

cumstances means "shall"; but that where we are applying a regulation to a farmer who is not a member of the government, we must say "shall". That is merely a matter of drafting, and the draftsmen in the Department of Justice tell me that is the meaning, and I find that all the way through the different regulations.

Mr. HANSON (York-Sunbury): The minister had better take that with a little bit of reserve. "Shall" is binding on the farmer. With respect to the permissive word "may", the interpretation which the minister states has been given him is just so much eye-wash. The intention of this section is to leave to the minister absolutely absolute discretion and nothing else.

Mr. GARDINER: That is not the intention of the minister, because I brought the matter up myself.

Mr. HANSON (York-Sunbury): I think it should be obligatory. The interpretation the minister has given me is all wrong, when he says that the word "may", applied to the crown or to a minister, is interpreted as obligatory. That is wrong. It is the intention of the draftsman, and the interpretation that will be given in any court of law, if it gets to a court of law—and I do not know how it will ever get there—that there is discretion in the minister. That is what ought to be avoided at all cost.

Mr. GARDINER: There would be discretion in the next phraseology, where it says that the minister "may", after requisite proof has been established. The proof has to be there.

Mr. HANSON (York-Sunbury): That is a condition precedent, and I agree with that. I understand that when the two go together, this is the proper way of drafting it.

Mr. GARDINER: I have no objection to "shall" being there.

Mr. HANSON (York-Sunbury): I think the minister had better review the position. I could refer him to works on the interpretation of statutes if I had time, to give him the rule laid down, but he has men who are paid to do that. At any rate, I should like to have the section reviewed. Where it refers to the farmer applying, he must apply; that is obligatory upon him. He must apply; otherwise he is out of luck. I ask the minister to review the permissive power in the proviso under section 2.

Mr. GARDINER: I have already done so twice, but I will do it again.

Mr. GRAHAM: While I agree with the legal interpretation of "may" given by the leader of the opposition, yet I think the minister will find that his legal advice is sound—that is, not the advice on legal interpretation but the advice on the application of such words as "may" and "shall". In dealing with an emergency like this, where there should be and will have to be considerable discretion on the part of the minister, whose duty it will be to administer the regulations, I think it is a wise provision, remembering that he is a minister of the crown and has all the responsibilities which attach to that office. The phraseology with reference to him should be "may" rather than "shall".

Mr. HANSON (York-Sunbury): In other words, the hon. member wishes to leave the discretion with the minister.

Mr. GRAHAM: That, I submit, will likely be the advice tendered the minister, because it is the wiser provision to make in these particular regulations. The minister will find that the word "may" will permit him on occasion much more wisely to apply these regulations.

Mr. HANSON (York-Sunbury): The minister is not contenting himself with the principle which the hon. member is laying down. The minister wishes to have it obligatory upon him, and he has said that "may" means "shall". It should be "shall"; it should not be left to the discretion of the minister. If the farmer performs all the conditions precedent, it must be obligatory upon the minister to pay him, and I think the minister agrees with me.

Mr. GARDINER: There is no doubt in my mind that that is intended, and I think it is obligatory upon the minister, once proof is provided, to pay the farmer.

Mr. DIEFENBAKER: That is the point I am making. If the interpretation given by the hon. member for Swift Current (Mr. Graham) is to be placed on these regulations, then there is no reason whatever for having the regulations, because what the minister says amounts to this: that, regardless of the regulations, or of conformity on the part of any applicant with the regulations, discretion shall be left in the minister. That is the objection I am making and made this afternoon to the regulations.

Mr. GRAHAM: In actual practice would it make any difference whatever whether the word was "may" or "shall" in the practical carrying out of the regulations in this year of emergency? I suggest that we get on with the task of considering the essentials of the regulations.