

HOUSE OF COMMONS

Thursday, March 15, 1956

The house met at 2.30 p.m.

PRIVILEGE

MR. FULTON—ELIZABETH FAY SPALDING—
REFERENCE TO ANSWER OF MINISTER OF
CITIZENSHIP AND IMMIGRATION

Mr. E. D. Fulton (Kamloops): Yesterday, I asked the Minister of Citizenship and Immigration a question which is reported on page 2125 of *Hansard* as follows:

May I ask the Minister of Citizenship and Immigration a question arising out of the answer he gave to a starred question a few minutes ago? Has the minister just recently issued instructions for the removal of this lady from Canada—where I might say she is now legally married and a resident—under section 7 of the Immigration Act, which would have the effect of circumventing the decision of the court?

To which the minister replied:

The answer, sir, is no. If the hon. gentleman has any information about the alleged marriage of the woman in question I would be glad to have it.

To which I suggested he refer to the departmental counsel. Sir, the minister said no, he had not issued instructions. I hold in my hand a copy of a letter which reproduces a letter from the legal adviser to the Department of Citizenship and Immigration, dated March 8, which reads in part as follows. After advising the solicitor of the lady in question of certain developments in the case, it contains this paragraph:

The minister has now directed that action be taken for Miss Spalding's removal under the provisions of subsections (4) and (5) of section 7 of the Immigration Act.

So that, sir, the information contained in a letter from the departmental legal counsel to the effect that the minister has issued those instructions is directly at variance with the answer given by the minister yesterday when I asked him whether he had issued those instructions, and he said the answer was no.

My question of privilege is this, sir: In view of the fact that we in this house are required to rely upon statements of ministers made with respect to matters under their jurisdiction, this house is entitled to an explanation as to whether the minister was in possession of the facts or not; and if so, why he gave the answer that he did. If he was not in possession of the facts, how is it that action is being taken by his department

under his name, or under an order of the minister without his knowledge?

Mr. Speaker: I will allow the minister to answer the question, but before he does may I be allowed to inform the hon. member for Kamloops that his point is not one of privilege.

Some hon. Members: It is.

Mr. Speaker: No, it is not. It is one which may be further clarified before the orders of the day, but if the hon. member looks at citation 307 he will find that it reads as follows:

A minister may decline to answer a question without stating the reason for his refusal, and insistence on an answer is out of order, no debate being allowed. A refusal to answer cannot be raised as a question of privilege, nor is it regular to comment upon such refusal. A member can put a question, but has no right to insist upon an answer.

Further to that I will comment that both here and in the United Kingdom a minister is at liberty to answer what he pleases and to refuse to answer if he pleases, and the matter can be pursued in a different way in a debate which may arise later, perhaps on the estimates of the department of the minister, but not as a question of privilege.

I will further refer the hon. member to citation 137 of *Beauchesne* which says:

When the orders of the day are called—

—not at the opening of the sittings, as the hon. member does now, but—

When the orders of the day are called by the Speaker and before they are read by the clerk assistant, it is the practice sanctioned by usage but not by any positive rule for members to make personal explanations or ask questions of the government—

And I pass over a few lines—

... in respect to delay in obtaining returns or to the incompleteness of certain returns brought down under the order of the house.

I would say that complaint about the incompleteness or inexactitude of an answer could be dealt with when the orders of the day are called but not as a distinct question of privilege. The question raised today is in the same class as that which was raised yesterday by the hon. member for Eglinton (Mr. Fleming) and I think we must make a distinction here that instead of rising on a distinct question of privilege for the purpose the hon. member has put forward, it should be done when the orders of the day are called.