

Question of Privilege

Right Hon. L. B. Pearson (Prime Minister): The matter referred to in the article in question is under consideration, and perhaps the minister of northern affairs will have a statement to make about it in the near future.

PRIVILEGE**MR. HERRIDGE—APPROVAL OF RATIFICATION OF COLUMBIA RIVER TREATY**

Mr. H. W. Herridge (Kootenay West): Mr. Speaker, I rise on a question of privilege affecting all hon. members of the house, and a most important question of privilege of national and international consequence, which is evident from a page I have just received taken from the *Spokesman-Review* of Spokane of Friday, September 11 in which there appeared an editorial entitled "Canada's Pearson Campaigns for L. B. J."

It goes on to say:

—Mr. Johnson's long lasso has roped him into domestic political affairs in the United States—

and calls it a wholly unnecessary expedition at this time. It adds:

It is unfortunate that Prime Minister Pearson—who has plenty of domestic troubles of his own—is now being dragged into the American political campaign—

and says it is:

—a low-level political blow at...many northwest citizens—

and so on. I mention that editorial to indicate the international as well as the national significance of my point of privilege. The question concerns the apparent misinterpretation by ministers of the crown of a resolution of this house.

As this misinterpretation may have misleading consequences in our treaty relations with the United States of America and our domestic relations with the province of British Columbia, I believe this house must clarify the constitutional meaning and limits of that resolution to the end that those members of this house who, as advisers to His Excellency the Governor General, must aid and assist His Excellency in implementing that resolution, do not construe the resolution as a licence to arrogate and usurp to themselves, without counselling with His Excellency, the statutory prerogative of his excellency the governor general in council in matters of disallowance.

Such misinterpretation is implicit in the announcement by the Prime Minister of his intended participation in an international ceremony to celebrate the purported coming into force of the treaty.

1. The resolution of the house approving the ratification of the Columbia treaty, so-called, with the protocol and exchange of notes, as recorded in the *Journals* of the house for June 5, 1964, is subject to section 90 of the B.N.A. Act with respect to the disallowance of a provincial statute.

2. Article XIV (1) of the treaty requires that Canada designate a Canadian entity for the purpose of the treaty. The note of January 22, 1964, with the attachment thereto, provides in article C that Canada shall designate the British Columbia hydro and power authority as the Canadian entity for the purpose of article XIV (1). The designation of that authority is therefore incorporated by reference in the treaty, and, as so incorporated, was approved in the resolution of this house.

3. The British Columbia hydro and power authority was established under the provisions of an act, cited as the British Columbia hydro and power authority act, 1964, passed by the legislature of British Columbia on or about March 10, 1964.

4. Some time after March 10, 1964 a copy of the act was forwarded to the Governor General of Canada by the lieutenant governor of British Columbia.

5. Under section 90 of the B.N.A. Act, the governor in council may disallow the act within one year of the receipt of the act by the Governor General.

6. On March 16, 1960 Mr. Speaker ruled that the question of disallowance is a power which has been entrusted to the executive and not to parliament. Therefore it follows from this Speaker's decision that the approval of the house of June 5, 1964 to the treaty, protocol and notes, and in particular to article XIV (1) as incorporating by reference the designation of the British Columbia hydro and power authority in article C of the attachment to the note of January 22, 1964, was and is subject to the exercise or non-exercise by the executive of its power to annul the provincial statute that creates the British Columbia hydro and power authority. In other words—

Some hon. Members: Hear, hear.

Mr. Herridge: I am glad I am getting applause, because I worked very hard on this question of privilege.

In other words, unless the governor in council sooner disallows the British Columbia statute, then the approval of the house to the treaty is in effect in escrow for one