

actions, pursuant to federal statutes, I would draw to the attention of the House the fact that a number of examinations on this subject have already been undertaken in Canada. The Law Reform Commission examined the matter some years ago in its study paper on costs in criminal cases. I believe the Commission will be looking at the matter again in the context of its phase one consideration of issues relevant to the criminal law review. In addition, the Canadian Bar Association has been doing a considerable amount of work in this area and may shortly be making the results of the examination more widely available. The Government of Ontario has also considered the many complex issues involved and will, according to the media, be making the results of this examination public before too long.

In view of this activity and in view of the fact that the federal Department of Justice is continuing to monitor the issues involved, it may be advisable to defer any formal action with respect to the suggestion put forward in the motion until the results of these various studies and reports are known. There is always a criticism of the fact that we study things to death, that we have too many studies or that we have a committee. I believe it is better to have these studies and act from a base of intelligence and knowledge on the subject than it is to adopt a shoot-from-the-hip kind of approach where we do not know the costs involved and do not know the complexities because we have not given the subject proper study.

Because of the uncertainties which I believe are contained in the terms of the motion—and I have not touched on anything but the criminal side in my remarks this afternoon—I believe it would be the best course to seek clarification on the part of the mover of the precise scope of the scheme which he has in mind and to review the situation in light of various other studies that are being undertaken both by private bar and by provincial governments which, on the criminal side, carry the main burden of responsibility. I think it would be premature for the federal government to take generally applicable action in a field where a major, indeed perhaps the primary, impact would be felt by the provinces.

I do not want to take any more time of the House. I know other of my colleagues are interested in this subject. They feel there is some kind of assistance that might be made available to various Canadians. I believe some form of executive discretion is probably the best system at this stage. I would like to see it exercised on more occasions than it is at the present time. There are hardships which, with any kind of presentation or representation, should receive serious consideration. Where it is an area of mixed federal and provincial jurisdiction, surely the Minister of Justice and provincial attorneys general could get together and work out some kind of scheme so that funds could be made available in classic cases where there has been a miscarriage or truly an expense to an individual. As the Hon. Member for Calgary West said, it may very well affect the rest of their life. I again thank the Hon. Member for bringing this subject matter forward. I would be very interested—

**Mr. Gilchrist:** Let the committee decide it.

### *Legal Fees*

**Mr. Cullen:** The Hon. Member says, "Let the committee decide it". My point is that no committee could decide this because it is so vague and covers so many areas. The next time the Hon. Member brings the motion forward, he should focus on one area. Let us look at that, make a pilot project of it and see if we can make it work.

**Mr. Sid Parker (Kootenay East-Revelstoke):** Mr. Speaker, I rise to support Motion No. 58 presented by the Hon. Member for Calgary West (Mr. Hawkes). I fully endorse the intent of the motion. I will speak very briefly because it is important that this matter go to committee. I had the occasion of working on a case which I believe this House should be very concerned about. It is directly related to what this Hon. Member is trying to do. There is a young married woman with two children in my riding. Her husband passed away and she was not given the survivor's benefit from Canada Pension. It went to her husband's common-law wife. After almost a year of writing back and forth, she finally came to me with this problem, and I represented her at a board of referees' hearing held to decide whether she is entitled to this pension because of her marital status. There was representation there by myself, a representative of the Government of Canada and an independent judge on that panel. The unanimous decision of that review board was that this woman was to receive the survivor's benefit.

• (1630)

The Department of the Minister of National Health and Welfare (Miss Bégin) appealed that decision, which forced this young woman to seek legal advice. Almost a year later, after going through the agony of discussing these matters with legal people and contacting various people to back up her submission, the case was finally heard and she won through the judge's fair decision. She was reimbursed in full retroactively. However, Mr. Speaker, there were lawyer's fees of \$1,600 which were incurred through no fault of her own. This expense was incurred through the process of appeal which was caused by the Department of National Health. I would like to read into the record a letter which I wrote to the Minister of Health on February 3, 1984. I will not use the woman's name because I think that would be wrong. It reads:

I am writing to you regarding—

A constituent—

—of Revelstoke, British Columbia.

Her case—

—went to a Review Committee which ruled unanimously in her favour, that she should receive Canada Pension Plan survivor's benefits payable on behalf of—

—her late husband.

Your Department appealed this decision to the Pension Appeals Board, which has also ruled in—

—her—

—favour, and I understand that she has received retroactive payments. Because of your Department's appeal to the Pension Appeals Board, it was necessary for—