

legislation in the interests of all those concerned. Therefore, I cannot accept the hon. member's proposal.

The Acting Speaker (Mr. Blaker): Is the hon. member for Hamilton Mountain (Mr. Deans) rising on a point of order?

Mr. Deans: Mr. Speaker, I rise on a point of clarification which I think falls within a point of order. I can well understand the meaning of the word "may" in the operative Sub-Clause 1, that "The commission may determine". But when you get down to a clause which deals specifically with a set of circumstances which must be placed before the board, in that set of circumstances the word "may" is not the appropriate operative word. It is quite clear that the clause reads:

The commission may determine that an employee who has been certified under Section 9 is qualified to receive labour adjustment benefits if
(a) he is a Canadian citizen resident in Canada—

My concern with it is that an employee could meet every single one of those qualifications as set out in Clause 12(1)(a) through (f). Therefore, Clause 12(1)(a) to (f) could be met in its entirety, except that the employee might not, in the sense that it is set out, be technically employed through that period as a result of illness and whatever else, the other conditions that are set out in the amendment proposed by the minister. It is an amendment, incidentally, which is not one that we find obnoxious or unacceptable. But if you put in two "mays", you are putting those people in double jeopardy. On the one hand, if in the first section the board may find it subject to these conditions and then you go on to say that additional consideration should be given to a specific set of conditions, then I would suggest to the commissioner that the appropriate operative word in the second part is "shall". In the first case, I can appreciate that that you must meet all of those conditions. But having met all those conditions and still having a question as to the appropriateness of the acceptability of the length of time of employment, if the employee can prove that he does qualify under all other terms, then the operative word should be "shall" and not "may".

Mr. Gordon Taylor (Bow River): Mr. Speaker, I would like to deal with this particular point. I had experience with the workers' compensation act in Alberta several years ago. The interpretation act said that "may" means "shall" and "shall" means "may". In making representations on behalf of an employee, I found that "may" did not mean "shall", and "shall" did not mean "may", when it came to actual administration. The board rejected this particular claim. When I wanted to know why, the board said that it had the discretion. I agreed they had the discretion, but the man was injured in industry, and I asked whether they recognized that. The man had a disability. The doctors claimed that and I asked whether the board recognized that. I asked why they denied him the benefits. They answered that they had the discretion because the act said "may". We fought that and eventually won the case. I would point out to the minister that administrative boards sometimes bring in other factors that are really irrelevant. This man I have in mind was an obnoxious fellow. People did not like him, but that should not deny him the right to

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compensation when he was injured. Therefore, when every condition is met in this particular requirement, surely the board must accept that and pay a claim. Consequently, why does the minister not want to put in the word "shall" and make it mandatory? The words "may" and "shall" do not mean the same thing. "May" is permissive, "shall" is mandatory.

If the individual meets every requirement, then the word should be "shall". Why is the government going to deny the benefit to an employee because of some irrelevant material? That is what we will do if we leave in the word "may" and not put in the word "shall".

I support the amendment.

Mr. David Berger (Laurier): Mr. Speaker, in answer to the hon. member for Hamilton Mountain (Mr. Deans), I want to say that when he makes his comments he is really not aware of the background of this amendment. He did not participate in the committee hearings.

Mr. Deans: What does that have to do with it?

Mr. Berger: I would like to point out to him that there is a basic requirement under Clause 12, to which the hon. member referred, that an employee work 1,000 hours during a period of ten years.

[*Translation*]

The Eastern Townships Regional Development Council—

[*English*]

—which suggests that this be replaced by the word "average". In other words, an average 1,000 hours per year over the ten years in the case of somebody who is sick, laid off or disabled for a certain period of time.

The minister, to his credit, listened to the representations made by all sides in the committee. He has come up with an excellent amendment, which the hon. member for Hamilton Mountain grudgingly concedes.

Mr. Deans: What are you talking about?

Mr. Berger: In this amendment he is giving discretion to the commission to say that notwithstanding the fact that an employee might not have worked 1,000 hours in any one of those years, the commission may determine that the employee is qualified to receive these benefits if he shows that he did not need it because of illness, disability, lay-off or any other good cause whatever. That expression "any other good cause whatever" is extremely broad. I suggest that the word "may" is necessary in order to go along with that broad expression "any other good cause whatever."

The word "may" is extremely fitting when taken in the context of that last phrase.

In addition to that, I would like to point out to the hon. member and to the hon. member for Bow River (Mr. Taylor) that there is a rule in administrative law that a commission that exercises discretion must exercise that discretion reason-