

*Family Allowances Act, 1973*

notice from the Government of Canada, through a bureaucratic mix up, that her husband, who is sitting right beside her, is dead? That is the sort of problem which the Hon. Member pointed out has been occurring, and could occur, under a similar type of legislation to that which already exists in the Old Age Security Act and in the Canada Pension Plan legislation.

There is a provision similar to the existing Clause 5 of Bill C-70 in both of those Acts. The problem, as pointed out by the Hon. Member for Thunder Bay-Atikokan is one which struck me particularly at the time. When the Bill was referred to committee, that problem continued to reoccur. We continued to have people make representations about that aspect of the issuing of a death certificate, and in fact there were representations made to the legislative committees dealing with the subject by a number of organizations and people on that very issue. Particularly, they came from the Child Find Organization in British Columbia, in Saskatchewan, in Manitoba and in Ontario. They all expressed concern about this aspect of the legislation. In addition, the Children's Aid Society expressed similar concerns. As a result, I felt we should try to come up with different wording to achieve the necessary purpose the Minister and his Department had in mind, that of the need for a final determination even though a death certificate had not been issued. That need arises when a child disappears and there is evidence to indicate the child is dead. The Minister and his Department would be in a position then to suspend payment of the family allowance, but they would not be in a position actually to cancel the account and stop paying once and for all. It was with that in mind that the Minister and his Department wanted to introduce this concept in the same way as it exists already in legislation covering old age security and Canadian Pension Plan payments.

● (1210)

An effort was made in committee to come up with new wording. A number of drafts were prepared and discussed with the Minister and his officials. Unfortunately, although I put forward an amendment at that time somewhat similar to Motion No. 8 as it is originally on the Order Paper, there was no agreement as to whether or not this was appropriate wording to solve the problems involved. However, after long negotiations and a total of seven separate drafts put together by myself and the Department, the Minister agreed, as he very kindly indicated in his opening remarks the other day, that Motion No. 9 standing in my name was acceptable as an amendment to the Bill. Therefore, Clause 5 would be amended by Motion No. 9. This is a very commendable action on the part of the Minister. It shows a real willingness to deal with the problems and concerns of the public. It tries to resolve them in a way which will solve the Department's problem while at the same time being sensitive to the concerns of the people of this country. What has been achieved here is a solution which will accomplish both those ends. That is why I put it forward and I hope the House will adopt the motion as indicated with the support of the Minister and the Government.

I would like to address for a moment or two the concerns raised by the Hon. Member for Hamilton Mountain concerning the constitutionality of this issue we are dealing with. It seems to me that his concern and the legal opinion he has obtained rests entirely on the question of the division of powers between the provinces and the Parliament of Canada regarding the issuing of a death certificate; What we are talking about here, of course, is not the final, absolute death certificate. We are talking about a departmental procedure under this legislation which deals strictly with this legislation and not with the final death certificate. We are only talking about a procedural matter here. Even that, and even the concern regarding the death certificate, I submit has been overcome by this amendment, Motion No. 9. We are no longer talking about a death certificate. A death certificate will not be issued by the Minister at any time as a result of this procedure. There will be a determination or fixing of a date by the Department as to when payments will stop. There are provisions to change that date if circumstances warrant. It is not a death certificate, it is only the fixing of a date in order to solve a procedural problem which the Department has. There is no constitutional issue here in any event, even if there was one originally, which in my opinion there was not.

Having said all that, it would be my fervent hope that the House will see fit to adopt Motion No. 9 to accommodate both the concerns of the Government and the families involved, thereby showing that the Government and this Parliament are sensitive to those concerns.

*[Translation]*

**Mr. Gauthier:** Mr. Speaker, I think the Hon. Member for York East (Mr. Redway) made a very good point regarding death certificates. Obviously, the Minister of National Health and Welfare (Mr. Epp) cannot issue a death certificate. Under our common law system, the provinces are responsible for declaring that a person is deceased, and I think it is then up to the courts to confirm the declaration.

In fact, Mr. Speaker, I have a few comments to make on amendment No. 4, of the grouped amendments Nos. 4, 5, 6, 7, 8 and 9.

Mr. Speaker, Clause 4 is concerned with remission. The explanatory notes tell us that this is a new clause and that the amendment would allow for the remission of amounts in certain circumstances.

Mr. Speaker, if we take a closer look at this clause, we see that its purpose is to tighten up the wording so that the Minister cannot invoke presumption of death of the child as provided in Clause 5, on which I would like to comment later on. Otherwise he would have the power to require that parents repay certain family allowance payments made during the previous months.

Mr. Speaker, in speaking to the motion before the House, we cannot ignore the issue of presumption of death of the child. I did not have a chance to go to committee, but I know it