

HOUSE OF LORDS

SESSION 1999–2000
68th REPORT

APPEAL COMMITTEE

**CONSPIRACY TO CHEAT
THE PUBLIC REVENUE**

REPORT

Ordered to be printed 10 October 2000

LONDON

SIXTY-EIGHTH REPORT

from the Appeal Committee

10 October 2000

ORDERED TO REPORT

1. On 21 March 1997 Dermot Jeremy Dimsey was tried and convicted upon indictment of conspiracy to cheat the public revenue.

2. On 19 February 1998 Brian Roger Allen was tried and convicted upon indictment of conspiracy to cheat the public revenue.

3. Both men appealed against conviction and their appeals were heard together in the Court of Appeal. Both were dismissed on 7 July 1999. The court refused both appellants leave to appeal to this House but certified that the following points of law of general public importance were involved:

1. Whether section 145 and/or section 154 of the Income and Corporation Taxes Act 1988 impose a charge to tax under schedule E in respect of relevant benefits received from a company by an individual who, while having no actual office or employment with that company, nonetheless falls within the extended meaning of “director” under section 168(8) of the Act.

2. Whether section 739(2) of the Income and Corporation Taxes Act 1988 has either of the additional effects, in relation to income which it requires to be deemed to be income of an individual ordinarily resident in the United Kingdom

a) of requiring, for corporation tax purposes, that same income to be deemed not to be the income of a company incorporated outside the United Kingdom whose income it actually is;

b) of requiring for income tax purposes, that same income to be deemed not to be the income of the person (whether an individual or a company) resident or domiciled outside the United Kingdom whose income it actually is.

4. On 28 October 1999, Allen’s petition praying for leave to appeal in accordance with the Criminal Appeal Act 1968 was presented to the House. Neither his petition nor the order appealed from made any mention of the appeal of Dimsey with which his appeal had been heard. An Appeal Committee considered the petition on the papers and leave was refused on 27 January.

5. On 28 March, Dimsey’s petition for leave to appeal was presented to the House. The petition had been lodged separately from Allen’s in October 1999 and without the necessary order of the Court of Appeal. His order from the Court of Appeal was lodged on 27 March and noted that his appeal had been heard with that of Allen. The House referred Dimsey’s petition to this Committee and, having considered the respondent’s objections, we are minded to grant him leave to appeal.

6. In the light of this, we consider that it would be inappropriate for Allen’s case to go unheard. We understand that the respondent does not object to the granting of leave at this stage.

RECOMMENDATION

7. In these circumstances, therefore, the Committee recommend that the Order made pursuant to the 17th Report of the Appeal Committee on 27 January last relating to the petition for leave to appeal in the Cause *Regina v. Allen (Petitioner)* be *vacated*; and that leave to appeal be given; and that leave to appeal be given in the cause *Regina v. Dimsey (Petitioner)*.