

the L.I.F.O. system revenue might have been down by as much as \$1 billion.

66. The Minister of Justice said his department also felt it was important to have the judgment set aside, otherwise it would be extremely difficult to legislate to remove the inequities which would arise as a result. It could be argued, superficially, that the L.I.F.O. principle was a fair one, because on a falling market the government would collect the taxes it could not on a rising market. However, it was quite probable that, on a declining market, the common law rule that inventories should be valued at cost or at their market value, whichever was the lower, would be invoked. If the government were to insist on the L.I.F.O. principle in such conditions, it would be demanding taxes on profits which were not realized and at a time when other profits were reduced. There would be a large number of bankruptcies and business failures. It was felt by his department that the evidence given by certain chartered accountants during the court proceedings in the Exchequer Court should not have been admitted. For all of these reasons it would be desirable to appeal the judgment and, if the appeal were not successful, to attempt to amend the law even though this would be a difficult task.

67. In the course of discussion, the following points emerged:

(a) an appeal similar to that made by Anaconda American Brass had been made in the United States but had been rejected by the Supreme Court there. State legislatures had, subsequently, enacted laws providing for the use of the L.I.F.O. system but subject to certain safeguards. If the Judicial Committee of the Privy Council set aside the Supreme Court judgment, the question of using the L.I.F.O. principle could be considered on its own merits and a decision taken as to whether or not it should be adopted and with what safeguards.

(b) Since it had been decided to abolish appeals to the Privy Council, it might be embarrassing for the government, now, to seek leave for appeal. However, the government had appealed the Nolan case since abolishing new appeals, and by succeeding in that appeal it had avoided a most difficult situation.

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