

a province the title remains in the Crown, which is indivisible, and therefore no document which purports to transfer a legal interest in the land can properly be done by letters patent or by lease. It has been held that the transfer of public lands to a province is merely the transfer of the administration, control, and benefit of those lands from one of Her Majesty's Governments to another and that this is properly done by order in council. I am informed that this has been the practice followed for many years.

In a recent case in the Supreme Court of Canada, referred to in the explanatory notes in the bill, considerable doubt arose in the minds of the judges who decided that case as to whether or not the provisions of the act were wide enough to allow the Governor in Council to make these transfers. The purpose of this bill is to amend the act in such a way that transfers of that nature can be properly made by the Governor in Council.

Honourable senators, that is all I have to say about the measure. If it is thought advisable to refer the bill to the Banking and Commerce Committee, or to any other committee, I do not think there will be any objection, but to my mind it seems to be quite a simple amendment and one which should not give us much difficulty.

**Hon. Mr. Reid:** I wish to direct a question to the honourable Leader of the Government. Is it possible for the Canadian Government to transfer land belonging to us to another nation? I know it is late to bring up the question, but the reason I ask is that it is not generally known that when the 49th parallel was being put through, in passing through near Blaine the line was one-half mile inside Canada. I raised the question before, because by order in council the Government of the day simply called it the 49th parallel, which it is not. I am speaking from actual facts, because as a member of Parliament I spent considerable time studying the record before I spoke in the House of Commons on the subject. I still feel that the transferring of such lands to the United States should have been by act of Parliament rather than by order in council—the handing to the United States of half a mile of territory which really belonged to Canada and is now designated as United States territory.

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Mr. Aseltine:** Honourable senators, is it the wish of the house that this bill be referred to committee?

**Hon. Mr. Macdonald:** The honourable senator from New Westminster (Hon. Mr. Reid) raised a point about transferring land that may be in Canada to another country.

**Hon. Mr. Aseltine:** That question has nothing to do with this bill.

**Hon. Mr. Macdonald:** Is that power included in this bill?

**Hon. Mr. Aseltine:** No, that has nothing to do with this bill. This simply covers transfers of some interest in land from the dominion Government to a province, not to another nation.

**Hon. Mr. Reid:** A question of that kind is not out of order. I think, because it deals with the transfer of land by the Canadian Government, and the only other place outside of a province that they can transfer land to is to the United States. So the question is quite in order, but nevertheless I got a silent reply.

**The Hon. the Speaker:** Honourable senators, my decision is that this question is not relevant to the bill under discussion. This bill deals strictly with the transfer of land from the Canadian Government to a province within Canada. The question put by the honourable senator from New Westminster (Hon. Mr. Reid) has to do with transactions between Canada and the United States of America. I therefore declare this question out of order.

**Hon. Mr. Macdonald:** Honourable senators, I wish to ask the Leader of the Government whether this bill refers only to the transfer of land within Canada from the Dominion to a province or does it go further than that and include the transfer of land from one province to another?

**Hon. Mr. Aseltine:** It has nothing to do with transferring land from one province to another.

**Hon. Mr. Connolly (Ottawa West):** Honourable senators, this is a technical bill, which is intended perhaps to clarify a silence in the statute. I looked up the statute and I see that by section 2 the word "grant" is defined as meaning "letters patent under the Great Seal of Canada and any other instrument by which public lands may be granted in fee simple or for an equivalent estate". Now, presumably an order in council would be another such instrument. May I make a suggestion? I understand we are going to have today an explanation of the following bill which is on the Order Paper, that is the Canada Shipping Bill, and if it is referred to the Banking and Commerce Committee perhaps it might be just as well to have the present bill go there too.