

In paragraph (f), on page 2, honourable senators will find a definition of "investment company" in these words:

"investment company" means a company

(i) incorporated after the coming into force of Part I of this Act primarily for the purpose of carrying on the business of investment, or

(ii) that carries on the business of investment and at least twenty-five per cent of the assets of which are used as described in subparagraphs (i) and (ii) of paragraph (b)...

Here I immediately run into a problem in that the honourable sponsor of the bill (Hon. Mr. Desruisseaux) in the course of his explanation indicated that to meet the test of being an investment company, and of carrying on the business of investment, the essential thing is for you to borrow money on the security of bonds, debentures, et cetera, and to use that money for the purchase of shares, bonds, et cetera.

As I read this definition I recognize, as a matter of law, that there is a difference between the proceeds of the sale of a bond issue—and in that way borrowing money—and the use of some or all of the assets of the company for certain purposes. The proceeds of the sale of a bond issue by a company may be less than the total of the assets of that company, because that company may also have made one or more issues of its shares, as a result of which it has assets in the form of the proceeds of the sale of the shares. Therefore, the definition in the form in which it is drawn has broader implications than I think have been discussed so far in the course of this debate. Whether or not that is so, the real question in issue and the area of protection sought to be covered by this bill is the use made of the assets of the company in investment rather than protection in relation to the borrowing of money on the security of bonds, debentures and so on.

A company which proposes to go to the public and borrow money on an issue of bonds, debentures or other evidence of indebtedness, must satisfy the requirements of the security laws in the various provinces of Canada. I am talking generally now; there are exceptions. The company must file a prospectus; it must satisfy the requirements of, for instance, in Ontario the new Securities Act, which is rapidly being adopted by other provinces in Canada. Therefore, from the point of

view of the public who may be thinking of investing in the bonds of a company offering these bonds for sale, I would say there is a plenitude, and maybe even more, of protection in the information that must be supplied in the prospectus, which must be approved by the securities commission of the province, and which must be published in the sense that it must be provided to every person who is going to invest in and purchase some of these bonds.

Hon. Mr. Martin: May I put a question?

Hon. Mr. Hayden: Yes.

Hon. Mr. Martin: Is it not a fact that certain companies that may have been the provocation of this legislation were the subject of examination by the Securities Commission in Ontario?

Hon. Mr. Hayden: At this stage I would not say I cannot answer, but I would prefer not to answer my friend's question. I would say generally that some of the companies to which I think he is referring were provincially incorporated. The point my friend has missed is this. I am indicating that in my view this bill is designed to deal with the use to which the assets of the company are put after they have gathered in the money, whether it is in the form of the sale of shares or bonds. That investment, in the various forms spelled out here, is what this bill is designed to cover so as to protect the bondholders and the shareholders of the company in the use to which the assets of the company are put after the assets have come in and formed part of the company by the buying of shares.

My friend may have been referring to a number of very substantial failures in Ontario where money was raised from the public on the security of bonds and the proceeds of sale were used in the acquisition, in some cases, of shares, bonds and debentures of other companies, and in other cases of companies, and the money of the main company, which had come from the public, was ultimately dissipated through the use to which it was put.

The aim and design of this bill is to cover that end of the transaction. I think that is a reasonable approach, because under our securities law in the provinces, under the provisions relating to the sale of securities in relation to federal companies under our Canada Corporations Act, there is protection, and I would say ample protection. There may not