

*Treaty of Peace (Japan) Act*

necessary that that be done because parliament can do this by direct legislation here and now.

As to the penalties, if the maximum may be thought severe, that situation could be provided for as in the case of the United Kingdom legislation, by reserving the right to establish lesser penalties. The principle I am contending for is sound. It could be accomplished by the introduction of this amendment without doing any violence to the general purpose of the present bill.

**Mr. Pearson:** Mr. Chairman, I feel hardly qualified to follow my hon. and learned friend in a legal argument. I know that in his view it is more than a legal argument, but possibly he will allow me to make an observation as a layman. The section we are discussing, section 4, as he has pointed out is in exactly the same wording as a parallel section in an act implementing the treaties of peace with Italy and some of the satellite countries after world war II.

**Mr. Fleming:** Italy, Roumania, Hungary and Finland.

**Mr. Pearson:** That is right. Although the Canadian legislation after the second world war dealing with this point is not in exactly the same terms as similar legislation passed by the United Kingdom, as the hon. member has pointed out, I believe the difference between the section in the United Kingdom legislation and that in this bill is more one of form than of substance. I know my hon. friend does not agree with that contention. The United Kingdom parliament fixes the maximum penalty, but the following words appear in brackets in the United Kingdom act, and I quote "except in so far as any such order may provide for less penalties".

I submit that those words indicate clearly that the actual penalty imposed by the United Kingdom is determined by order in council and that the provision of section 4 in this statute does in fact embody the same principle. In other words, as I see it, the United Kingdom statute purported to fix the penalty out by including the words "not exceeding" preceding the amount of the fine or the term of the imprisonment, it also recognized that by order in council a lesser penalty could be imposed. The Canadian legislation which is now before us, as in 1948, delegates to the governor in council the power to fix the penalty but restricts the power by prescribing the maximum limit of the penalty in a separate subsection. Therefore, Mr. Speaker, as I see it, there is no difference in principle between us. For that reason we would prefer

[Mr. Fleming.]

to adopt the same form of words in section 4 of this act as we have adopted in previous legislation in connection with such matters.

**Mr. Fleming:** I wish to make one brief observation. To many laymen this might seem like a hair-splitting matter; but it is not, Mr. Chairman. It is a question of principle. It may well be that in the result we shall find the penalties the same in both countries. That could easily result. But in the method that I am proposing—which I think to be sound, parliamentary and constitutional—the result would be achieved by a correct method and by parliamentary enactment. The way the government proposes to arrive at that result is by delegation on the part of parliament to the governor in council of powers so wide that, in my submission, the principle is unsound.

**Mr. Pearson:** Just before the section is passed, Mr. Chairman, I should point out that between section 4 of this bill and the British act there is one difference of substance, and that is that the fine or terms of imprisonment which could be imposed by order in council in this bill would be or might be less than that in the parallel bill in the United Kingdom, where the maximum is higher.

Section agreed to.

Section 5 agreed to.

Title agreed to.

Bill reported, read the third time and passed.

**BOUNDARY WATERS TREATY ACT**

AMENDMENT TO INCREASE MAXIMUM SALARIES OF MEMBERS OF CANADIAN SECTION OF INTERNATIONAL JOINT COMMISSION, ETC.

**Hon. L. B. Pearson (Secretary of State for External Affairs)** moved the second reading of Bill No. 333, to amend the International Boundary Waters Treaty Act.

Motion agreed to, bill read the second time, considered in committee, reported, read the third time and passed.

**BUSINESS OF THE HOUSE**

**Mr. Fournier (Hull):** Mr. Speaker, tomorrow we will take up the following bills, resolutions and notices of motions: Bill No. 334, to amend the Army Benevolent Fund Act, 1947. I understand this bill is going to the committee on veterans affairs after second reading.