

Canada Pension Plan

have to decide is whether this particular male was more mentally irresponsible than males generally are at such a time. It seems to me that the minister is taking on a very wide assignment. As the hon. member for Comox-Alberni has pointed out, I think there will be people who will still be convinced that some grievance has been done. Would the minister not put a clause somewhere, either in the regulations or in the act, to provide for some right of appeal?

Mr. MacLean (Queens): Mr. Chairman, I have one question to clarify the situation with regard to divorced persons. The situation is straightforward in the case of people who carry on until death doth them part, but we have to realize that a good number of marriages are dissolved. Would the minister clarify the situation with regard to the position of divorced persons? I am thinking of a couple who are divorced and the husband, who has the interest in the pension, dies and the woman from whom he is divorced is a survivor. What is her position? Does she lose all her rights because she was divorced before her husband died? Conversely, if one or both of the spouses remarries, what is the legal position?

Miss LaMarsh: Mr. Chairman, it is analogous to the legal position generally. Once she is no longer his wife she cannot be his widow. If she was divorced during his lifetime then on his death she would not be entitled to a widow's pension.

Mr. Knowles: Mr. Chairman, I hesitate to take any time, even a minute or two, on this clause because we had a good deal of discussion of these deathbed marriages in the committee and the proposal now before us is one that was adopted by the joint committee unanimously. Nevertheless there is no reason why one should not take another look at it. In looking carefully at the wording we have adopted it seems to me that it does not say what the minister thinks it says. The minister says that most cases where there is a death within the year will just go through automatically and that she will not examine every case. She will only look into a case if evidence is submitted to her that there was poor health at the time of the marriage. But look at what the wording we adopted says. It says that "where a contributor dies within one year after his marriage, no survivor's pension is payable to his surviving spouse if the minister is not satisfied that the contributor was" in good health. We always get lost in these double negatives. Does that wording

[Mr. Douglas.]

not imply that the minister must be satisfied in every case? I see an expert in the field shaking his head but unfortunately he cannot speak here. I wonder whether the "not" is not in the wrong place. I think what we want is what the minister described, namely that every case is not looked at, but only those cases where there is something unusual. Does not language saying that there is no pension if the minister is not satisfied mean that the minister has to be satisfied in all cases? Should it not read that there is no pension if the minister is persuaded that the deceased was not in good health at the time of the marriage?

Mr. Barnett: Mr. Chairman, following what the hon. member for Winnipeg North Centre has been saying, I must say it was that particular wording that caused me to raise the questions I did. I am happy with the kind of approach that the minister suggested but I am wondering whether it should not read, "if the minister is satisfied that the contributor was not at the time of his marriage in such a condition of health as to justify him having an expectation of surviving for at least one year thereafter". I am wondering whether the moving of the word "not" from where it appears before the word "satisfied" would not improve the wording. If it were placed later in the sentence it would make it clearer that the sense of the proposed amendment is in line with the exposition of the matter which the minister has given.

Miss LaMarsh: Mr. Chairman, the draftsman from the Department of Justice alleges, and I must agree with him, that this is the phraseology to express the intent I have given and that to take the word "not" from in front of "satisfied" and insert it after "was" so that it would read "was not at the time of his marriage" would have the reverse effect and that the minister would have to be satisfied in each case. There would be a positive onus which would mean the minister would have to look at all cases. There would be a positive duty on the minister to satisfy himself or herself. As it is now worded, so long as the minister is not satisfied that the contributor was not in poor health at the time of his marriage the pension will be paid. In other words, if nobody does anything the pension is paid.

Mr. Rhéaume: If you take out the word "no" in the first line you will improve it.

Miss LaMarsh: I am assured by the draftsman that the intention of the committee has