

HOUSE OF COMMONS

Friday, July 15, 1955

The house met at eleven o'clock.

NATIONAL REVENUE

REFERENCE TO ORDER FOR RETURN RESPECTING SUCCESSION DUTY APPEALS

Mr. E. D. Fulton (Kamloops): Mr. Speaker, I rise on a point of order, or perhaps it is a mixed point of order and question of privilege. It concerns the non-compliance with an order of the house in response to which a return was tabled yesterday. On June 23 a question which I asked was passed by the house as an order for return. It concerned the number of appeals taken to the Minister of National Revenue against assessment of succession duties. Part 3 of the question read as follows:

Of the appeals covered in part 2, were any taken by trust companies as executors? If so, what companies and how many by each company?

In the reply tabled by the Secretary of State containing information received from the Minister of National Revenue there is given in parts 1 and 2 the number of appeals taken, and then the return to part 3 is as follows:

Yes, in 29 cases by seven different trust companies. The names of the companies and the number of appeals by each may not be disclosed by reason of section 54 of the Dominion Succession Duty Act.

Section 54 of the Dominion Succession Duty Act, Mr. Speaker, has no application whatsoever to the situation and does not in any way preclude the information being given as requested. I therefore suggest to you that the return as tabled is an evasion of the question and is a non-compliance or refusal to comply with the order of the house. Therefore I ask you, sir, under the precedent of citation 445 in *Beauchesne*, second edition, to see that the necessary order is made discharging this order so that another return in corrected form may be brought down.

Mr. Speaker: The hon. gentleman was kind enough to let me know he was going to raise a point of order based on citation 445 of *Beauchesne*, second edition, which reads as follows:

Where an order for a return is found not to comprise all the particulars desired, it is usual to discharge the order, and make another in a corrected form. Sometimes, however, without discharging the order, public papers or other particulars have been ordered to be added to the return, or the order for the return has been read and amended.

This citation is taken from *May*, twelfth edition, page 562. I think the hon. member is

under a misapprehension. Citation 445 applies to an order which has been moved but before it has been tabled. If it is found necessary to add anything in the meantime, then the order for a return that was made may be discharged and another one substituted. But we are past the stage of citation 445. An order has been made and pursuant to that order a return has been tabled. Therefore citation 445 does not apply. It would have applied before the order was tabled.

Mr. Fulton: Mr. Speaker, I do not quite understand how it could have been discovered before the order was tabled because, of course, until the order was tabled there was no means of knowing what the reply was going to be. I thought that this would be the preferable way of proceeding rather than referring to citation 450, although I do think that in some respects it is applicable. It reads as follows:

If parties neglect to make returns in reasonable time, they are ordered to make them forthwith; or so much of returns as has not been made. If they continue to withhold them, they are ordered to attend at the bar of the house . . .

This seems to me to be an extreme course under the present circumstances. However, I point out that although a return has been made it is not a complete return and therefore would fall under that portion of citation 450 reading "or so much of returns as has not been made", because the answer to part 3 of the question is not contained in the purported answer thereto. This is not a case where the minister can say he refuses to answer. This is an order of the house, and the order has not been complied with, at least in part. As I say, I do not see how that could have been discovered before any returns were tabled. If that rule were held, then the only other way of dealing with it would be under citation 450 which goes on to refer to calling the offending party before the bar of the house. I did not want to invoke that procedure at this point.

Mr. Speaker: Would the hon. member be satisfied to let me have a few more hours to deal with the point because, just by reading citation 445, that would be my interpretation of it. I would like to study citation 445 in conjunction with citation 444 which applies to addresses, and citation 450. If the hon. member would be kind enough to let me have a few hours to examine the point I could perhaps deal with it tomorrow at the opening of the house.