

Mrs. SULLIVAN. Thank you.

You say, Mr. Barber, that the criminal provisions of the bill are too severe and that violations should only be considered subject to prosecution when they are repeated.

Now, really, Mr. Barber, we are talking about a criminal statute. How many murders or armed robberies would you condone before you would have the criminal laws apply? Or, perhaps more to the point, how many bank robberies would you sanction before you believe that the felon should be arrested and brought to justice? Two? Three? If we are imposing criminal penalties, then, certainly, they should be enforced on the first violation and every time a violation occurs.

Mr. BARBER. Our only thought about that is that we think that the violation should be repeated and it should be knowing and it should be willful and that an unintentional infraction shouldn't open the door to prosecution and lenders shouldn't be treated as though they were guilty, whatever the bill shows—if it were just an oversight or an isolated instance.

Mrs. SULLIVAN. We certainly would not want this power used to prosecute anyone criminally for a minor oversight. But I don't think we want to give unscrupulous lenders a clear field to "one bite" as with a biting dog.

Mr. Barber, I am delighted to see your statement, that—

We believe there is no valid reason why a customer or borrower should not have an accurate and understandable statement of the cost of borrowing and credit.

We are all agreed on the principle you state. The only difference would seem to be as to how we will implement that principle. I would be particularly interested in an expression of your views on why you do not favor provision for administrative enforcement contained in my bill, but prefer to leave such matters to civil suits brought by debtors—who can't afford to bring them—or criminal suits brought by the Department of Justice—who will be too busy to bring them—rather than requiring that the responsible administrative agency act to protect the public?

Mr. BARBER. Well, as I understand it, the U.S. district attorney would handle the criminal aspect of it and I think would handle it well.

Mrs. SULLIVAN. I am not a lawyer, I can't argue this part of it with you.

Mr. BARBER. I am not, either, I should probably refer this question to our counsel, Mr. Hansen.

Mrs. SULLIVAN. The only thing we know is that someone who is in trouble hasn't the money, if they are terribly in debt, to bring a lawsuit. This is why we feel that we need an agency to protect the public from violations.

Mr. STEPHENS. As I understand the position of the independent bankers, it is not that you don't believe any penalties should be assessed against the violators of the rules and regulations, as set out in the bill; you just don't believe there ought to be the heavy criminal penalties assessed in the Sullivan bill. Do you agree with the position that penalties that are in the S. 5 bill are all right?