

Income Tax Amendment

inequitable in its effect. What the hon. gentleman suggested was that the element of retroactivity is not fair. He said that it is unfair for the government and for this house to say to any company which has established a pension plan that we have given them a clean bill of health but we are now going to make them pay a tax and possibly a penalty as a result of what they have done in the past.

That may sound very logical, Mr. Speaker, but I put it to the hon. gentleman that there are two kinds of companies which come to the minister. There is the one class which definitely intends to set up a pension plan. These companies have an honest intention to set up a workable and feasible pension plan. However, I think the hon. gentleman will also admit that there is another class that comes to the minister for approval not with the intention of establishing a pension plan but with the intention of avoiding payment of income tax.

I am sure that most of us in this house, Mr. Speaker, have had experience of a pension plan set up by a company to provide a pension for its employees. Under such a plan the contributions are usually made by the company; there is seldom a contributory element requiring participation by the employees. Mind you, Mr. Speaker, this is very generous, but in most cases the vesting period of the plan is 20 to 30 years which means that none of the employees is entitled to draw a pension from the plan until the end of that period. Obviously some employees would never last 20 years.

It is also to be noted that the trustees of the plan who direct the pension fund are often the directors and sometimes the owners of the company concerned. And, Mr. Speaker, lo and behold, after a few years these directors decide that the best investment to make on behalf of the pension fund is in the shares of the parent company. As time progresses the pension fund invests in these shares at what are called reasonable prices, though sometimes they are higher than the market value. Shares owned by the directors of the company are sold to the pension fund.

As I say, Mr. Speaker, seldom does one employee derive any benefit from the pension fund because the employees of the company seldom outlive the vesting period of the fund. By this means the directors of the fund, without any intention of paying out any benefits, have been avoiding the payment of tax in that contributions to the pension fund are

deductible for tax purposes. And this goes on in perpetuity. All those who have practised law, Mr. Speaker, know that this sort of thing takes place, and I think the hon. gentleman for Kamloops would admit it is not fair.

I think it is fair to say that very few companies would object to the retroactivity clause; and I suggest that those who came to the minister in all honesty with the intention of establishing a good pension plan will not be the serious objectors. The companies we are asked to protect are those which sought the minister's and the department's approval of a plan which, though it complied with the rules, was not intended to be primarily a pension plan but a means of avoiding the payment of tax. These are the companies which will object most strenuously.

I put it to hon. members that it would not be fair to allow these people to enjoy the benefits of what could be termed their fraud by protecting the few who might object to the retroactive element in this bill. I put it to the hon. member for Kamloops that this bill is the fairest way of making all pension plans come within the regulations and I repeat that it is my opinion that very few people with honest intentions will have any serious objection to this legislation.

Mr. Frank Howard (Skeena): Mr. Speaker, I have only a few remarks. They have been prompted by the speech of the former leader of the Conservative party in British Columbia, the hon. member for Kamloops (Mr. Fulton). I was very much interested in his denunciation of a proposed piece of legislation which will make something illegal which was hitherto legal. I think that was the force and effect of part of his argument.

Mr. Fulton: My objection is to the retroactive effect not to stopping this being done in the future. My objection is to saying that what was done in the past and which was specifically approved at the time, now becomes, in effect, illegal even at the time it was done and has to be undone.

Mr. Howard: Mr. Speaker, this clarification assists me. I must commend the hon. member for Kamloops for his very agile and forceful way of putting up a good fight for a very bad case, if I may put it in that way.

On listening to the hon. member I was reminded of the time in 1960 when the hon. gentleman was minister of justice and piloted through parliament a bill amending the Combines Investigation Act. I submit that at that time the hon. gentleman was author of a