by Mr. Edmison.

To revert to what my own personal opinion would be in this matter, I think it can be simply summed up that there are across Canada tens of thousands of families and individuals whose income is continuously inadequate to their needs or to their spending. I would like to make a distinction there, Mr. Chairman, as "needs" and "spending" are not necessarily the same thing. I think that from this discussion we may eliminate at once the thousands of families who are in receipt of aid from the private or the voluntary agencies, because, obviously, they are not a good risk. I think we should consider more the next group, the group with consistently low incomes. Here we have this continuous pressure for additional income, and I think it is only right to say that in a certain percentage that we cannot ascertain—we have not the resources and have not made studies—that need is due as much to the lack of good management, to proper emphasis in the expenditure of income, as it is to the inadequacy of that income. Now if you are going to carry on good social work, you are not going to help people in their trouble, you are going to try to help them out of their trouble. Sound social practice will tend to make the family recognize that sickness and all other unforeseen things must be calculated for in life, that they will arise, and that therefore if you are planning your disbursements in your home within your wage or income and see \$5 clear a month it is not right to assume there will be no sickness and that you should spend that on some extra; rather that you should attempt to plan against those emergencies that will arise. You will, therefore, find that some of our problems in family management are due to the fact that that attitude is not taken and that there is this spending, on the instalment plan generally, for supplemental amenities rather than for needs.

On the other hand, one must admit that in tens of thousands of families the income is inadequate to the maintenance of the simple needs of household equipment, replacement, bedding, and furniture particularly, and that that must be sought from supplementary income or credit or something of that type.

Of course, we recognize that the best and most constructive development is to look to assurance of some certainty of minimum income. But that is not the practical situation with which we are faced. Also I think that in justice to the situation we have to recognize this: that while so much of this supplementary income or credit is sought in cases of sickness, that is not the primary cause. The primary cause is this wrong emphasis on spending and then being suddenly faced with a need against which you have not provided.

We do think also that from the point of view of the social agencies co-operative provision through group medical care, and group hospitalization, on a contributory basis, is in the end bound to be the most constructive answer to this aspect of pressure for the costs of health care.

I have tried to give you these fundamental principles from which social work approaches this question; but then we bring to bear also the practical knowledge of existing circumstances, and that compels one to admit that short-term borrowing over a very broad stratum of low-income families and individuals

is extensive and will continue. Therefore, it should be brought under a much more definite type of control than prevails, just the same as in all other types of credit. We think you should develop some administrative device so that loans will only be advanced where there is some hope of repayment, some hope that that service will mean the reconstruction of the family instead of the pyramiding of debt; that the rates should be fixed at the absolute minimum, and that licensing and supervision should be so developed and controlled as to discourage rather than encourage this constant living in the future on the part of our families of low income.

It is possibly justifiable to say that social workers across Canada, if the opportunity for conference had been possible, would say, and I think this would be unanimous, that there should be careful examination as to how much of the high rate of interest involved in commercial small loans is due to extensive advertising and solicitation costs, particularly the very heavy mail solicitations in which some of the smaller companies especially indulge, and that that should not be left out of the features of control.

In summary: the situation might perhaps be best described as:

While living on loans supplemental to income should not be encouraged, the practical circumstances of the case are that it is a wide practice:

That this credit is sought first from relatives and friends—we all know that—and then, secondly, from the church or fraternal groups; thirdly, from charitable or semi-philanthropic groups, and then from your co-operative organizations.

That this whole group of resources together does not in the present circumstances prove adequate to the need, and, therefore, you are left wholly to the consideration of the commercial field.

That commercial borrowing at high rates and for short terms in small amounts necessarily at high rates, because the risk is bad, is widespread. And that therefore it should be subjected to strong supervision and control in respect to administration, to advertising and to terms and interest charged.

How that is to be done, whether by the creation of special commercial corporations in the field, whether by special adaptations within the chartered banks and loan companies, whether by special devices within the resources of the great insurance companies or whether by the development of such schemes as the Caisse Populaire of Quebec, is not a question in which social work, I think, would consider itself competent to advise. Considering that any such special device lies within the field of credit and finance, I do not think that, given any length of time, the Canadian Welfare Agencies would care to advise on it. But those four points, Mr. Chairman, I think would be the ones I would emphasize.

The CHAIRMAN: Miss Whitton, you have heard the appreciation of the members. I think before we ask Miss Whitton if she would answer any questions arising out of what she has said it would be just as well to hear from Mr. Edmison, and then we may pursue some questions, with their permission.

Mr. Edmison, will you please explain how you fit into the situation?

J. ALEX. EDMISON, B.A., Chief Counsel Bureau of Legal Aid, Montreal, Director, Montreal Council of Social Agencies, called.

The WITNESS: Mr. Chairman and gentlemen, I have a letter here from the Montreal Council of Social Agencies, filed by Dr. Frank G. Pedley, the executive director. The letter reads:—

DEAR MR. EDMISON:

We believe that you, a barrister at law, Chief Legal Counsel of the Montreal Legal Aid Bureau, and a Governor of the Montreal Council of Social Agencies, are qualified to present the point of view of social

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agencies, on the subject of small loans, to the Standing Committee on Banking and Commerce, of the House of Commons, and it is at our request that you do so.

Like Miss Whitton I have only had a few hours notice to appear, and I am basing any observations I make on my experience as chief legal counsel of the Legal Aid Bureau which in Montreal is the legal arm of our thirty-three agencies in financial federation. In addition to that, in our private practice, I am a member of the law firm of Creelman and Edmison, and we are criminal attorneys for the C.P.R. in Montreal. As such we have had contact with railway employees who have become victims of what are commonly known as loan sharks in Montreal. In addition to this I am one of the attorneys for the Montreal Better Business Bureau, and I have had to handle some cases in that connection.

I would like to say also in connection with the Legal Aid Bureau that we have a national organization of Legal Aid Bureaux of America. I am a director, and we meet in conference twice a year, that is, the executive meets once a year and we have a general conference once a year, and I have listened to a great deal of discussion among American lawyers and leaders in Legal Aid and social work who have discussed the problem, and it is a problem, of the small loan agencies in Canada and the United States.

From the standpoint of social work in Montreal, for several years it has been well known to social workers that there have been great abuses in the small loan field in that district. They have come to us in many ways. The worker, for instance, of the Family Welfare Association would discover a wife in tears after receipt of some court writ or lawyer's letter. She would make an investigation and would finally come to us at the Legal Aid Bureau and we would find that the husband of this woman was in the clutches of a small loan shark.

I might just illustrate a typical case that we have handled in this connection. This was a case of a man and his wife with six children and one on the way at that time. This couple were discovered by a family welfare worker in Montreal, and the man was desperate because of the threats from a certain loan organization. He came to us with what we thought was almost an incredible story: that he had borrowed \$40 from this loan organization and that he was paying \$2 a week interest and had been paying it for over six months. We said, "How much have you paid off the \$40?" He said, "I have not paid anything, I have just paid \$2 a week interest." "Have you any receipts?" "No." He said, "When I make a payment, I sign my name in two places and I tear my name off one sheet." Now, these were the receipts that this man had been securing with simply his own name signed. One of our social workers made a visitation on this loan agency, and first of all he said he was a friend of our client. The agency was asked: "How much does our client owe?" "\$40" was the reply. Then he said he was a social worker, whereupon the loan representative became quite nervous. We asked him for a statement of this man's affairs, and he said he would send it. That was a year ago last February and it has not been sent yet and the man has not been bothered since. There is no question but that he had been paying \$2 a week interest on a \$40 loan, had paid more than the principal, and this agency would have maintained that as long as the man would stand for it.

I have had many other cases of a similar nature. Of course, you may say that the man is very foolish to do business in that way, but, nevertheless, you must remember that the people with whom we deal are people in desperate circumstances in many cases; they are people, I would say, of not advanced mentality; they get desperate; they will clutch for any loan at all, and they will agree to any terms. We have had numerous cases of that description. I have several other cases here that have come to our notice.

You, of course, are well aware of the Act in the United States, The Standard Small Loan Act. I think if we had some of the provisions of that Act

here we would not fall into some of the errors into which we do fall. For instance, a young man who is employed as a clerk in a large corporation in Montreal in receipt of a monthly salary of \$135, on August 15, 1937, finding himself in need of ready cash, borrowed \$120 in cash for which he signed a note for \$165. Now, here is the Ethiopian in this woodpile. You would look at this note for \$165 at 7 per cent per annum, and on the face of it it looks like an entirely legal and indeed a reasonable loan proposition. But you see nothing there to the effect that the man only received \$120 of the \$165. Now, this continued between this borrower and this lender to the extent that finally the lender claimed \$383. He had pyramided his loan. We were able to send this man to a competent attorney who figured out that, at the rate of interest allowed by the Money Lenders' Act, twelve per cent, this man only owed \$101 instead of \$383. That amount was tendered the lender and he was told to take it or leave it and sue for the balance. Well, he has not sued for the balance. It is rather interesting; the lender in this case is a presser of pants in Montreal, and he has a loan agency on the side.

I notice in the American Act, which is in force, I believe, in over thirty states, that it is expressly stipulated that no other business may be carried on in the same office as the loan agency. We find in Montreal that there are numerous hole-in-the-corner loan agencies. One, for instance, was in conjunction with a pants pressing concern. The last case I mentioned was a manufacturer's agent. You go to this loan agency, and on the door is written "Manufacturer's Agent." He has this on the side.

We had another case of a young man. He stated that on July 16, 1937, he needed \$25 and approached a money lender asking for a loan on his motor car. He still owed \$76.86 to an Acceptance Corporation on the purchase of his car and the lender refused to make the loan except for an amount sufficient to include the balance due on the car. The transaction was completed as follows:—

Balance on car..	\$76.86
Cash to borrower..	25.00
Total charges..	30.33

That makes a total of \$132.19 to be paid in equal monthly payments over a period of ten months. Now the rate of interest here is calculated at 64.8 per cent and it is certified by the borrower that the charges did not cover insurance coverage on the car. In this case the man was a salesman and he required the car for the purpose of his business. I have checked over the investigations of the Better Business Bureau in Montreal within the past two months. They have taken sworn testimony, and we have found many illustrations exactly of the type that I have related to you. I have a letter here which I think, Mr. Clairman, you would like me to file. It is from a Montreal lawyer, Mr. G. B. Puddicombe. The reason I am quoting this letter from Mr. Puddicombe, and the reason I want to file this letter, is that for the past three years Mr. Puddicombe has successfully launched attacks on several of these cheap loan agencies on behalf of his clients. For instance, I have here a very interesting case—

Mr. HOWARD: You mean "cheap" in the positive sense?

The WITNESS: I was using it in the colloquial sense. This refers to a case in the Superior Court in Montreal, Middleton vs. Silver Plan Limited. Mr. Puddicombe was the attorney for the plaintiff. Now, the Silver Plan Limited purchased a man's salary. Of course, it was not a loan. It was distinctly stated in the transaction, "This is not a loan, this is a contract to purchase a salary." By the way, that is barred in the Standard American Act. At any rate, over a considerable period Middleton, the plaintiff in this case, had fifty-two transactions with the defendant. He would sell his salary of \$30 for

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\$27 ten or eleven days before his salary was due. In other words, there would be \$3 interest for ten or eleven days. At the end of this time Mr. Puddicombe instituted action against the Silver Plan Limited for \$114 and some odd cents as excess interest. The case was bitterly contested. The defendant was represented by a leading firm of lawyers in Montreal and the case was heard by Hon. Chief Justice Greenshields of the Superior Court, and he decided in favour of the plaintiff. He stated that this alleged contract was simply a disguised loan, and he severely castigated the defendants. Mr. Puddicombe has had, I think, three successful cases of this nature. Yesterday I telephoned him and said, "Would you write me a letter concerning your experience with small loan transactions in the district of Montreal?" And this is what he says:—

I am sending you herewith my dossier in the case of Middleton vs. Silver Plan Limited. You will find a copy of the Honourable Mr. Justice's judgment included therein.

I also argued a case with exactly the same pleadings in the Circuit Court and judgment was rendered by the late Mr. Justice Archambault. I have not a copy of that judgment, but you will find it reported in 74 Superior Court Report, page 240.

You have asked for some observances on these and other loan shark cases that have come my way. In general, it has been my experience that the Money Lender's Act is adequate for the defence against these creatures. The procedure is threefold. The debtor may defend himself on the old military theory that attack is the best defence, first, by instituting criminal proceedings. The difficulty in this lies not so much in the Act as because of the publicity usually afforded such cases and the debtor's natural reluctance to find himself referred to in the press as being implicated in the proceedings.

The second mode is to enter a defence on technicalities, for instance, the lack of legal consideration or rather the illegality of the consideration for what usually constitutes the basis of the money lender's action, that is, a promissory note. In this respect it seems to me that the debtor in order to succeed must have paid back the principal of the loan.

The third action permissible is one when the debtor has paid back the principal and interest in excess of the legal rate. He can, then, ask the courts to adjudge the lender his debtor for the amount paid in excess of the principal. It may be that the courts would allow the lender the legal rate of interest as well although this is undetermined.

That was the case I have just quoted, Middleton vs. Silver Plan Limited.

In my own opinion the present Money Lenders' Act is too drastic on the lenders. There is a need for small loan companies lending to small salaried employees and others. It is impractical to imagine that such loans are of a paying nature at such a small rate of interest. The greater percentage of loans that have come within the sphere of my observances were for amounts of less than \$50, generally ranging between \$25 and \$30. Twelve per cent per annum of \$25 for a period of one month will hardly cover bookkeeping charges. It is my opinion that for loans of this nature a rate of as much as 3 per cent per month would not be exorbitant so long as the legal rate was reverted to immediately the loan becomes in default. To illustrate, A borrows \$10 from B at 3 per cent a month. At the maturity of the loan A owes B \$10.30. A defaults. B should then be restricted to collecting \$10.30 from A plus the legal rate of 3 per cent per annum. There are two reasons for this proposal. First, it allows A to obtain the \$10 which he needs for a small sum of money and it does not encourage B to oversell his market.

As it is, the Money Lenders' Act operates so that the shark, because of the lack of legitimate lenders, operates in much the same respect and for the same reason as—

Mr. MARTIN: You read "3 per cent per annum."

The WITNESS: That should be "3 per cent per month."

As it is, the Money Lenders' Act operates so that the shark, because of the lack of legitimate lenders, operates in much the same respect and for the same reason as the bootlegger functions in communities wherein the sale of liquor is restricted or prohibited. When this condition is relieved the loan shark will disappear.

I submit that letter because of the experience of the writer of it in dealing with what he rightly calls loan sharks. In conclusion I can only say from the social standpoint in Montreal that we are assured of this fact; that a great number of these small loan transactions are going on. There is no question of that. You have probably heard the reasons for which these loans are contracted. It may be because of illness, it may be because of buying clothing or furniture, but they are contracted and we believe that they will be continued on a widespread scale.

From our experience we find there are a great number of abuses. It is our studied opinion that there should be some legislation to regulate the small loan agencies. Dr. Pedley was asked in connection with this hearing, "Do you favour the complete abolition of small loan agencies?" He consulted with various leaders in the social welfare field in Montreal and he came to the decision that I have reached, namely, that the agencies should not be abolished but should be regulated. And I am authorized to say exactly the same thing on behalf of the directors of the Better Business Bureau of Montreal. I would be very pleased to answer any queries?

By Mr. Coldwell:

Q. I noticed that the witness stated in connection with this pant-pressing concern that there was an agency?—A. Yes.

Q. Was that agency an agency of an authorized licensed company?—A. No. You see a great number of these—I will use the term "alleged"—agencies. They call themselves that, but they are not registered. They are not incorporated, but they hand out their cards to various people; in this case, to customers coming in the store and to their friends. And there is no check-up through registration at all.

Q. They are unregistered and unlicensed companies?—A. Yes.

By Mr. Donnelly:

Q. Did I understand you to say that Mr. Pedley advised that 12 per cent, according to the Money Lenders' Act, was not high enough?—A. Oh no. I was reading a letter, sir, from an attorney in Montreal who was giving his opinion as a result of handling some of these cases.

Q. But did I understand him to say that 12 per cent was not enough?—A. He did not think it was enough for small loans.

By Mr. Baker:

Q. He was talking about loans of \$25, \$30, or \$40?—A. Yes, primarily under \$50.

Q. He was not talking of loans of \$300 or \$500?—A. No. He mentioned the point that when the loan became due and was not paid then the 12 per cent should hold.

By Mr. Quelch:

Q. He did not state that in the letter, did he?—A. Yes.

Q. I thought he said 3 per cent per month?—A. He was recommending that interest rate during the term of the loan, but when the loan was not paid, when it became overdue, then the 12 per cent per annum would run.

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By Mr. Baker:

Q. It would get back to the 12 per cent?—A. Yes.

The CHAIRMAN: Are there any further questions?

By Mr. Martin:

Q. Mr. Edmison, from your experience on behalf of the social agencies, particularly, what would happen, in your judgment, if the federal parliament or other legislative bodies failed to pass legislation dealing with small loans? Let me put my question in another way. There are several classes of companies or organizations engaged in the small loan business. There are these fly-by-night people occupying premises of men ostensibly engaged in another business, and then there are other companies who do nothing else but loan money, and then there are still other companies two of whom have federal charters. Now, having in mind your experience, having in mind that you say there is a demand for this money, if we failed to act, what do you think would be the result?—A. I do not think there would be any change from the present situation. These borrowers would continue to patronize these hole-in-the-corner concerns.

By Mr. Landeryou:

Q. I would like to point out that the provinces could very well license these institutions and very well inspect them and regulate them, except in the matter of interest charges. In the province of Quebec they have the Caisse Populaire and they have other loan companies that are making small loans; then there are similar institutions working in the province of Ontario and in Western Canada. Now, do you not feel that under provincial licensing and control a more effective way of dealing with these institutions could be brought about?—A. I understand that the dominion powers embrace the question of interest.

Q. Yes.—A. Well, naturally in a matter of loans interest is a paramount factor.

Q. It is not the paramount factor. The paramount factors are the charges that are made, with interest at 12 per cent. But the difference between 12 per cent and the rate that these borrowers pay is a good deal more than 12 per cent. The service charge amounts to about 20 per cent.—A. At least.

Q. In the case of these uncontrolled companies it ranges between 60 and 70 per cent, and you have proven in court that they are only allowed to charge 12 per cent.—A. I am again only speaking for my social work in Montreal, and I know they favour federal jurisdiction of this problem. I am speaking for the Montreal Council.

Q. They are in favour of general legislation?—A. Yes.

By Mr. Coldwell:

Q. When you speak of three per cent per month as the rate of interest, you mean that inclusive of all charges?—A. Yes.

Mr. MARTIN: A flat rate?

The WITNESS: I think there are some thirty-one states that have this uniform small loan Act and it varies from about 2½ to 3½ per cent.

By Mr. Baker:

Q. But when you said 3 per cent, you referred to the small loan rates?—A. Yes.

Q. You do not suggest 3 per cent for a larger loan of \$300 or \$500—A. No. I am glad you mentioned that. I had in mind probably under \$300.

Q. Oh, under that for 3 per cent.

By Mr. Landeryou:

Q. Would you tell me why you are in favour of general legislation rather than provincial legislation? Why would you be in favour of general legislation

by the federal government?—A. We would like to see standardized small loan legislation for Canada.

Q. Well, but of what benefit would it be? Provincial conditions are variable across Canada. In some places they have small populations?—A. I think they are too variable, and that is the reason some of us would like federal legislation.

Q. I would like to point out to you that we have already had evidence to prove that in the more densely populated areas they can make loans at a lower rate than they can in the more sparsely settled areas.—A. Yes, because of distance.

Q. But that has nothing whatever to do with federal or provincial jurisdiction.—A. I do not think, Mr. Chairman, I should speak on the field of jurisdiction.

Mr. DONNELLY: We, as the federal government, have regulated the rate of interest for a number of years and put down the rate of interest at 12 per cent, leaving the service charge to the provinces; but the provinces up to now have done nothing, and someone has to step in and do something.

Mr. LANDERYOU: I wish to point out that nothing has been done by either the federal or provincial governments. The matter is just being discussed.

The CHAIRMAN: That is why we are here now, Mr. Landeryou.

Mr. LANDERYOU: I know, but the provincial governments are also recognizing the problem and they are also prepared to take action. That evidence has been placed before the committee, and I would like to ask this gentleman to indicate some of the reasons why we should—

The CHAIRMAN: I think we should respect the witness' desires. He prefers not to answer questions in regard to jurisdiction. I think we can work that out with our legal talent here.

Mr. LANDERYOU: It is not a question of jurisdiction, it is why he should suggest that we have federal control rather than provincial control.

Mr. COLDWELL: He is not appearing as a lawyer, he is appearing as a representative of the Social Service Agencies.

Mr. LANDERYOU: I am not trying to get this man to give his opinion on the jurisdiction of the provinces, I am asking him only this question: What reason does he advance for placing the control in the federal government rather than in the provincial governments?

The CHAIRMAN: I understood the witness to say that he preferred not to enter into the matter of jurisdiction, Mr. Landeryou.

Mr. VIEN: I think the witness answered Mr. Landeryou's question very plainly. He said that in his opinion—and he can speak only of his opinion as advised by the people with whom he associates and his own personal experience—he said that in his opinion in a loan the principal matter involved was the rate of interest; that interest being of federal jurisdiction in his opinion it is preferable that the Dominion parliament should legislate. I understood the witness to say so. Am I correct?

The WITNESS: Yes.

By Mr. Vien:

Q. Therefore, that answers Mr. Landeryou. Mr. Landeryou asked why do you suggest federal legislation and the answer is already spread on the record. However, I would like to ask a question of Mr. Edmison, and that would be this: if the federal parliament disposed of the question of interest and left it to the provinces to determine the regulation of service charges—I am not suggesting it should be done—but if that were done, would it be likely that in sparsely populated regions like the prairie provinces—would it

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not be likely that the service charges would be considerably increased, whereas if under federal legislation uniform charges throughout the country were enacted would that not tend to standardize the service charges as well as the rate of interest throughout the country?—A. I personally am in favour of anything that would standardize, because you must remember that you are dealing with people who are, we will say, ignorant of business practice, and we have to make things just as simple as we possibly can for them, and the more involved interest and service charges become the more confused these borrowers become and the more liable they are to fall into an error; and that is one of the reasons we come out strongly for standardization.

Q. Would not the cost of servicing loans—the service charges for loans be greater in the prairie provinces or in the sparsely populated regions of other provinces than in thickly populated centres?—A. I cannot speak for the prairie provinces, but I know our experience in Quebec, and that is the case in some of the rural areas.

By Mr. Martin:

Q. Are you satisfied, Mr. Edmison, that if the federal parliament, for instance, determined upon a flat rate for these loan companies that that would eliminate or rather minimize the operations of the loan shark?—A. Yes, provided that it is backed up by further rules and regulations concerning the operation.

Mr. HOWARD: Yes.

The CHAIRMAN: Miss Whitton has a comment to make on this point.

MISS WHITTON: I should like to speak on one point which Mr. Vien raised. Mr. Edmison has explained, I think, that he is representing the big metropolitan agencies. We have no one here representing our agencies working over an area in a province or in a rural district. Particularly is that the case in a great part of the prairies and northern British Columbia and Quebec. Mr. Landeryou is quite right as to the difference in conditions. The social work is generally done directly by social workers in provincial service. I would think that could our social workers, say from the county areas, be heard they would say that uniform service charges would be higher in rural districts. There is another point which comes in which makes this question worthy of some careful study, of simultaneous action at least in the different provinces, and that is that a short term loan at a high rate is apt to be a much more disastrous thing for the rural family because the rural family may only want \$50 or \$100, and they do not want it from payday to payday as your urban families want it; they want that money over a crop period, and it is devastating to have those high rates of interest allowed on low terms on the agricultural worker whose loan and whose budget is eight or nine months long. As Mr. Edmison says, unfortunately the majority of the people with whom we work, not so much in later years, again unfortunately—are not people who know what interest is or what it can do to them; that is one reason for having either within the federal or provincial field something that will make these service charges appear for what they are, extortionist interest rates. Particularly, we think that point would be brought out by workers through the rural areas, the necessity for a long term loan. However, with modern transportation families are moving so, that we have had, for instance, in the city of Ottawa in the last three or four years three or four thousand families on relief, and as many as, perhaps, seven or eight hundred who have taken up residence in Ottawa in recent years. Now, you have a heavy movement out of the drought areas, from Saskatchewan into Alberta and across into British Columbia. You have this movement constantly on the boundaries of Ontario and Quebec. Now, you have a situation there that you have to think of in connection with this matter; it is very often those families who have just moved who are "dead broke"; they are looking

for a loan. They may get a month's work, but they are looking for something with which to pay the rent for the first month. However, most social legislation precludes, on a residential basis, the expenditure of public funds until residence is established. That is one argument in favour of having some kind of comparable practice. If you have control of that situation in the province of Quebec and some poor family comes across from Hull to Ottawa or more likely comes in from a rural district where they have known the decent terms of the Caisse Populaire—where that family comes into the city of Ottawa and thinks that the same thing is happening, it is disastrous when they find out that it is not.

By Mr. Quelch (To Miss Whitton):

Q. With regard to the desirability of federal legislation, I was wondering if the witness is aware of the fact that the attorneys-general of Quebec and Ontario gave evidence the other day and pointed out that from their point of view we have not the power to place a flat rate including service charges as well as interest. They took the stand, I think, that the federal authority have only the power to legislate on interest and that service charges come within the jurisdiction of the provinces. Therefore, would you consider it desirable to pass legislation which would cause friction between the federal and provincial governments if they have taken the stand that is within their jurisdiction? Surely, in that case it would be better for us to pass legislation to federally control the interest rate and then approach the provinces in order that they may pass legislation setting the service charges rates. Surely in that case each province would be in a better position to decide what the service charges should be in that particular area. Now, we can have a flat rate of interest for the whole of Canada, we will say, of 7 per cent, and each province would know what the charges should be for services in that particular province. So far as the prairie provinces are concerned, unquestionably this type of business is useless for the prairie provinces in the rural areas. We do not bring the prairie provinces into the argument at all. It might have some significance in the large towns, but so far as the rural areas are concerned a farmer could not pay back month by month, he would be able to pay only once a year.

Mr. MARTIN: It would apply, however, undoubtedly in places like Calgary, Winnipeg, Vancouver and Saskatoon.

Mr. QUELCH: In the urban districts.

The CHAIRMAN: May I suggest that we allow the matter of jurisdiction to stand aside in this enquiry. We have already had a very definite statement from the Attorney-General of Alberta in regard to the matter—

Mr. QUELCH: Not the Attorney-General.

The CHAIRMAN: The Deputy Attorney-General—and we are really very anxious to pursue another enquiry to-day. If we can allow the jurisdiction matter to stand aside, it seems to be the disposition of the witness to have it stand aside. I might say that Mr. Finlayson has some questions he desires to ask.

Mr. EDMISON: I would like to state in one sentence our attitude as social workers to this matter of jurisdiction. We consider that we have a plague in these loan sharks, and we are not concerned who stamps that plague out, whether the province or the Dominion, so long as the plague is stamped out.

By Mr. Finlayson (To Mr. Edmison):

Q. Mr. Edmison, your field of operation is the city of Montreal?—A. Yes.

Q. I wanted to ask you if you have come into contact at all with the operation of the Caisse Populaire in Montreal?—A. No. You must remember that I am representing the Protestant English speaking community and I can say,

[Miss Charlotte Whitton, M. A.]

I think, authoritatively that the Caisse Populaire has not touched our community yet.

Q. Have you come into contact with the commercial members to any extent?—A. Yes.

Q. And intimate contact with the borrowers?—A. Yes.

Q. There is in Montreal, operating in the city of Montreal, only one Dominion small loan company?—A. I know that.

Q. You are familiar with the operations of that company?—A. Yes.

Q. To your knowledge is there a large number of other small loan commercial companies?—A. Yes, to my definite knowledge. I know cases that have come before me. I could name, I think, nine or ten others.

Q. Have you any idea of the comparative size of these provincial companies as to the volume of the loans they make? Could you say if that Silver Plan that you spoke of is a comparatively large unregulated lender or a comparatively small one?—A. It was comparatively large in a small field. For instance, what I mean—

Q. In its own field it is a comparatively large company?—A. Yes. For instance in one concern they might have fifteen or twenty customers or victims, whatever you want to call them.

Q. Do you think there is among that class of unregulated lenders any larger operator in Montreal than the Silver Plan?—A. I might say that the Silver Plan has passed out of existence because of these court cases. I am glad to report that. No, I think they were the king pins in the field, and there are some survivors of the same type of money lender.

Q. Mr. Vaillancourt when before the committee stated that the Caisse-Populaire has a branch in Montreal and has had it for some time, and he rather expressed the opinion that it would not be desirable to extend the operations of the commercial loan companies charging so much higher rates in the province of Quebec. He gave as the volume of loans made by the Caisse-Populaire in the city of Montreal from the foundation of the branch there up to date \$7,500,000.

Mr. VIEN: For how many years?

Mr. FINLAYSON: He did not give the date of the foundation of the branch in Montreal, but the Caisse-Populaire system has been operating since 1900, that is thirty-six or thirty-seven years. When the branch was located in Montreal I do not think he said.

