

take that, together with the general power given under the Financial Administration Act, we have felt there was an adequate legal base; but I would not venture to offer the committee an opinion on that matter.

There is a particular item referred to in the last paragraph of item 65 to which I might speak at this point or later, Mr. Chairman.

The CHAIRMAN: You might as well deal with it now.

Mr. BRYCE: This particular item relates to the payment of an actuarial equivalent lump sum in lieu of a small pension. I may say this was done in Japan and that it follows the normal practice where it is not practicable to make payments of a small sum by cheque. The minister acts here on the recommendation of the head of the post in the country in which the problem arises; that is, the head of our diplomatic mission in this country.

In this case, the retired employee was entitled to a small annuity and would have had to make a long journey to the embassy in Tokyo each month. He suggested he get the lump sum based on expectancy of life. In the light of the circumstances the ambassador recommended this form of settlement and it was made.

The CHAIRMAN: Do you have any comment, Mr. Henderson?

Mr. HENDERSON: I would only say this; it is my duty to draw to your attention instances where it would appear that the treasury board may have overstepped the requirements and the intent of the law. When the committee was discussing similar instances in 1959, while they accepted the status quo, they did give it as their opinion that legislation is desirable before any like arrangement is entered into.

With regard to locally engaged persons in any other country, although we have not obtained any legal opinion on this point, to my knowledge, the question does arise, as I say in the last paragraph of this section on page 22, that it would seem to us doubtful whether the authority I have quoted, section 7 of the Financial Administration Act, is sufficient authority for the action which was taken, because future parliaments accordingly are morally committed to provide funds for a pension scheme in respect of which no parliament has been asked to legislate. The treasury board, as Mr. Bryce has outlined, has relied on section 7 of the Financial Administration Act which gives them authority to make regulations prescribing conditions of employment of persons in the public service, and for any other purpose necessary for the efficient administration of the public service.

This matter has been raised by us, since 1959, and we continue to watch it. You may feel, under the circumstances Mr. Bryce has described, that they have brought a realistic approach to the problem, and that perhaps they are correct in their assumption that they should have gone ahead. However, as I pointed out to you, I would be failing in my duty if I did not bring borderline cases of this type to your attention.

The CHAIRMAN: You heard the explanation in both cases. Are there any questions?

Mr. HARKNESS: I think this is an area in which a certain amount of flexibility is essential. From what Mr. Bryce has told us it would seem there is a good possibility there is sufficient legal authority for payments of this kind; if such is the case, I would think the situation is quite satisfactory.

Mr. CROUSE: I agree with the comments of Mr. Harkness. I think that if anyone employed by the Canadian government should be posted to some other country, I cannot see why their superannuation benefits should be prejudiced in any way. I agree there should be this flexibility which permits the department to proceed to make payments on their behalf.

Mr. McMILLAN: Are these payments made pursuant to order in council?