Lend me your ears

Rob Stock spends a day at the Commerce Select Committee hearings on a planned toughening up of lending laws

"I THOUGHT this was supposed to be about loan sharks."

Kirk Hope, head of the Bankers Association was not in the best of moods following last week's Commerce Select Committee hearings in Auckland.

The association along with its members, Westpac, ASB, and ANZ, spent an hour at the hearing trying to win carve outs and concessions from MPs from the Credit Contracts and Financial Services Law Reform bill.

The bill has been spoken of as being a once-in-a-generation chance to re-write the consumer lending laws to limit the damage being done by lower tier lenders and loan sharks in the country's poorest communities.

Hope's comments followed an impassioned plea to the committee by Auckland lawyer Tony Woodhouse for the bill, which is designed to provide greater protection for all retail borrowers, to extend its coverage to all loans where someone's house is used house as security.

It's a measure which would catch farm loans and small business lending secured against homes, a space in which the banks are big players.

Woodhouse told the MPs he's currently representing a farmer who signed up to a $3million loan with upfront fees of $300,000, promptly failed to meet payments and was kicked out of his home and off his land.

Extending things like the reasonable fees protection, the proposed code of "responsible lending" and the hardship provisions in the bill would provide lawyers like him with avenues to win fairer outcomes for borrowers like that farmer, Woodhouse believes.

"I believe there is a culture out there with certain lenders in the business context where there is an eye on the asset," he said.

He gave another example of a lender who he believes targeted a property related parties wanted to acquire. The lender induced the owner into borrowing with the hidden intention of taking the first opportunity to foreclose on the loan to get their hands on the property.

Committee members asked Woodhouse how common that kind of asset-stripping lending was.

He's seen four cases, Woodhouse said, and he's just one lawyer.

Another lawyer, Jonathan Flaws from Sanderson Weir, told the committee that the bill as proposed would have done nothing to protect victims of failed finance company Blue Chip which was "borrowing for investing" purposes.

That lack of inclusion in the bill is a major oversight in his book.

The banks support much of what is in the bill, Hope said but he is frustrated at the extra costs they will occur from some proposed measures. He thinks the banks should be either left out of some measures or at least have the impact on them minimised.

One example is if the banks must face a legally-mandated code of responsible lending, they want to write it themselves and then have it ticked off by the Minister for Consumer Affairs. Instead of one responsible lending code, they say one code for the banks and another for the lower tier lenders where they claim the main abuses are occurring, would allow for a more targeted and prescriptive approach to tackle problems at the bottom of the lending market.

"Banks lend responsibly," Hope insisted. It's not them which need new regulation, he said.

The committee heard the same refrain from each of the banks in turn which caused one official from a prominent ministry to mutter under his breath:'What are they so scared about?"

Select committee hearings are affairs that veer from the excitement of the impassioned rhetoric of the "true believers" espousing their causes to the mind-blowingly dull as technocrats explain the impact of apparently minor law changes.

They can also prove to be a mine of fascinating insights.

The New Zealand Debt Collectors Association, for one, told the MPs that hundreds of thousands of loans are sold each year. Debt collectors buy distressed loans for as little as two to seven cents per dollar owed, with deals valued in the tens of millions of dollars. Some $350million of debt is currently being tendered for sale, the association said.

It told the committee members it was concerned at the proposal that lenders must inform borrowers when they sell their loans to a third party because it would create too much hassle in the industry. It also didn't want to have to disclose what price was paid for those distressed loans.

The banks also want an exemption from the disclosure proposal. They transfer loans regularly as part of their covered bond and securitisation programmes, pledging individual loans to specific funders.

Having to tell customers threatens to make these securitisation programmes "unworkable',' Westpac insisted, and would bring no benefit to borrowers.

Having to contact tens of thousands of borrowers who would struggle to understand the rationale behind the move, would be difficult.

Cash Converters gave the committee insights into the boom in payday lending, ultra short-term lending which carries ultra-high end interest. Its average payday loan is $330, and the loan lasts for just four to five weeks, and incurs $100 of interest and fees.