The WITNESS: Of course, as I stated the Caisse Populaire does not touch the Protestants or Jewish communities.

By Mr. Finlayson:

Q. Quite. To get some idea of the comparative volume the one Dominion small loan company operating in Montreal made in 1936 a total of \$1,500,000 of loans of which, I think, about one-half was made in the province of Quebec, mainly in Montreal—in fact, I think wholly in Montreal.—A. May I interrupt in that regard, about that one Dominion chartered company in Montreal. From the standpoint of the social worker we very frequently have to go to those loaning agencies and negotiate—for instance, a man has become ill and some tragedy has struck the family and he cannot pay his instalments—many times I have gone to that organization you mentioned and I always got co-operation. When you come to these smaller companies they serve a writ—in one case a man was dying of typhoid and they served a writ; they do not care.

Q. The reason I give these figures is that there seems to be a field in Montreal for the commercial small loan companies?—A. Yes.

Q. That is not met by the Caisse-Populaire.—A. Yes, I think I would agree with you.

Q. Is it true that the Caisse-Populaire does serve the protestant and Jewish community as well as catholic?—A. In the maritime provinces?

Q. In Montreal and Quebec.—A. Not to my knowledge. I have not come across in my private practice or social work anyone who has been served by the Caisse.

Q. Perhaps some members of the committee will be able to speak on that. I think there are no restrictions in the operations of the Caisse-Populaire.

The CHAIRMAN: The witness can speak only from his own experience.

The WITNESS: It may be a good recommendation for the Caisse-Populaire that I have not heard about it because when people come to us they come with trouble.

Mr. FINLAYSON: I was asking whether there was any restriction.

Mr. VIEN: I do not believe there is any restriction in the statute, but as they are co-operative organizations they are gregarious and they keep to themselves. A few friends in a small community get together and they necessarily are more restricted. I am a member of the Caisse-Populaire of Levis and I have been a member since it was founded, and I do not remember that anybody else but French-Canadians of the community, our friends, joined with us in setting up that institution or were even asked to join.

Mr. BAKER: Sentiment largely prevails.

Mr. VIEN: There is no sentiment against admitting people of other races or of other religions, but they do not appear to desire to join. I do not believe it was primarily set up for all races and all religions; it was primarily set up to help poor French-Canadians who wanted to pool their credit together in a co-operative way to overcome their difficulties.

Mr. FINLAYSON: If there is a virtual or effective limitation to the Caisse-Populaire to that section of the community it would explain the need that would arise in the other sections of the community for commercial small loan agencies.

Mr. VIEN: As a matter of fact, I do not believe they loan to anybody else but to their members; and I do not believe they have any other people as members.

The WITNESS: I might add that at Ste. Anne de Bellevue which is in the district of Montreal, Mr. J. J. Harpell, a publisher there, is attempting to formulate a Caisse Populaire for the benefit of his employees. He is very much interested in it.

By Mr. Finlayson:

Q. Would you agree with what Miss Whitton said that there is a certain section of the community that is continuously short of an adequate living wage?—A. There is no question about that.

Q. That is, apart from the emergent demand there is more or less a continuous demand?—A. Yes. You must consider that in Montreal we have so much seasonal labour, men working on the harbour and in the railway shops.

Q. Now, looking at the matter from the viewpoint of the social problem, do you think if there is that continuous lack of a living wage or living allowance—do you think that that lack is going to be supplied by continuous borrowing at 30 or 35 per cent per annum?—A. Now, if there is going to be borrowing a man when he gets into an emergency is going to borrow some place.

Mr. HOWARD: Regardless of cost.

The WITNESS: Yes, regardless of cost; I would much prefer that he borrow from some concern that is regulated, is under supervision, than from some of the outfits I have made reference to.

[Mr. J. A. Edmison, B.A.]

By Mr. Finlayson:

Q. You think if he is to borrow at all it is much better to borrow from someone doing a decent business at $1\frac{1}{2}$ or 2 per cent a month than from some person that no one knows very much about at 5 or 6 or 7 per cent or 10 per cent per month?—A. Yes.

Q. But as a cure for the social problem, even borrowing at 2 per cent a month, if there is a continuous lack of adequate living allowance, is that going to solve the problem?—A. We are not suggesting that the problem is going to be solved, but we think it is the best of the two solutions.

Mr. MARTIN: Mr. Coldwell has an effective answer to it but we will not do what he wants.

Mr. COLDWELL: Thank you.

By Mr. Finlayson:

Q. Have you any intimate knowledge of the effect of borrowing from these small loan companies on the financial status of the borrower? Do you know whether the obtaining of loans from these lenders does as a general rule lead the borrower out of debt or further into debt?—A. Now, it is hard to generalize. In some cases a man might borrow for specific purpose. For instance a baby is coming and he has to meet expenses or he may want to bring a child from Europe or something like that and he borrows for a specific purpose and he is able to get clear eventually; but we find there is a pyramiding of debt. That generally he may go deeper into it.

Q. Would you look at that typical loan covering borrower A, B and C. Take borrower D, 116 in this blue book.—A. These statements are not at all strange to me because I have seen them.

Q. In this case the borrower borrowed on September 29, 1933, \$120 for twelve months; the following March about six months hence, he borrowed \$180, repaying the balance of the former loan from the new advance, and that continued with more or less regularity every six months, starting with September 29, 1933, and coming up to October 3, 1936, when he still had to get a loan of \$180. So that three years after his first loan was obtained he was in debt \$60 more than when he started. Now, that loan is a loan from a well conducted licensed small loan company. The rates that are charged here are the rates that this company is permitted to charge by parliament. Yet in spite of that you can see that the debt was increased rather than diminished?—A. Yes.

Q. Now, have you had experience with any lenders under conditions of that kind? Do you think that those loans in a case like that have been induced by the lender or simply obtained to meet the urgent necessity of the borrower?—A. As a matter of fact that is very difficult to answer in a general way. I have asked a man, for instance, when he is on about the sixth story of one of those loan structures why he got the additional loan from that company; in fact I have asked the lender why he loaned the money to this man. Well, he has to get the money; you can see his financial picture; and he will go elsewhere and get it. I will say this for that company that at least this man was given a receipt and at least he was given a statement. That is more than you can get out of these four or five—

Q. That is a well conducted company?—A. Yes. In four or five of these hole-in-the-corner small loan agencies in the back of stores and so on you cannot get a statement or a receipt.

Q. To what extent, Mr. Edmison, do you think the borrowing from small loan companies is due to the increasingly prevalent practice of buying on the instalment plan?—A. I think that is a heavy contributing factor, but I think also that many of these loans are made to get someone over a crisis. For instance, they are behind in the rent. Perhaps, they are behind in their rent

because they are borrowing on the instalment plan; but it may be for hospital expenses, a court fine or some emergency that has arisen. I think that instalment buying is a big factor.

Q. Do you think that a considerable proportion of the loans are made for sickness?—A. It is hard to state a percentage; but I would say that in a fair percentage of the cases that is the cause given.

Q. Even there, I suppose, it is difficult to say what the ultimate cause is. For instance, if a family uses the money which should be conserved for sickness in buying household equipment on the instalment plan and then sickness does come they have to go to the small loan company, that family would undoubtedly give as a cause of the loan sickness?—A. Yes, sickness.

Q. But what is the ultimate cause?—A. Possibly buying on the instalment plan.

Q. Now, I wanted to speak of the Silver Plan loans; they were comparatively small loans, were they?—A. Well, I will repeat again. This man had a salary of \$30—\$15 a week, \$30 every two weeks, and he would sell by this contract his salary of \$30 for \$27.

Q. You spoke of a very small loan, \$10 a month and you also mentioned in that case that 3 per cent a month might be a justifiable charge. Do you realize that possibly no regulated lender would think of lending loans of \$10 at anything like 3 per cent a month? We have evidence here given by Mr. Bunce.—A. That was Mr. Puddicomb's letter. It was for purposes of mathematical calculation. I do not think there are many loans of \$10.

Q. There are a great number of small loans. Mr. Bunce estimated for loans in the bracket \$25 to \$50 that in order for the lender to get a fair rate on his investment he would need a monthly rate of $4\frac{1}{2}$ per cent—that is for \$25 to \$50.

Mr. BAKER: All charges included.

Mr. FINLAYSON: Yes.

The WITNESS: That is not the American experience of people I have discussed that with. They have said from their experience that $3\frac{1}{2}$ per cent gives an adequate profit even on small loans.

By Mr. Finlayson:

Q. Even in that bracket?—A. Yes.

Q. I think you will find this estimate given by Mr. Bunce. I have been accepting that as correct. I have not analyzed it. You can easily see what rate would be necessary for loans down as low as \$10?—A. Yes.

Mr. HOWARD: I do not think that is the case. I think Mr. Bunce said that if they did not make any loans except in that bracket it would take $4\frac{1}{2}$ per cent to make them a paying affair; but we are trying to get a rate that will cover the individuals of a genuine company in all the brackets up to the maximum.

Mr. FINLAYSON: I did not mean to state anything different than that. For the \$25 to \$50 bracket alone the rate of $4\frac{1}{2}$ per cent would be necessary.

Mr. MARTIN: There is this further difficulty with regard to Mr. Finlayson's question: this witness is here as a representative of a social service, and it is not altogether fair to him or to this committee that a question should be put to him which can only be satisfactorily answered by one whose job it is to administer these loan companies or carry on this work. I do not think it is fair to the witness or fair to the committee to put the witness in the position of answering questions which he cannot by virtue of his office adequately answer.

Mr. FINLAYSON: I am merely trying to find out whether the witness has had sufficient experience with these small \$10 loans to say if he thinks any small

[Mr. J. A. Edmison, B.A.]

loan company under regulation with any rates which are likely to be fixed for that type of loan can solve the small loan problem.

Mr. BAKER: But we only desire the witness' viewpoint from the side of the social worker, not from the money lender's side. He is here to give us information from the viewpoint of social service experience.

Mr. FINLAYSON: Yes, I think that covers the notes I have made.

The CHAIRMAN: Miss Whitton would like to make a few remarks on three questions that have arisen.

Miss WHITTON: There are one or two points in this question which has been raised regarding families living continuously—or such a very large number of them—on an inadequate income. That is beyond any question. Mr. Edmison speaking for the Montreal local services said so. I think that would be quite clear speaking generally for all the agencies. We do not think that this small loan is any adequate answer. Speaking purely from the social work point of view, our Council is on record as favouring contributory social insurance schemes which we think are sounder because they work on the principle of the family trying to live and save against a day, rather than trying to catch up on a problem. Now, with respect to the biggest cause of borrowing, I tried yesterday to get some information on that as to whether or not sickness was the biggest cause. Naturally, one could only consult two or three agencies; but I think while it may seem the primary cause it is secondary to other things. When something hits a family like sickness or eviction, when a family is thrown out as many will be on the 1st of May, and before they can get a house the social agencies must have cash to meet the rent you have desperation. You cannot get a landlord to take them in unless the month's rent is paid. That often happens. And you will find that that is one of the group of primary causes—something hits a family and they seek a loan. Now, here is the 1st of May coming; they owe for the winter's coal; they have to buy spring shoes for the youngsters. They have to move. They owe for this and they owe for that and they seek to get \$50 to consolidate and pay off. Nations have done the same thing in funding their debts.

The other thing I would like to say which I think is important is that if you desire to get something concerning the operation of the Caisse Populaire in respect of urban communities in Montreal I suggest calling Colonel de Martigny of the French Catholic council of social work. He is also a member of our national council. We have representatives of the Catholic social workers in our council and on our board. It must be remembered that the unit of Catholic Action is the parish and the social agencies are contained within a parish group. They are not on a territorial or a district basis. For instance, when they are campaigning for finances they do not go to the factory or along the street unit, they work within the parish. The Caisse Populaire will serve its parish. The Catholic social agency has resources within the close-knit life of the parish—within the benevolent organizations and fraternal organizations—that the big urban community that is non-Catholic has not got; and, therefore, you will find that while Caisse Populaire has no barriers whatever, that as Colonel Vien said it is a close-knit organization within a parish. The same thing applies to some of the Irish Catholic loan societies. You will find the same thing among the foreign groups in the west—in Montreal and Toronto. You will find excellently operating loan and benevolent organizations. The Lutheran church, for instance, has a very excellent one in certain parts of western Canada. It is another field that you enter in these groups; it is the close-knit benevolent organization.

By Mr. Landeryou (To Miss Whitton):

Q. Do you think that these tens of thousands you have mentioned who are not receiving sufficient income to keep them in the necessaries of life are a good risk for these companies?—A. Yes, some of them.

Q. These people who are being evicted to-day, who are liable to be evicted—and thousands of people are evicted across Canada—do you think they represent a good risk for these companies?—A. I do not think they would be a good risk for the companies, but I think the companies would be a far worse risk for them in a lot of cases. I do not want to suggest that I was referring to just this spring; this thing happens every May and every October. That is what keeps the social worker worn out every spring and every fall. It is the ordinary thing.

By Mr. Coldwell:

Q. I take it, Miss Whitton, that your point of view is this, that people have to borrow money up to the present time and you prefer to see regulated business to unregulated business; but you do not regard it as a cure, but as a palliative which this parliament must consider and try to regulate?—A. Yes; but I would add this, Mr. Chairman, apropos of what Mr. Finlayson has implied rather than stated, that if you are going to have regulated control you must not leave out of consideration this question of solicitation. It is a necessary palliative to a necessary need: we do not think it is in the interest of self-contained character or home life to live always on loans. It is not an answer and, therefore, on just the same principle as you have in a lot of things, it should not be “whipped up.” Some of the provinces control liquor advertising, though they have government control of liquor. This aspect of encouraging loans must not be left out of it. I know that some of the social workers I have been able to consult do think that, perhaps, there may be a very substantial difference somewhere between that $2\frac{1}{2}$ and 4 per cent which is being discussed, involved in the heavy business of solicitation.

By Mr. Landeryou:

Q. You have stated they are suffering constantly from a chronic shortage of purchasing power, insufficient purchasing power to buy the things they need; and that is the reason why they get into the position where they desire to borrow money?—R. Well, Mr. Chairman, I would say that that is so in part. In fact, it does not always refer to the necessities of life; it may be that this man cannot pay for his appendix operation because he is paying something on a \$120 radio or a car. It may be, on the other hand, that he has been short of purchasing power for the needs of household equipment, and again it may represent poor household management.

By Mr. Clark:

Q. Is it not a fact that spending money for liquor is often the cause of borrowing and its resultant difficulties?—A. Yes, Mr. Chairman, and spending, I may say, on permanent waves. It all comes in. There is bad management of income that is a reasonably adequate minimum income. One of these companies, may I say is aware of that, and has done excellent work in the preparation of budgets for home management; but there is no doubt, Mr. Clark, that alcohol causes some of these difficulties.

Mr. BAKER: Mr. Chairman, Mr. Edmison has referred to the helpfulness of certain organizations and he referred to one in the Lutheran church and also to organizations in Roman Catholic parishes. Would it not be a good thing if these people who are struggling for a living were to affiliate themselves with the Lutheran church or with the Roman Catholic church parishes.

Mr. EDMISON: Mr. Chairman, I would like to supplement something which Miss Whitton has said concerning solicitation. I think we have in mind advertising, letters in the mail and advertisements on street-cars and so on; but we have been greatly concerned with little cards that are put around by some of these loan sharks.

Mr. LANDERYOU: Are you sure it is the loan sharks that do the advertising?
[Miss Charlotte Whitton, M.A.]

Mr. EDMISON: I am talking specifically of the cards.

Mr. LANDERYOU: This is an important point; is it the loan sharks?

Mr. EDMISON: If you will allow me to continue I will elucidate. I am referring to certain agencies that we have come in contact with as loan sharks, and I am saying that the way they proceed is by passing cards out to employees in a particular concern like a railway or the civic departments in Montreal, and on the card they have this alluring statement: "Will purchase the earned portion of your salary. Immediate payment upon application. All dealings strictly confidential." Now, I claim that is the most pernicious type of solicitation that we meet with.

By Mr. Landeryou (To Miss Whitton):

Q. With regard to this advertising, Miss Whitton, which has been mentioned, is it the loan sharks who are doing most of the advertising or the federally chartered or provincially chartered companies?—A. I cannot answer that. I do not know. While I am up, may I say in respect to the remark made by Mr. Baker and having regard to affiliations with the churches, it is becoming so desirable to belong or on occasion to have a particular religious affiliation so as to be able to draw upon charitable resources that now baptismal certificates are being required.

Q. If there is such a shortage of purchasing power among such a large mass of the people and since advertising is carried on so extensively by these loan companies would that not encourage people to borrow when they should not borrow?—A. Yes, it would. That is exactly what I mean. However, it is not our place to devise the control. The members of the committee have still to work out or suggest devices, but that was exactly the principle I was getting at. This is not something that is easy of solution. Desperate people are coming to you. I will say this for two of the companies which are known to some of our larger agencies, that they do work in good co-operation with the social agencies; and a desirable thing, I think, would be that the services working with the people should nearly always be associated or consulted. You are trying for a solution of this family's problem and you may be able to help with advice. Mr. Finlayson has referred to a million dollars in one company, and there are certainly tens of millions loaned annually (I do not know what the figure would be in Montreal) in Canada from all sorts of sources by the agency being the go-between between a person in need and a relative, friend or employer, etc. These small commercial loans do not represent the big buffer between our dependent people and destitution. I think that slack is still taken up by philanthropy, the churches and relatives and friends. If we did not have that buffer of relatives; friends and employers, your dependents would be much heavier.

By Mr. Vien:

Q. Miss Whitton, as a result of extensive study, the Russell Sage Foundation have recommended to all states certain things and their recommendations have been followed by enactments of pieces of legislation in various places; do you or do you not think that similar legislation could equally well apply to Canada to remedy the condition we have been talking about and produce the same good results in Canada?—A. Mr. Chairman, I would say, personally—and not speaking for my council—that I think it would. It would certainly improve the present situation.

Q. Do you know of any condition in Canada which would prevent the same beneficial results from obtaining after the enactment of such legislation?—A. No, I cannot say that I do. I do think, in connection with the points Mr. Landeryou raised, that it would be safe in the hands of parliament, being cognizant of the different situations you have in different provinces with the Caisse Populaire, etc.

Q. But they have these co-operative organizations in the United States as well as small loan companies regulated under legislation enacted as a result of the Russell Sage Foundation and others. They cover a certain field, and the co-operative credit unions and others cover a different field?—A. Yes, they do.

By Mr. Quelch:

Q. Miss Whitton, in connection with small loan companies, is it not a fact that many loans are made not for the purpose of meeting really necessitous cases, that is, the permanent wave type of loan, therefore, it should really be our business to try to rather restrict the operation—

Mr. VIEN: Yes, and regulate it.

Mr. QUELCH: To make it harder, but still make it available for necessitous cases?

By Mr. Jaques:

Q. I understood you to say that there were tens of thousands of families in Canada whose incomes were inadequate to meet their needs?—A. Yes.

Q. Well, if their incomes were bigger, would there be any difficulty in supplying them with the goods they needed?—A. Yes, Mr. Chairman. After 20 years in social work—the chairman and I graduated together, as he said—I would say that in all walks of life there is an unascertained percentage who can never live within their income. I would say, with a percentage we cannot ascertain, yes, these difficulties disappear as your home income is adequate. But with another percentage that we cannot ascertain there is absolutely a lack of management and planning within the home. That is one of the things to which the family social agency particularly addresses itself, to attempt to get a person to see that he or she has certain minimum needs and that those needs are going to cost a certain amount. You could go to-day with a social worker in Ottawa and visit this afternoon, say, 10 homes. You can find 10 homes with comparable incomes. You will find one little house that is being paid for, two or three children in that family, modest but reasonable accommodation, household equipment and clothing; and you can go next-door to the third floor rear where the husband is getting the same work in the same plant and you can find three children and the mother and father occupying one room, the three children in one bed. It is simply that difference in human character and endowment that you can never quite remedy but which you can improve somewhat. As to the fact that much of your problem would disappear with a more reasonable minimum income, yes. But that it would all disappear, no.

Q. Well, I was not speaking of individual cases. I realize there are some people who regard money like the drunken sailor. I am merely speaking collectively; that were it possible to raise the average money income of the people of Canada there would be no difficulty in Canadian industry meeting that increased effective demand with goods and services. In other words, the poverty of a large section of the Canadian people is due to the fact that their money incomes are not adequate, and not to any inability of the Canadian people as a whole to produce a decent standard of living. That is the point with which I was dealing.

Mr. HOWARD: Mr. Chairman, I was just going to say, on behalf of the committee, that we very much appreciate your having called these two witnesses, and to thank especially Miss Whitton and Mr. Edmison for the splendid testimony that they have given us this morning in connection with social service work.

The CHAIRMAN: Mr. Plaxton, would you second that motion?

Mr. PLAXTON: I will be delighted, Mr. Chairman, to second that motion.

Mr. LANDERYOU: Mr. Chairman, I had one question I should like to have asked before moving a vote of thanks.

[Miss Charlotte Whitton, M.A.]

The CHAIRMAN: I think we might allow Mr. Landeryou to ask a further question.

By Mr. Landeryou:

Q. In view of the fact that these people have such a shortage of purchasing power and are forced to borrow to meet circumstances such as sickness, do you not think in many cases that their last case is worse than the first; in other words, that after they borrow the money they are worse off than before?—
A. I would say yes. I hardly know what to call it, but it is a human defect. The man who borrows \$50 to-day does not see it as \$60 to pay back, but three months from now it looks like \$25. There are undoubtedly many such instances.

Mr. ISNOR: Mr. Chairman, yesterday I received in the mail a submission from Halifax which I was requested to place before you. Apparently representatives from the General Finance Corporation Limited, Halifax, were here about two weeks ago. I understand they interviewed the chairman, or at least made representations, and were advised that they did not have the necessary information in their statement and it was suggested to them that they return to Halifax and later appear. Unfortunately, they received word, or they appear to have received word, that you are about to conclude your hearings and for that reason they have sent me this brief. I do not propose to make any lengthy remarks, nor do I anticipate any questions, because I am not likely to be in a position to answer them. But I would like to say, sir, that I believe, on a quick perusal of the brief, that the same thing would apply to four or five other small loan companies in the city of Halifax.

I realize the time is short, and I appreciate the opportunity of just tabling this, if nothing more. May I say that we in Nova Scotia are not in that favoured position of central Canada or the more thickly populated areas of industrial trade. I mention that because of this fact: that these companies believe along the lines of what was expressed by the superintendent of insurance on page 6 of his report, as follows:—

For a company operating in a restricted area it is doubtful if the demand for small loans is sufficient to produce the volume of business necessary for that purpose, and the rate of interest and charges imposed on borrowers must be comparatively high.

I think their point there, sir, is that in all lines of business, the operating charge is to a very large extent governed by the volume of business and the pro-ratio of expense is naturally arrived at to make it successful or unsuccessful. And they are pointing out that their field is limited, and for that reason their rate might of necessity be just a little higher.

In addition to the submission, they give me a complete financial set-up, showing the directors of the various companies, the parent body along with other subsidiary companies. They also give an auditor's report showing the loans from the date of the opening of business up to the 27th of February, 1937, the total number of loans, the volume and the average value of the loans.

I think, sir, that they have given a very full report as to their operations, and I trust it will give you the information you desire.

Mr. VIEN: I would like to ask Mr. Isnor if this company makes any suggestion as to the character of legislation that we should adopt.

Mr. CHAIRMAN: Mr. Vien, I was going to suggest that the statement will be filed and will be read over by the sub-committee.

Mr. VIEN: That is all right.

Mr. ISNOR: May I suggest it be printed as well?

The CHAIRMAN: Yes, subject to purview by the sub-committee.

Mr. FINLAYSON: Mr. Chairman, I think that submission has reached the clerk of the committee through other channels. He was good enough to let me look over it and while I think the writer intended to submit the balance sheets of the companies among the other financial schedules, I think the balance sheets, assets and liabilities are not included.

Mr. ISNOR: Are not?

Mr. FINLAYSON: Are not included in the attachments to the submission.

Mr. VIEN: You do not require them.

Mr. FINLAYSON: I think it is essential. It is essential for the proper consideration of any company's submission that there be included the balance sheets showing the assets and liabilities and the revenue account or income and expenditure account certified by the auditors.

Mr. BAKER: And operating profits.

Mr. FINLAYSON: Yes, and the relation of operating profits to capital set up, which will only be revealed by the balance sheets.

Mr. BAKER: Yes.

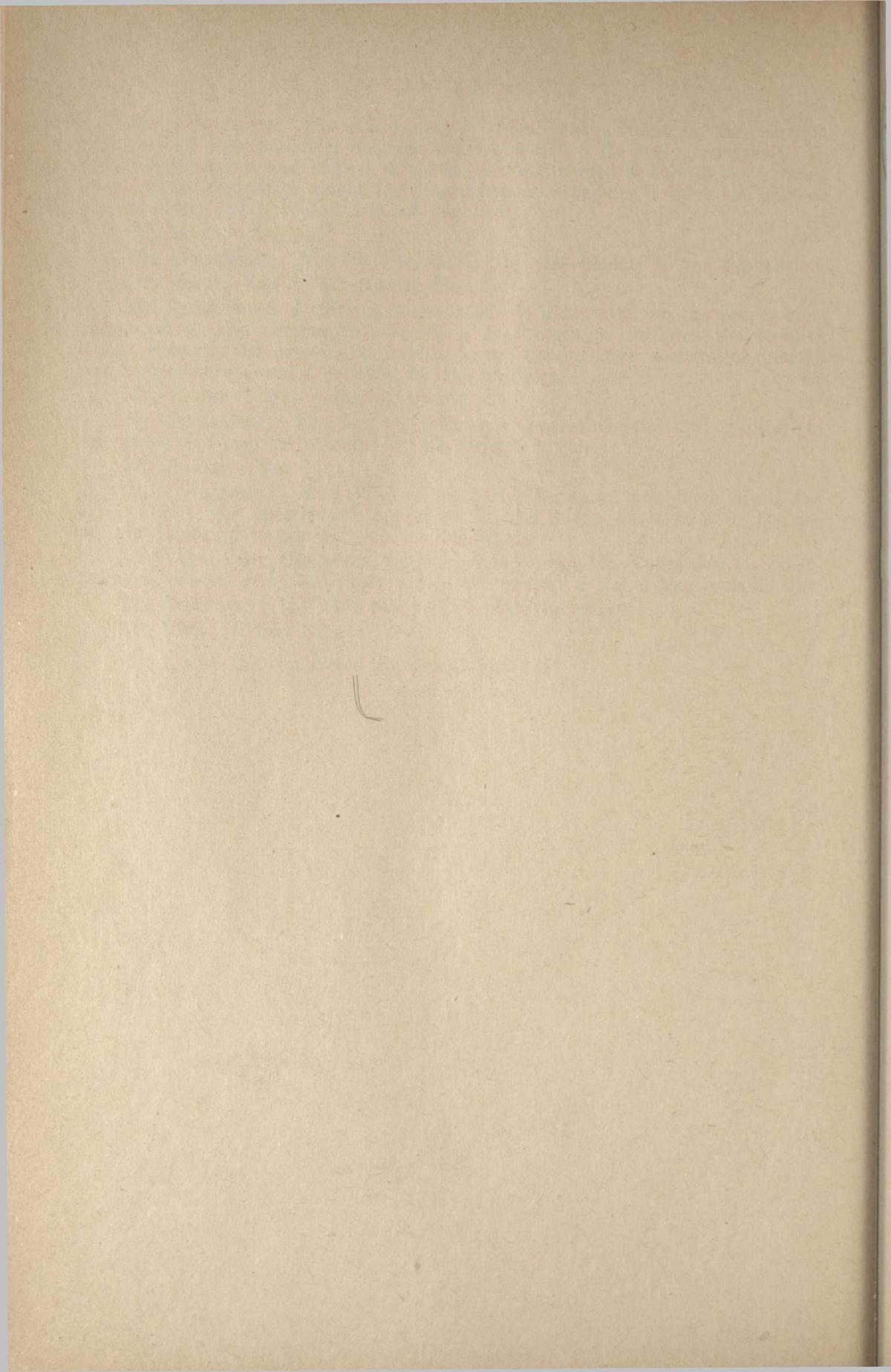
The CHAIRMAN: Miss Whitton and Mr. Edmison, you have heard the expression of the committee's appreciation. All I can do is to add that we are very grateful to you for your contributions.

Mr. VIEN: Mr. Chairman, I have a letter from Mr. Vaillancourt correcting some clerical errors which appear in the report. I would like to table this.

The CHAIRMAN: Yes. We will print it with the record.

Mr. VIEN: Thank you.

(At 1 p.m. the committee adjourned sine die.)





SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

SMALL LOAN COMPANIES

No. 12

WEDNESDAY, MARCH 30, 1938

WITNESSES:

Mr. G. D. Finlayson, Superintendent of Insurance, Ottawa.

Mr. Arthur P. Reid, Vice-President, Central Finance Corporation, Toronto.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

STANDING COMMITTEE

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

1880-81

SMALL LOAN COMPANIES

1880

WEDNESDAY, MARCH 10, 1880

WITNESSES:

Mr. C. D. Fisher, a representative of the Small Loan Companies, London.
Mr. Arthur F. King, Vice-President, Central Finance Corporation, London.

MINUTES OF PROCEEDINGS

WEDNESDAY, March 30, 1938.

