

Income Tax Amendment

Mr. Fulton: I have no objection to deferring the question until we reach consideration of that part but I should like to relate my other question which is of a general nature, to clause 15.

Clauses 15 and 19 are the two main clauses in respect of profit sharing plans. At this stage I should like to ask on what basis or principle the minister has rested the position that not only should this legislation provide that profit sharing plans which in the view of the government are being used to evade income tax to an unwarranted extent should not be able to carry on in the future but should also force certain plans to divest themselves of assets previously acquired under government approval. In other words, why does the minister insist on a retroactive effect? Why does he not confine the legislation to the future?

Mr. Sharp: I think it is the desire of these profit sharing plans to carry out their obvious intention, to enable the distribution of companies' profits to employees. That is the fundamental purpose of these plans and as such they have a great deal of merit. Some of these plans have been used as substitutes for pension plans. When we regulate in respect of pension plans we are extremely strict. If the hon. gentleman feels we are being too strict about deferred profit sharing plans he need only look at the registration or approval of pension plans to realize that the government in the interest of the taxpayers must be very restrictive as to conditions under which payments to pension plans are deductible from the incomes of taxpayers. Some of these deferred profit sharing plans are being used as substitutes for pension plans, and we cannot permit that to happen without undermining the whole purpose of our program in respect of pension planning. It is in line with that thought that we have laid down rules which, after all, relate to the deductibility of these payments from the taxable income of the company that is earning the profits.

That is the starting point. In the interest of tax equity we have to be sure that if these payments are deducted at one end they come out of the other as being taxable in the hands of the employees. It is perfectly proper that we should do this. I have observed enough of the ways in which these plans can be used to pervert the intention of parliament to come to the conclusion that it is essential to regulate them in such a way. It is also my belief that we should endeavour to change these plans

by imposing certain penalties for non-compliance with the rules.

As the hon. member is no doubt aware, we have provided for transitional periods in order that transactions can be unwound and can be brought into line with the principle the government is attempting to apply.

Mr. Fulton: Mr. Chairman, I submit that the minister has not answered the question I asked. I am not challenging the suggestion that profit sharing plans must be required to conform to the purposes for which they were instituted, or that the legislation under which payments to the plans are deductible from income must be strictly drawn. A responsible minister of finance is constantly faced with the task of plugging loopholes and the institution of legislation to prevent the possibility of abuse. But that is not to say that this legislation which imposes retroactive penalties in respect of approved and registered profit sharing plans instituted some years ago, is not objectionable.

For the minister here is not only saying that these plans must not operate that way in the future; he is saying that they must now divest themselves of those investments they acquired quite legally and with approval in the past. Why does the minister not confine the legislation to the future rather than making it so harshly retroactive?

Mr. Sharp: Mr. Chairman, I must return to the proposition I placed before the house earlier. In some cases at least these plans have been used for a purpose for which they were not intended. It is true that the legislation was valid, but because we failed to foresee the ingenuity of taxpayers is not a reason we should not prevent them from continuing to do so. The fact is that plans not operating in accordance with the rules now laid down are not in fact distributing the profits to the employees. They are being used for other purposes, and I believe we should bring a stop to this practice. In order to do so I believe we should now apply penalties to prevent these subversive purposes.

It was not the intention of parliament and certainly not the original idea of profit sharing plans that they should be used to enable someone other than a bona fide employee to benefit from accumulated tax free funds. Some of these funds are being used to the benefit of employers' wives or preferred shareholders. Certainly that was not the intention. If we intend to deal effectively with