

February 8, 1982

LB 778

to happen either way. If you want a notice in there, it doesn't bother me.

SENATOR WARNER: I will maybe do that later then. I am curious because some may be a little negligent in notifying you when they went down and this way you could kind of monitor the rate of interest as long as it is going to be variable on a very short term basis.

SENATOR CLARK: Senator Vard Johnson.

SENATOR VARD JOHNSON: Senator DeCamp, could you help me with just a few answers on this? Right now as I understand it from our general usury bill that we are talking about, what was it, 643, I can't remember the number, no, it is 623, the federal government has essentially preempted virtually everything the state has done in connection with usury. That is, as I understand it, under the current depository deregulation act, the federal government has said that there will be no usury rates whatsoever for home mortgages, and there will be no usury rates whatsoever for business loans, and no usury rates whatsoever for agricultural loans, and any consumer loan over and above \$1,000, there are no usury rates. Am I correct on that or not, Senator DeCamp?

SENATOR DeCAMP: That is a pretty good summary, yes.

SENATOR VARD JOHNSON: Okay, now what that means then is if there are no usury rates applicable to those loan transactions, then whatever rate is imposed on a borrower under those transactions can be a variable rate, isn't that correct? I mean it would be a contractual matter and so, therefore, if the federal government right now has preempted the field, there is no reason why the lender and the borrower cannot have a variable rate?

SENATOR DeCAMP: Well, you have got...Vard, the way it is done, as I say, they pick a bench mark, whether it be the prime rate or some other thing, and it has to all be written contractually. In order to get around any conflicts, they are using side agreements.

SENATOR VARD JOHNSON: What I really am trying to get at, Senator DeCamp, is frankly whether LB 778 is a necessary bill in light of the current federal preemption because I don't know. I just don't know the answer to the question.

SENATOR DeCAMP: Okay, and that gets back to where we started this conversation about thirty minutes ago. In order to clear up the question and avoid litigation, I suggest we do this as has the banking industry.