The Standing Committee on Banking and Commerce met at 4 p.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Edwards, Fiset (Sir Eugène), Fontaine, Fraser, Howard, Hushion, Lacroix (*Beauce*), Landeryou, McGeer, Malette, Martin, Maybank, Moore, Plaxton, Quelch, Raymond, Stevens, Thorson, Tucker, Vien.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance, Mr. A. P. Reid, Vice-President, Central Finance Corporation and Counsel, Mr. Harold Walker, K.C., Toronto.

The Chairman presented the recommendations of the sub-committee on procedure, as contained in the minutes of the sub-committee's meeting held on March 29. (*See minutes of evidence*).

On motion of Mr. Coldwell.

Resolved, That the report of the sub-committee be adopted.

Mr. Finlayson was called and read a memorandum on small loan company legislation, after which he was briefly examined.

Mr. Reid, with permission of the Committee, made a statement and was examined.

On motion of Mr. Coldwell.

Resolved, That the calling of Mr. R. L. Bunce, Des Moines, Iowa, and Mr. J. A. Edmison, Montreal, to appear as witnesses before the committee, be ratified.

The Committee adjourned at 5.50 p.m., to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

March 30, 1938.

The Standing Committee on Banking and Commerce met at 4 p.m. The chairman, Mr. W. H. Moore, presided.

The CHAIRMAN: Order, gentlemen. I shall read to you the report of the sub-committee which was held on March 29, 1938. The report reads as follows:—

TUESDAY, March 29, 1938.

The sub-committee on procedure met this day at 5 p.m.

The sub-committee considered whether any further witnesses should be called before the committee with respect to its inquiry on small loans. After deliberation, the sub-committee agreed unanimously to recommend to the committee as follows:—

1. That Mr. Finlayson, Superintendent of Insurance, be called for a statement before the committee, on Wednesday, March 30, at 4 p.m.
2. That no further evidence be received outside of any advice that may be required from departmental officials.
3. That the report of the committee to the House be accompanied by a draft bill.
4. That the drafting of such bill be left to the Chairman, Mr. Finlayson and Mr. Varcoe and law officers of the House.

The above recommendations to be submitted to the committee at its sitting of Wednesday, March 30.

The sub-committee adjourned at the call of the Chair.

Clerk of Committee

Gentlemen, what is your pleasure?

Mr. COLDWELL: I move the adoption of the report.

Mr. MARTIN: I second it.

Carried.

Mr. MALLETT: It has been definitely decided upon that we are to call no further experts?

The CHAIRMAN: Other than our own officials. Mr. Finlayson, you have a statement to make?

Mr. G. D. FINLAYSON, recalled.

The CHAIRMAN: Would you prefer to put in your statement without interruption or do you mind if there are interruptions as you proceed?

The WITNESS: Whatever the committee wishes.

The CHAIRMAN: Mr. Finlayson is in your hands.

The WITNESS: Mr. Chairman and gentlemen, this is the memorandum which I prepared dealing to some extent with the department's experience with these companies over the last few years, and also to some extent with evidence that has been given before the committee. I shall read the memorandum.

Memorandum for the Select Standing Committee of the House of Commons on Banking and Commerce.

SMALL LOAN COMPANY LEGISLATION

1. *Object of Supervision of Small Loan Companies.*

When the first small loan companies were incorporated by parliamentary attention of parliamentary committees was drawn by the department to the high rate of interest and charges permitted by the special Acts. The answer was that the companies would be made subject to supervision in order that they might be prevented from charging rates in excess of the maximum set by the special Acts and if that maximum rate was found to be unnecessarily high a reduction might be recommended.

It became apparent at the outset that there would be little disposition on the part of the companies to charge less than the maximum. There was one exception to that general attitude. The smaller of the two companies operating before 1933 limited its chattel mortgage fee to 10 per cent of the amounts of loans under \$100, so that on a loan of \$50 a fee of \$5 was charged instead of \$10, the maximum permitted. This gave for a loan of that size an effective annual rate of 49.4 per cent instead of the maximum of 94.7 per cent. In the case of the other companies, no reduction below the maximum fee was made until the amendment of 1934 fixed a maximum limit of 2½ per cent a month on all charges including interest.

After the enactment of the 1934 amendment both of the latter two companies sought to have an interpretation placed upon that amendment which would increase the rate of a large section of their loans from 2½ per cent to 2.84 per cent on the amount advanced to the borrower. Both companies finally accepted the department's interpretation, but one of those companies is now seeking to have its own interpretation sustained by the courts.

All three companies have taken the view that the chattel mortgage fee may be justified by attributing to the chattel mortgage a large portion of the general expense of the companies and not merely the expense incident to the chattel mortgage. One company has set up an affiliated company to which the chattel mortgage fee is paid and the payment is claimed to be a "disbursement" and thus justified by the statute.

The foregoing facts will indicate the necessity of rigid supervision of regulated companies. As Mr. Henderson states (page 76) they ought never "to get to the place where the public official takes his finger very far away from their neck." It is safe to say that the interest of the public is more concerned with the efficiency of the supervision of the regulated, than it is with the charges of unregulated, companies. The larger volume of regulated lending will make a small increase in the rate of more dollar importance to the public than the higher rates on the smaller volume of unregulated lending in comparable brackets.

2. *The Loan Shark Evil*

Instances of very high rates of interest by unregulated lenders are given on page 6 of the committee's proceedings.

By Hon. Mr. Stevens:

Q. Are you referring to this year's proceedings?—A. Page 6 of the committee's proceedings of this year, yes.

It will be noticed that most of the loans, and those bearing the highest rates, are loans of less than \$20. Two of them were for \$10 each, one for \$15 and another for \$18. Loans of this amount are now, and probably always will be below the range of the small loan company in Canada notwithstanding the alleged willingness of some companies

[Mr. G. D. Finlayson.]

elsewhere to make loans as low as \$10. Those loans are also probably within the exemption of the Money Lenders' Act which exempts loans on which the whole interest or discount charged does not exceed the sum of fifty cents. It can easily be seen that by shortening the time for which the loan is made to two weeks, a fifty cent charge on a \$20 loan means $2\frac{1}{2}$ per cent every two weeks or sixty-five per cent per annum payable monthly, or an effective annual rate of 90.03 per cent. The largest loan in the group namely for \$102, yielded an effective annual rate of sixty-eight per cent per annum which compares with 49.4 per cent per annum charged by regulated companies prior to 1934 for a loan of \$100.

It has been estimated that to make loans less than \$25, a monthly rate of over seven per cent would be necessary if the lender is to realize a fair profit. It is obvious that no such rate can be authorized by legislation and that the alternatives are to exempt such loans from the legislation or to bring them within its provisions knowing that those provisions will be violated.

3. *What is an adequate rate?*

Probably the simplest answer to this question is that an adequate rate is one which will give an adequate return to the shareholders who invest their capital in the lending companies. This, however, merely raises the question as to what is an adequate return to the shareholders on such an investment?

It is a recognized principle of investment that the return to investors should vary directly with the hazard involved in the enterprise. While personal security has not always been favoured by lenders, the view expressed by Mr. Henderson in his evidence (p. 79) is probably correct. He said:—

I came to the conclusion that the best way . . . was to find some way of tapping the general flow of wages and vesting your security in the honesty of the common ordinary person. His reliability with regard to payment and his guarantee of payment is probably the best security in the world to-day.

The record of the Dominion licensed small loan companies up to date would indicate that that estimate is correct. Over a period of four years from 1934 to 1937 inclusive the total amount of loans made by the three companies was \$28,919,630 and the total amount written off loans as losses, \$97,878, of which \$56,005 was later recovered, leaving a net realized loss of \$41,873, or .14 per cent of the amount of loans made.

Notwithstanding the ranking of the security, rates in the United States are apparently maintained to yield a very large return to shareholders. The report of the Iowa Banking Department for 1937 shows a return of 8.04 per cent but as shown in the evidence (page 201) this rate is probably much higher. The Dominion department's computation shows that deducting interest on borrowed money and bonds, the rate is 15.54 per cent. (In order that this computation may be analysed it is attached hereto.)

By Mr. Plaxton:

Q. Is that before deduction or after?—A. After interest.

If rates of returns to investors are figured throughout the United States in the same way as in the report above mentioned it will in part account for the high rates there prevailing.

By the Chairman:

Q. What year was that official report, Mr. Finlayson?—A. 1937.

Q. Have we the figures of the previous years?—A. Not in the same detail.

Q. The point being that 1937 was probably a better year than 1933?—

A. It may be. We have not got the figures in the same detail for 1936.

It is obvious on other grounds that the United States experience cannot be used as a guide for the determination of interest rates in Canada. Among the points of difference are:—

(1) The rate of realized losses. The record above given for loans in Canada must be compared with rates as high as 5 per cent or more in the United States.

(2) The number of companies. In Iowa with a population of two and one-half millions they have over 100 individual lenders. A proportionate number for Canada would be over 400. From present information the number of licences likely to be applied for in Canada would not exceed 25. The evidence shows that if the number of licences were curtailed the rates to borrowers could be lowered.

(3) The larger range of small loans in Canada. In the United States the limit is \$300; in Canada heretofore \$500. It is admitted that the larger loans are the more profitable.

The only course for Canada to pursue is to proceed on her own experience which is more extensive than that of some of the States often held up as models for our legislation.

The experience of the Dominion companies shows that for the four years 1934 to 1937 inclusive the companies earned after interest 11·1 per cent on their mean net assets. The rate for the largest company was 16·66 per cent—

By Mr. Plaxton:

Q. What year?—A. I have grouped the four years, 1934 to 1937 inclusive.—and for the smallest company 1·30 per cent. The latter company, however, has not developed its business as it has been awaiting a rate of approximately 3 per cent a month. The 11·1 per cent has been earned notwithstanding the payment of interest at the rate of 7 per cent per annum on borrowed money; a payment of \$182,638, or over 3 per cent of the net assets, as a “supervising” fee to the controlling shareholder of the largest company; advertising costs of \$308,196, or over 6 per cent of the net assets and legal fees of \$66,495, or over 1 per cent of the net assets.

Q. That is the gross for the four years?—A. Four years.

Treating the “supervising” fee as equivalent to a return on capital and assuming a reduction of 50 per cent in advertising costs an addition of 6 per cent is made to the return of 11·1 per cent above mentioned.

Mr. WALKER: Are there any copies of the statement available, so that we can be endeavouring to follow these figures? We are at a disadvantage, especially as my client has been referred to. May my client have a copy, Mr. Chairman?

Mr. MARTIN: I think it is a fair request. There can be no question he is entitled to it.

Hon. Mr. STEVENS: I can remember the figures from the evidence of last year.

Mr. MARTIN: I think he should get a copy.

The WITNESS: I have only one.

Mr. LANDERYOU: I do not see why these companies should have a copy.

[Mr. G. D. Finlayson.]

Mr. MARTIN: There is no question they should have a copy.

Mr. WALKER: Mr. Finlayson has had ours for some days.

The CHAIRMAN: The only thing is particular reference is being made, I assume, to this company.

Mr. LANDERYOU: There are no copies for us.

The WITNESS: I shall hand this copy over to Mr. Walker immediately I am through.

When estimating the effect of a reduced rate of interest the companies assume a continuance of their present rate of expense. It is believed that the expenses of all companies can be reduced, particularly in respect of advertising, but probably also in other respects.

Mr. Henderson, in answering the question as to whether a lower loss rate in Canada might justify a lower rate said, (p. 106) "Yes, if you were striving to get the tightest rate you possibly could get." The department's experience is that the rate that should be fixed is the "tightest" rate for efficient lenders. This of itself will induce a reduced rate of expense and will act as an incentive to the less efficient lenders to raise their standard of efficiency.

It was suggested in the proceedings before the committee that the curtailment of the number of lenders might reduce the loaning facilities necessary for the public. It is submitted that facilities which require to be urged on the public by the use of advertising costing 10 per cent of gross income are not so much appreciated by the public that their withdrawal will be deemed a hardship. For the borrower in distress the mere knowledge that a lender is in the community should be sufficient without seductive advertising to bring the parties together; and for the borrower who wishes merely to finance new purchases it is difficult to see how a borrower is advantaged by facilities which charge him over 30 per cent when the instalment plan is stated to cost in the usual course less than 12 per cent.

4. *Flat rate v. graduated rate.*

The rate in many of the states of the United States is a graduated rate, usually stated as "—per cent on loan balances up to — and — per cent on balances over \$—." In New York, for instance, the rate is 3 per cent on balances up to \$150 and 2½ per cent on balances over \$150. This statement sometimes creates the impression that the borrower of a loan for over \$150 pays 2½ per cent on his loan. This is incorrect for the reason that while the balance of the loan in excess of \$150 and bearing 2½ per cent is being paid off the remaining \$150 balance is carrying a 3 per cent rate. The result is that on the basis stated a borrower of \$200 pays on the average 2·96 per cent; \$250, 2·91 per cent, and \$300, 2·86 per cent. While the graded rate is allegedly adopted to make possible loans of small amounts of \$50 and less the effect is to increase the flat rate for the largest loans beyond that which would be necessary. The chart attached will illustrate the working of the graduated or split rate. All things considered, a flat rate appears to be preferable to a graduated rate.

5. *What should the rate be?*

The department's opinion based on experience, the necessity for a reduced expense of operation and the desirability of the limitation of the field to the more efficient lenders is that a flat rate of 2 per cent per month should be adopted. To those who argue that this will prevent capital from entering the field—

By Mr. Martin:

Q. That statement is not accurate. They accepted 2 per cent, but before that they had asked for a higher rate. Is not that right, Mr. Finlayson?—
 A. Well, the one company to my knowledge was looking for 2 per cent for two years, and introduced its bill asking for 2 per cent.

—it should be pointed out that last year the two largest dominion companies presented private bills to parliament asking for a 2 per cent flat rate; that in 1936 an operating small loan company presented a bill asking for a 2 per cent flat rate; that a comparatively small lender in Winnipeg has expressed the opinion that a 2 per cent flat rate is adequate, and that the second largest company in Canada has been for some years lending at less than 2 per cent.

Provincial companies objecting to a 2 per cent rate should be required in all cases to file their balance sheets and profit and loss accounts for the last fiscal year. The balance sheet of the General Finance Corporation referred to in the proceedings of yesterday is dealt with on page 72 of the department's report on small loan companies for the year ended December 31, 1936.

Superintendent of Insurance.

STATE OF IOWA

EXTRACTS FROM ANNUAL REPORT TO THE SUPERINTENDENT OF BANKING FOR THE YEAR ENDED DECEMBER 31, 1937, ON SMALL LOAN COMPANIES

Consolidated Report of 117 Licensees

	December 31, 1937	December 31, 1936	Mean for 1937
1. Total assets used in small loan business.. . . .	\$ 8,712,605	\$ 7,744,642	\$ 8,228,624
2. Assets not used in small loan business.. . . .	9,446,042	8,597,984	9,022,013
3. Total assets.. . . .	\$18,158,647	\$16,342,626	\$17,250,637
4. Borrowed money.. . . .	7,166,947	6,249,520	6,708,233
5. Bonds.. . . .	419,433	421,992	420,712
6. Total borrowed money and bonds.. . . .	\$ 7,586,380	\$ 6,671,512	\$ 7,128,945
7. Interest paid 1937.. . . .	168,306		
8. Total net earnings (before interest) 1937.. . . .	830,597		
9. Total net earnings (after interest).. . . .	\$ 662,291		

Computation of Earnings

A. Before interest 830,597 (8)
 = 10.09%
 8,228,624 (1)

This is the rate of earnings before deducting interest paid, on the total assets used in the business without deduction of borrowed money and bonds.

B. After interest

(i) *Iowa Department's Computation*
 830,597 (8) — 168,306 (7)
 = 8.04%
 8,228,624 (1)

This is the Iowa Department's computation of the rate of earnings after deducting interest paid.

(ii) *Dominion Department's Computation*
 Proportion of borrowed money and bonds applicable to small loan assets
 7,128,945 (6) x 8,228,624 (1)
 = \$3,400,537 (10)
 17,250,627 (3)
 Proportion of interest paid applicable to small loan assets
 168,306 (7) x 8,228,624 (1)
 = \$80,282 (11)
 17,250,637 (3)
 830,597 (8) — 80,282 (11)
 = 15.54%
 8,228,624 (1) — 3,400,537 (10)

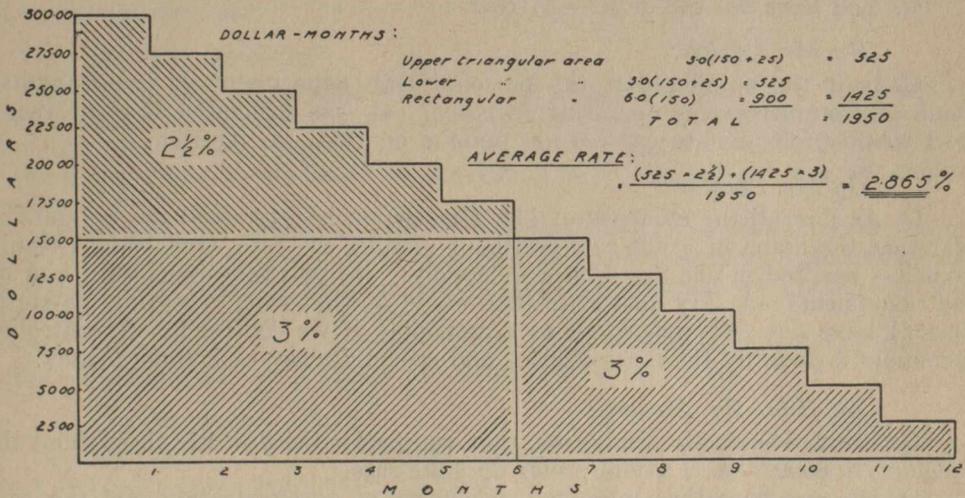
This is the rate as computed by the Dominion department after deducting interest. March 30, 1938.

[Mr. G. D. Finlayson.]

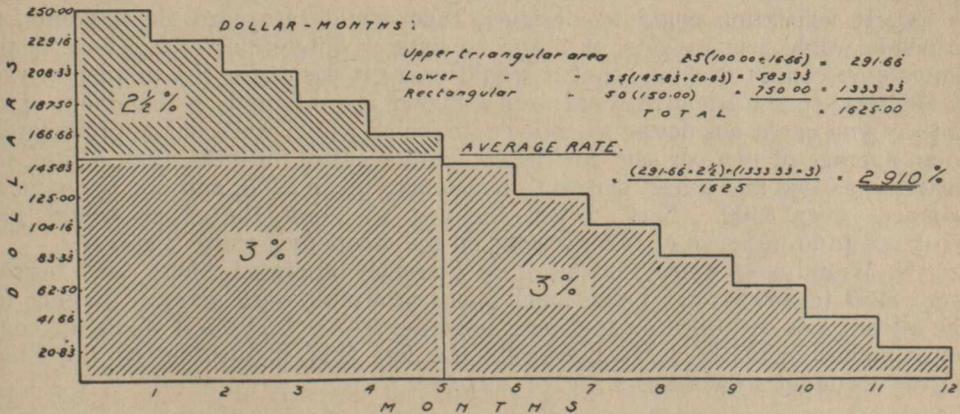
SPLIT-RATE LOANS

FIRST \$150.00, 3%, EXCESS, 2½%

(A) LOAN \$300.00 - REPAYABLE in 12 MONTHLY INSTALMENTS of \$25.00



(B) LOAN \$250.00 - REPAYABLE in 12 MONTHLY INSTALMENTS of \$20.83



By Mr. Coldwell:

Q. Is that your entire statement?—A. That is my statement.

Mr. MARTIN: Mr. Chairman, are there no copies of this statement available? It is very difficult to follow the whole statement, because it is a resume of the entire evidence.

By Mr. Donnelly:

Q. Did you consider amounts up to \$300?—A. With the two per cent rate I would suggest that the present range be preserved, that is, up to \$500.

By Mr. Coldwell:

Q. You have made no analysis in that statement of the operations of the personal loan department of The Canadian Bank of Commerce?—A. No, I could not, because I have not the data, Mr. Coldwell.

Q. You have not the data?—A. No.

By Mr. Quelch:

Q. Is it the opinion that the personal loan department of the Canadian Bank of Commerce was operating illegally? It was intimated that it was.—A. I would prefer not to express my opinion on that, Mr. Quelch.

By Mr. Plaxton:

Q. As I recall the evidence of Mr. Henderson, he expressed the unqualified fear that the fixing of a flat rate—without naming the rate, true—might result, as it has resulted in one State, in a monopoly. Do you take issue with him on that statement?—A. My answer to that would be that even accepting his statement, I have not very much fear of a monopoly if we control it. A controlled monopoly is possibly the most efficient and economic way of loaning money.

By Hon. Mr. Stevens:

Q. I understand, Mr. Finlayson, that you prefer the flat rate throughout the range up to \$500?—A. I would prefer the flat rate.

Q. Do you base that upon the difficulties of administration and the ease of evasion?—A. That is one thing, and the danger of misunderstanding, as I have tried to explain in my memorandum.

Q. If legislation could be designed that would safeguard those points, in principle would you consider it better to have a differential?—A. There is the point—you cannot deny it—that it would make it easier for the small borrower of \$50, say, to get a loan if there were a higher rate allowed on that loan. I do not say you could not devise a graded rate which would work out approximately to an average of two per cent for the company's entire business, such a rate, for instance, as two and a half per cent on balances up to \$100, and one per cent on balances over \$100. Now, I am inclined to think that that would just work out to an average of two per cent on the company's entire business.

Q. Would you agree that as it is presently operated, those who borrow from \$250 to \$500—that being much more profitable—are actually paying for the alleged loss sustained on the small borrower?—A. Oh, yes. I think the company makes from the large borrowers the loss that it sustains on the small borrowers under a flat rate.

By Mr. Plaxton:

Q. Would you agree with this: that if you fixed a flat rate the borrower in the small brackets would have greater difficulty in obtaining a loan?—A. I quite agree with that, Mr. Plaxton. That is what I just stated to Mr. Stevens, and that is the point made by Mr. Henderson and Mr. Bunce.

Q. Yes. As I recall his evidence he stated that one of the objections he had to a flat rate was that it would create an umbrella for loan sharks who operate

[Mr. G. D. Finlayson.]

in the small loan brackets?—A. I tried to make that point when Mr. Henderson was giving his evidence.

By Mr. Coldwell:

Q. It strikes me that when the American witnesses were giving their evidence they were speaking from an entirely different environment to the environment in which these companies operate; that there they have a lot of small independent companies, whereas here we have comparatively larger ones operating under somewhat of a banking system. Is it not fair to say that the rate they suggest is more applicable to their conditions and that a lower rate ought to be applicable to our conditions?—A. I think that they are doing the best they can with the situation they inherited. I think one of the witnesses said that he was landed into that situation where there was this host of small lenders, but that he was doing the best he could. He had already suggested lopping off the lower section of the list of agencies.

By Mr. Donnelly:

Q. When Mr. Henderson was here he laid great stress on the effect of proper supervision; have you any statement to make as to what you think we should do here in that regard?—A. I think I mentioned that in the memorandum. I think regulation is necessary to prevent evasion by some of the less careful lenders.

Q. He also laid stress on men to supervise?—A. Well, that may be necessary. You certainly have to have examiners to go into the branch offices and look over the loaning practice, examine individual loans and make test checks. I think that is inseparable from any system.

Q. He said that any regulation would come to nought unless you did have proper supervision?—A. I think you must have supervision.

By Sir Eugène Fiset:

Q. The basis of all your opinions is regulation, examination and supervision for a flat rate of two per cent?—A. Yes.

Q. That is the basis of your recommendation for a flat rate?—A. Oh, yes.

By Mr. Martin:

Q. Mr. Finlayson, going back to Mr. Coldwell's question, I am not at all satisfied that you have yet given us any reason why the American experience is of no value here because of different sets of circumstances. Take the State of Iowa, or take any State; why do you say that that experience is not helpful here? Before you answer that question, let me proceed. The situation, in my judgment, is identical. The problem is that there is a demand for money. Secondly, there is not only the demand, but there are many agencies, some with State charters, others with no charters at all, just operating as some in Canada with federal charters, some with provincial charters and many others with no charters at all. You are not in a position to tell this committee how many agencies there are that are loaning money, any more than Mr. Bunce could tell with any degree of accuracy in his statement how many loaning agencies there were there. Having in mind all that, and having in mind particularly what Mr. Henderson and Mr. Bunce said as to the rate for Canada, I am afraid that you will have to content yourself with more than the mere statement that we cannot rely on their experience, otherwise you should have advised, I suggest, not to call these men at all.—A. On the first point—have you finished your question?

Q. I might not have finished.—A. On the first point as to what evidence there is that the experience in the United States is not applicable, we would have, of course, to go over the evidence; but I am quite sure of this fact, that Mr. Bunce stated on the rate of loss in his State that it has been as high as eleven per cent.

Mr. COLDWELL: That is right.

The WITNESS: But it had been reduced to, I think, five. Well, now, is that not a material difference? When you have a fraction of one per cent as a result of our experience, which is about the same as Mr. Bunce's experience in duration—while he has been working from eleven per cent down to five per cent—is that not a material difference?

By Mr. Vien:

Q. Would it necessarily follow that circumstances are different? Would it not be the result of the fact that our Canadian loan companies are more careful and that the American companies are taking greater risks and less security? What do you think of that?—A. You are asking me to analyse a matter I cannot analyse. I am taking the facts that have been laid before us.

Q. If that were a factor that arises in this particular instance of the American loan companies reducing their loss from eleven to five per cent against a fraction of one per cent in Canada, then there would be nothing in that to determine conclusively that circumstances and conditions are different in Canada than they are in the United States?

Mr. COLDWELL: Mr. Chairman, may I interrupt?

Mr. VIEN: I would like to continue, Mr. Chairman.

Mr. COLDWELL: I was going to ask if the greater risks the Americans take would not warrant a higher rate of interest?

Mr. VIEN: I would not say that there is a greater risk. My suggestion is that there might be greater chances taken by the money lenders. I do not believe there is a greater risk. I think conditions are the same.

Mr. MARTIN: It is human nature.

Mr. VIEN: Human nature. You have small borrowers who cannot balance their budget; they want \$25 or \$50 or \$75; they have no security to offer other than by the endorsement of a friend, and so on. Well, that condition is the same in Canada. Miss Whitton yesterday said that after studying the Russell Sage Foundation studies and recommendations and the legislation enacted thereunder in various States she found no difference in conditions as between the Canadian circumstances of the borrower and the circumstances of the American borrower; and it would seem rather reasonable in the absence of any conclusive evidence to the contrary—and we have none, we have no conclusive evidence to show that the circumstances of the borrowers in Canada are at variance with the circumstances of the borrowers in the United States—and in the absence of any conclusive evidence in that regard I would suggest that these circumstances and conditions could reasonably be assumed to be the same. They state that their loss of eleven per cent has been reduced to five per cent. I do not believe the reduction from eleven to five per cent was due to changing circumstances and conditions among the borrowers, but better supervision. If I mistake not, the witness said so. It was due to closer supervision, greater inspection and control over the lending companies. I suggest that it would be rather a gratuitous statement to make to say that circumstances and conditions in Canada are not comparable at least with those in the United States. And I would ask you if it would be unreasonable to assume that this difference in loss is not due to greater chances taken by the money lenders?

By the Chairman:

Q. Before you answer that question, may I ask you a question, Mr. Finlayson?—A. Yes.

Q. On what number of companies do you make your calculation of loss?—A. Three.

[Mr. G. D. Finlayson.]

Q. You do not take into account the losses that may have been made by all of the provincial companies?—A. No.

Q. Those companies which do not report to you?—A. No.

Q. It may be that you are talking about an entirely different situation than Mr. Bunce was talking about?—A. It may be. That is why I want to get complete information from all of the provincial companies that object to a two per cent rate.

Q. Have we any way of getting that?

Mr. VIEN: We cannot get that.

The WITNESS: I tried to get a balance sheet from the General Finance Corporation of Halifax.

The CHAIRMAN: We wired for that yesterday.

By Mr. Coldwell:

Q. How many offices of these three companies operate in the dominion?—

A. One has thirteen.

By Mr. Martin:

Q. In Ontario?—A. All in Ontario. That is the largest company. The second largest company, I think, has two in Montreal, Toronto, Hamilton and London—five offices, I think.

Mr. REID (Central Finance Corporation): Three in Montreal and four in Ontario.

The WITNESS: Seven of them.

Hon. Mr. STEVENS: I would like to ask two or three questions if I might?

The CHAIRMAN: On this point?

Hon. Mr. STEVENS: Right on this point.

The WITNESS: Perhaps I had better complete my answer. I have given two companies, that is, thirteen and seven. I think the third company has two, one in Ottawa and one in Toronto.

By Mr. Coldwell:

Q. That makes twenty-two?—A. Yes.

By Hon. Mr. Stevens:

Q. The questions I want to ask lead up to a certain point on which I wish Mr. Finlayson to express an opinion. I gather from your remarks to-day and at other times that the justification for the acceptance of this class of legislation is that there exists, apart from these well organized companies, a vast body of miscellaneous lenders commonly known as money sharks?—A. That is believed to be—

Q. Believed to be the case?—A. Yes.

Q. And is one of the reasons why such legislation as is proposed should be passed?—A. Yes.

Q. The dominion authority has control of interest under the British North America Act? I think that is accepted, is it?—A. Yes.

