

Mr. MACKENZIE (Vancouver): Will the minister look into this matter and let me know definitely on Tuesday?

Mr. MacLAREN: So far as I am aware no special provision has been made, but I think the estimates would provide for the payment.

Mr. RALSTON: I thoroughly agree that this system should not be condemned too soon; we should not be premature in our judgment. The minister has proposed certain amendments with which I thoroughly agree, and which have been offered with the idea not of revising the whole act, not of changing the system, but of trying to perfect it. What the minister has said with regard to the proposed change in the status of the Board of Pension Commissioners emphasizes the point I am trying to make with regard to the commission counsel. There might have been some excuse for making the counsel the servants of the commission when the commission itself was more or less in the position of a grand jury to find out whether there was a true bill or no bill. This might have applied when the commission was more or less in the position of an administrative body or a sort of sieve which passed on the good cases and sent the others on to the judicial tribunal. Under those circumstances there were some grounds for calling them commission counsel, to be under the jurisdiction of the commission. But the amendment which the minister is going to present, and in connection with which I believe he will receive the whole-hearted support of every hon. member interested in this matter, will put the Board of Pension Commissioners in a position where they will have either to refuse or to grant a pension; they will be exercising judicial functions and if they do not grant a pension they will give reasons for their refusal. Under these circumstances it would be putting them in an invidious position to give them counsel and also the power of instructing such counsel to go before the pension tribunal in connection with cases upon which they already had given a decision. That the commission should have power to instruct counsel to appear before the tribunal on an appeal from the decision of the commission, and that such counsel should tell the commission how he can best work in order to uphold their decision, is not fair, is not sound, is not just either to the ex-service men or to the Board of Pension Commissioners itself. The board is human; any judicial tribunal likes to have its decisions upheld. A personal interest is involved from which there is no escape. The committee will understand that in saying this I am not

in the slightest degree reflecting upon the members of the pension board. But it is too much to expect of human nature that the commission should be so disinterested and so detached that they would have not some interest in seeing that the matter goes before the appeal tribunal with the expectation that their decision will be upheld.

What is the remedy? It is just what I have suggested: appoint a crown counsel or federal counsel. He may be under the minister's department if that be thought wise, although I would put him under the Department of the Minister of Justice because that is where counsel representing the state originate. I would say to such counsel: "Go over that case, but not with the idea of upholding anybody's decision, because the Board of Pension Commissioners are no longer involved. Go over the facts thoroughly; see if you think it is a case in which the state and the ex-service men have been fairly dealt with, and remember that not only the principle is but the statute itself says that the ex-service man shall have the benefit of the doubt." If having gone into the case thoroughly he is of the opinion that the decision was wrong, that the principle referred to has not been observed, then I would put upon him the responsibility of launching an appeal. That would be a much fairer position in which to put the ex-service man and the Board of Pension Commissioners.

Mr. MANION: As the hon. member knows, we are all working for the best interests of the returned men. Would not his suggestion put the whole question of the appeal into the hands of the government? In other words, the appeal may or may not be right—I am not quarrelling with the argument of my hon. friend—but the appeal, such as it is, is launched through one of the tribunals, that is the pension appeal board. Suppose what my hon. friend suggests were carried out, then the appeal would be launched by the government. It seems to me, from the standpoint of fairness, not particularly to this government but to any government, you would put the government in a very difficult position, because the next representation made would be—not necessarily from my hon. friend, but on behalf of the soldier—that the government has no right at all to launch an appeal. It seems to me the pension appeal board might instruct counsel to look over the cases, as my hon. friend says—and I see nothing to quarrel with there—and to appeal only such as they thought should be appealed. But if that responsibility were put upon the shoulders of any government, whether this