

*National Harbours Board*

Mr. CAHAN: I suggest that for greater clarity in dealing with this clause we discuss it subsection by subsection. The first subsection provides that there shall be, under the minister, a board to be known as the national harbours board. The minister is responsible to parliament for the administration of the harbours by this board, and the word "under" is not clear and definite. We found it necessary in other similar bills to insert the words "under the direction of." It was suggested at one time that it should be "under the supervision of," but there is no doubt that in matters of general policy these boards must be directed by a minister of the crown. Therefore I suggest for the consideration of the minister the insertion of the words "the direction of" in the first line of subsection 1 of section 3, between the words "under" and "the," as making for clarity and definiteness.

Mr. HOWE: I see no objection to the change. I am not just sure what the implication is, but no doubt my hon. friend has looked into it. My thought is that this board will not require a great deal of direction. We hope to have expert management, perhaps more expert than that of any minister at the head of the department could be, and they will act on their own in most particulars. But obviously the minister is responsible for their actions. If the subsection can be allowed to stand I shall be glad to look into it and bring it up latter.

Mr. CAHAN: Then the first subsection will stand.

Subsection 1 stands.

On section 3, subsection 2—Body corporate. Agent of His Majesty.

Mr. CAHAN: With regard to the second, I find something that is, I think, new in parliamentary legislation:

The board shall be a body corporate and politic and be and be deemed to be, for all the purposes of this act, the agent of His Majesty the King in his right of the Dominion of Canada.

I suggest that that section should properly end with the word "politic"—"The board shall be a body corporate and politic." I understand the phrase about vesting the title in His Majesty the King in his right of the Dominion of Canada to lands and property; we use this expression frequently in legislation and in legal documents. But this board is not only under the supervision and direction of the minister as to general policy, but is subject in many respects to orders in council. I have no objection to its being a body corporate and politic for certain purposes, but

[Mr. J. F. Johnston.]

I do object, I think it is without precedent in our legislation, to a particular board or bureau or commission or commissioner being declared by act of this parliament to be the agent of His Majesty the King. The only agent for His Majesty the King in Canada, outside of the peculiar functions of His Excellency the Governor General, is the government of Canada or some department of that government. Therefore I suggest that this clause should be reconsidered.

Mr. HOWE: The Department of Justice explained the matter to me in this way: That of course "the agent of His Majesty the King" means the agent of the king purely for the administration of this particular act; that the Halifax harbour commissioners in a case before the supreme court were declared by the court to be the agents of His Majesty the King for the administration of the harbour commissioners' act. In other words we are simply calling them what the supreme court of Canada has declared them to be.

Mr. CAHAN: I entirely dissent from that suggestion. It may have been stated, in an opinion of one justice, of the supreme court or otherwise, that a harbour commission not under the supervision or direction of the minister but operating under a particular statute, was an agent of His Majesty the King. For instance, as we shall see later, in matters of land expropriation, in matters of other property which is in the possession of this commission, such property will be vested in His Majesty the King in the right of the Dominion of Canada. That expression is clear and definite as to the vesting of property. But I suggest it is a most extraordinary thing to say that you are setting up a new government outside of the government of Canada to administer the affairs of what is really a particular department or branch of a department under a minister of the crown.

Mr. HOWE: I have before me the act to amend the Canadian Farm Loan Act, assented to April 17, 1935, which I assume my hon. friend knew something about.

Mr. CAHAN: Perhaps so.

Mr. HOWE: Section 3, subsection 5, reads:

(5) The board shall be a body corporate and politic and be and be deemed to be for all the purposes of this act, except contractual dealings between the government of Canada and the board relating to the purchase by that government of the capital stock or bonds of the board or the repurchase by the board of those bonds, the agent of His Majesty the King in his right of the Dominion of Canada and to take security, receive, lend, pay, agree, acquire, hold, convey, transfer and otherwise do as this act directs or authorizes as such agent and not otherwise.