Q. The only existing control of these miscellaneous lenders is through the Interest Act?—A. That is, the dominion control?

Q. Yes.—A. Yes, and the Money Lenders' Act. In fact, the Money Lenders' Act more particularly in respect of these small loan companies.

Q. And the Interest Act?—A. The Interest Act has little bearing on the question of regulation, because all that the Interest Act says is that two parties may agree on a rate of interest, and if there is no agreement and no rate stated then five per cent is the rate.

Q. But amendments to the Interest Act might be considered good?—A. Oh, quite.

Q. If a machine for administration purposes were provided it might be used for the control of these miscellaneous lenders?—A. So far as interest is concerned but possibly not so far as the total cost of the loan is concerned if the total cost of the loan includes charges which are not interest.

Q. Quite. That applies to interest?—A. Yes.

Q. And under The Money Lenders' Act there is power regarding the amount charged for services?—A. No; The Money Lenders' Act does not restrict charges for services, in addition to interest.

Q. But it could be amended to provide for that? I mean, the power first?—A. Now you are getting into the constitutional point, and you have got to distinguish, I think, between charges which are disguised interest and charges which are not interest in any sense.

Q. Very good. The earning power of a corporation lending money under The Money Lenders' Act is influenced by the quantity or number of loans and the quantity loaned?—A. Yes, sir.

Q. The larger the number of loans, the larger the amount loaned?—A. Quite.

Q. And the lower is their cost of operation?—A. That is not disputed by anyone.

Q. Then my next question, and the point I was coming at, is this: would you consider it advisable in any legislation passed of this character that in connection with any company incorporated under dominion jurisdiction it should have a minimum amount of capital similar to that imposed on banks in The Banking Act?—A. Yes, sir.

Q. Are you prepared to advise the committee what in your opinion that minimum should be?—A. \$100,000 paid capital.

Q. You think that that would be adequate?—A. I think so. I think it would be unwise to set a company going with less than \$100,000 capital.

Q. You would think it advisable to fix such a minimum?—A. Yes.

Q. No such minimum presently exists?—A. Oh, yes; it has been fixed in the Special Acts.

Q. Oh, yes, but I mean there is no general legislation?—A. No general legislation.

Q. Would you consider it advisable to fix it in general legislation?—A. I think it would be immaterial, so long as they are incorporated by Special Acts, because it can always be inserted in the Special Acts.

Q. But in the general Banking Act we fix it so that a bank applying for a charter under the private Act must have that minimum. Would it not be advisable in the general Act to fix a minimum?—A. I may have spoken too fast. All the companies incorporated by the dominion parliament are made subject, by their Special Acts, to the Loan Companies Act, and that Act does provide for a minimum of \$250,000 subscribed capital and \$100,000 paid capital.

Q. That is now provided in The Money Lenders' Act?—A. No, in The Loan Companies Act.

Q. Does that cover these?—A. Yes, because the Loan Companies Act applies to these companies by a provision in their Special Acts.

By Mr. Vien:

Q. Three companies?—A. Three companies.

By Hon. Mr. Stevens:

Q. At the present time it is adequately covered?—A. I think so. While on that point I should mention, Mr. Stevens, that I do not think there is any doubt as to the dominion's power to regulate all charges, interest and other of its own creatures— dominion corporations. Our difficulty arises from the fact that there is a large number of companies incorporated otherwise, and a large number

[Mr. G. D. Finlayson.]

of individual lenders, and the dominion jurisdiction over those is limited to interest.

Q. There is another question, Mr. Chairman, that I should like to ask, and I think this is rather an important one in view of the decision in Montreal a year or two ago. Is it not possible to qualify the definition of interest in The Interest Act so as to make more difficult the disguising of interest in the form of charges?—A. Well, we have been wrestling with that question for several months, Mr. Stevens, in consultation with the Department of Justice.

The CHAIRMAN: And with provincial representatives.

The WITNESS: And with provincial representatives. And it is the most difficult thing you can imagine to find out just where the line of demarcation lies between dominion and provincial jurisdiction.

The CHAIRMAN: We had a hearing on that while you were away, Mr. Stevens.

The WITNESS: There is a number of the proceedings dealing with that.

Mr. REID: Mr. Chairman, my company, The Central Finance Corporation, was the pioneer in this business, and inasmuch as our investment in this small loan business represents seventy-five per cent of the total investment of three legal small loan companies, I think it necessarily follows that I am vitally interested in Mr. Finlayson's evidence. A great many of the points he brings out have been covered by us in the brief I have already filed with the committee. To the extent that these are covered, I will try not to repeat myself; but there are certain phases of Mr. Finlayson's evidence with which I am bound to take issue, and I will try to do so in as temperate a manner as possible.

I found myself at a very great disadvantage in trying to follow his evidence, composed as it was, of so many figures, without having before me a copy of his evidence. Consequently, if I err in my assumptions, I trust I will be forgiven.

The CHAIRMAN: Mr. Reid, may I suggest this: there will be another hearing of the committee, and if you feel at a disadvantage, Mr. Finlayson has suggested that you postpone making your comments until the next hearing.

Mr. FINLAYSON: I realize the disadvantage Mr. Reid is under, and I will be only too glad to give him an opportunity to prepare himself.

Mr. COLDWELL: I think in fairness it should be stated that Mr. Finlayson was asked to do this this afternoon, and the committee must take the responsibility.

Mr. REID: I am not suggesting, Mr. Chairman, that Mr. Finlayson is trying to put anything over me; our relations for many years have been very happy.

Mr. FINLAYSON: Perhaps I should state, Mr. Chairman, that I have made only the slightest review of Mr. Reid's brief. I glanced over it and I detected one error which was corrected.

Mr. REID: To the extent that I desire to keep in water not beyond my neck, I will attempt to do so. There are one or two points I wish to bring up: the first is with regard to Mr. Finlayson's presentation of the profits earned by these companies of which I speak of figures approximating eleven and sixteen per cent. I cannot help but assume that he is referring to profits after interest on borrowed funds.

Mr. FINLAYSON: That is so stated in the memorandum.

Mr. REID: I was wondering why at this time, Mr. Finlayson presents the profits in that respect when in his blue book covering the figures of these companies for several years he deals with profits before interest?

Mr. FINLAYSON: May I answer that: in order to get a comparison with Mr. Bunce's figures in respect of Iowa, because he dealt with figures after interest.

Mr. REID: Mr. Finlayson, may I suggest that he dealt with them both ways; he also dealt with earnings before interest in which he indicated the earnings before interest were 10·02 per cent.

Mr. FINLAYSON: I am speaking from recollection. I think his argument was all based on eight per cent return—that that is the rate shown after interest in the Iowa experience.

Mr. VIEN: I think Mr. Bunce said a minimum of eight per cent return; that a company established for a greater length of time could carry on at a profitable rate whilst others and weaker companies and money lenders could not prosper on such a rate.

Mr. FINLAYSON: At any rate, that is the reason for the basis adopted there.

Mr. REID: Very good, sir. I think it is only fair that I should point out to the committee and direct the attention of the committee to the figures appearing on pages 26, 27, 28 and 29 of Mr. Finlayson's report wherein he indicates that the weighted average—I am not going into an explanation—the weighted average of the percentage of earnings for the years 1933-1936 in the case of Central Finance Corporation—the ratio of earnings to average employed assets is 8·95 per cent, not 16 per cent. In the case of the Discount and Loan Corporation, I will use their consolidated statement which includes the affiliated company to which Mr. Finlayson has referred and in which the earnings appear for the period 1933-1936 at 1·88 per cent, their average earnings for those years. In the case of the Industrial Loan Finance Corporation, the second largest company, the earnings for those same three years are 4·78 per cent. The average earnings would, of course, in each case be less than 11 or 16 per cent.

Mr. PLAXTON: Less than 8 per cent.

Mr. REID: Yes, very much less. Another point with which Mr. Finlayson dealt was in regard to the fact that one company had earnings or charged its customers less than 2 per cent per month. I am obliged to point out that that particular company has a substantial proportion of its business in co-maker loans, a cheaper type of service to provide and which, by virtue of the fact that in the province of Quebec they cannot take chattel mortgages, they find that this is the only type of loan they can make, and without the chattel loan fee, their rates are consequently reduced. It is also fair to point out that the tendency on the part of the company in recent years has been to liquidate its business in the province of Quebec and open branch offices in the province of Ontario, where it can obtain higher rates and take chattel mortgage security. I have that on the best of authority. I doubt if Mr. Finlayson will dispute it.

Mr. FINLAYSON: It is true.

Mr. REID: It should also be pointed out that the same company has supplemented its earnings in the province of Quebec by selling life insurance and collecting substantial commissions on the premiums which have had a very material effect on its earnings.

Another statement has been made, or a suggestion has been made that it is altogether unlikely that these companies would make loans of less than \$50. I can only speak for our own company—

Mr. FINLAYSON: Excuse me—

Mr. REID: —that they would not be likely to use loans under \$50.

Mr. FINLAYSON: I do not think I said under \$50. I meant to say under \$25.

[Mr. G. D. Finlayson.]

Mr. REID: Under \$25? That will all depend on the rate.

Mr. FINLAYSON: Oh, yes.

Mr. REID: If there is an attractive rate—

Mr. BAKER: Do they borrow under \$25?

Mr. REID: I am going to suggest that in most cases when people borrow less than \$25 there is absolutely nothing remedial about that type of loan transaction; that it is a hand-to-mouth proposition. Those small loans of \$5 and \$10 are generally used for some improvident purpose: a man wants to buy a bottle of liquor or to place a bet on the ponies without his wife's knowledge, and he is tempted by the ease of the thing—it only costs 50 cents—and he rushes in there to get that small loan sure that he is going to win.

Mr. HOWARD: And if he loses his wife pays.

Mr. REID: His wife pays, that is quite right. There is very little of a remedial nature in that type of loan, and I doubt that they should be encouraged from the standpoint of profit to commercial companies; but I will say this, that with anything like a workable rate—and I propose the rate that we are suggesting in our private bill which will later come before this committee, and in our brief for general legislation, as a rate such as would justify us in keeping our capital in this business in this country, is a flat rate of $2\frac{1}{4}$ per cent up to \$500. I will promise this committee that with that rate we will make loans down as low as \$25. I cannot vouch for the other companies, but I imagine when we start others will follow suit.

Mr. COLDWELL: Even with the horse racing?

Mr. REID: No, sir. I am surprised—I think the statistics indicate that our money is not employed in that way.

Mr. COLDWELL: It was you that suggested it. However, I was not serious.

Mr. REID: I am also going to suggest that our record is a most enviable one among the class of people who lend money. It is borne out by our loss ratio and by the fact that last year ten thousand applicants for loans came to our office on the recommendation of mutual friends. That is a very splendid record. I am proud of it.

Hon. Mr. STEVENS: In regard to the small loans which you take, do you, as a matter of common practice, exercise some discretion about the objective of the loan?

Mr. REID: Yes, indeed. I shall be glad, Mr. Stevens, to give you a copy of the brief. I have filed an analysis of those loans.

Reference has also been made to the minimum of risk in this business, suggesting that our earnings should bear an inverse ratio to the risk involved. I agree with that general principle, but I am also going to point out, and I think you gentlemen will be interested in this, that at the end of last year we had 4,177 accounts totalling \$447,357.15 that were delinquent. True our losses have been kept down, but I am further going to suggest that in this business, when it is conducted in a capable manner the losses of the business are not very great; but to conduct it in a capable manner, the costs are heavy. The small losses are the result of good and costly management which represent a very great item of expense. Now, I cannot help but think from Mr. Finlayson's evidence that he has interjected into the minds of this committee that, perhaps, with minor exceptions these companies under his supervision have taken their pound of flesh and exacted every cent of profit that could be derived out of these transactions. I am keenly disappointed, and I must confess I am very much surprised that Mr. Finlayson did not tell this committee that last year alone our company put into effect voluntary rate reductions which cost us \$85,730.47, reductions that were passed on, savings that were passed on to our own borrowers, that we did not have to pass on. That information has been

supplied to Mr. Finlayson; he has knowledge of it; in all fairness that should have been brought out in his evidence.

Mr. BAKER: Did you accept that loss?

Mr. REID: We did not lose money on our business. We put rate reductions into effect.

Mr. MALLETTE: On loans already made?

Mr. REID: On loans as we were making them. Our plan is a discount plan.

Mr. COLDWELL: It was good business.

Mr. REID: Some of that \$86,000 represented additional rebates we gave to borrowers of loans already contracted which we were not obliged to give at all; others represented reduction in our list of charges. The two features together amounted to \$86,000. Now, we could not advertise that. We never advertised that. We have no way of claiming credit for that. We have been unable to advertise the fact that we were under any form of regulation or supervision. With respect to the borrower picking up a daily newspaper he would be just as much attracted by the advertisement of the loan shark as by us, and very often the other man's ad. was more alluring inasmuch as he would dare to make false and misleading statements which we because of our large investment and reputation could not afford to make. I say to honourable gentlemen that we were at a decided disadvantage in our advertising, and this was a feature that we could not even suggest to the public. It occurred to me that that was one of the things that Mr. Finlayson should have told the committee about. We thought we were doing something very decent, and I am surprised that that was not developed.

Mr. TUCKER: Who brought it up? Why did you do it?

Mr. REID: I believe that the public generally will sooner or later know when they are being fairly treated. It was good business. But that does not detract from its value, surely.

Mr. TUCKER: Do you say that you got no benefit from it because you could not advertise it?

Mr. REID: No. I said that we got no advertising out of it.

Mr. COLDWELL: Do you think that Mr. Finlayson was willingly keeping something from the committee?

Mr. REID: I can only repeat; I do not believe any of this was willingly done.

Mr. COLDWELL: Mr. Finlayson was making a statement at the request of the committee. He was not dealing with any one particular company.

Mr. REID: It follows that when he speaks of the largest company he can only refer to us. When he refers to the profits of the largest company or direct attention to the largest company, his own printed blue book indicates to the committee what that company is and he might as well mention our name. In all fairness to Mr. Finlayson I want to repeat what I said before that what I have said is without venom or spleen, but I think these are things that you should know.

Mr. COLDWELL: I think you will get farther with the committee if you refrain from criticizing Mr. Finlayson; he addressed the committee at the request of the committee.

Mr. REID: Only I am answering his evidence in the same way as he was criticizing me. I am sure Mr. Finlayson does not object.

Mr. FINLAYSON: I referred to the fact that in the early days, from the outset practically, one of the small loan companies charged a smaller mortgage fee than it was permitted to charge. I read that in the very beginning of my memorandum to show that it soon became apparent to us that rigid supervision was necessary. Now, if I am incorrect; if at the same time your company was limiting its maximum mortgage fee then I am at fault in not stating so.

[Mr. G. D. Finlayson.]

Mr. REID: Your department has had knowledge of that. Your men have made an examination of our company.

Mr. FINLAYSON: I am speaking of before 1934, that the company reduced—voluntarily reduced—the maximum chattel mortgage fee permitted.

Mr. REID: Before 1934? Have you figures there indicating the number of chattel mortgage loans we made under \$500?

Mr. FINLAYSON: Could we clear up this matter first.

Mr. REID: That is very important because we discouraged the small loans, because of the size.

Mr. FINLAYSON: Am I at fault in not stating that your company before 1934 voluntarily reduced the maximum chattel mortgage fee on small loans?

Mr. REID: Oh, no, sir; that is all right. I have no objection to that at all.

Mr. FINLAYSON: We approach the matter from two different viewpoints.

Mr. REID: Right.

Mr. MALLETTE: Mr. Reid says that he was not allowed—that his company was not allowed to tell the public about this reduction of \$86,000 in interest. By what means or by what law was he prevented from doing so?

Mr. REID: I think I can answer that. The reduction was in such a manner that it could not be expressed as right over the entire loan field.

Mr. VIEN: But you claim credit for it, and we do do not blame you for that; but if you boast of your brains and achievement—

Mr. REID: I am boasting about nothing; I am stating a fact.

Mr. MALLETTE: A man may boast and still state a fact.

Mr. REID: I am not boasting about this.

Mr. MALLETTE: I have no apology to offer the gentleman at all.

Mr. REID: I suggest that a proper picture can be obtained by this committee and that the committee should see the full picture.

The CHAIRMAN: Proceed, Mr. Reid.

Mr. MALLETTE: I think that everything you are saying now should come up when your bill is up. I am no lawyer, and the legal gentlemen can decide on that.

Mr. MARTIN: The only difficulty is that Mr. Finlayson has thrown us off the track completely. I agree with what Mr. Mallette said.

The CHAIRMAN: We are still on the track.

Mr. MARTIN: In answer to Mr. Mallette, Mr. Finlayson's statement was not confined to a general statement. He suddenly plunged into an examination of these two companies. That is what he has done instead of dealing generally with the problem, and he has compelled Mr. Reid, in following a logical course, to take the stand he has. It does seem to me, however, that the whole thing is out of order.

Mr. MALLETTE: If I used a word in the wrong way I am willing to withdraw it.

The CHAIRMAN: Your word is quite parliamentary, Mr. Mallette. I do not think Mr. Reid has taken offence.

Mr. REID: Now, I could go into the question of advertising at some length. I could go into that reference by Mr. Finlayson about the supervision. Perhaps Mr. Mallette is right; but these are points that have more to do with our company particularly. I can only offer this thought—

Mr. MARTIN: The question is before us. Mr. Finlayson has made the statement. I am not talking about your company or any other company. I am speaking of general legislation. Mr. Finlayson has made the statement that the

United States does not offer any grounds of satisfactory comparison. Now, what do you say about that?

Mr. REID: In that connection I recall his reference to the lower loss ratio here in Canada as compared with the States. I want to point this out from our own experience that the bulk of the business which now appears in our balance sheet has been put there since the first of 1933 at a time when we started to come out from the depression period. In other words, at the end of 1932 our assets were between \$400,000 and \$500,000, and at the end of 1937 they were a little over three and three-quarter millions. Practically all of the business that we have on our books has accumulated in the post depression period. Naturally there has not been as large an element of loss in that business as there would have been in business on the books during the period of the depression. Now, I think the only fair comparison we can make if we are going to compare losses with those in the States would be a comparison made between a string of offices opened since about the same date—say, 1933 or 1934; and our experience has been—I have gone into this pretty carefully—that in comparing our thirteen offices in Ontario with the same number of offices opened in the same interim in the States that the loss ratio very favourably compares and there is not a great deal of difference. The percentage would be negligible, and certainly one that would not have any effect on any potential rates of any structure. For instance, our company in the States had losses during some of those years approximating 7, 8 and 10 per cent of its loan accounts; to-day its losses are negligible. The older an office gets, the closer you get to the saturation point, and you come to the point where the field of your clientele cannot very well be enlarged and you are dealing—let us say you are more or less rolling your customers—you are dealing with the same people. I think anyone will see that if you continue to lend money to one person you are simply getting nearer and nearer to the breaking point of the loan and to the time when you are going to take a loss, and it is not good business to carry those loans on your books indefinitely.

Mr. TUCKER: Does that mean—

Mr. REID: May I finish?

Mr. TUCKER: I wonder what you mean by that?

Mr. REID: I mean this, that there are certain cases that you have to take care of, such as men meeting new emergencies, and they come to you. They require money for pretty much the same group of reasons for which loans were originally made—doctor bills, taxes, arrears of rent, hospitalization and all that sort of thing. You may be justified on the strength of earnings in making that loan, but I do maintain that no matter what the person's reason for borrowing is, if that man becomes a chronic, and the circumstances demand that he make trips back to the loan company for more money all the time, there is a greater element of risk in that type of loan than there is, for example, if the man is borrowing for the first time. I suggest, and our experience bears this out, that in the older offices, those established for a long time and which have been operating at saturation point for years, there is a greater element of risk and a greater percentage of charge-off than is the case in offices which is a few years old. I think that is a very important point in comparing—

Hon. Mr. STEVENS: I would gather from your statement that there is a sorry future for you, if you stay in business long enough.

Mr. REID: No, sir. I can qualify that in this way: the future of the loan company depends on various things; first, the reputation that it earns for itself in treating people decently, and in trying to get people on their own feet, something in the manner in which a doctor will get a reputation by keeping people well, rather than having them buried. We believe the role

[Mr. G. D. Finlayson]

we should play in this personal loan scheme is one of a doctor, if you will, of finances, trying to keep these people on their feet financially, trying to keep them well financially, rather than earning a reputation for ourselves by keeping them chronically sick.

That again brings up the question of advertising. The proper amount, and a very substantial amount, of advertising is necessary in order to provide the lender with a proper selection that will enable him to keep his money invested in an adequate amount, and to obtain an adequate number of new loans that will justify him in adopting the type of policy in considering renewals.

Mr. MALLETE: You still feel you are limited by law in regard to advertising?

Mr. VIEN: There is no law presently in force.

Mr. REID: No, sir.

Hon. Mr. STEVENS: Yes there is; there is the Criminal Code.

Mr. REID: That suggests that your advertising shall be honest.

Hon. Mr. STEVENS: False and misleading advertising comes under the Criminal Code.

Mr. VIEN: I think the advertising referred to is not advertising of a misleading nature. The volume of advertising was criticised. It was suggested that some of the publications and advertising, although not misleading, were not of a character to be encouraged.

Mr. TUCKER: If I understand Mr. Reid's evidence aright, it gets back to the point before us. The heart of the whole evidence before us is this: if you are going to continue to make money you have to continue to get new customers and drop your old ones. That is what your evidence means. I should like to know if that is what it does mean? That is what I took from it. If I understood your evidence aright, you say that you have to continue to get new customers in order to drop progressively your old customers and stop lending to them. Mr. Reid now says he wants to drop the old customers with whom he has been doing business.

Mr. REID: In order to get them on their feet financially and put them in a position where they won't have to borrow.

Mr. TUCKER: I understood from you you want to be able to adopt a tighter policy in regard to old customers.

Mr. REID: Yes.

Mr. TUCKER: In other words, make new loans. Now, then, is that the fact?

Mr. REID: Making new loans to whom?

Mr. TUCKER: Old customers.

Mr. REID: We need to have a considerable amount of advertising in order that we will get more applications from people who are not chronic borrowers, in order that we may have a selection that will enable us to keep our funds invested in these new loans rather than being put somewhat in the position where we have a lot of idle funds, and we will not be encouraged to lend out to people who have been borrowing for a long time.

Mr. TUCKER: I understood you to say that once you had pretty well covered the field, and had continued to deal with the people with whom you had been dealing for some time, it was not advantageous for your company, because after they had been in your hands for a certain period they are likely to continue. Now that is exactly the point I had in mind. After they have been in your hands for a certain length of time and paying a certain rate of interest it is wise to drop them and get somebody else.

Mr. REID: I agree with you, absolutely.

Mr. CLEAVER: Would you please elaborate one point which you brought out. I have not had the opportunity of seeing your brief. You told the committee that the company during the past year made a voluntary reduction in rates totalling in the neighbourhood of \$80,000.

Mr. REID: \$86,000.

Mr. CLEAVER: What effective rate does that reduce your rate to?

Mr. REID: That brought it down to about 2·26 per cent per month.

Mr. CLEAVER: Yes. What operating profits did you show on that 2·26 rate per month?

Mr. REID: In the vicinity of 9 per cent, Mr. Cleaver, on employed assets.

Mr. PLAXTON: You will agree, Mr. Reid, that a flat rate might result in a monopoly as Mr. Henderson's evidence would appear to bear out?

Mr. CLEAVER: May I ask one more question just to complete my group? And then you can follow along. The profit which you have made as just indicated, is a profit on your capitalization, or a profit on your capitalization plus borrowed money?

Mr. REID: Profit on our employed assets, irrespective of capital. Our company has, first rather an unusual set-up. That is to say, we have paid up capital surplus of about \$800,000 but, \$3,000,000—and I want to point out of that \$800,000, that whole capital is entirely owned by the Household Finance Corporation, the American parent, except for \$12,500 worth of capital stock which is owned by the qualifying shareholders.

Mr. CLEAVER: I want to make sure that I understand your answer.

Mr. REID: In addition to that, Mr. Cleaver, there is \$3,000,000 of borrowed money also the property of the American parent; so when we speak of earnings, it is only right, I think, to figure earnings on the money that we have employed in the business, rather than on our own money.

Mr. CLEAVER: I was not questioning as to whether it was right or wrong to figure the profits in the way you have figured them. I just wanted to know how you do figure them. Then, the profit is figured on the actual capital used in the business and not on the authorized capital of the company.

Mr. REID: That is quite right, sir.

Mr. PLAXTON: I just want to get an answer to this one question. Do you agree with Mr. Henderson that two results may follow from the fixing of a flat rate; one, is the establishment of a monopoly; and two, the permitting of loan shark business in the smaller loan bracket? That is what I take his evidence to mean.

Mr. REID: Mr. Plaxton, my recollection of the evidence of both Mr. Henderson and Mr. Bunce was not to the effect that a flat rate in itself would constitute or develop a monopoly of any one operator, but rather that too low a rate would do so, whether it was a flat rate or a step rate or an aggregate rate. Personally, I have an open mind for what is best for Canada as a whole as regards the rate, whether it should be an aggregate rate, a combination type of rate such as Mr. Henderson and Mr. Bunce referred to or a flat rate.

In submitting our brief we are suggesting a rate that we believe is necessary, absolutely necessary, for our own particular company, the lowest rate that will justify our existence. There is just one—

Mr. PLAXTON: Let me follow that one step farther. In what loan brackets has your money been loaned having regard to the existing rate that you have been getting?

Mr. REID: I can only suggest that—Mr. Plaxton has asked me for a classification of our rates in the various loan brackets. Do you mind if I just refer you to our brief in which that particular table is contained? That will

[Mr. G. D. Finlayson.]

save repetition. A very large percentage of our loans, I think 67 per cent of our loans in dollar volume, is under \$300, and I think 50 per cent of our loans are under \$150. Without imposing on the time which you have very graciously given me, there is just this summary that I should like to make of the whole thing. My summary would be this: I submit, very respectfully, that you can theorize all you will, honourable gentlemen. In the final analysis the rate of charge must be one that will in reality induce lenders to make loans. Those to whom a lender is unwilling to lend money at the maximum rate must go without—find relief from private or public charities, or friends or relatives, or if sufficient unsatisfied demand exists, from an unlicensed lender who is willing to risk the penalties of the law for high profits.

Mr. MARTIN: Mr. Finlayson would not disagree with that.

Mr. REID: However, this all works back to this point.

Mr. TUCKER: How much—

Mr. FINLAYSON: Would you restate that?

The CHAIRMAN: Will you please reread the summary?

Mr. REID: I suggest you can theorize all you will, honourable gentlemen. In the final analysis the rate to be charged must be one that will in reality induce lenders to make loans. Those to whom a lender is unwilling to lend money at the maximum rate must go without—find relief from private or public charities, friends, or relatives, or if sufficient unsatisfied demand exists, from an unlicensed lender who is willing to risk the penalties of the law for high profits.

Mr. FINLAYSON: That seems to be obvious.

Mr. REID: My contention is this: that theory will suggest what is a fair return for the lender who has invested his money in this business; but I submit, honourable gentlemen, that lenders themselves are the only ones who can really determine that. They are going to decide whether they will or not invest their money at a good rate. I have tried to be practical and realistic about this thing, and when I suggest to this committee that a rate of $2\frac{1}{4}$ per cent per month flat on the balance up to \$500 is a rate which we in all honesty and by virtue of our 65 years experience in the United States and 10 years in this country believe is one that will definitely meet the requirements, there is nothing theoretical or hypothetical about it.

Mr. MARTIN: I suggest to you that some companies engaged in this business could not operate successfully at $2\frac{1}{4}$ per cent.

Mr. REID: I quite agree. That has been apparent by the evidence already submitted to this committee. The smaller companies cannot exist at a smaller rate, and there is a suggestion of a monopoly because we are asking a rate of $2\frac{1}{4}$ per cent.

Mr. PLAXTON: You agree with the suggestion it may result in a monopoly, assuming that a flat rate of $2\frac{1}{4}$ per cent were agreed on?

Mr. REID: I would prefer not to answer that question. I think it is for the committee to decide. I am only saying that is the rate we suggest and it is the one we believe we need.

Mr. PLAXTON: Your opinion might be very valuable to the committee on that point.

Mr. REID: I think, Mr. Plaxton, and honourable gentlemen, the committee can pretty well read between the lines. If we, the largest company with plenty of experience, and we think pretty efficient management, and plenty of assets back of us, think we need that, I think it stands to reason that the smaller company doing a smaller business would need perhaps a little more.

Mr. CLEAVER: There are a couple of questions I should like to ask in regard to your criticism of Mr. Finlayson's comments with regard to losses. What period of time do you normally loan your money for?

Mr. REID: Twelve months.

Mr. CLEAVER: Your business in Canada was not started until 1933. I suggest that a year like 1936 or 1937 as to losses in Canada would be a fair comparison with 1936 and 1937 as to losses in the United States.

Mr. REID: I would think so.

