

Income Tax Amendment

plan into existence before the holes in the legislation were plugged. That is why I could not agree with the hon. member and why the members of my party could not vote against the principle of the bill now before us. I personally, and I am sure this would apply to my colleagues, would have condemned the minister if he had permitted improper profit sharing plans to continue to be improper, which is what the proposal of the hon. member amounts to.

I think the minister is right in saying that from now on all profit sharing plans shall meet the requirements which will make them proper profit sharing plans. Those in the past which did not meet those requirements are now required to take steps to meet them. That is why I could not join the hon. member for Kamloops before, nor can I join him now. I urge upon the committee that the legislation on this point is surely right.

Mr. Leboe: Mr. Chairman, I wonder whether I could ask a question of the minister. Is the minister aware of any particular case where the application of the legislation he is presenting would cause the bankruptcy of a company because of the necessity of divesting itself of the interest and profit accruing from the fund, according to the provision before us?

Mr. Sharp: No, Mr. Chairman, I do not know of any such companies. Indeed, I would say that all bona fide profit sharing plans can with a minimum of adjustment fit within these rules. My officials have had extensive discussions with the companies which have profit sharing plans, and particularly with the well known and large ones. While these companies find some of the restrictions a little cramping and would prefer to have even greater freedom, nevertheless it is our belief that the profit sharing plans will continue and will flourish as they should.

Mr. Fulton: Mr. Chairman, I do not wish to take part in an extended debate with the hon. member for York South, but I think it is fair to point out to the committee that we have just heard a new and startling version, from perhaps the most prominent legal spokesman of the New Democratic Party, of their doctrine of the interpretation of statutes. That is, that the intention of a statute should be that which the hon. member ascribes to it, and not that which the courts have formed and which has been derived from the actual wording of the statute. This is, of course, a handy doctrine for the New Democratic Party should

they ever come to power; but is part of the very principle to which I object.

Unfortunately the minister is also subscribing to that principle because he is saying through this legislation that that which was perfectly within the law and therefore was not an abuse of the law until now is, in his view, now an abuse of the law, because he ascribes an intent or meaning in the law which is not there in its wording. Therefore the minister is asking us to enact retroactive legislation to provide that that which was within the law and was specifically approved by his colleague the Minister of National Revenue now becomes retroactively illegal and invalid and must be undone.

● (6:30 p.m.)

No amount of casuistry from the hon. member for York South will convince me that this should be an acceptable principle. I repeat that I am in favour of changing the law prospectively, and saying that even though up to now this type of investment could be made in profit sharing plans, this cannot continue to be done and the operation of the plan in the future must conform to the requirements that are laid down. But it is unacceptable to say that a company must in addition divest itself of certain assets which it had purchased in the past and incur a liability by paying a tax on the proceeds of their disposition now, whereas its intention might have been to dispose of those assets some years from now.

However, it is obvious that we will not persuade the minister that the principle is more important than the dollars that will be gathered into the tax coffers as a result of the abuse of this principle. I maintain that this legislation is objectionable, and in my view the minister has not given any explanation as to why it is not appropriate to remove the retroactive effect of this legislation and let it speak prospectively with all proper severity and clarity. People should not be penalized because the law did not reflect what somebody now says it was intended to reflect.

Mr. Sharp: Mr. Chairman, I can understand the hon. gentleman's concern about the retroactivity of the legislation. However, I do suggest to him that we are not really violating this principle because if the plans do comply with the requirements laid down in the legislation no penalty is imposed. It is only if they do not, that they might then be subject to some tax penalty. But if they sell their investments and invest the proceeds for the benefit of the employees—and that is all