

Mr. Jeckell share, as does the government, that it is not legally payable to me, but as above stated, is and should be part of the superannuation fund.

When the matter is justly dealt with and superannuation allowances in proper and increased amounts are paid to those entitled to them, I am willing and will expect this \$400 to be debited to such increased superannuation allowance or pension as I may then receive.

Yours truly,

Kathryn V. Kelly.

Referring to McKenzie and McLean, referred to in the letter, under the reversed decision McKenzie was granted a retiring allowance of \$2,560 and McLean got \$2,773. The minister of the department, knowing how improper and incorrect the ruling of the deputy minister of justice was, was not content to let these men have this miserable retiring allowance. He had orders in council put through giving McKenzie a retiring allowance of \$4,000, and McLean, \$4,774. Those are the only two civil servants who have retired from the service in the Yukon since the deputy minister of justice reversed that decision who have been fairly dealt with.

On the reversed decision of the deputy minister of justice the value of living allowance of \$1,500 is not salary or income for the purposes of superannuation under this act. But if you go to the Department of Finance and the Department of National Revenue you will find that living allowance is considered as salary and income and an income tax is imposed. Can you imagine such inconsistency between two government departments? In one the living allowance is not income or salary, while in two others it is income and they grab income tax on it. That is difficult to explain.

The civil servants of the Yukon petitioned for a fiat for leave to refer the matter to the exchequer court for an interpretation of the section I have read, subsection (1) of section 2, but the fiat was refused. The wrong was continued and it is continuing to-day. I appeal to the Minister of Justice to right the wrong. This can be done by a proper interpretation of the section. It seems to me that the language of the section is so plain that you do not need a lawyer or a judge to interpret it. The subsection reads:

(1) "salary" of a contributor means the regular salary paid in respect of his service, together with the value of living and residential allowances.

What plainer words do you want than that? Unless the government rights this wrong as a matter of course, I am considering having this widow petition the crown—this would be regulated by the Department of Justice—for leave to submit this question to the exchequer court. I appeal now to the Minister of

Justice to grant that leave so that the question may be settled finally and a grave injustice remedied.

Mr. ST. LAURENT: I am very sorry the hon. member has seen fit to impute the motives he did to the deputy minister of justice who gave this opinion in 1930. He was not deputy minister of justice when I came here, but I have known him for a great many years. From my knowledge of him I am quite satisfied that he was absolutely incapable of making a ruling in his official capacity for the reason suggested by the hon. member. The hon. member has spoken of a wrong, and I think it is a grave wrong to Mr. Edwards to have asserted in this place, after the many years of honoured and valued service he rendered to the country, that he made a ruling for the motives suggested by the hon. member. As to whether or not the decision was correct I have no opinion to express, but I can say to the hon. member that the ruling given in 1930 was not a ruling upon any specific case. It was to this effect:

I am, accordingly of the opinion that the interpretation of the definition of "salary" in sec. 2 (1) of the act which the committee has suggested in its report, is correct, namely, that only such living and residential allowances are to be reckoned as part of the contributor's salary for the purposes of the act as are, in the same sense as the contributor's regular salary, paid or allowed "in respect of his service": in other words, really form part of the compensation or emoluments attached to the position in which the contributor is serving.

Thereupon it was referred to the civil service commission to examine the various positions to determine what were the allowances paid that should be classified as compensation for service. Some of the allowances paid in the Yukon were not classified as compensation for service but as compensation for the hardships of having to fill positions in that remote part of the country. It was considered that that was not compensation for service, that it was compensation for having to live there and that when one retired it need not be continued. A retired civil servant was no longer required to live there, and if he chose to live there he was not entitled to receive additional money because of his own free choice in doing so.

If the hon. gentleman wishes to advise any one to apply for a fiat there will be no fiat refused. But the applicant for the fiat will have to envisage the legal position which results from this act and which makes this a grant or gratuity, and the hon. gentleman will take the responsibility of advising whether or not, whatever be the interpretation that the exchequer court might put on the section, there is any jurisdiction to render judgment.