Mr. MARTIN: What is troubling me, Mr. Chairman, is this. I have sat on this committee pretty religiously, like everyone else, and we have had two witnesses, Mr. Henderson and Mr. Bunce, who made very deep impressions upon this committee. The committee will remember them. Now, their evidence is entirely without value if Mr. Finlayson's statement is true, that the two countries do not offer a basis for comparison. I asked Mr. Finlayson to explain that to me. I did not get what I thought was a satisfactory answer, and Mr. Reid kept wandering off the point because of questions put to him. I would like to get an answer to this question: why cannot we compare the two areas? Let me put the question this way: borrowers in the United States are no different from borrowers in Canada.

Mr. REID: I do not think so. I can only say this: an analysis of the various types of factors compare very favourably; there is very little difference. I think the various factors that may enter into each cause some difference. I think people over there are more borrowing conscious than they are here; but that works two ways. It provides them with a larger market, and also provides them with a little more loss. There are other matters that enter into that, but they are rather technical and it would take some time to explain them. A rather important factor is one has the interest plan and the other the discount plan, which has an effect on the losses. They have a plan with regard to the delinquent accounts over there whereby they take the interest only. The only payment that they can make is interest; consequently there is a bigger balance of principal money delinquent, and there is a bigger proportion of principal charged off as bad debts. Here we have the discount plan, where you have already collected your interest and any payments of these delinquent accounts go to principal.

Mr. CLEAVER: Of course, Mr. Reid, both in the final analysis get into the profit and loss account.

Mr. REID: Quite true; but these have a bearing on the comparison of the charge operation.

Mr. COLDWELL: The question I asked which brought up this particular point was this; I thought that more particularly the evidence that was given by Mr. Bunce was to the effect that he said a very large number of small companies with small capital were operating in the United States. These small companies with small capital competed with one another, and probably took bigger risks. It was admitted that our companies are under closer supervision; but the point I was making was this: is it not better to have a few large companies well regulated than a number of smaller companies with small capitalization not regulated at all?

Mr. REID: I subscribe to that.

Mr. COLDWELL: That was really the purpose of the question, although it was missed because somebody else butted in.

Mr. REID: He made such a suggestion, Mr. Coldwell. He was talking about a rate in excess of $2\frac{1}{4}$ per cent.

Mr. PLAXTON: What would you suggest as a rate in excess of yours by way of average?

Mr. REID: I would not want to answer in the way of an average. I say I could not answer Mr. Plaxton's question, what it represents on an average, but I do know, and I think Mr. Finlayson will agree that it is a higher average.

[Mr. G. D. Finlayson.]

Mr. FINLAYSON: I want to answer Mr. Martin's question if I can. But perhaps first of all I shall re-read the points I made here, and it may help some. I said, "1. The rate of realized losses." I have already dealt with that.

Mr. MARTIN: You took one state, which does not mean anything.

Mr. FINLAYSON: I have taken the evidence that was given before the committee so far as I know it.

Mr. MARTIN: You took one state and as Mr. Moore says, it is no comparison at all.

Mr. FINLAYSON: I can only give you my general impression, Mr. Martin, that Iowa is not exceptional in that respect. "2. The number of companies. In Iowa with a population of two and a half millions they have over one hundred individual lenders. A proportionate number from Canada would be over four hundred. From present information the number of licences likely to be applied for in Canada would not exceed twenty-five. The evidence shows that if the number of licences were curtailed the rates to borrowers could be lowered." I cannot believe that the number of licence fees in our proposed legislation, from what I know now can exceed twenty-five. Now, I put the question to Mr. Bunce, as you will recall, that if they could eliminate say the lower half, the smaller half of their companies, would they not find it easier to make a case for a reduced rate, and I think he said, "Yes." I cannot locate these pages, but I am sure if Mr. Martin will go over the evidence he will find it.

Mr. MARTIN: Yes, I will admit that, but I do not think it covers the point at all.

Mr. FINLAYSON: Do you think it is a factor?

Mr. MARTIN: Mr. Moore put his finger on the weakness of your statement.

The CHAIRMAN: I think my statement was this, and it does seem to me a weakness, that you are apparently comprising three large licensed lenders, licensed by the federal government to do business with a large number of lenders in the state of Iowa. Now, then, a fair comparison, if you are to make one, it seemed to me at any rate, would be to compare the provincial companies plus your federal companies, and to strike an average, but unfortunately we have not the figures to make a comparison.

Mr. FINLAYSON: I think I said that I have tried to get the figures, but I cannot get them.

Mr. CLEAVER: If you have not the figure to make that comparison have you the figure to make the other comparison? Can you take three or four larger offices operating in Iowa and compare them with three or four larger offices operating in Canada?

Mr. FINLAYSON: No. I am glad you raised that point, because I find one of the great difficulties in dealing with the United States reports to be that I have not got a single report which gives us the figures for individual companies, and to my mind that is essential if you are going to analyse the experience in any state. I have asked the Russell Sage Foundation if they could get these reports from some single state showing the earnings of companies: take company A, balance sheet, assets and liabilities, income and expenditure, profits and loss; but I cannot get those details and they cannot get them for me. They tell me that they cannot get the information except confidentially from some of the banking departments; that all of the figures they are able to get in that respect are confidential.

Mr. COLDWELL: The state of Wisconsin has a low rate of interest.

Mr. FINLAYSON: Yes.

Mr. COLDWELL: And the reason for that is that one large company, regulated, did 90 per cent of the business.

Mr. FINLAYSON: I think Mr. Henderson said that. Well for the reasons I have stated I will not say what percentage of the total business that one company does in that state, but I do know that there are I think some twenty companies lending in Wisconsin.

Mr. CLEAVER: In order to be fair it might possibly be that if you had the figures for the losses of the larger companies operating in Iowa that those net losses might be half in percentage of the losses over the whole group.

Mr. FINLAYSON: I do not think that affects the question. Apparently any state in the United States has regard in fixing its rates to the aggregate experience in that state. Now, there may be some company with a very much more favourable rate of loss. If that is overshadowed by the large rate of loss by the smaller and less efficient companies so that in the aggregate for the state there is a comparatively high rate of loss the supervisor must take that into account and the legislature must also take that into account in fixing the rate.

Mr. CLEAVER: I had a couple more questions only indirectly arising out of this question. One was in regard to the capital set-up of these companies. We as a committee will fix the rate as carefully as we can this year, but I can easily see that that will not be permanent. Changes will be made. Now, in order to keep the record clear I am going to urge that we as a committee should make fairly strong recommendations in regard to safeguards which should be set up as to the capital structure of these small loan companies, and I would like to ask Mr. Finlayson if he would be good enough to give us his opinion in regard to three branches: first, what is your opinion as to whether the companies in the small loan business should be permitted to have share capital of no par value?

Mr. FINLAYSON: I should say they should not be allowed to have shares of no par value.

Mr. CLEAVER: What is your opinion as to stock watering? Should that be permitted?

Mr. FINLAYSON: Certainly not.

Mr. CLEAVER: What is your opinion as to ploughing back all profits and issuing bonus shares for profits? We have recently been engaged in another committee in an investigation as to the cost of farm implements, and the work of that committee was very seriously impeded owing to the fact that it is almost impossible at this time to say what profits the companies owned because they were allowed to issue bonus stock and to plough back the profits into stock? What is your opinion as to whether companies engaged in the small loans business should be allowed to plow back any profits into stock?

Mr. FINLAYSON: I cannot see why any small loan company should want to do that.

Mr. CLEAVER: Whether they should want to do it or not, as a policy and in order to keep our record clear so that five, ten or twenty years from now we have to say what profits all of these companies have made—what is your recommendation on that?

Mr. FINLAYSON: I have no hesitation in recommending that it be prohibited. If they want to pay dividends let them pay them in cash; if they want more capital let them call it up or have it subscribed.

Mr. PLAXTON: Have you any figures to show into what brackets the loans of a typically large American company fall into on the basis of a graded scale of rates?

Mr. FINLAYSON: Yes, I can show you that in a report from the states. There is one from Iowa, for instance.

Mr. PLAXTON: Have you got the Canadian figures?

Mr. FINLAYSON: You will find them all there.

[Mr. G. D. Finlayson.]

Mr. PLAXTON: The Canadian figures will be indicated with respect to the Central Finance in their own brief.

Mr. FINLAYSON: Not in my memorandum, but in this book; and not only for the Central Finance but for the other two Dominion small loan companies.

Mr. PLAXTON: I would like one typical company.

Mr. FINLAYSON: I will send you the statement.

Mr. COLDWELL: I would like to move that the calling of Mr. Bunce and Mr. Edmison who appeared here as witnesses before this committee be ratified.

Mr. HOWARD: Mr. Chairman, do I understand now that you are not going to examine any more witnesses but that we are going to have a draft bill submitted to us?

The CHAIRMAN: We are going to have some discussion and then a draft bill will be submitted.

Mr. HOWARD: Will it be submitted to the members of the committee?

The CHAIRMAN: Yes, at the next meeting.

Mr. VIEN: Do I understand that the report of the sub-committee has been submitted and accepted?

The CHAIRMAN: Yes.

Mr. VIEN: Therefore, shall we have any further sittings? Are any further witnesses to be heard?

The CHAIRMAN: No.

Mr. VIEN: I would move, Mr. Chairman, subject to the wishes of the meeting, that to-day's evidence shall conclude the taking of evidence.

The CHAIRMAN: Mr. Vien, I think that was carried in the report.

Mr. VIEN: I hope that every member who is not a member of the sub-committee understands the report of the sub-committee, which means that the chairman is requested to draft a report and the whole committee will be convened to consider the report as drafted by the chairman, and then the committee will meet in camera.

Mr. HOWARD: Will the report be subject to discussion and change?

Mr. VIEN: Oh, yes. The whole committee will be called.

The CHAIRMAN: Why do you suggest meeting in camera? I rather object to the use of that phrase.

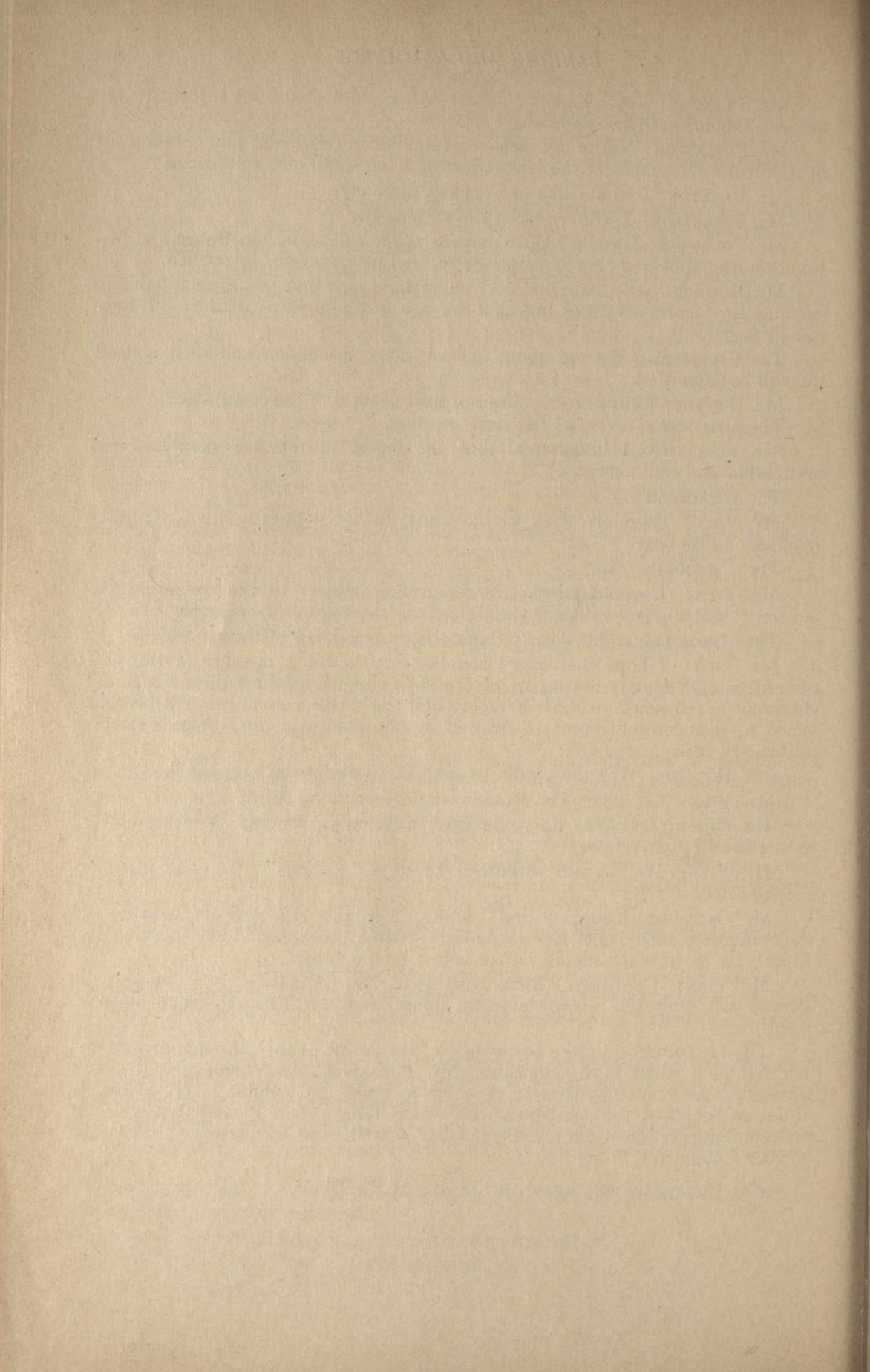
Mr. VIEN: Well, I will withdraw the word "camera." We shall meet as a committee.

Mr. CLEAVER: I suggest that leading up to this report every member of the committee should feel free to make a written recommendation to you, Mr. Chairman, as to what should be contained in the report.

Mr. VIEN: Certainly. More than that, the committee as a whole will sit and will study the report clause by clause, and it will be subject to amendment.

The CHAIRMAN: I have not a copy of the report of the sub-committee with me, but as I recall it the chairman, Mr. Finlayson, Mr. Varcoe and the law officers of the Commons were to draw up a report and submit a bill. Now, I think on behalf of the gentlemen with whom I have been named that we will welcome suggestions from members of the committee as to clauses in the report. Shall we adjourn?

The Committee adjourned to the call of the Chair.



SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS

Respecting

SMALL LOAN COMPANIES

No. 13

MAY 12, 13, 17, 20, 24, 25, 26, 27, 31, and June 1, 1938

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

STANDING COMMITTEE
MINUTES OF PROCEEDINGS
BANKING AND COMMERCE

SMALL LOAN COMPANIES

REPORT OF THE HOUSE

THURSDAY, June 2, 1938.

The Standing Committee on Banking and Commerce begs leave to present the following as its

FOURTH REPORT

Your Committee has considered Bill No. 99 (Letter L-1 of the Senate), intituled: "An Act to incorporate The Maritime Provinces General Insurance Company," and has agreed to report the said Bill without amendment.

All of which is respectfully submitted,

W. H. MOORE,
Chairman.

REVOLUTIONARY WAR

1776-1783

The Revolutionary War was fought between the thirteen American colonies and Great Britain from 1775 to 1783. The war resulted in the colonies gaining independence and the formation of the United States of America.

Causes of the War

The war was caused by a number of factors, including British taxation of the colonies, the lack of representation in the British Parliament, and the desire for self-government.

The war began on April 19, 1775, with the Battle of Lexington.

Key Events

1776

MINUTES OF PROCEEDINGS

THURSDAY, May 12, 1938.

The Standing Committee on Banking and Commerce met in camera at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Dubuc, Fontaine, Harris, Hill, Jacobs, Jaques, Kinley, Kirk, Landeryou, Lawson, MacDonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Quelch, Raymond, Stevens, Thorson, Tucker, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance and Mr. F. P. Varcoe, Counsel, Department of Justice.

The Chairman stated that in accordance with a resolution adopted at the last sitting, on March 30, a draft bill to accompany the Committee's report on the small loans reference was available for consideration by the Committee. Copies of the said draft bill intituled: "An Act respecting interest on small loans" were then distributed to members of the Committee present.

Discussion followed as to procedure and on the question of federal and provincial jurisdiction as involved in the provisions of the draft bill.

Messrs. Stevens and Tucker asked that their objection to the principle of the bill be recorded, reserving the right to differ with the Committee when the matter came before the House.

Mr. Kinley moved,—

That Mr. Varcoe be heard on the draft bill.

Mr. Thorson moved in amendment thereto,—

That before hearing Mr. Varcoe the Committee pass upon the principle whether the Dominion should pass a bill covering both interest and charges or whether the Dominion should deal only with interest, leaving the subject of charges to be dealt with by the provinces.

The question being put on the amendment it was negatived on the following recorded division: *Yeas*—Messrs. Clark, Donnelly, Jaques, Landeryou, Mallette, Quelch, Stevens, Thorson, Tucker (9); *Nays*—Messrs. Cleaver, Dubuc, Hill, Jacobs, Kinley, Kirk, Lawson, MacDonald, McPhee, Martin, Vien, Ward (12).

Motion carried, and Mr. Varcoe was heard in explanation of the proposed bill.

After further discussion, the Committee, on motion of Mr. Martin, adjourned until 4 o'clock, p.m.

AFTERNOON SITTING

The Committee resumed at 4 p.m.

Mr. Vien moved that the Preamble of the draft bill be adopted.

Discussion followed until 6 p.m. when the Committee adjourned until to-morrow, Friday, at 11 a.m.

R. ARSENAULT,
Clerk of the Committee.

FRIDAY, May 13, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m. The Chairman, Mr. Moore, presided.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Coldwell, Donnelly, Dubuc, Fontaine, Jaques, Kirk, Landeryou, Leduc, Macdonald (*Brantford City*), Mallette, Martin, Moore, Quelch, Thorson, Tucker, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance and Mr. F. P. Varcoe, Counsel, Department of Justice.

The Committee gave further consideration to the draft bill intituled "An Act respecting interest on small loans" and to Mr. Vien's motion that the preamble of the said bill be adopted.

Messrs. Varcoe and Finlayson made brief statements suggesting certain proposals to meet objections to the bill as originally drafted. They were requested to prepare for the next sitting a memorandum embodying these proposals.

On motion of Mr. Baker, the Committee adjourned at 11.45 until Tuesday, May 17, at 11 a.m.

R. ARSENAULT,
Clerk of the Committee.

TUESDAY, May 17, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Coldwell, Donnelly, Dubuc, Fiset (Sir Eugène), Hill, Jaques, Kinley, Kirk, Lawson, Leduc, Macdonald (*Brantford City*), McGeer, Mallette, Martin, Moore, Stevens, Thorson, Tucker, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance and Mr. F. P. Varcoe, Counsel, Department of Justice.

Before proceeding to the consideration of the draft bill intended to constitute part of the Committee's report in the matter of small loans, Mr. Stevens, seconded by Mr. Tucker, moved:—

That the meetings of the committee be open to the press and public.

The motion being put, it was negatived on the following division: Yeas, 7, Nays, 9.

The Committee then resumed, *in camera*, consideration of the draft bill "An Act respecting interest on small loans."

Mr. Varcoe submitted the following new sections 15 to 19 inclusive, stating that these had been drafted to meet certain proposals made by members of the Committee and were not submitted as expressing his own personal views.

PART II

15. This Part of This Act shall apply to every loan made by a money-lender to a person resident within a province to which this part is made applicable as hereinafter provided.

16. In any case where the legislature of a province has, for the purpose of establishing a lower maximum cost of loan than that permitted to be charged under Part I of this Act, purported to regulate or restrict, generally or specifically, the expenses and charges, whether for commission, brokerage, chattel mortgage and recording fees, inquiries, defaults, renewals, fines, penalties or other similar costs, which a money-lender may incur or charge against a borrower on account of any loan, the Governor in Council may by proclamation suspend the operation of Part I of this Act in such province.

17. No money-lender shall stipulate for, allow or exact in respect of any loan, a rate of interest or discount greater than one per centum per month.

(2) In any suit, action or other proceeding concerning a loan by a money-lender wherein it is alleged that the amount of interest paid or claimed exceeds the rate of one per centum per month, the Court may re-open the transaction and take an account between the parties and may notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation, re-open any account already taken between the parties and relieve the borrower of any obligation to pay any sum on account of the interest in excess of an amount equivalent to one per centum per month upon the amount actually received by the borrower; and if any such excess has been paid or allowed, may order the money-lender to repay it and may set aside either wholly or in part, or revise or alter any security given in respect of the transaction.

(3) Every money-lender is guilty of an indictable offence and liable to imprisonment for a term not exceeding one year and to a penalty not exceeding one thousand dollars who lends money at a rate of interest greater than that authorized by this Part.

18. Notwithstanding the provisions of any statute of a province, no money-lender shall, in respect of any loan, directly or indirectly, charge, exact or receive or stipulate for the payment by the borrower of a sum of money as a result of the payment of which the cost of the loan exceeds an amount equivalent to the amount or rate prescribed by subsection two of this section, and any money-lender who enters into a transaction or contravention of the provisions of this section, shall be guilty of an indictable offence and liable, if an individual, to imprisonment for a term not exceeding one year and to a penalty not exceeding one thousand dollars and, if a corporation, to a penalty not exceeding five thousand dollars.

(2) The cost of the loan mentioned in subsection one of this section shall for a loan for a period of twelve months or less not exceed 0 per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding, and for a loan for a period greater than twelve months the cost of the loan shall not exceed one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of per centum per month on the said amount and balances as twelve is of the period of the loan expressed in months.

19. This part shall not come into force in any province until proclaimed by the Governor in Council to be in force in such province.

Mr. Finlayson also made a brief statement.

During the course of the discussion that followed, Mr. Thorson was invited to prepare a memorandum incorporating certain amendments suggested by him in his remarks before the Committee.

Mr. Martin moved,—

That the Committee go on record as being of the opinion that the federal government should enact legislation assuming such power as will render the operation of such legislation the same in all provinces with respect to interest and costs.

Mr. Thorson moved:—

That the Committee adjourn until to-morrow at 11 a.m.

Mr. Martin moved, in amendment thereto,—

That the Committee adjourn until 4 p.m. this day.

Mr. Kinley moved, as a sub-amendment thereto,—

That the Committee adjourn to the call of the Chair.

And the question being put on the sub-amendment, it was resolved in the affirmative.

The Committee adjourned.

H. ARSENAULT,
Clerk of the Committee.

FRIDAY, May 20, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Cleaver, Donnelly, Dubuc, Fontaine, Kinley, MacDonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Stevens, Thorson, Tucker, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance, and Mr. F. P. Varcoe, Counsel, Department of Justice.

The Committee resumed consideration of the draft bill "An Act respecting interest on small loans."

Mr. Thorson, on a point of order, inquired as to whether the Committee was sitting "as a committee" or as a sub-committee. He stated that the notice of meeting did not specify that the Committee would sit in sub-committee with the exclusion of the press and public.

Speaking on the point of order, some members reaffirmed their objection to sitting in camera, and Hon. Mr. Stevens requested that his objection be recorded.

The Chairman explained that although the whole committee was sitting, its present functions could be compared to those of a sub-committee concerned with the drafting of a report. In his opinion, if the press and public, including representatives of loans companies were admitted, the Committee might not make as much progress as if it sat in private. However, he was ready to meet the wishes of the Committee.

Mr. Woodsworth moved that the sittings of the Committee be adjourned until after the general elections in the province of Saskatchewan. Motion negatived.

Mr. Thorson drew the attention of the Committee to Mr. Martin's motion introduced at the last sitting, viz: "That the Committee go on record as being

of the opinion that the federal government should enact legislation assuming such power as will render the operation of such legislation the same in all provinces with respect to interest and costs."

He moved the following amendment thereto:—

That that portion of the "cost" of a loan, as defined in section 2, paragraph (a) of the draft bill, which is interest be fixed at a rate not exceeding 12 per cent per annum and that the right of any provincial legislature to reduce the remainder of the said cost be preserved.

Mr. Stevens then referred to Mr. Vien's motion introduced on May 12, i.e. "that the preamble of the draft bill be adopted." He expressed the opinion that this motion should be disposed of before other motions could be entertained. He wished, at this stage, to reaffirm his opposition to the principle of the draft bill.

By leave of the Committee, Mr. Martin withdrew his motion leaving Mr. Thorson's amendment stand as an amendment to Mr. Vien's motion.

The question being put on the amendment, it was negatived on the following recorded division: *Yeas*, Messrs. Donnelly, Dubuc, Thorson, Tucker (4); *Nays*, Messrs. Cleaver, Kinley, MacDonald, McPhee, Martin, Ward, Woodsworth (7).

The question then being put on the main motion, it was adopted and the preamble carried.

Section 1, carried.

Section 2 carried with the exception of paragraph (e) which was allowed to stand.

By unanimous consent, section 3 was deleted.

At this stage the Clerk informed the Chairman that the attendance had fallen below the quorum, whereupon the Committee adjourned to the call of the Chair with the understanding that the next sitting would be open to the press and public.

H. ARSENAULT,
Clerk of the Committee.

TUESDAY, May 24, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Clark (*York-Sunbury*), Cleaver, Dubuc, Edwards, Landeryou, Lawson, MacDonald (*Brantford City*), Mallette, Martin, Moore, Stevens, Thorson, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance; Mr. F. P. Varcoe, Counsel, Department of Justice, and representatives of several loan companies.

The following Resolution, moved by Mr. MacDonald, was adopted, and the Chairman authorized to report to the House accordingly, viz:—

Whereas The Central Finance Corporation applied for change of its name and increase of capitalization at the last session of Parliament and paid a fee of \$1,400 which is chargeable on the increase in Capital, and also paid in addition thereto all other Parliamentary fees;

And whereas on account of the shortness of the session of parliament, 1937, the Bill was not presented to the House of Commons for Third Reading;

And whereas the said Corporation is applying at the present session of parliament for the same increase in Capital;

And whereas the said Corporation is required this year to pay again all parliamentary fees in connection with its present application, and should be relieved only of payment of fees chargeable on increase of Capital:

Resolved, That Standing Order No. 93, paragraphs (3) and (4) of the Standing Orders of the House of Commons, be suspended with respect to Bill No. 8, An Act respecting Central Finance Corporation, and to change its name to Household Finance Corporation of Canada.

The Committee resumed consideration of the draft bill intituled: An Act respecting interest on small loans.

Mr. Thorson suggested that it being understood that the Committee was now sitting "as a Committee" and not as a sub-committee, the proper procedure would be to revert to the consideration of the preamble.

This being agreed to, Mr. Vien moved,—

That the preamble be adopted.

Mr. Thorson moved in amendment thereto:—

That that portion of the "cost" of a loan, as defined in section (2) paragraph (a) of the draft bill, which is interest, be fixed at a rate not exceeding 12 per centum per annum and that the right of any provincial legislature to reduce the remainder of the cost be preserved.

The question being put on the amendment it was negatived on the following recorded division: *Yeas*, Messrs. Dubuc, Mallette, Thorson (3); *Nays*, Messrs. Cleaver, Edwards, MacDonald, Martin, Vien, Ward (6).

Motion (Mr. Vien) carried on the same division reversed.

Section 1 carried.

Section 2: Mr. Vien moved that subsection (c) be amended by deleting the words "at interest" in line 2 and the words "not less than X dollars and" in line 3; by inserting the words "the consideration for" after the word "includes" in line 4. Amendment carried.

On motion of Mr. Vien,

Resolved,—That subsection (e) be amended by deleting the words "at interest" in line 16. Amendment carried.

Section 2 carried as amended.

On motion of Mr. Vien,

Resolved,—That section 3 be deleted.

Section 4, subsection (1): Mr. Vien moved, that the following words, at the beginning of the subsection, be deleted, viz: "Notwithstanding the provisions of the Interest Act or of any other statute of law". Amendment carried.

On the question "shall subsection (1) of section 4 carry, as amended" the Committee divided as follows: *Yeas*, Messrs. Clark, Cleaver, Edwards, Lawson, MacDonald, Martin, Vien, Ward (8); *Nays*, Messrs. Dubuc, Landeryou, Mallette, Thorson (4).

Subsection (1) of section 4 declared adopted.

Subsections (2) and (3) allowed to stand.

Section 5 allowed to stand.

By unanimous consent, section 6, subsection (4) was amended by striking out the words "is considered expedient" being the last words of the subsection, and substituting therefor the words "the Minister may, consistently with the provisions of this Act, deem proper."

Section 6 as amended, carried.

Sections 7 and 8 carried.

Section 9 allowed to stand.

Sections 10, 11, 12 and 13, carried.

Section 14: Mr. Vien moved that section 14 be adopted.

The question being put, it was resolved in the affirmative on the following recorded division: *Yeas*, Messrs. Cleaver, Lawson, MacDonald, Martin, Vien, Ward (6); *Nays*, Messrs. Dubuc, Landeryou, Thorson (3).

At 1 o'clock the Committee adjourned until 8.30 p.m.

EVENING SITTING

The Committee resumed at 8.30 p.m.

Members present: Messrs. Cleaver, Dubuc, Edwards, Fiset (Sir Eugène), Hill, Lawson, MacDonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Stevens, Thorson, Vien.

In attendance: Messrs. Finlayson and Varcoe.

The draft bill "An Act respecting interest on small loans" was further considered.

Section 15 amended by striking out the last two words "not otherwise" and substituting therefor the words "may be administered separately from Part One," and section carried as amended.

