

contain any such definition, I feel I must oppose section 26 as it now reads, because it seems to me illogical, useless, and, as was said before, *ultra vires*. This section should disappear or should be modified, as already suggested by the hon. member for Winnipeg North, and for this reason I will support his amendment.

Mr. BELZILE: I wish to support the amendment presented by the hon. member for Winnipeg North. Firstly: It is to conform to every document pertaining to the constitution of this country. I have tried very hard to find in the constitutional acts of Canada any reference to the words "British subject" and I must say I have not been able to do so. I do not mean that my search was necessarily complete, but I found that such a person as a British subject did not exist before 1914. As a matter of fact the very first reference to the status of a subject in Canada was made in the capitulation of Montreal in 1760. All my references to the documents concerning the Canadian constitution are from the work by Mr. W. P. M. Kennedy, published by the Oxford Press in 1928. Here is what I find in article XLI of the capitulation of Montreal. The Marquis de Vaudreuil asked that: "The French, Canadians and Acadians, of what state soever, who shall remain in the colony, shall not be forced to take arms against His Most Christian Majesty, or his allies, directly or indirectly, on any occasion whatsoever; the British government shall only require of them an exact neutrality."

In reply to that request, General Murray said: "They become subjects of the king." This is the first mention in a very long series of texts in the same terms. In article IV of the Treaty of Paris in February, 1763, which appears at page 15 of the volume already mentioned, I find this:

Moreover, His Most Christian Majesty cedes and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies . . . and all rights acquired by treaty, . . . over the said countries, lands, islands, places, coasts, and their inhabitants . . . His Britannic Majesty on his side agrees to grant the liberty of the Catholic religion to the inhabitants of Canada: he will, in consequence, give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion . . . and so on. Later, on October 7, 1763, in the royal proclamation delivered to the inhabitants of Canada, I find this, appearing at page 19 of this volume:

And whereas it will greatly contribute to the speedy settling our said new government, that our loving subjects should be informed of our paternal care . . .

Then in the ordinance establishing civil courts, in 1764, here is what is said:

[Mr. Pinard.]

Whereas it is highly expedient and necessary, for the well governing of His Majesty's good subjects of the province of Quebec . . .

In a judgment rendered in the case of *Campbell v. Hall*, on November 20, 1774, Lord Mansfield stated the status in the following manner:

1. A country conquered by the British arms becomes a dominion of the king in the right of his crown, and therefore necessarily subject to the legislative power of the parliament of Great Britain.

2. The conquered inhabitants once received into the conqueror's protection become subjects, and are universally to be considered in that light, not as enemies or aliens.

3. Articles of capitulation, upon which the country is surrendered, and treaties of peace by which it is ceded, are sacred and inviolate, according to their true intent and meaning.

So it was right after the cession. In the Quebec act of 1774 I find another mention in Article V:

And, for the more perfect security . . . it is hereby declared that His Majesty's subjects . . .

There is the word again; and in Article VIII:

. . . all His Majesty's Canadian subjects, within the province of Quebec . . .

In the instructions to Carleton by the king in 1775 I find this; that he should proceed to the establishment of courts, and so on— . . . that our Canadian subjects should have the benefit and use of their own laws . . .

I come now to the constitutional act of 1791, which is at page 208 of this volume, referring to the constitution of the legislative council, and here is what it says:

Provided always . . . that no person shall be summoned . . . who shall not be of the full age of twenty-one years, and a natural born subject of His Majesty, or a subject of His Majesty naturalized by act of the British parliament, or a subject of His Majesty having become such by the conquest and cession of the province of Canada.

So the words "subject of His Majesty" come up again. Then in the union act of 1840, which is at page 538 of the volume, dealing with the qualifications of legislative councillors, I find this:

Provided always that no person shall be summoned to the said legislative council . . . who shall not be of the full age of twenty-one years, and a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the parliament of Great Britain, or by act of the parliament of the United Kingdom of Great Britain and Ireland, or by an act of the legislature of either of the provinces of Upper or Lower Canada, or by an act of the legislature of the province of Canada.

Last, but not least, comes the British North America Act. There is no special definition, of course, of "British subject" in that act. But looking at the qualifications for a senator, I find that a senator shall be a natural-born subject of the queen, or a subject of the