

Supply—Defence Production

to discharge the terms of the trust, and in so discharging them to fulfil his duty to the estate? His duty to the estate is a fiduciary one, but he is under a personal obligation to discharge it.

Mr. Dickey: I will deal with that. The point I was making, so that it would be clear on the record, is that there is no personal advantage or interest to the Minister of Defence Production involved. That is the first thing. The second arises out of the remarks of the hon. member for Mackenzie. He drew in the position with respect to directors. I want to state it clearly so that it will be shown on the record. No trustee or executor of an estate of this kind becomes a director, or has any connection with a company like the Algoma Steel of a directorship nature. The direction of the company remains, as it always was, in the duly elected members of the board of directors, and that the only duty or authority of executors is to deal with the assets of the estate, and if they happen to be shares in one or more companies, the trustees do not in any sense become connected with those companies in the kind of way, or in the kind of association that I believe the hon. member for Mackenzie was trying to indicate.

Let me deal as briefly as I can with the question of the principle that the hon. member raised. I suggest, Mr. Chairman, that the hon. member should have gone a little more deeply into a number of principles and understood and appreciated them better before he took the attitude that he has taken. He quoted a number of references from a particular work and he made the general exposition of the responsibilities of an executor. With that I have no particular quarrel.

What the hon. member overlooks, and what any person who tries to argue the same position that the hon. member tried to establish will overlook, is that the acceptance of a fiduciary relationship or capacity of this kind is one that can only be taken by personal acceptance. As the hon. member knows, the appointment of a certain person as an executor or a trustee under a will does not mean that that person has to become an executor or trustee and accept the responsibility. What the minister has said is that he, after having taken competent legal advice, decided that as he had been assured that he was not going to place himself in a position where there would be a conflict of interest he was prepared to accept the responsibility which had been offered to him. He was accepting that responsibility fully but, with the knowledge and consent of the others who were to act in a similar capacity with him, his activities in that capacity were to be very strictly

limited, and limited to the particular purpose which had been set out by the person who had named him an executor and indicated his desire that he should act in that particular capacity and in that capacity only. The position, as stated by the minister, is that he realizes he has a full, joint responsibility with the other executors for the manner in which this estate is administered, but that he is voluntarily limiting his own activities in that position to the particular purpose for which he was asked to act and in which he accepts to act.

Mr. Fulton: My point is, he is saying that but he cannot do it.

Mr. Dickey: That may be the hon. member's opinion but it is not the legal position. What is the position? The position is simply this: If this estate is not properly administered and if a creditor of the estate, or if one of the beneficiaries who are the real owners of all of the assets of the estate, or if some person in that capacity complains that the estate has not been properly administered and brings an action in that respect, the Minister of Defence Production will be equally responsible with all the others to answer to that action. However, he has voluntarily restricted his activities in this position to the responsibility that he has been particularly singled out and requested to assume and that is understood by the other executors and by everybody interested in the estate. The hon. member says he cannot do that. I suggest that he clearly can do that. For example, to go to a field that is a little more familiar, let us look at what is the position of directors of a company. They are in a fiduciary position with respect to the interests of the company. If a question arises for decision before that board of directors in which a director has a personal interest contrary to the interests of the company or where there is any conflict he does not cease to act as a director; all he does is disclose to his co-directors that he has a personal interest in this matter and that in so far as any decision with respect to it is concerned he will take no part in it and will not vote on the motion resolving question.

That is a case which is clearly on all fours with the position of an executor who accepts full responsibility with his other executors but who voluntarily limits his participation in the administration of that estate to the particular point that he has been requested to act upon. I assume from what the hon. member said he does not suggest for a moment that the fact the Minister of Defence Production has accepted the responsibility of remaining an executor of this estate, to take no other part in the administration except