Section 16:—

Mr. Vien moved that subsection (1) be amended by striking out all the words after the word "Act" in line 18, and substituting therefor the following words: "and the provisions of Sections 6, 7, 8, 10, 11, 12 and 13 of Part One of this Act shall extend and apply to every small loans company as if these provisions were here re-enacted and made applicable in terms thereto with the substitution of the expression "small loans company" for the word "person," and every such company is hereinafter called "the Company".

Mr. Thorson moved in amendment thereto that the principle affirmed in his amendment to the Preamble, as above recorded, apply with respect to this subsection (1) of section 6.

The question being put on the sub-amendment, it was negatived on the following recorded division: "*Yeas*, Messrs. Dubuc, Hill, Mallette, Stevens, Thorson (5); *Nays*, Messrs. Cleaver, Fiset (Sir Eugène), Lawson, MacDonald, McPhee, Martin, Vien (7).

The subsection, as amended by Mr. Vien's motion, carried on the same division reversed.

Subsection (2) carried.

Subsection (3) amended by inserting the following words at the beginning of the subsection, viz: "subsection (2) of section 21," and adopted as amended.

Section 17 amended by deleting subsection (b) and carried as amended. Agreed, however, that said section 17 would be further considered and new subsection added in terms of the principle to be adopted with respect to sections 4 and 5 yet to be considered.

By unanimous consent, the Committee reverted to subsection (2) of section 6 which was amended by striking out the words "the applicant" in line 48 and substituting therefor the words "such person".

Section 18 carried subject to the objection raised in Mr. Thorson's amendment to the Preamble, and on the same division.

Sections 19, 20 and 21 carried.

On motion of Mr. Vien,—

Resolved,—That section 22 be amended as follows: By striking out the word "foregoing" in the first line of subsection (1); by striking out the word "various" in the first line of subsection (3) and substituting therefor the word "respective," and by inserting after the word "companies" in the second line of subsection (3) the words "and amendments thereto".

Section 22 carried as amended.

Schedule One (Model Bill) considered, and the Preamble and sections 1, 2, 3 and 4 carried.

Moved by Mr. Thorson that section 5 be amended by adding thereto the following words: "except that that portion of the 'cost' of a loan, as defined in section 2, paragraph (a) of the draft bill, which is interest, be fixed at a rate not exceeding 12 per cent per annum and that the right of any provincial legislature to reduce the remainder of the cost be preserved".

Amendment declared lost on the same division as recorded with respect to Mr. Thorson's sub-amendment to section 16 (1).

Section 5 carried and title carried.

Schedule Two considered.

On motion of Mr. Vien, the word "thirteen" in the second line of Schedule Two was deleted and the word "sixteen" substituted therefor. Schedule Two adopted as amended.

Schedule 2(A) considered.

Mr. MacDonald moved that section 3 be amended by adding thereto the following words: "and may be increased from time to time to an amount not to exceed five million dollars divided into shares of one hundred dollars each".

Amendment carried.

At this stage the Committee reverted to a discussion of Mr. MacDonald's motion adopted at the morning sitting with respect to the suspension of Standing Order 93 (3) and (4) applying to Bill No. 8 of the Central Finance Corporation, and it was agreed that the recommendation therein contained should stand until the draft bill under consideration had been disposed of by the Committee.

On section 5, Mr. Thorson moved similar amendment as above recorded with respect to section 5 of Schedule One, said amendment being declared lost on the same division as above recorded.

Schedule 2(A) carried as amended.

Schedule 2(B) considered, and on section 6 thereof, Mr. Thorson moved similar amendment as above recorded with respect to section 5 of Schedule One, said amendment being declared lost on the same division as above recorded. Schedule 2(B) carried.

Schedule 2(C) considered, and on section 5 thereof Mr. Thorson moved similar amendment as above recorded with respect to section 5 of Schedule One, the said amendment being declared lost on the same division as above recorded.

Schedule 2(C) carried.

The Committee then reverted to the consideration of subsection 2 of section 4. Mr. MacDonald having suggested certain amendments thereto, it was agreed that such proposed amendments be distributed to members of the Committee for the next sitting.

With respect to the rate of interest to be determined and incorporated in this section of the bill, Mr. Finlayson was asked by Mr. Thorson if he would indicate to the Committee the monthly rate recommended by him. Mr. Finlayson having stated that he would recommend a rate of 2 per cent, the Clerk of the Committee was requested by Mr. Thomson to record Mr. Finlayson's statement.

On motion of Mr. McPhee, the Committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

WEDNESDAY, May 25, 1938.

The Standing Committee on Banking and Commerce met at 4 p.m. this day, the Chairman, Mr. Moore, presiding.

Members present: Messrs. Clark (*York-Sunbury*), Cleaver, Dunning, Edwards, Fraser, Hill, Kinley, Landeryou, Macdonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Plaxton, Stevens, Thorson, Vien, Ward.

In attendance: Mr. G. D. Finlayson, Superintendent of Insurance; Mr. F. P. Varcoe, Counsel, Department of Justice, and representatives of several loan companies.

The Committee proceeded to discuss subsection (2) of Section 4 of the draft Bill.

The Chairman invited the representatives of the loan companies then present to make a short presentation of their respective views on the question of the rate they wish established and the following were heard:—

Mr. Arthur P. Reid, Vice-President, Central Finance Corporation, Toronto.

Mr. H. F. Parkinson, K.C., on behalf of several small loan companies.

Mr. W. T. McGrew, on behalf of Campbell Auto Finance Company, Limited.

Mr. Reginald D. Kierstead, on behalf of several loan companies from the Maritime Provinces.

Mr. J. Anderson, on behalf of Public Finance Company, Winnipeg, Man.

Mr. H. Aldous Aylen, K.C., on behalf of Discount and Loan Corporation.

Mr. Macdonald moved as follows:—

“That a flat rate be established.”

Motion agreed to on division. (Yeas, 10; Nays, 2.)

Mr. Macdonald moved:—

“That the rate be $2\frac{1}{4}$ per centum per month maximum.”

Mr. Thorson moved in amendment thereto:—

“That the date do not exceed 2 per centum per month maximum.”

The question being put on the amendment, it was negatived on the following division: Yeas: Messrs. Hill, Mallette, Stevens, Thorson, (4); Nays: Messrs. Clark, Edwards, Kinley, Macdonald, McPhee, Martin, Vien, (7).

The question being put on the motion, it was agreed to on the following division: Yeas: Messrs. Clark, Edwards, Kinley, Macdonald, McPhee, Martin, Vien, (7); Nays: Messrs. Hill, Mallette, Stevens, Thorson, (4).

At 6 p.m. the Committee adjourned to the call of the Chair.

ANTOINE CHASSÉ,
Acting Clerk of the Committee.

THURSDAY, May 26, 1938.

The Standing Committee on Banking and Commerce met at 4 o'clock p.m. Mr. Moore, the Chairman, presided.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Cleaver, Dunning, Hill, Kinley, Kirk, Landeryou, Lawson, Macdonald (*Brantford City*), Mallette, Martin, Moore, Stevens, Thorson, Vien.

In attendance: Mr. G. D. Finlayson, Superintendent of Insurance; Mr. F. P. Varcoe, Counsel, Department of Justice, and representatives of various loan companies.

The Committee resumed consideration of Section four, subsection (2) of the draft bill “An Act respecting interest on small loans.”

Hon. Mr. Dunning made a brief statement, referring to the Committee's decision, at the last sitting, to fix the monthly rate of interest at $2\frac{1}{4}$ per cent. He intimated that he could not take the responsibility of sponsoring in the House a bill fixing a rate exceeding 2 per cent.

Mr. Finlayson having quoted figures relating to Central Finance Corporation, the Chairman suggested that Mr. Reid, Vice-President of the Company be allowed to make a statement.

Mr. Thorson moved,—

That the evidence now given by Mr. Reid be reported and that Mr. Finlayson be requested to repeat his statement and that he also be reported.

Motion negatived on division (Yeas 1, Nays 5).

At this stage the Chairman informed the Committee that he had a request from Mr. L. Forsythe, to make representations before the Committee on behalf of Discount and Loan Corporation.

Mr. Vien gave notice that he intended later to move that the rate to be inserted in subsection (2) of section 4 be 2 per cent. He now moved,—

That subsection 2 of section 4 be amended by deleting the word "twelve" in lines 6, 10 and 15, and substituting therefor the word "twenty."

After discussion, Mr. Finlayson stated that he would raise no objection if the Committee would agree to substitute the word "fifteen" for the word "twelve."

Mr. Vien agreed to change his motion accordingly.

Mr. Stevens suggested that the Committee adjourn to allow Messrs. Varcoe and Finlayson to redraft the section.

The Committee adjourned until 8.30 p.m.

EVENING SITTING

The committee resumed at 8.30 p.m., the Chairman, Mr. Moore presiding.

Members present: Messrs. Baker, Clark (*York-Sunbury*), Edwards, Euler, Kinley, Landeryou, Leduc, MacDonald (*Brantford City*), McPhee, Martin, Moore, Plaxton, Stevens, Thorson, Vien, Ward.

In attendance, Messrs. Varcoe and Finlayson and Representatives of loan companies.

Mr. Vien moved, in lieu of his previous motion,—

That sub-section (2) of section 4 be amended as follows: by substituting the word "fifteen" for the word "twelve" in line 6, 10 and 15; by inserting the figure 2 in line 7 in lieu of "0" and inserting the figure "1" in the blank space in line 14.

Mr. Stevens requested that his objection to extending the period from twelve to fifteen months be recorded.

The question being put on the amendment it was resolved in the affirmative on division (Yeas, 7, Nays, 3).

Sub-section (3) of section 4 and Section 5 allowed to stand over for re-drafting.

Section 9 adopted.

By unanimous consent, it was agreed that new sub-sections to section 17 be drafted by Messrs. Varcoe and Finlayson and submitted at the next sitting.

Also agreed that a new section be drafted determining a date on which the Act would come into effect.

On motion of Mr. Stevens, the Committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

FRIDAY, May 27, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Clark (*York-Sunbury*), Cleaver, Hushion, Kinley, Kirk, MacDonald (*Brantford City*), McPhee, Mallette, Martin, Moore, Stevens, Thorson, Vien, Ward, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance, Mr. F. P. Varcoe, Counsel, Department of Justice, and representatives of various loan companies.

Mr. Varcoe submitted a redraft of sub-section (3) of section 4, and additional sub-sections (4) and (5), to the draft bill under consideration, viz:—

(3) Every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan: Provided, however, that if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum per annum from such date.

(4) The cost of the loan or any part thereof or any interest accruing after default shall not be compounded or deducted or received in advance.

(5) The borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, provided that the borrower shall, when making such repayment, pay the portion of the cost of the loan accrued and unpaid up to the date of such repayment.

Mr. Vien moved that the said amendment to sub-section (3) be adopted. Carried on division.

Mr. Vien moved that new subsection (4) be adopted. Motion carried.

Mr. Vien moved that new subsection (5) be adopted. Motion carried.

Section 5.—Moved by Mr. Vien that the words “of—per centum per month” in the third line of section 5 be deleted and the following substituted therefor: “Of cost prescribed by the next preceeding section”; that the words “per centum per month upon the amount actually received by the borrower” in the eleventh and twelfth lines of section 5 be struck out and the following substituted therefor: “the said rate”; and that the words “in whole” be substituted for the word “whole” in the 14th line of the section.

Amendment carreid.

Mr. MacDonald moved that section 5 as amended, be adopted. Motion carried.

Section 17.—The Committee having reverted to section 17, Mr. Varcoe submitted the following subsection (b) in lieu of the one deleted at a previous sitting, viz:—

Sec. 17

(b) Notwithstanding anything contained in the Interest Act, lend money in sums not exceeding five hundred dollars in amount and may charge exact or receive or stipulate for the payment by the borrower

of a sum of money as the cost of a loan which shall not exceed an amount equivalent to the amounts or rates herein prescribed, namely, in the case of a loan for a period of fifteen months or less, two per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in the case of a loan for a period greater than fifteen months, one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of one per centum per month on the said amount and balances as fifteen is of the period of the loan expressed in months:

Provided, however, that every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan, but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum per annum from such date:

And Provided, further, that the cost of the loan or any part thereof or any interest accruing after default shall not be compounded or deducted or received in advance:

And Provided, further, that the borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, but the borrower shall, when making such repayment, pay the portion of the cost to the loan accrued and unpaid up to the date of such repayment.

Mr. Stevens moved,—

That the following words, at the beginning of the subsection, viz:— “Notwithstanding anything contained in the Interest Act” be deleted.

Amendment carried.

On motion of Mr. Vien,—

Resolved,—That subsection (2) of section 17 be adopted as amended.

On motion of Mr. Vien,—

Resolved,—That the following new section 23 be added to the draft bill, viz:—“The date of the commencement of this Act shall be the first day of January, 1939.”

Mr. McPhee moved that Lionel A. Forsythe, K.C., representing Discount and Loan Corporation, be allowed to make a statement.

Motion carried.

Mr. Forsythe then made a statement suggesting that Part One, Sections 16 and 22 be amended so that Schedule 2 (C) be struck out of the draft bill.

Mr. Thorson asked leave to revert to section 14 of the draft bill.

Mr. Vien moved that the draft bill be reprinted as amended.

Motion carried with the understanding that Mr. Thorson's request would be granted at the next sitting when the reprinted bill is before the Committee.

The Committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

TUESDAY, May 31, 1931.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Cleaver, Fiset (Sir Eugène), Fontaine, Hill, Jacobs, Kirk, MacDonald (*Brantford City*), Martin, Moore, Stevens, Thorson, Vien, Woodsworth.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance; Mr. F. P. Varcoe, Counsel, Department of Justice, and representatives of several loan companies.

The Committee had under consideration the draft bill "An Act respecting interest on small loans" as reprinted in accordance with instructions given at the last sitting.

By unanimous consent, the Committee reverted to the consideration of section 13 of the reprinted bill.

Mr. Thorson moved,—

That section 13 be amended to read as follows: "The Money Lenders Act, chapter 135 of the Revised Statutes of Canada, 1927, to the extent to which its provisions are inconsistent with the provisions of this Act, is repealed."

The question being put, it was negatived on the following recorded division: *Yeas*, Messrs. Stevens and Thorson (2); *Nays*, Messrs. Cleaver, Fiset (Sir Eugène), Hill, Jacobs, Kirk, MacDonald, Martin, Vien, Ward, Woodsworth (10).

On motion of Mr. Vien,—

Resolved,—That Mr. Finlayson be authorized to correct any clerical error found in the draft bill.

The Chairman then read the draft of a report for the House with respect to the Committee's inquiry into the matter of small loans.

Members of the Committee expressed their appreciation for the thorough and efficient manner with which the Chairman had dealt with such an intricate subject.

Mr. Vien moved,—

That the report as read by the Chairman be adopted and that the Chairman be authorized to submit same to the House together with the draft bill adopted by the Committee and the evidence heard.

Mr. Thorson moved in amendment thereto,—

That, in the draft bill, that portion of the "cost" as defined in section 2, paragraph (a), which is interest, be fixed at a rate not exceeding 12 per cent per annum and that the right of any provincial legislature to reduce the remainder of the said cost be preserved.

The question being put on the amendment, it was negatived on the following recorded division: *Yeas*, Mr. Thorson (1); *Nays*, Messrs. Baker, Cleaver, Hill, Kirk, MacDonald, Martin, Vien, Ward, Woodsworth (9).

And the question being put on the main motion, it was resolved in the affirmative on the following recorded division: *Yeas*, Messrs. Baker, Cleaver, Hill, Kirk, MacDonald, Martin, Vien, Ward, Woodsworth (9); *Nays*, Messrs. Stevens and Thorson (2).

A motion of thanks to Messrs. Varcoe and Finlayson for services rendered the Committee during the course of the inquiry was moved by Mr. Vien and concurred in by all other members of the Committee.

The Committee adjourned at 1 o'clock until to-morrow, Wednesday, at 11 a.m.

R. ARSENAULT,
Clerk of the Committee.

WEDNESDAY, June 1st, 1938.

The Standing Committee on Banking and Commerce met at 11 a.m., the Chairman, Mr. Moore, presiding.

Members present: Messrs. Baker, Cleaver, Dubuc, Fiset (Sir Eugene), Fontaine, Jacobs, Lawson, MacDonald (*Brantford City*), McGeer, Martin, Moore, Stevens, Thorson, Vien, Ward.

In attendance, Mr. G. D. Finlayson, Superintendent of Insurance, Mr. Harold Walker, K.C., counsel for Central Finance Corporation, Col. A. T. Thompson, K.C., and Mr. Duncan K. MacTavish, K.C., Parliamentary Agents.

The Committee considered Bill No. 7, An Act respecting Industrial Loan and Finance Corporation.

Preamble carried.

Clause 1. Mr. Vien moved that Clause 1 be deleted and the following substituted therefor:—

1. Paragraph (b) of subsection one of section five of chapter sixty-eight of the statutes of 1930 is repealed and the following substituted therefor:—

(b) Notwithstanding anything contained in the Money Lenders Act, lend money in sums not exceeding five hundred dollars in amount and may charge, exact or receive or stipulate for the payment by the borrower of a sum of money as the cost of a loan which shall not exceed an amount equivalent to the amounts or rates herein prescribed, namely, in the case of a loan for a period of fifteen months or less, two per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in the case of a loan for a period greater than fifteen months, one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of one per centum per month on the said amount and balances as fifteen is of the period of the loan expressed in months: Provided, however, that every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan, but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum per annum from such date: And Provided, further, that the cost of the loan or any part thereof or any interest accruing after

default shall not be compounded or deducted or received in advance: And Provided, further, that the borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, but the borrower shall, when making such repayment, pay the portion of the cost of the loan accrued and unpaid up to the date of such repayment.

Mr. Stevens moved in amendment thereto,—

That the following words, at the beginning of para. (b) viz: "Notwithstanding anything contained in the Money Lenders Act" be deleted.

Amendment (Mr. Stevens) carried.

Clause 1 as amended carried.

Mr. Vien moved that the following new section two be inserted in the bill, viz:

"2. Paragraph (c) of subsection one of section five of the said Act is repealed."

New section 2 carried.

Mr. Vien moved that the following new section three be inserted in the bill, viz:

"3. Section seven of the said Act is repealed and the following substituted therefor:—

7. The Loan Companies Act, chapter twenty-eight, of the Revised Statutes of Canada, 1927, except subsection two of section twenty-one, paragraph (f) of subsection one, and paragraph (c) of subsection two of section sixty-one, subsection three of section sixty-two, paragraph (c) of section sixty-three, sections sixty-four to seventy-two inclusive, eighty-two and eighty-eight shall apply to the Company."

New section 3 carried.

Mr. Vien moved that the following new section four be inserted in the bill, viz:—

"4. The date of the commencement of this Act shall be the first day of January, 1939.

New section 4 carried.

Title carried.

Mr. Vien moved that the Chairman report the bill as amended.

Motion carried on division.

On motion of Mr. Vien, Ordered that the bill as amended be reprinted.

The Committee then considered Bill No. 8, An Act respecting Central Finance Corporation and to change its name to Household Finance Corporation of Canada.

Preamble carried.

Section 1, carried.

Section 2. Moved by Mr. MacDonald that Section two be amended by deleting the three last lines and substituting therefor the following:—

3. The capital stock of the Company shall be five hundred thousand dollars divided into shares of one hundred dollars each and may be increased from time to time to an amount not to exceed five million dollars divided into shares of one hundred dollars each.

Section 2 carried as amended.

Section 3:—Mr. MacDonald moved that section 3 be struck out and the following substituted therefor:—

3. Paragraphs (a) and (b) of subsection one of section five of the said Act, as enacted by sections one and two of chapter ninety-four of the Statutes of 1929 are repealed and the following substituted therefor:—

5. (1) The Company may—

(a) buy, sell, deal in and lend money on the security of conditional sale agreements, lien notes, hire purchase agreements, chattel mortgages, trade paper, bills of lading, warehouse receipts, bills of exchange and choses-in-action; and may receive and accept from the makers, vendors or transferors thereof guarantees or other security for the performance and payment thereof and may enforce such guarantees and realize on such security;

(b) lend money in sums not exceeding five hundred dollars in amount and may charge, exact or receive or stipulate for the payment by the borrower of a sum of money as the cost of a loan which shall not exceed an amount equivalent to the amounts or rates herein prescribed, namely, in the case of a loan for a period of fifteen months or less, two per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in the case of a loan for a period greater than fifteen months, one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of one per centum per month on the said amount and balances as fifteen is of the period of the loan expressed in months: Provided, however, that every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan, but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum per annum from such date: And Provided, further, that the cost of the loan or any part thereof or any interest accruing after default shall not be compounded or deducted or received in advance: And Provided, further, that the borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, but the borrower shall, when making such repayment, pay the portion of the cost of the loan accrued and unpaid up to the date of such repayment.

Section 3 carried as amended.

Mr. MacDonald moved that the following new section 4 be inserted in the bill, viz:

“4. Paragraph (c) of subsection one of section five of the said Act is repealed.”

New section 4 carried.

Mr. MacDonald moved that the following new section 5 be inserted in the bill, viz:—

5. Section six of the said Act is repealed and the following substituted therefor:—

6. The Loan Companies Act, Chapter twenty-eight, of the Revised Statutes of Canada, 1927, except subsection two of section

twenty-one, paragraph (f) of subsection one, and paragraph (c) of subsection two of section sixty-one, subsection three of section sixty-two, paragraph (c) of section sixty-three, section sixty-four to seventy-two inclusive, eighty-two and eighty-eight shall apply to the Company.

New section 5 carried.

Mr. MacDonald moved that the following new section 6 be inserted in the bill, viz:

"6. The date of commencement of this Act shall be the first day of January, 1939.

New section 5 carried.

Title carried.

Mr. MacDonald moved that the Chairman report the bill as amended.

Motion carried, on division.

On motion of Mr. MacDonald, Ordered that the bill as amended be reprinted.

Consideration of Bill No. 99 (L-1 of the Senate) An Act to incorporate The Maritime Provinces General Insurance Company. Mr. MacTavish, Parliamentary Agent and Mr. Finlayson explained the bill.

Preamble carried.

Sections 1, 2, 3, 4, 5, 6, 7 and 8 carried.

Title carried.

On motion of Mr. Martin,—

Ordered.—That the Chairman report the bill to the House without amendment.

Consideration of Bill No. 120 (Letter B-2 of the Senate), An Act to incorporate The Workers Benevolent Society of Canada.

Mr. MacTavish and Mr. Finlayson explained the bill.

Preamble carried.

Section 1, stand.

Sections 2 and 3 carried.

Section 4, stand.

Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 carried.

The Committee agreed to adjourn consideration of the bill in order to allow Mr. Finlayson to report further on sections 1 and 4.

The Chairman informed the Committee that the subject matter of Bill No. 26, An Act to repeal the Companies' Creditors Arrangement Act, had been referred to the Committee. It was agreed that the Committee deal with this reference on Tuesday, June 7, at 11 a.m., and the Clerk was instructed to inform accordingly the persons or organizations wishing to make representations to the Committee.

The Committee adjourned to the call of the Chair.

R. ARSENAULT,
Clerk of the Committee.

SESSION 1938
HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

REPORT

Respecting

SMALL LOAN COMPANIES

No. 14

WEDNESDAY, JUNE 1, 1938

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1933

REPORT TO THE HOUSE

REPORT OF THE COMMITTEE ON ITS INQUIRY INTO SMALL LOAN COMPANIES, INCLUDING DRAFT BILL INTITULED "AN ACT RESPECTING INTEREST ON SMALL LOANS"

WEDNESDAY, June 1, 1938.

The Standing Committee on Banking and Commerce begs leave to present the following as its

THIRD REPORT

By Order, February 14, 1938, the House of Commons instructed the Standing Committee on Banking and Commerce "to enquire into the practices of individuals, partnerships and companies making small loans on personal security and to consider the maximum rate of interest and charges which should be permitted for such loans."

Having already considered the legislative applications of several companies making small loans, your Committee had no illusion as to the difficulty of devising a wholly satisfactory relation of debtor and creditor. Times again your Committee had been reminded that usury is an ancient evil; and as often reminded, that despite the innumerable acts of Church and State the problem of usury is, in 1938, still unsolved.

If the legislative action contemplated by this Parliament is to be of substantial benefit to necessitous borrowers—something better than a vain repetition of the popular declaration against high interest—then it must begin within an understanding of the nature and volume of consumer's debt within our times. And the matter is not to be readily disposed of; for, paradoxical as it may seem, a rise of aggregate individual income has been accompanied by a rise of aggregate individual debt. Significantly enough, the country that has the world's best standard of living—the United States—has also the largest volume of consumer's debt (with an estimated fourteen billion dollars distributed in a single year).

To analyse the phenomenal growth of small loans within recent years has been impossible within the time at our disposal; but common observation indicates that the complexity of industry, with its intensified urbanization, and cyclic dips, has multiplied the uncertainties of life against which small loans are so commonly incurred; while the greatest single factor contributing to the volume of individual debt is the widespread practice of buying on the instalment plan.

The practice of mass-production resulted in a pressure for mass-consumption, with a widely advertised acceptance of "a small payment down and the balance on easy terms." Thus a large load of modern debt is in the form of unpaid balances for goods already consumed or in the process of consumption. These debt charges do not come directly within our Reference or, for that matter, do they ordinarily come within legislative action; while legislatures have everywhere meticulously concerned themselves over debts incurred by borrowing money, legislatures have not shown equal concern over debt incurred by the purchase of goods.

Whatever the legislative distinction; in practice, there is a relationship between merchandise-credit and money-credit that cannot be safely ignored in prescribing the rate of charges on borrowed money. A strict comparison of the rates of merchandise-credit with cash-credit is difficult, if not impossible,

largely because the cash price of goods so often bears a portion of the credit-cost. However, it is safe to say that the two branches of consumers' credit are to some extent interchangeable. Upon evidence submitted to the Committee, some of the money loaned at rates exceeding 2 per cent a month was borrowed to effect reductions in payment for goods, especially to avoid penalties under instalment plans of payment. And evidently there is a wide variation in the rates of charges involved in instalment sales. The Committee was told that rates as high as 186 per cent per annum had been paid by Nova Scotian fishermen in the purchase of fishing equipment on six months credit; while on certain household equipment the rate involved in instalment sales is about 12 per cent per annum.

That the search for a "reasonable" rate of interest should have continued over the ages is largely due to the application of the word "interest" to dissimilar uses. When money is loaned at the rate of, say, three per cent per annum, it is off-hand confusing to find money also loaned at three per cent a month. And yet, under competitive economy, the spread between interest rates should be accounted for with almost mathematical precision. While under our present economic system we have imperfect competition, it is manifest that given a sum of \$100,000 for investment the rates on its return will necessarily differ as to whether the sum is say: (a) invested in a block of Canadian Government bonds, (b) loaned to 50 landowners secured by first mortgages, or (c) distributed in lots of \$200 to 500 people of nondescript occupations on personal security.

The rates paid respectively by governments, farmers and consumers differ primarily because the owners of capital are primarily concerned over the safety of their capital while it is out of their possession. In a theoretical sense, "pure interest" may be described as the return on riskless investment; in its commonly accepted sense, "interest" carries a rate designed as insurance for the safety of the sum loaned. Capital borrowed for the express purpose of being consumed necessarily carries a higher rate of insurance than capital borrowed for the further production of capital and small loans referred to in the Reference of the House are largely designed for consumption, although a distinction between uses (e.g. expenditure for a motor car) is not to be sharply drawn.

The reduction of risk (and consequent reduction of charge on the loan) by the pledge of tangible security does not require laboured comment; the effect on the rate should normally be in proportion to the convertibility of the security into the value of the payment called for under the contract. The small loans within our Reference are made on personal security; and our proposals for the relief of necessitous borrowers have been directed towards establishing facilities by which the value of personal security can be determined with the least possible expense.

While loans on personal security are made for diverse purposes, as set out in our records, and contain different degrees of risk, they possess two common features that affect the element of cost, namely: "size" and "time" i.e. they are small loans, made for short-terms. Quite obviously the purchase of a block of twelve year Canadian Government bonds requires little expenditure for investigation, and none for supervision; investments on 50 farm mortgages, for varied periods, entail considerable cost for both investigation and supervision; while the investigation of 1,000 applications to effect loans to 500 people for a few months, with meticulous supervision, becomes expensive business when expressed as a percentage rate of \$100 on a monthly basis.

To that phase of the matter namely, *the cost of service*, your Committee devoted special attention in an endeavour to find in efficiency of specialized financial organization the means of reducing the charges on small loans.

Enquiry was first directed to the country's usual loan-channels. The chartered banks have always served their customers with small loans, on personal

security, and, at an early stage of its proceedings, your Committee invited the President of the Canadian Bankers' Association to state the disposition of the chartered banks toward an expansion of the service. Following American practice, inaugurated some few years ago, the Canadian Bank of Commerce established in June, 1936, a personal loan department, and up to date has made 60,423 loans for a total amount of \$8,800,000. The cost to the borrower is made up of a discount of 6 per cent per annum and a service charge varying from 50 cents to \$3 depending on the amount of the loan. The result is a total charge of about 1 per cent a month on a loan for 12 months (excluding provision for penalties). The Small Loan Department of the Bank has so far been unprofitable even without making any interest charge for the loaning funds supplied by the Bank.

