

Mr. STIRLING: It is quite clear that the order in council empowers the Minister of Trade and Commerce to do certain things as covered by this bill, but it does not seem to me that it empowers the Canadian Commercial Corporation, which was set up under an act of 1946, to do certain things; that is, purchase the requirements for the Department of National Defence, when it has not the power under the act to make those purchases. Under the act of 1946 the Canadian Commercial Corporation was not empowered to buy a cedar pencil for any department of government, but this amending bill is purporting to hand to the Canadian Commercial Corporation the duty of purchasing for a specified department.

Mr. MacKINNON: No; as agent or on behalf of the Minister of Trade and Commerce.

Mr. STIRLING: Then surely it should be in the purposes of the act setting up the corporation that this is one of the duties the corporation can carry out.

Mr. MacKINNON: Why?

Mr. STIRLING: Because the act sets out the powers that will devolve upon the Canadian Commercial Corporation.

Mr. CLAXTON: May I point out that the Canadian Commercial Corporation is not making contracts at all. The contracts are made in the name of the crown acting through the Minister of Trade and Commerce. The Canadian Commercial Corporation includes employees of a crown company who are asked by the minister to call for tenders, and then that machinery is followed. The actual contracts are made by the minister in virtue of the transfer of duties from the Minister of Reconstruction and Supply. Everything is completely, technically and accurately legal, as well as being good sense.

Mr. GREEN: Surely the Transfer of Duties Act does not go so far as to override an express statute. This statute establishing the Canadian Commercial Corporation gave that corporation certain powers.

Mr. ABBOTT: This adds to them.

Mr. GREEN: But I submit that no order in council can then be passed under the Transfer of Duties Act which gives this corporation, as distinct from the minister, any additional powers.

Mr. CLAXTON: Not at all.

Mr. GREEN: And I cannot see why the ministers are so determined not to amend this act to give the corporation the power they want it to exercise.

Mr. ABBOTT: We are really getting involved in a legal argument here. The position is that the Minister of Reconstruction and Supply, with the approval of the governor in council, has transferred the purchasing functions he formerly had to the Minister of Trade and Commerce. That is something completely separate from this bill, something having nothing to do with this bill. The Minister of Trade and Commerce, as a minister of the crown, has asked that the Canadian Commercial Corporation Act be amended to give the corporation the power to act in his behalf in these purchases. As I say, here is where we get into the legal argument. The hon. member for Lake Centre takes the stand that the Canadian Commercial Corporation, which is an existing statutory company—and I emphasize the words "statutory company"—has not the general powers which every statutory company has. This is set up as a separate part of the statute creating the Canadian Commercial Corporation. I am now expressing a legal opinion which may or may not be right, but I believe part II, if enacted, and section 17, which will form part of part II, confers upon the Canadian Commercial Corporation the power to act in the capacity described in the section, no matter what is said in any other section of the act, as long as it does not contradict it. That is a legal opinion, it is true, and it may be wrong; but I think there is a fair presumption that the deputy minister and the officials of the Department of Justice took that into account when they passed upon the bill. As the Minister of Trade and Commerce has said, they do pass upon all these bills. I do not believe my hon. friend's legal point is well taken; but, of course, lawyers are bound to differ. We always do; that is why there are lawsuits, but that is the view I take of the proposed legislation. I think this company has all the powers a statutory company has; in effect pretty nearly all the powers of an actual person, as my hon. friend knows from the long list of cases, from the Bonanza Creek case on down.

Mr. GREEN: I would point out that not only does section 4 set out carefully and in detail the purposes for which the Canadian Commercial Corporation is set up, but that section 5 sets out the powers.

Mr. ABBOTT: And this adds to the powers.