

provisions of each transaction would be carefully investigated and passed upon separately. It seems rather unjust that a blanket provision in an Act should prohibit and prevent these separate individual amendments.

I would point out too that even if that Act of Incorporation were to make definite provision that no tax liability would arise, the Income Tax Department has stated that it will rule on the Income Tax Act as such, and not on any amendment to the Act of Incorporation. Consequently the shareholders would be subject to the presentation of an income tax bill subsequent to the legislation, and irrespective of the outcome it would prevent any such transaction being consummated.

It seems to us that it would be in the public interest to remove these inequities. I would suggest that any amendments which might be proposed might provide as a safeguard that only mutualization plans carried forward by amendments to Acts of Incorporation passed by Parliament should remain exempt to the provisions of these sections.

The CHAIRMAN: Would you like to speak first, Mr. Stikeman?

Mr. STIKEMAN: Mr. Chairman, I should like to ask Mr. Davies whether the contents of his brief in this connection are intended to be applicable to all classes of taxpayers, or merely to life insurance companies seeking to become mutual in form?

Mr. DAVIES: It was intended that our presentation should cover only the specific instance mentioned here—payments made to shareholders after the mutualization of a life insurance company, and after an amending Act has been passed by the Parliament of Canada providing for such mutualization. It was intended that it should cover an extremely narrow field.

Mr. STIKEMAN: You would not advocate such a practice for the mutualization of any commercial enterprise in a corporate form?

Mr. DAVIES: No, sir.

Mr. STIKEMAN: Without knowing the precise details of the capital structure, I must assume from your reference to sections 17, 19 and 32A of the Income War Tax Act that your concern had a distributing or earned surplus before the contemplated mutualization: is that a correct assumption?

Mr. DAVIES: Yes, our company has a surplus. Section 4 (g) provides:—

The following incomes will not be liable to taxation hereunder:

- (g) the income of mutual corporations not having a capital represented by shares, no part of the income of which inures to the profit of any member thereof, and of life insurance companies except such amount as is credited to shareholders' account.

It specifically provides in the case of taxation of life insurance companies that the only earnings taxable are those amounts which are credited to shareholders' account. Therefore earned or distributable surplus has a different meaning for a life company than it perhaps has in the case of an ordinary company.

Mr. STIKEMAN: Since you refer to section 17, may I ask whether you have preferred shares which are redeemable at a premium?

Mr. DAVIES: No, all of the shares are common shares.

Mr. STIKEMAN: What then is the purpose of your reference to section 17?

Mr. DAVIES: Prior to the writing of the letter a conference was held with some officials of the Income Tax Department, and a general discussion ensued with respect to our plans and what might happen as a result of those plans. In view of the nature of the discussion I do not think it proper for me to quote anybody or make any remarks in reference to it; the Income Tax people are