The contribution to our enquiry by the President of the Bankers' Association, Mr. S. G. Dobson, and by Mr. James Stewart of the Canadian Bank of Commerce is appreciated by the Committee.

Your Committee discussed at length a proposal that Parliament should encourage the chartered banks to expand their personal loan services; but it was the consensus of opinion that such action should not be taken without carefully considering the effect on general banking policy. The Canadian banking system is generally regarded as organized to finance industrial productive effort and facilitate the movements of trade and commerce; and, as illustrated by the restriction of loans on real estate, banking regulations are expressly designed to maintain the liquidity of banking assets.

Before encouraging Canadian banks to engage upon a greater volume of consumers' credit, it would appear to be the part of wisdom to have further information as to the relation between consumers' credit and business depressions. Quite obviously unemployment creates difficulty in the discharge of debt-obligations; and it is then when threatened with financial crisis—that Canada depends upon its banking system to preserve its social solvency.

As custodians of the people's savings, it may well be that the chartered banks should not be called upon to arrange their investments so that, in the unfortunate event of crisis, we should find public savings converted into small loans on personal security which, under normal conditions, are regarded as tolerably safe only when administered by highly specialized organization.

Nor was it established to our satisfaction that borrowers would gain (and, in fact, may lose) by the substitution of an interest rate of 1 per cent a month for the banks' usual rate of 6 to 7 per cent per annum. True, the rate of 1 per cent a month is low as compared with the rates usually charged by companies engaged exclusively in loaning small amounts on personal security; but the bank requires an endorsement that many borrowers cannot provide; and it is assumed the bank rejects applications that contain a substantial element of risk, or present the prospect of undue cost in supervising collection.

Evidence was presented by Mr. Cyrille Vaillancourt as to the experience of the Credit Unions in the Province of Quebec, the home of the Canadian co-operative loan movement. Commencing in 1900 "Caisses Populaires" (or Credit Unions) were organized in that province and, by March 1, 1938, there were 393 unions in operation with loan balances outstanding of some \$7,300,000. The rate of interest charged for loans varies from 6 per cent to 7 per cent per annum, the average rate being 5 per cent while deposits are received from members with interest at an average rate of between $2\frac{1}{2}$ per cent and 3 per cent per annum.

The experience of credit unions in the province of Nova Scotia was outlined to the Committee by Professor A. B. MacDonald of St. Francis Xavier University, Antigonish, N.S. The unions date back to about 1933 and since then 120 unions have been formed in the province. Loans made by the unions, in 1937, amount to approximately \$750,000. The average rate of interest charged on loans is between 6 per cent and 7 per cent per annum with interest paid on members' deposits averaging from 2 per cent to 3 per cent per annum.

The President of the Civil Service Co-operative Society, Ottawa, Mr. S. Rettie, stated that the Society operated from 1908 to 1928 as an unincorporated association, but in the latter year became incorporated under the Co-operative Credit Societies Act of Ontario. The loans of the Society outstanding amount to about \$300,000; the interest rate on loans on personal security is 7 per cent per annum; while the interest allowed on members' deposits is 3 per cent with a bonus from profits which amounted to 2 per cent per annum in 1937—a net rate of 5 per cent per annum. The thanks of the Committee are due to Messrs. Vaillancourt, MacDonald and Rettie for their assistance.

Your Committee expresses gratification with the progress made by co-operative credit institutions but observes that co-operative credit has been successful, in Canada, as elsewhere, only in proportion to the existence of a measure of homogeneity in social, religious and economic relations. There were members of the Committee who expressed the opinion that Parliament should subsidize educational work for the spread of co-operative credit; but the majority of the Committee held that this admirable objective—essentially local—is better left with the provinces.

Before turning to other sources of credit-supply it seems desirable to emphasize the plain fact that the satisfaction of human wants is to be but imperfectly supplied by credit. The unhappy lot of those who have a deficit economy, in the sense that they are chronically unable to live within their incomes, is not to be bettered by borrowing (no matter the rate). There were members of the Committee who suggested that a deficit economy is to be remedied by change in the monetary system; while others contended that betterment could be brought about only by change in the social order; but with those contentions we are not presently concerned. Evidence submitted on behalf of the Canadian Welfare Council, by Miss Charlotte Whitten, and for the Bureau of Legal Aid, by Mr. J. A. Edmison, Montreal, indicated that for such people commercial loans are a doubtful palliative; certainly not a solution of the problem of life.

Having concluded that the combined facilities of chartered banks and co-operative credit associations were insufficient to supply a legitimate demand for small loans, on personal security, the Committee turned for information to the experience of the United States where (as already observed) the greatest development has been made both in the volume of credit and, as well, in legislative action designed to provide an adequate credit-supply.

The results of the investigation of the Russel Foundation in the field of small loans is of common knowledge. As a result of its study, the Foundation created a department of Remedial Loans and, in 1916, issued a draft bill subsequently known as the Uniform Small Loan Law embodying principles summarised by Mr. Rolf Nugent for the American Academy of Political and Social Science (*The Annals*, March 1938) as follows:—

- (1) to require those engaged in the business of lending money in sums of \$300 or less at rates of charge in excess of the general statutory maximum rate, to be licensed, bonded and supervised by a public officer;
- (2) to authorize a relatively high rate of charge for such loans by licensed lenders and to require all charges to be expressed as a monthly interest rate;
- (3) to require licensees to keep records, to give the borrower a full statement of the terms of his contract, to return cancelled securities upon completion of the contract, and to comply with other conditions designed to prevent abuses or to facilitate their detection;
- (4) to regulate the use of certain forms of security; and
- (5) to make a public officer responsible for the enforcement of the act and to provide severe penalties for infraction.

Since 1916 the Foundation has issued several drafts of legislation but the principles of licence and supervision by the State have been preserved and, by 1937, legislation embodying those principles had been adopted by more than half the states of the Union. In an effort to learn how far the procedure laid down by the Foundation could be made helpful in Canada your Committee asked the Foundation to name an economist familiar with the subject and, in response to the request, Mr. Leon Henderson appeared before your Committee and gave a most helpful statement of the practice of the personal finance companies in the United States. Mr. Henderson's evidence is duly reported in the Committee's proceedings.

Your Committee was the more interested in the enactments of the several states because personal finance companies, organised under American practice, had (1932) extended their operations to Canada, and obtaining incorporation by the Parliament of Canada, had come under regulation after the general pattern adopted in the United States.

Desiring information as to the administration of the Uniform Small Loan Law in the United States, your Committee asked the State of Iowa to name an official with experience in administration, and your Committee desires to express its thanks to the State of Iowa for assistance rendered by Mr. R. L. Bunce, Deputy Superintendent of Banking of Iowa. There are some 100 licensed lenders in Iowa operating about 120 licensed offices; the minimum capitalization permitted for a lender is \$5,000 and the opinion was expressed that an increase in this minimum capitalization to \$20,000 to \$25,000 would probably facilitate a reduction in the rate charged to borrowers. Mr. Bunce was of the opinion that only by strict regulation and an adequate rate could the public be protected against excessive rates.

Conditions in Canada and the United States are in several respects dissimilar. And over one feature of dissimilarity your Committee has been gravely concerned; namely, the basic matter of jurisdiction. In the United States jurisdiction over interest is with the states; in Canada jurisdiction over interest is with the Federal Government; while certain jurisdiction over "property and civil rights in the provinces" is with the provinces.

As a result of divided jurisdiction, federal and provincial laws designed to correct the abuses associated with small loans have been so far largely ineffective.

The borrower's initial interest lies in a clear-cut statement of the total obligations contained in the loan-contract and much of the abuse connected with personal finance has plainly arisen from the incapacity of borrowers to decipher the arithmetic of credit-contracts. The confusion has been confounded by specious advertising with combinations of charges so intricate that even mathematicians have trouble in arriving at the actual burden of the borrower. To correct that condition your Committee recommends that the maximum rate permitted on small loans should be expressed as a *total charge* to the borrower, i.e., a rate that shall include interest, or discount, and all other expenses and charges whether for commission, brokerage, chattel mortgage, recording fees, enquiries, defaults, renewals, fines, penalties and all other charges whatsoever, whether those charges are paid to or charged by the lender or to or by any person. In ascertaining the rate on any loan, regard should be had to any collateral contract or document by which the charges imposed under the loan-contract or the terms of the repayment of the loan are effectively varied.

With a view of determining the matter of jurisdiction, the Committee asked for an expression of opinion from the Department of Justice and were advised by Mr. F. P. Varcoe, K.C., as follows:—

First: That a project for the regulation of money lenders which would fall short of complete control would probably be inadequate and almost useless.

Secondly: That the Department concluded to advise the Committee as to the powers of Parliament by reference to a feasible project as follows:—

No sum in excess of X per cent of the principal sum loaned shall be exacted from the borrower as:—

1. Interest, that is to say, compensation for the use of money and for the risk of its total or partial loss; and
2. Service charges, whether genuine or interest disguised as such; and
3. Disbursements, real or fictitious; and any sum exacted in excess of such per cent shall be deemed oppressive and usurious, exposing the lender to criminal proceedings and invalidating the contract.

Furthermore, if the lender requires the borrower to make any expenditure—that is, imposes an obligation on the borrower to obtain a chattel mortgage, let us say, or make any expenditure to a third person—in connection with the loan as a result of which the cost of the loan exceeds the aforesaid X per cent, the lender shall likewise be guilty of an offence and the contract invalidated.

Dealing with items of charge mentioned in paragraphs 1, 2 and 3, viz, interest, charges and disbursements of the lender, the projected provisions are justifiable constitutionally, first, as being legislation in relation to interest, or as being indispensably or reasonably ancillary to interest legislation.

The differentiation between true interest charges and service charges is so difficult (they are in many cases probably indistinguishable) and the possibility of disguising interest as other charges is so great that it becomes indispensably or reasonably necessary to regulate or fix these charges in order to make good the interest restriction and there appears to be no reason why the ancillary doctrine may not be relied on notwithstanding that the restriction of the rate of interest and the ancillary restriction of the service charges are contained in one and the same restrictive regulation.

Further, the principal ingredients in the gross sum charged the borrower is interest and if parliament fixes a maximum gross charge, it must be presumed that if the sum is exceeded an excessive interest charge is being made; therefore, the fixing of a gross maximum charge constitutes a limitation of the rate of interest.

The imposition of a gross maximum charge would have this effect, that in each case the interest ingredient therein would be fixed by reference to the other ingredients. It is arguable that by this means there would be a fixing of the interest charged in each case.

Then again, it is to be borne in mind that interest is not only compensation for the use of money but also compensation for accepting the risk of loss. The service charges, for example chattel mortgage expenses, are, theoretically at any rate, made to protect the lender against loss. Parliament, therefore, in restricting certain of the charges which the lender can make against the borrower is limiting the compensation for accepting the risk of loss and so is legislating in relation to interest or at the worst is enacting legislation necessarily ancillary to interest legislation.

It is noteworthy in this connection that, in England, parliament, when legislating respecting loan societies and money lenders, found it necessary to prohibit the making of charges for expenses (Money Lenders Act, 1927, s. 12, and Loan Societies Act, 1840, s. 23), and in the Money Lenders Act of 1900, excessive interest charges and excessive expenses were treated as equivalent grounds for setting the contract aside.

Secondly, the projected legislation already referred to may be justified as being in relation to criminal law. The charging of an amount in excess of a maximum gross might be regarded as oppressive and usurious.

Thirdly, there is the power to regulate trade and commerce. The lending by money lenders of money at interest is a business which falls in the dominion field of regulation. The combined effect of the assignment of the subject of the regulation of trade and commerce and the assignment of the subject of interest to parliament would seem to enable parliament to deal with all the activities of money lenders.

This analysis leaves to be considered expenditures made by the borrower on the demand or requisition of the lender, e.g., legal fees for chattel mortgages, etc. If the lender imposes an obligation or requirements on the borrower to make an expenditure which raises the cost of the loan to a point in excess of the maximum gross fixed, the result, it would seem, is indistinguishable from the case where the lender himself makes the expenditure and claims to be reimbursed. After full consideration, it would appear that, for the reasons mentioned in connection with direct charges by the lender, parliament has the power to fix the maximum gross cost of the loan including expenditures by the borrower on demand of the lender.

If the views expressed are correct there would seem to be no doubt that the money lenders might be required by parliament to be licensed.

At the same time the Committee asked for an expression of opinion from the provinces and desires to record its unstinted appreciation of the co-operation received upon this somewhat complicated matter. The views of the representatives of the provinces are set out in the reports of the Committee's proceedings. The Attorney General of Ontario stated that he would co-operate in all respects with Dominion authorities in the enforcement of any Dominion law relating to the subject or in recommending complementary legislation to be passed by the legislature of Ontario but, at the same time, expressed disagreement with the view of the Department of Justice upon the constitutional question, as did the legal representative of the Government of Quebec. The representative of the Attorney General of Alberta, while expressing no conclusive opinion, indicated that he was impressed with the opinion of the Department of Justice.

In addition your Committee received communications from several other provinces: the Deputy Attorney General of New Brunswick advised that his province preferred that the matter be dealt with by the Dominion. The Attorney General of Nova Scotia referred to a recent Nova Scotia statute designed to be a complement to the Money Lenders Act and stated that there was nothing further that could be done until the Federal Government finally dealt with the situation and that the province would give the fullest co-operation. The Attorney General of the province of Manitoba expressed doubt that Parliament could deal with the cost of loans otherwise than in connection with what is pure interest. The Attorney General of Saskatchewan expressed himself as more than satisfied to have the Federal Government control the charges. The Attorney General of British Columbia expressed the view that the matter of interest is primarily one within the jurisdiction of the Dominion and that the province has no legislative jurisdiction in regard thereto.

Guided by the opinion of the Department of Justice, your Committee asked the Department to draft a bill for the determination of the maximum charge that should be permitted for small loans on personal security and herewith submits the draft of a bill for the consideration of the House. While the bill must speak for itself perhaps two or three observations may be helpful by way of explaining the reasons for the suggested rate.

The evidence submitted by Mr. Bunce indicated that the rate of cost decreases rapidly with an increase in the size of the loan and decreases with the elimination of the smaller lenders. The maximum loan subject to the provisions of the Money Lenders Act (Canada) is \$500, while, in the United States, the limit on small loans is \$300; it follows that if the former limit is to be retained, the rate adopted in Canada should, on this count, be below the average rate in the United States. Further, the minimum amount of paid capital required of Dominion small loan companies heretofore incorporated is \$100,000; in the United States lenders with funds as small as \$5,000 or less are permitted to be licensed; and consequently a heavier burden of overhead must be carried on a comparatively small volume of business.

Choice must be exercised between graduated rates and a flat rate. The practice in the United States has inclined towards graduated rates in the hope of reducing the maximum rate permitted on large loans while retaining the same rate for the smaller loans; it appeared to the Committee that the device does not effectually attain the objective; and the flat rate is recommended.

In considering the actual maximum rate that should be permitted your Committee regrets that comprehensive statistics are not available as to the rates currently charged on loans in Canada. The companies now operating under Dominion supervision make complete returns of rates and earnings; the provincial companies have on the average a smaller volume of business; and the rates of the provincial companies, it is believed, are generally in excess of those permitted to Dominion companies. The special Acts of Dominion companies permit a rate on loans not secured by chattel mortgages or subrogation of taxes of approximately $1\frac{1}{2}$ per cent per month, and for loans secured by chattel mortgages larger rates depending on the size of the loan. The larger rates, however, are further limited by the amendment to the Loan Companies Act of 1934 imposing a maximum limit on the rate on any loan of $2\frac{1}{2}$ per cent per month.

Throughout its enquiry your Committee's objective has been to secure *the best procurable rate for the borrower*. Capital available for the purpose is highly specialized; and it may be, under proper management, the percentage of loss is not unduly high; but it seems safe to assume that at present most people are unwilling to invest in loans on personal security; and of course the source of capital-supply becomes further narrowed by the imposition of regulations and the further reduction of the rate.

Obviously the State can intervene advantageously over rates only within a limited field; for naturally a legislative rate at which money is *not* obtainable is of doubtful benefit to necessitous people. In the debates over the subject it would almost seem to have been at time forgotten that to legislate a maximum rate is an injunction that, if people cannot borrow at the prescribed rate, they cannot borrow at all.

By comparison with the rate charged by personal loan department of the Bank of Commerce the rate of 2 p.c. a month set out in the draft bill is "high," but it is to be recalled that, so far, only one bank has entered the field and then with a definite statement to the Committee that it is "not talking about going into this small loan business on a large scale"; while the other banks have indicated their unwillingness to enter the field.

By comparison with the rates charged over a widespread operation of unlicensed lenders in Canada the rate is decidedly low. Evidence was presented to the Committee that unregulated lenders have been currently charging rates running into several hundred per cent per annum. Evidence from the United States indicated that 20 per cent a month is not an unusual rate in the unregulated field. In Great Britain, where regulation is undeveloped, the law provides that the fairness or unfairness of the rate must be determined by

the Court before which a transaction comes for review. If the rate exceeds 4 per cent a month the lender must prove that it is not unfair; if the rate is less than 4 per cent the borrower must prove that it is unfair.

By comparison with the English indicated rate, the rate suggested for Canada is low; and it is to be recalled that rates of interest in the United Kingdom are generally lower than in Canada.

The maximum rates permitted by legislation in the United States vary with the states and the Canadian rate is not high as compared with rates in those states with which conditions are presumably comparable; as will be observed from the following rates by states:—

Maine, 3 per cent.

Massachusetts, 2 per cent to 3 per cent graduated.

Michigan, $3\frac{1}{2}$ per cent.

New York, $2\frac{1}{2}$ per cent and 3 per cent graduated.

Wisconsin, 1 per cent, 2 per cent and $2\frac{1}{2}$ per cent graduated.

Iowa, $2\frac{1}{2}$ per cent to 3 per cent graduated.

Oregon, 3 per cent.

The rates of the several states were presumably established after exhaustive enquiry and, in several instances, after the legislative prescription of lower rates had led to a diminution in the supply of licensed credit with a return of bootlegged loans in volume. In estimating how far American rates govern the effective rates in Canada, it is not to be safely over-looked that Canada is dependent upon the United States for 22 per cent of its working capital.

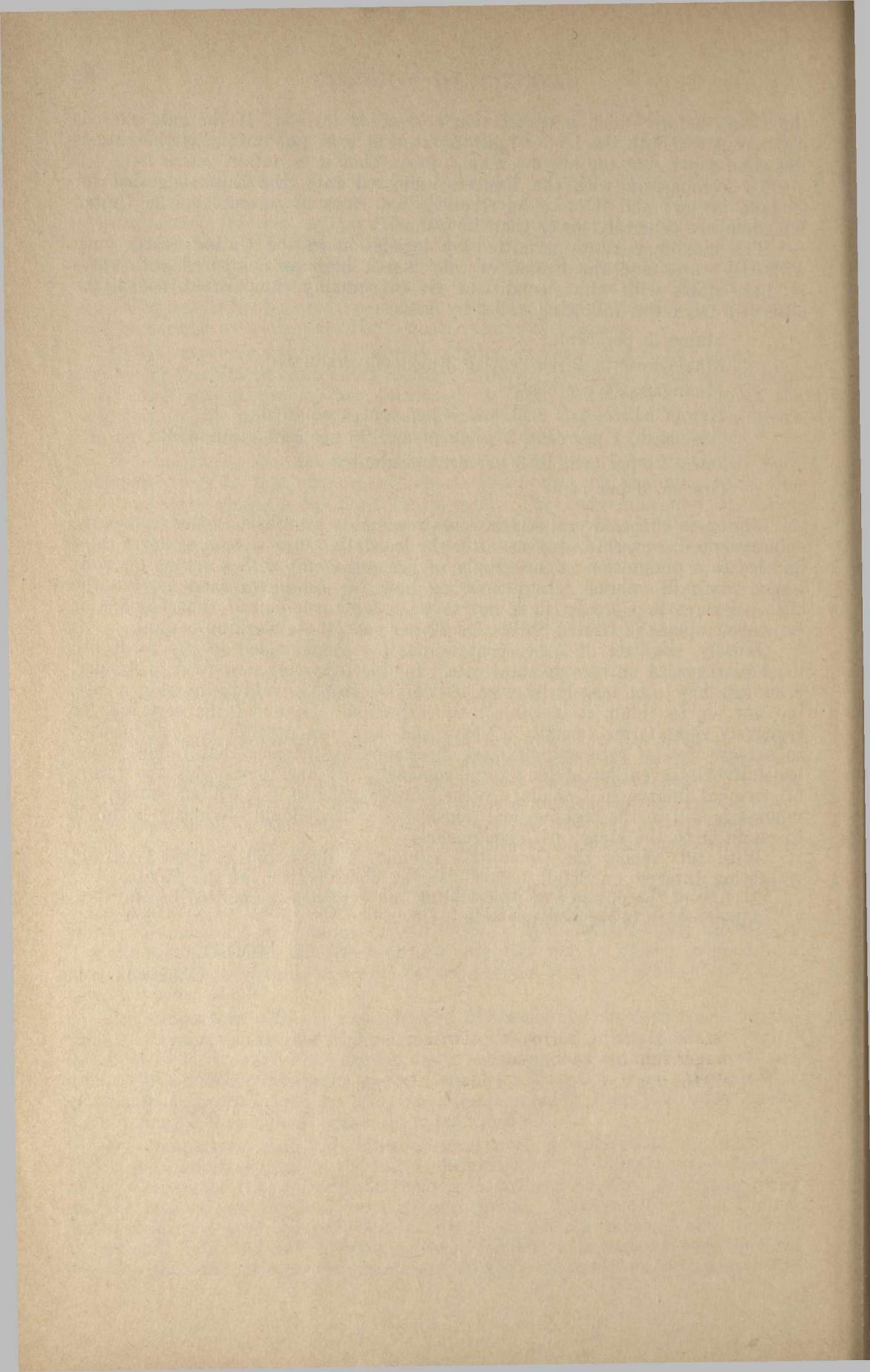
Finally, the rate of 2 per cent a month, recommended in the draft bill must be regarded an experimental rate. In this relatively new field of finance, procedure has to be largely by way of trial; if error is made by naming a rate, too low, or too high, it is subject to correction. Loans of the sort are for relatively short terms (usually a year) and it is thus possible to look forward to a correction of rate without that disastrous disturbance that follows upon legislative intervention in long term contracts. If one may judge the future of personal finance in Canada, by the development of the United States, the volume is still in the making, and legislative action should obviously be made to conform to the stages of development.

With this report the Committee submits a draft bill entitled "An Act respecting Interest on Small Loans" for the consideration of the House.

A copy of the minutes of proceedings and evidence is annexed hereto.

All of which is respectfully submitted.

W. H. MOORE,
Chairman.



DRAFT BILL

AN ACT RESPECTING INTEREST ON SMALL LOANS

3rd Session, 18th Parliament, 2 George VI, 1938

THE HOUSE OF COMMONS OF CANADA

BILL No.

An Act respecting Interest on Small Loans.

Whereas it has become the common practice for money-lenders to make charges against borrowers described as being for commission, brokerage, chattel mortgage and recording fees, inquiries, renewals, defaults, fines and penalties, which, in truth and substance are, in whole or in part, compensation for the use of money loaned or for the acceptance of the risk of loss or are so mixed with such compensation as to be indistinguishable therefrom and are, in some cases, charges primarily payable by the lender but required by the lender to be paid by the borrower; and whereas the result of these practices is to add to the cost of the loan without increasing the nominal rate of interest charged so that the provisions of the law relating to interest and usury have been rendered ineffective: Therefore His Majesty, by and with the consent of the Senate and the House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *Small Loans Interest Act, 1938*.
2. In this Act unless the context otherwise requires,
 - (a) "Cost" of a loan means the whole of the cost of the loan to the borrower including interest or discount and expenses and charges for commission, brokerage, chattel mortgage and recording fees, inquiries, defaults, renewals, fines, penalties, or other similar costs, whether paid to or charged by the lender or paid to or charged by any other person, and whether fixed and determined by the loan contract itself or in whole or in part by any other collateral contract or document by which the charges if any, imposed under the loan, contract or the terms of the repayment of the loan are effectively varied.
 - (b) "Licensee" means a person licensed under this Act;
 - (c) "Loan" means a loan made by a money-lender of not more than five hundred dollars and includes the consideration for a wage assignment: Provided that if, after deducting all payments whether on account of interest, expenses or principal, made by the borrower to the money-lender at or about the same time as a loan is made, the amount retained by the borrower is five hundred dollars or less, the transaction or transactions shall be deemed to have resulted in a loan of the amount so retained by the borrower notwithstanding that nominally a loan for a larger sum has been made;
 - (d) "Minister" means the Minister of Finance;
 - (e) "Money-Lender" means any person who carries on the business of money-lending or advertises, or holds himself or itself out in any way as carrying on that business, but does not include a registered pawnbroker;
 - (f) "Small loans company" means a company incorporated by special Act of Parliament to which the provisions of Part Two of this Act apply;
 - (g) "Superintendent" means the Superintendent of Insurance;
 - (h) "wage assignment" means a sale, assignment, transfer or order for payment of wages, salary, commissions or other remuneration for services whether earned or to be earned when made or given in consideration

of the payment of five hundred dollars or less in money, credit or choses in action, and the amount whereby the assigned remuneration exceeds the amount of the consideration actually paid therefor shall for the purposes of this Act be deemed to be the cost of the loan.

PART I

3. (1) No money-lender shall, in respect of any loan, directly or indirectly, charge, exact or receive or stipulate for the payment by the borrower of a sum of money as a result of the payment of which the cost of the loan exceeds an amount equivalent to the amount or rate prescribed by subsection two of this section, and any money-lender who enters into a transaction in contravention of the provisions of this section, shall be guilty of an indictable offence and liable, if an individual, to imprisonment for a term not exceeding one year and to a penalty not exceeding one thousand dollars and, if a corporation, to a penalty not exceeding five thousand dollars.

(2) The cost of the loan mentioned in subsection one of this section shall, for a loan for a period of fifteen months or less, not exceed two per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding, and, for a loan for a period greater than fifteen months, the cost of the loan shall not exceed one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of one per centum per month on the said amount and balances as fifteen is of the period of the loan expressed in months.

(3) Every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan: Provided, however, that if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum from such date.

(4) The cost of the loan or any part thereof or any interest accruing after default shall not be compounded or deducted or received in advance.

(5) The borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, provided that the borrower shall, when making such repayment, pay the portion of the cost of the loan accrued and unpaid up to the date of such repayment.

4. In any suit, action or other proceeding concerning a loan wherein it is alleged that the cost of the loan paid or claimed exceeds the rate of cost prescribed by the next preceding section, the court may re-open the transaction and take an account between the parties and may, notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, re-open any account already taken between the parties and relieve the borrower of any obligation to pay any sum on account of the cost of the loan in excess of an amount equivalent to the said rate; and if any such excess has been paid or allowed, may order the money-lender to repay it and may set aside, either in whole or in part, or revise, or alter, any security given in respect of the transaction.

LICENCES

5. (1) No person shall transact the business of a money-lender unless such person has first obtained from the Minister a licence: Provided, however, that this section shall not apply to a money-lender the cost of whose loans does

not in any case exceed an amount equivalent to twelve per centum per annum upon the amount actually received by the borrower.

(2) The Minister may issue a licence to any person upon being satisfied that the experience, character, and general fitness of such person or, if such person is a corporation, of the officers and directors of the corporation, are such as to warrant the belief that the applicant will, if granted a licence, carry on with efficiency, honesty and fairness to borrowers the business of money-lending pursuant to this Act.

(3) The licence may be in such form as may be, from time to time, determined by the Minister, and may contain any limitations or conditions which the Minister may, consistently with the provisions of this Act, deem proper.

(4) The licence shall expire on the thirty-first day of March in each year, but may be renewed from year to year or for any term less than a year subject, however, to any qualification or limitation which the Minister may, consistently with the provisions of this Act, deem proper.

(5) The Minister shall cause to be published in the first issue of the *Canada Gazette* in the month of April in each year a list of all persons to whom licences have been issued as aforesaid.

(6) If any person makes application to the Minister for the issue of a licence under the provisions of this section or for the renewal of such licence, and such application is refused by the Minister, the applicant shall have the right of appeal to the Governor in Council against the decision of the Minister, and the Governor in Council, after such hearing as is deemed necessary or desirable, shall render a decision on the appeal, which decision shall be final.

INSPECTION

6. (1) The Superintendent shall inspect personally or cause a duly qualified member of his staff to inspect, at least once in each year, the chief place of business of every licensee, and to examine carefully into the conduct of the business of every licensee.

(2) Similarly, the Superintendent may inspect or authorize the inspection of any of the branch offices of the licensees.

(3) To facilitate such inspection every licensee shall on or before the first day of March in each year prepare and file with the Minister a statement in respect of the conduct of the business of the licensee in such form as the Minister may require and the licensee and his or its officers, agents and servants shall cause the books of the licensee at the principal or any branch office to be open for inspection and shall facilitate such inspection.

(4) The Superintendent may examine under oath the licensee or its officers, agents and servants for the purpose of obtaining any information which he deems necessary for the purposes of his inspection.

(5) The Superintendent shall prepare and submit to the Minister an annual report disclosing full particulars of the conduct of the business of every licensee.

