

*Fertilizers Act*

cannot sell. Let the farmer himself make up his mind, after soil analyses, the fertilizer he wants, without being restricted by any board. He should be able to buy what he wants. It is he who is paying for it.

Mr. GARDINER: He can get something else even under this.

Mr. COLDWELL: I think the farmer has the right in every case to know what he is buying, and that is why we wish to change "may" to "shall". I now have the Interpretation Act before me, and if the minister will look up section 37, paragraph 24, he will find it stated that "shall" is to be construed as imperative and "may" as permissive. That settles the point, surely.

Mr. DIEFENBAKER: As far as the Interpretation Act is concerned, it has nothing whatever to do with the relationship of the crown. In a number of cases it has been decided that the Interpretation Act does not apply to any reference to the crown, and in every case the crown is in the position where the word "may" applies to it not permissively but obligatorily. While there has been argument for years over that question, nevertheless there have been recent authorities—I believe there has been one within the last two years—wherein it has been stated that "may", applied to the crown, is invariably interpreted as "shall".

With regard to this particular section, I have the act before me, and I find that the minister is the person who enjoys all these powers and not any committee set up by the provinces. Section 10 says the minister "may". Then paragraph (i) says, "make regulations prescribing the chemical, physical or other properties." This is placing the minister, not a committee of any province, in a position of having absolute power to determine what shall be sold, where it shall be sold, and the circumstances under which it shall be sold. That is putting in the hands of the minister tremendous power uncontrolled in any way. In other words, the whole act, including the amendments that have been introduced this evening and which have already been passed, indicate a widespread advance along the way of bureaucratic control in this country. Earlier the minister received power under paragraph (f) of section 1 to demand any relevant information, as the minister may require, and I could understand his asking for that power. Then under section 3 he received the power to demand such other relevant information as may be prescribed by regulation. Those sections gave him wide powers. This section places the minister in the position of being able to determine what companies shall, in

fact, sell fertilizer if they are not selling the type of fertilizer that he deems necessary for any particular area.

Mr. HOMUTH: Regardless of whether they are.

Mr. DIEFENBAKER: I think the people today are getting sick and tired of being catechized and directed by governmental authority. I am sure that the minister, on reconsideration, will realize that this represents the placing in his hands of absolute power to determine who shall and who shall not sell, which is too wide a power to be placed in the hands of any minister, no matter how estimable he may be. I suggest that the minister might very well consider having the committee postpone consideration of this section in its present form. After all, however desirable the aim, which is to assure that the farmer shall know the content of the fertilizer he purchases, nevertheless this goes far beyond that and says that not only shall he know, but no matter what his wishes are he shall purchase only that which the minister designates that he shall purchase. That represents a gross interference with the rights of the individual far and beyond the need of protecting his rights. I feel sure that, no matter how one looks at those other subsections in section 10 of the act as at present constituted, he will realize that never before has a minister asked the absolute power that is asked for under this particular subsection. I feel that the minister should give reconsideration to the matter of asking parliament to make him an absolute dictator in regard to what shall be purchased.

Mr. HATFIELD: To show how the zoning works out, last spring when we had a shortage of fertilizer in my constituency, the farmers could not buy fertilizer anywhere. We had large quantities of 5-8-10-1 fertilizer stored in that constituency to be shipped over to the state of Maine. The Maine farmers did not need that fertilizer, but the fertilizer companies were not allowed to sell it in New Brunswick because it was not mixed according to the prescribed formula. So that works a hardship. The most popular fertilizer in my constituency is 5-8-10-1, but the farmers have had to put up with 4-8-10 because there was a shortage of material during the war. As far as we are concerned, the war is over now; the farmer wants to buy what he wants, and that is what this prescribed formula prohibits him from doing. We could have bought that stored fertilizer and the farmers could have used it if it had not been for the prescribed formula.

[Mr. Charlton.]