But it only makes a profit of $10 on the average loan, Cash Converters said.

It argued interest rate caps, which are the source of much discussion despite not being included in the bill, could drive many lenders out of business.

Only one committee member, Carol Beaumont, seemed interested in capping interest rates.

Budgeter Peter Young, who works in the Tamaki area of Auckland, said he had been told that if caps had been included in the bill, they would have been around 40 per cent.

"It would be great if it was 15 per cent-20 per cent," he said, but added: "In my opinion to lend money at 40 per cent is irresponsible."

He also gives an insight into how bad financial hardship is in some areas. In Tamaki, Young's budget service covers roughly a population of roughly 18,000.

It sees 900 families a year, which considering the number of people in each family means, roughly 15 per cent of the entire community coming through its doors each year. Young described the tales budgeters are told by those families as "shocking".

He told the committee about mobile lenders, the trucks which go door-to-door in the poorest streets selling clothes and food items, like baked beans, on tick. This can result in some families paying $3.30 for a tin of beans they could buy for less than a dollar at Pak n' Save.

"The real worry is the number of people buying food from these mobile trucks.

This should raise concerns for everybody," said representatives of the Federation of Business and Professional Women.

The one group missing from the select committee submitters is the borrowers themselves.

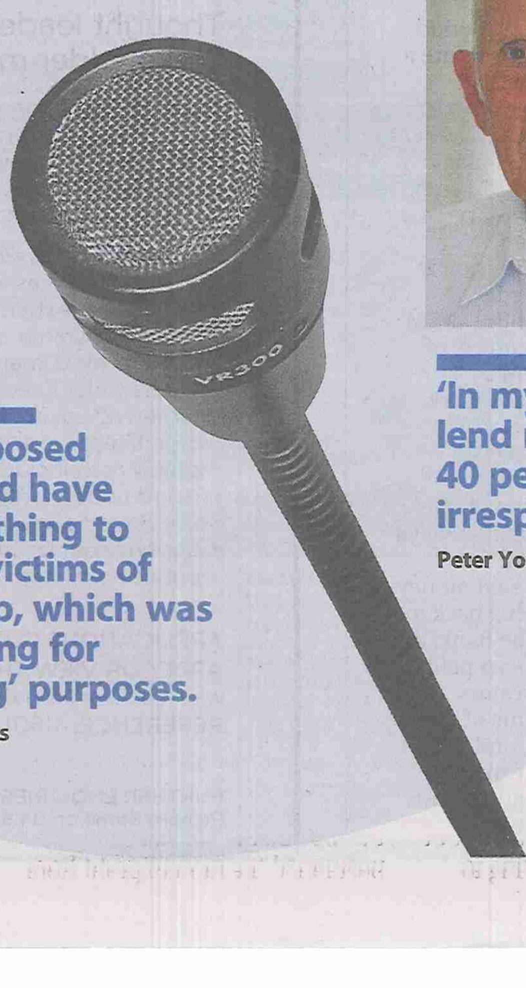
None have asked to speak despite being the ones the MPs are trying to pass laws to protect.

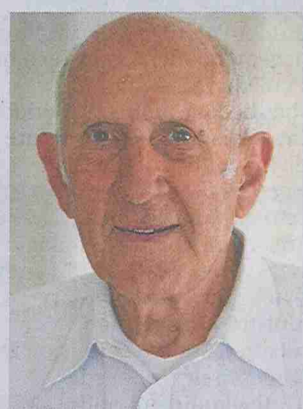
'There is a culture out there with certain lenders in the business context where there is an eye on the asset.'

Tony Woodhouse

'I thought this was supposed to be about loan sharks.'

Kirk Hope





'In my opinion to lend money at 40 per cent is irresponsible.'

Peter Young

The proposed bill would have done nothing to protect victims of Blue Chip, which was 'borrowing for investing' purposes.

Jonathan Flaws