

Mr. CAHAN: That is a different matter altogether.

Sir GEORGE PERLEY: Is the farm loan board under the minister, as this one will be? The harbours board in effect and in practice will be part and parcel of the minister's department. I do not think the farm loan board is.

Mr. DUNNING: Section 3 of the Canadian Farm Loan Act states:

3. There shall be a board, known as the Canadian Farm Loan Board, which shall be a body politic and corporate and shall consist of four members, one of whom shall be the minister who shall be chairman thereof.

Then, in the interpretation section "minister" is defined as follows:

(i) "Minister" means the Minister of Finance for the time being.

Mr. CAHAN: Yes, but that is entirely different.

Sir GEORGE PERLEY: Quite different. The farm loan board is not part of the Department of Finance, but the harbours board is made a part of the department of transport, when it is formed. In effect and in practice this board will be a part of the department.

Mr. CAHAN: We would save time if we were to reserve section 2 and take further advice upon it, because it opens up a great many questions. If this body is a separate, distinct and independent agent of his majesty it certainly should not be placed under a minister of the crown. A minister may be a member of the board, as in the instance to which the hon. member has referred, namely the farm loan board, but the board cannot be an independent agent of His Majesty in his right of the Dominion of Canada and still be under the direction and supervision of the proposed minister of transport. I suggest that if the board is the agent of His Majesty the King, then His Majesty in his right of the Dominion of Canada is liable as principal for all actions of the board, all questions of liability and damage, and, as I suggested on second reading of the bill, it opens up the way for bringing an action against the government, because His Majesty in his right of the Dominion of Canada is the government. It opens up the way to bringing an action against the government by petition of right and like procedure, and leads to great confusion. I can see no reason why the board should be described as an agent of His Majesty the King, any more than any department or bureau of government or any other government commission should be

described in that way. I respectfully suggest that the minister might hold the section for the time being, and seek further advice. If the section is adopted it will lead to very considerable discussion with regard to certain other provisions with respect to which, in my opinion, it is entirely inconsistent.

Mr. HOWE: The hon. member raised this point on second reading, and upon that occasion the matter was discussed with the Department of Justice officials. That department has given the definite ruling that the measure contains the correct drafting, and I do not believe anything would be gained by referring it back to the department. We have consulted it once and laid the views of the hon. member before it. As minister I believe I am bound to take the ruling of the Department of Justice.

Mr. CAHAN: Of course the minister has the majority.

Subsection 2 agreed to.

On section 3 subsection 3—Board may contract, sue and be sued.

Mr. CAHAN: This subsection brings up another matter. As a corporate body the board may sue and be sued, but in my opinion other provisions of the act are inconsistent. Nevertheless I assume that all real and personal property of which the board is in possession and is operating will be vested in his majesty. If so the board will have no property with which to respond to its own liabilities or to any judgment obtained against it. I have no objection to the provision that the board shall have capacity to sue and be sued, but in view of subsequent provisions suit against the board may have very little effect.

Mr. HOWE: This matter has been carefully considered by the Department of Justice. Obviously the board is engaged in a number of businesses, involving a large turnover of money. It has to enter into contractual relations with private parties. This subsection merely contains the declaration that the board may be sued for breach of contract, without obtaining a fiat from the crown. In other words it does away with the necessity of compelling people who wish to take action against it to obtain a fiat from the crown.

Mr. CAHAN: I appreciate that point, but in view of other provisions I think the board will have very limited resources with which to satisfy a judgment.