

## HOUSE OF COMMONS

Saturday, July 16, 1955

The house met at eleven o'clock.

## NATIONAL REVENUE

ORDER FOR RETURN RESPECTING SUCCESSION  
DUTY APPEALS—RULING BY MR. SPEAKER

**Mr. Speaker:** Yesterday the hon. member for Kamloops complained of non-compliance with an order of the house. His words can be found at page 6179 of yesterday's official report of debates. On June 23 he asked a question which, under the provisions of standing order 44, was passed by the house at the request of the minister as an order for return. He took particular objection to the reply given to part 3 of his question, the said reply reading 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.

The hon. member contended that section 54 of the Dominion Succession Duty Act had no application whatsoever to the situation and did not in any way preclude an answer being given as requested. It does not come within my province to decide whether section 54 of the Dominion Succession Duty Act prevents the minister from answering the question otherwise than he did. It is a debatable matter and standing order 10 says that "Mr. Speaker shall not take part in any debate". Citation 116 of *Beauchesne*, third edition, also states:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

I would refer hon. members also to citation 310 of *Beauchesne*, third edition, which says:

It is not imperative for the Minister of Justice or the Solicitor General to reply to questions seeking information upon legal points arising out of measures before parliament or relating to matters of public interest. They are the legal advisers of the government and in that capacity are confidential officers, and nothing could be more inconvenient than that they should be liable to be interrogated by members as to the advice they have given or may be called upon to give to any department of government, or as to their opinion upon the construction of a statute or other document, or upon abstract questions of law which need to be judicially determined.

The hon. member for Kamloops (Mr. Fulton) further asked me, and I quote his words as they appear at page 6179 of *Hansard* for July 15, 1955:

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.

May I say immediately that in my view never at any time can the Speaker make an order discharging an order of the house. The only way to discharge an order of the house is for a member to move that an order be discharged. Of course, in this case one cannot move to discharge an order which has already been executed. Citation 395 of *Beauchesne*'s third edition tells us that once a document has been placed on the table and recorded in the *Journals*, it becomes the property of the house. An action to discharge an order for return must be made before the return is to be tabled on the same basis as, according to citations 665 and 666 of *Beauchesne*'s third edition, motions to discharge orders affecting the progress of bills are made.

Furthermore, a motion to discharge an order is similar to a motion to withdraw and would have to be made, I believe, according to standing order 53, by unanimous consent of the house. The hon. member referred to citations 445 and 450 of *Beauchesne*'s second edition which are citations 388 and 389 of *Beauchesne*'s third edition. These citations refer to specific cases where information sought has not all been provided or where information having been sought was not given. It states how the house asserts its authority to obtain satisfaction for the fulfillment of its orders. The wording of these citations is taken from May. If hon. members look at May, either the twelfth edition at pages 562 and 563 or the fifteenth edition at pages 256 and 258, hon. members will find that at the bottom of the page there are footnotes which refer to the *Journals* and *Hansard* from which these specific cases were extracted. I took the trouble, and found it very interesting, to go into the *Journals* of 1834, 1835, 1841, 1876 and 1820, and also *Hansard* for these various periods. I find that the house ordered certain officers to produce certain documents. In one case it was the clerk of the peace of Carnarvon. The reason the