7. (1) If as a result of the inspection aforesaid the Superintendent believes that the licensee has failed to comply with any of the provisions of this Act, he shall make a special report to the Minister.

(2) If the Minister, after a reasonable time has been given to the licensee to be heard, and upon such further enquiry and investigation as he sees fit to make, reports to the Governor in Council that he agrees with the opinion of the Superintendent, the Governor in Council may suspend or cancel the licence of the licensee, and the licensee shall thereupon cease to transact further business.

8. For the purpose of ascertaining whether the provisions of this Act have been complied with, the Superintendent may at any time investigate the loans and business of any money-lender not licensed under this Act, and every such money-lender shall afford to the Superintendent free access to the offices and places of business, books, accounts, papers and records of such money-lender and failure on the part of any such money-lender to comply with the provisions of this section shall constitute an offence against this Act.

9. The Superintendent shall annually cause an assessment to be prepared against each licensee under this Act for the purpose of meeting the expense incurred by the Government for or in connection with the administration of this Act and the provisions of sections six and eight of the Department of Insurance Act, 22-23 George V, chapter forty-five shall *mutatis mutandis* apply in the case of every such licensee to the same extent as if the title of this Act were inserted in the Schedule to the said Department of Insurance Act.

10. Every person who transacts the business of a money-lender without a licence, contrary to the provisions of this Act, or who in any other respect contravenes the provisions of this Part of this Act, shall be guilty of an offence and if no other penalty is provided be liable on summary conviction to a fine not exceeding one thousand dollars.

11. The Governor in Council may make regulations deemed necessary for the efficient enforcement and operation of this Act and for carrying out its provisions according to their true intent and meaning and for the better attainment of its objects.

12. The *bona fide* holder, before maturity of a negotiable instrument given to secure the repayment of a loan discounted by a preceding holder at such rate of interest that the discount exceeds in amount the cost of the loan permitted by this Act, may nevertheless recover the amount thereof, but the party discharging such instrument may reclaim from the money-lender any amount paid thereon for interest or discount in excess of the cost of the loan permitted by this Act.

13. *The Money Lenders Act*, Chapter 135 of the Revised Statutes of Canada, 1927, is repealed.

PART II

14. This part of this Act shall apply to every small loans company and may be administered separately from Part One.

15. (1) Every small loans company incorporated by special Act of the Parliament of Canada in the form set forth in Schedule One to this Act, or in that form varied as such special Act shall provide, shall be a body corporate by the name contained in its Act of incorporation, and be invested with all the powers, privileges and immunities, be subject to all the liabilities and obligations, and, generally, be governed by the provisions set forth in this Act, and the provisions of sections five, six, seven, nine, ten, eleven, and twelve of Part One of this Act shall extend and apply to every small loans company as if these provisions were here re-enacted and made applicable in terms thereto with the substitution of the expression "small loans company" for the word "person," and every such company is hereinafter called "the Company."

(2) Except as provided by subsection three of this section all provisions of the *Loan Companies Act*, chapter twenty-eight of the Revised Statutes of Canada, 1927, which are not inconsistent with those of this Act or with those of the special Act of the Company shall extend and apply to the Company.

(3) Subsection two of section twenty-one, paragraph (f) of subsection one, and paragraph (c) of subsection two of section sixty-one, subsection three

of section sixty-two, paragraph (c) of section sixty-three, sections sixty-four to seventy-two inclusive, eighty-two and eighty-eight of the *Loan Companies Act* shall not apply to the Company.

16. The Company may—

- (a) buy, sell, deal in and lend money on the security of conditional sale agreements, lien notes, hire purchase agreements, chattel mortgages, trade paper, bills of lading, warehouse receipts, bills of exchange and choses-in-action; and may receive and accept from the makers, vendors or transferors thereof guarantees or other security for the performance and payment thereof and may enforce such guarantees and realize on such security;
- (b) lend money in sums not exceeding five hundred dollars in amount and may charge, exact or receive or stipulate for the payment by the borrower of a sum of money as the cost of a loan which shall not exceed an amount equivalent to the amounts or rates herein prescribed, namely, in the case of a loan for a period of fifteen months or less, two per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in the case of a loan for a period greater than fifteen months, one per centum per month on the amount actually advanced to the borrower and monthly balances thereof from time to time outstanding and in addition thereto such proportion of one per centum per month on the said amount and balances as fifteen is of the period of the loan expressed in months: Provided, however, that every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan, but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding twelve per centum per annum from such date: And Provided, further, that the cost of the loan or any part thereof or any interest accruing after default shall not be compounded or deducted or received in advance: And Provided, further, that the borrower may repay the loan or any part thereof before maturity on the date on which any instalment thereof falls due, without notice, bonus or penalty, but the borrower shall, when making such repayment, pay the portion of the cost of the loan accrued and unpaid up to the date of such repayment.

17. If authorized by by-law sanctioned by a vote of not less than two-thirds in value of the subscribed stock of the Company represented at a general meeting duly called for considering the by-law the directors of the Company may from time to time,—

- (a) borrow money upon the credit of the Company;
- (b) limit or increase the amount to be borrowed;
- (c) hypothecate, mortgage or pledge the real or personal property of the Company, or both, to secure the payment of any money borrowed for the purposes of the Company.

18. The Company shall not issue any bonds, debentures or other securities for money borrowed, nor shall it accept deposits.

19. Nothing in this Act contained shall limit or restrict the power of the Company, to borrow money on bills of exchange or promissory notes, made, drawn, accepted or endorsed by or on behalf of the Company.

20. If the Company shall, in respect of any transaction of loan, directly or indirectly charge, impose upon, or demand or receive from or through, any borrower, as the cost of any loan, an amount or rate in excess of the amount or rate authorized by this Act, the Company shall, in addition to its liability to any other penalty or to any other consequence, otherwise provided, be liable to be wound up and to be dissolved if the Attorney General of Canada, upon receipt of a certificate of the Minister setting forth his opinion that the Company has so charged, imposed, demanded or received, applies to a Court of competent jurisdiction for an order that the Company be wound up under the provisions of the *Winding-Up Act*, which provisions shall in such case apply to the Company, as nearly as may be, as if it were an insolvent insurance company.

21. (1) The provisions of this Act shall apply to each and all of the companies, already incorporated by special Acts of the Parliament of Canada, which are named in Schedule Two to this Act.

(2) With relation to each of the companies no named it shall be deemed that at the time when it was incorporated this Act was in force and that the company was incorporated by special Act of the Parliament of Canada in the form set out in Schedule One to this Act.

(3) The terms of the respective Acts of incorporation of such companies and amendments thereto are repealed, and such Acts are amended and consolidated, to conform to the provisions of this Act, as and to such extent as in and by such Schedule Two is made to appear, and each of such Acts of incorporation, as so amended and consolidated, shall be deemed to have been enacted pursuant to, and to comply with the requirements of, subsection two of this section.

(4) The said companies, and each of them, shall, from the time when this Act comes into force, be, and for all the purposes of this Act be deemed to be, small loans companies.

(5) It shall be deemed with respect to each of such companies, that, notwithstanding anything in this Act contained, there has been no breach of continuity of the corporate existence of the company as originally incorporated; and that loans made before the coming into force of this Act in accordance with the law applicable thereto may continue in force subject to their own terms and be collectible as if this Act had not been passed.

22. The date of the commencement of this Act shall be the first day of January, 1939.

SCHEDULE ONE

Model Bill

(For incorporation of a Small Loans Company).

An Act to incorporate the (state the name of the company).

Preamble

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation

1. (*State name, description and place of residence of each of the persons applying for incorporation*) together with such other persons as become shareholders in the company are incorporated under the name of (*state name of company*) hereinafter called "the Company."

Provisional directors

2. The persons named in section one of this Act (or as the case may be) shall be the provisional directors of the Company. (If other directors are desired state name, description and place of residence of each of such directors.)

Capital stock

3. The capital stock of the Company shall be dollars.

Head office

4. The head office of the Company shall be in the of in the province of

Small Loans Interest Act, 1938

5. The Company is incorporated pursuant to Part Two of the *Small Loans Interest Act, 1938*, and to it all the provisions of that Act shall extend and apply.

SCHEDULE TWO

1. —Names and dates of incorporation of the companies referred to in subsection one of section twenty-one of this Act.

(A) An Act to incorporate Central Finance Corporation. Incorporated the 11th day of June, 1928, by Chapter 77 of the Statutes of 1928.

(B) An Act to incorporate Industrial Loan and Finance Corporation. Incorporated the 30th day of May, 1930, by Chapter 68 of the Statutes of 1930.

(c) An Act to incorporate The Discount and Loan Corporation of Canada. Incorporated the 23rd day of May, 1933, by Chapter 63 of the Statutes of 1932-33.

2 (A) CENTRAL FINANCE CORPORATION

Act of incorporation of Central Finance Corporation, being chapter seventy-seven of the Statutes of Canada, 1928, as amended and consolidated pursuant to section twenty-one of this Act.

An Act to incorporate Central Finance Corporation

[Assented to 11th June, 1928.]

Preamble

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation—Corporate name

1. Joseph Singer, barrister-at-law, Lawrence Kert, barrister-at-law, David Sher, student-at-law, Catherine Gallagher, stenographer, Margaret Hand, stenographer, all of the city of Toronto, in the county of York, and province of Ontario, together with such other persons as become shareholders in the company are incorporated under the name "Central Finance Corporation" hereinafter called "the Company."

Provisional directors

2. The persons named in section one of this Act shall be the provisional directors of the Company.

Capital stock

3. The capital stock of the Company shall be five hundred thousand dollars divided into shares of one hundred dollars each and may be increased, from time to time, to an amount not to exceed five million dollars divided into shares of one hundred dollars each.

Head office

4. The head office of the Company shall be in the city of Toronto in the province of Ontario.

Small Loans Interest Act, 1938

5. The Company is incorporated pursuant to Part Two of the *Small Loans Interest Act, 1938*, and to it all the provisions of that Act shall extend and apply.

Extent to which the terms of this Company's Act of incorporation are affected by this Act:—

Sections five and six of chapter seventy-seven of the Statutes of Canada, 1928, and the whole of chapter ninety-four of the Statutes of Canada, 1929, are repealed and section five of the next preceding amended and consolidated Act is substituted therefor.

2 (B) INDUSTRIAL LOAN AND FINANCE CORPORATION

Act of Incorporation of Industrial Loan and Finance Corporation, being chapter sixty-eight of the Statutes of Canada, 1930, as amended pursuant to section twenty-one of this Act.

An Act to incorporate Industrial Loan and Finance Corporation

[Assented to 30th May, 1930.]

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (1) James Penrose Anglin, contractor, Nathan Lande, financier, Gordon Murphy Webster, barrister, all of the city and district of Montreal in the province of Quebec, together with such other persons as become shareholders of the Company, are hereby incorporated under the name of "Industrial Loan and Finance Corporation" hereinafter called "the Company."

(2) In the French language the Company may be designated as "La Compagnie des Prets et Finance Industrielle."

2. The persons named in section one of this Act shall be the provisional directors of the Company.

3. The capital stock of the Company shall be five hundred thousand dollars, divided into five thousand shares of one hundred dollars each, and may be increased at any time to an amount not to exceed two million dollars, divided into shares of one hundred dollars each.

4. The head office of the Company shall be at the city of Montreal in the province of Quebec.

5. (1) The Company may acquire the whole or any part of the assets of and may assume the obligations and liabilities of Industrial Loan and Investment Corporation, incorporated by Letters Patent under the law of the province of Quebec, and of The People's Thrift and Finance Company, Limited,

incorporated by Letters Patent under the law of the province of Ontario; and may also acquire and exercise such of the rights and powers of the said corporations, or either of them, as are not in excess of or in conflict with the rights and powers granted to the Company under the provisions of this Act; and in the event of any such acquisition and assumption the Company shall perform and discharge all such duties, obligations and liabilities of the said corporations in respect of the rights and property acquired as are not performed and discharged by the said corporations.

(2) An agreement between the Company and either of the corporations mentioned in subsection one of this section shall not become effective until it has been submitted to and approved by the Treasury Board; and the Treasury Board shall not approve of such agreement until it is satisfied that the agreement has been approved by the vote of at least two-thirds of the shareholders present or represented by proxy at a special general meeting of the corporation and of the Company, respectively, parties to the said agreement.

6. The Company is incorporated pursuant to Part Two of the *Small Loans Interest Act, 1938*, and to it all the provisions of that Act shall extend and apply.

Extent to which the terms of this Company's Act of incorporation are affected by this Act:—

Sections five, seven and eight of Chapter sixty-eight of the Statutes of Canada, 1930, are repealed and section six of the next preceding amended Act is substituted therefor.

2 (c) THE DISCOUNT AND LOAN CORPORATION OF CANADA

Act of incorporation of The Discount and Loan Corporation of Canada, being chapter sixty-three of the Statutes of Canada, 1932-33, as amended and consolidated pursuant to section twenty-one of this Act.

An Act to incorporate The Discount and Loan Corporation of Canada.

[Assented to 23rd May, 1933.]

Preamble

Whereas the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition. Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation—Corporate name

1. Joseph Alberic Beaudry, physician, Lionel Percy Villeneuve, commercial traveller, Joseph Stanislas Beaudry, physician, Omer Langlois, journalist, Jean Eugene Laurin, financier, all of the city of Montreal, in the province of Quebec, together with such persons as become shareholders in the company, are incorporated under the name of "The Discount and Loan Corporation of Canada" and under the name of "La Corporation de Prets et d'Ecomptes du Canada," hereinafter called "the Company."

Provisional directors

2. The persons named in section one of this Act shall be the provisional directors of the Company.

Capital stock

3. The capital stock of the Company shall be one million dollars divided into ten thousand shares of one hundred dollars each.

Head office

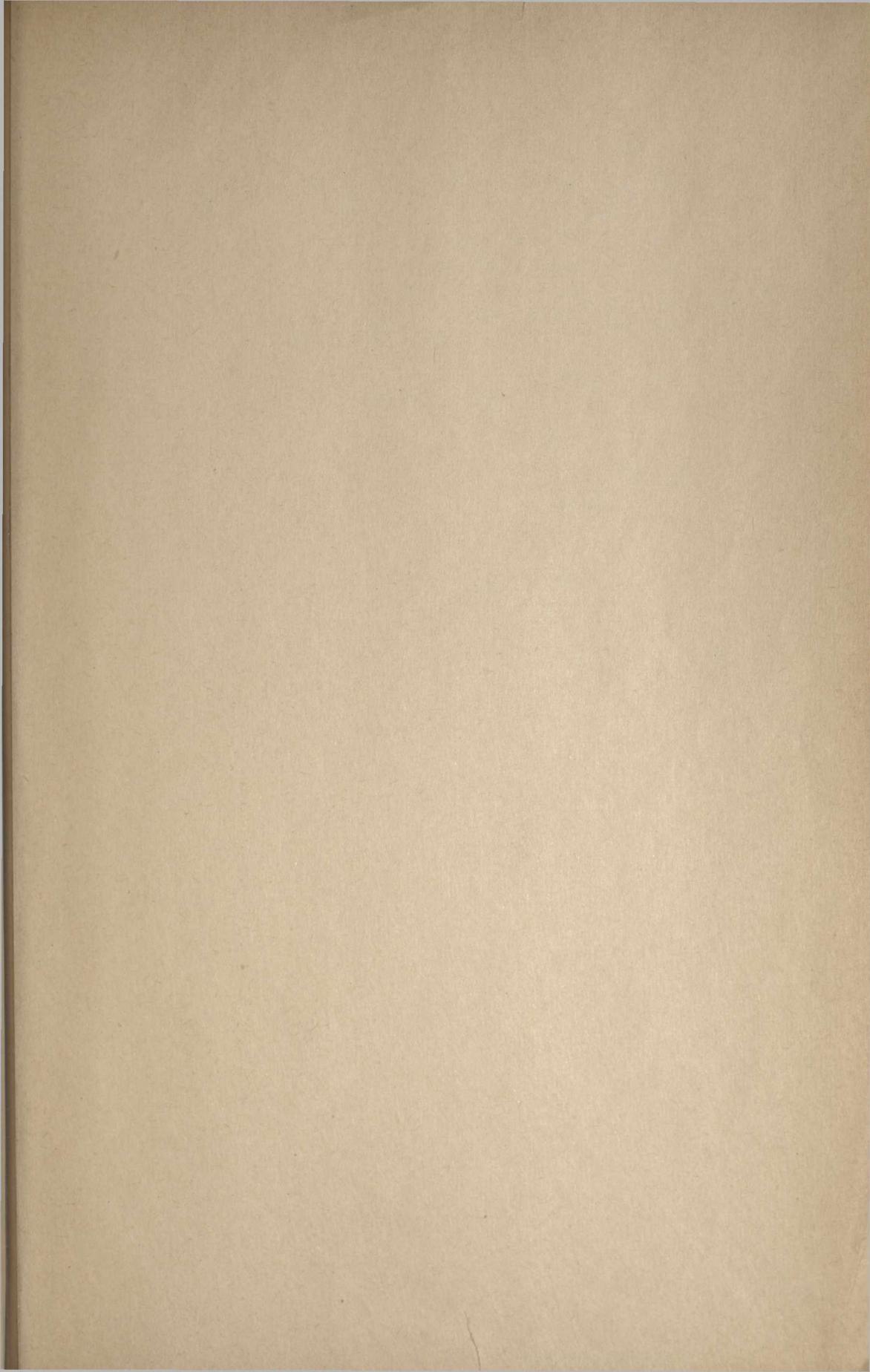
4. The head office of the Company shall be in the city of Montreal in the province of Quebec.

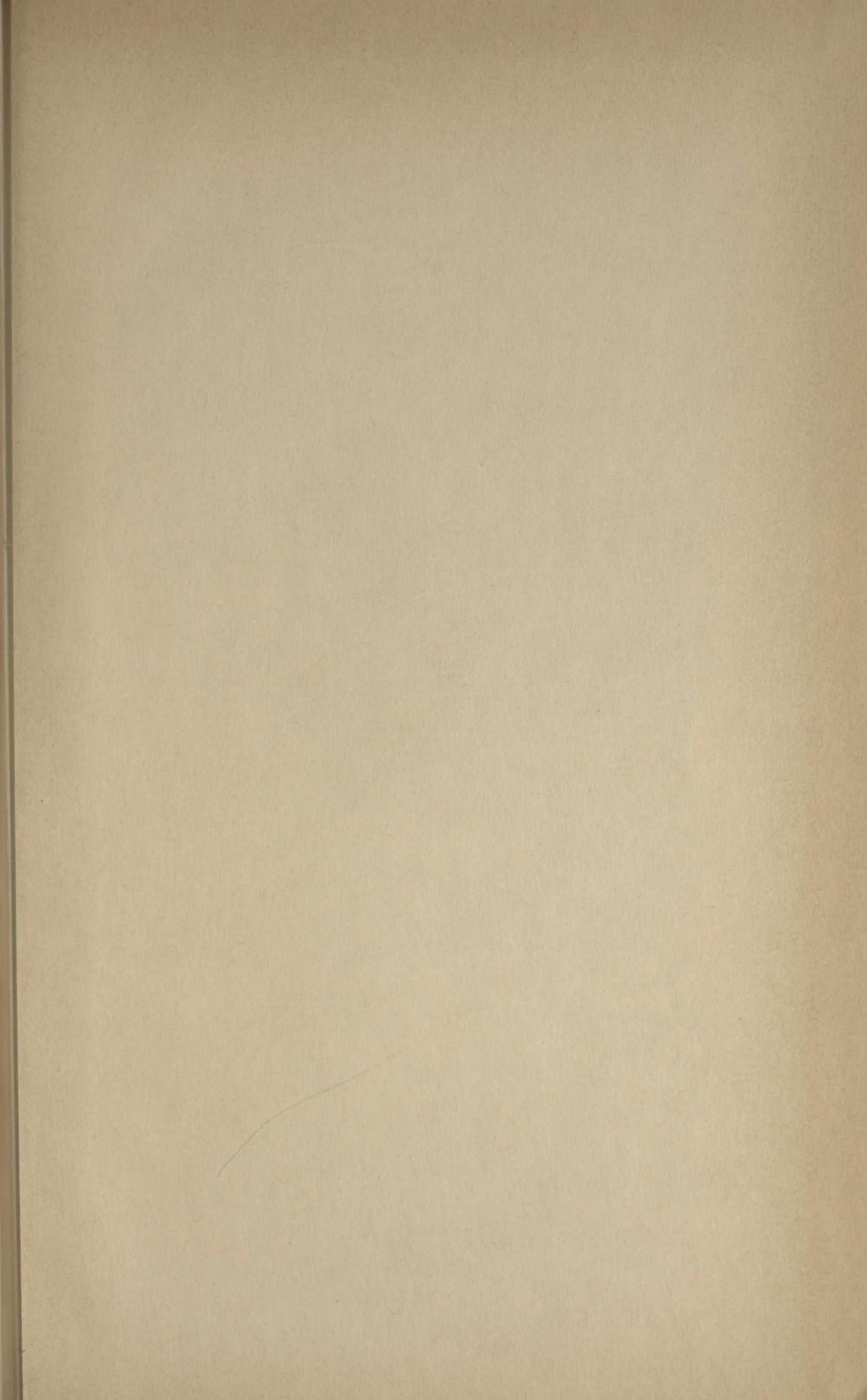
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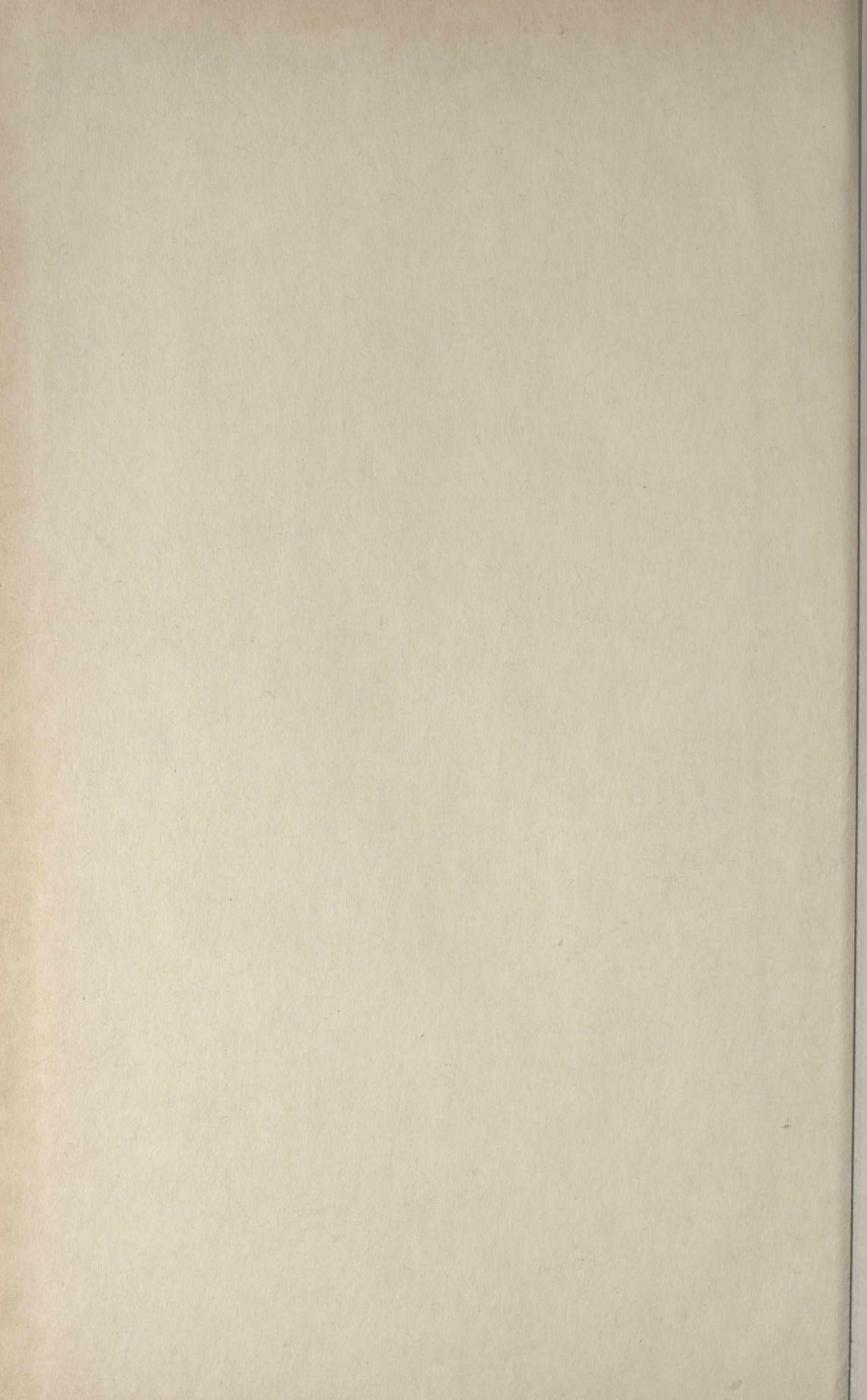
5. The Company is incorporated pursuant to Part Two of the *Small Loans Interest Act, 1938*, and to it all the provisions of that Act shall extend and apply.

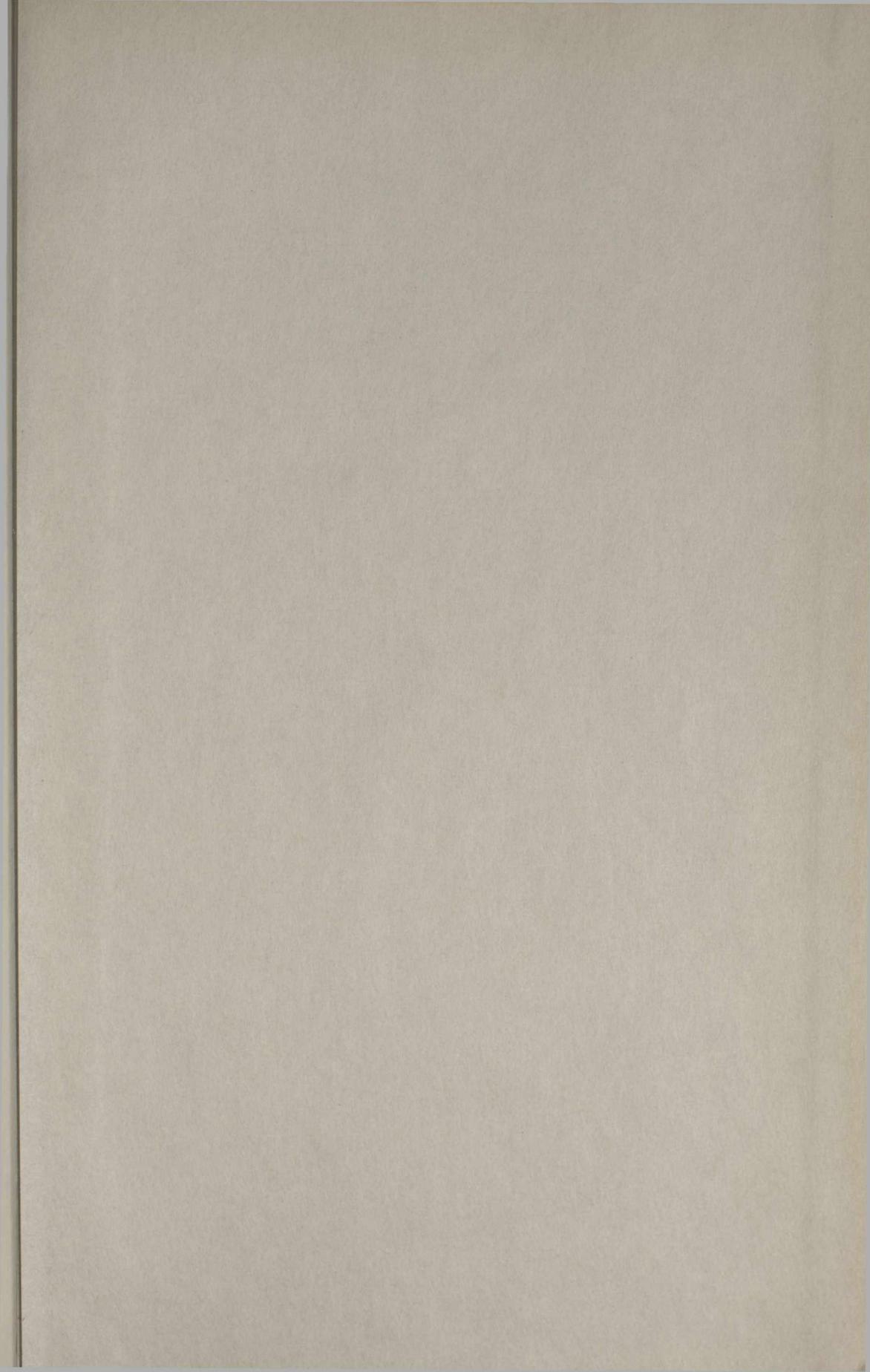
Extent to which the terms of this Company's Act of incorporation are affected by this Act:—

Sections five, six and seven of chapter sixty-three of the Statutes of Canada, 1932-33, as amended by chapter sixty-eight of the Statutes of Canada, 1934, are repealed and section five of the next preceding amended and consolidated Act is substituted therefor.









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