

*Canadian Citizenship*

Mr. MARTIN: The amendment which the hon. gentleman is now proposing to the committee is one which I considered earlier. There is some difficulty in accepting it because provincial legislation coming within one of the enumerated sections of the British North America Act giving exclusive jurisdiction to the provinces is a matter which the courts might easily construe as one within the competence of this parliament. There is some point in what the hon. member has in mind, but I suggest that there is another way of meeting it. We could delete from the section as it now stands the words, "under any act of the parliament of Canada or an order or a regulation made under such act."

Mr. DORION: I think that would be much better.

Mr. MARTIN: I think it meets the point, and I move accordingly.

Amendment agreed to.

Mr. DORION: There is another amendment I should like to move. The section continues:—any person who is a Canadian citizen under this act may state or declare himself to be a Canadian citizen—

That word of three letters "may" makes the section useless; it merely gives permission to somebody to declare himself a Canadian citizen. The word "may" is permissive; I think it should be changed to "shall". If somebody may state that he is a Canadian citizen, he may also state that he is something else. If we are to have Canadian citizenship we must have it complete. Therefore I move:

That the word "may" in the fourth line of section 3 be struck out and the word "shall" substituted therefor.

Mr. LALONDE: I recall that this very point was discussed in the debates on conscription and the National Resources Mobilization Act. Some members objected then to the use of the word "may", but the Right Hon. Ernest Lapointe made it clear that in our parliamentary language "may" does not imply a sense of latitude but rather the responsibility of obligation, exactly the same as if the word "must" were used. I have no objection to the proposed change but I have always understood that in drafting our legislation "may" has exactly the same meaning as "must".

Mr. DORION: I disagree with the hon. member for Labelle, and in support of my contention I quote from a well known authority, Maxwell on the Interpretation of Statutes, eighth edition, where at page 216 I find this:

Following the decision of the House of Lords in the preceding case, it was said that from the nature of the English language the word "may" can never mean "must," that it is only poten-

[Mr. Dorion.]

tial, and when it is employed there is another question to be decided, viz., whether there is anything that makes it the duty of the person on whom the power is conferred to exercise that power. If not, the exercise is discretionary. But when the power is coupled with a duty of the person to whom it is given to exercise it, then it is imperative.

Further on:

So, whenever a statute confers an authority to do a judicial act in a certain case, it is imperative on those so authorized to exercise the authority when the case arises and its exercise is duly applied for by a party interested and having a right to make the application, and the exercise depends, not on the discretion of the courts or judges, but upon proof of the particular case out of which the power arises.

In cases in which the donee of the power has only his own interests or convenience to consult, the word "may" is plainly permissive only, and a mere privilege or licence is conferred which he may exercise or not at pleasure.

I think that gives the exact meaning of the word "may", and that is why I moved the amendment.

Mr. FLEMING: I do not at all follow the argument of the hon. member for Labelle that "may" is the equivalent of "shall". If it were, we should need to revise half our statutes. The two words do not mean the same thing at all.

The section as it stands leaves it within the power of any Canadian citizen under the act, where under any existing statute or regulation he is required to state his national status, to say that he is a Canadian citizen or to reply in some other way. At the present time, if he were called upon to state his national status, his answer would be: I am a British subject resident in Canada. This section does not give him power to say either, "I am a Canadian citizen," or "I am a British subject resident in Canada." The purpose of the act being to give to British subjects resident in Canada the official status of a Canadian citizen, there would appear to be much merit in the proposal for amendment of this section, unless the minister can give some good reason why the change should not be made.

I offer this observation.

An amendment should also be considered with reference to the words "national status". We had a good deal of discussion last night about the desirability of introducing definitions into the act. The words "national status" are not defined. What do we mean by national status? To what is the scope of this section confined? When the national registration came into effect some four years ago every person in Canada over sixteen years of age was required to indicate his racial lineage. Had this measure been then in effect, those who were Canadian citizens