

the minister—he has had notice of the question before—if he has looked into the subject, and if he could give me any information in the matter.

Mr. SUTHERLAND: I have looked into the matter, and my information is that there must be a difference in the pension law with regard to soldiers. With regard to our permanent force, that is not the case. If a member of the permanent force dies, any pay which may have been coming to him forms part of the estate. With regard to the case of which we are both aware, I am informed it was not a question of his pay not forming part of the estate, but one of legitimacy. The other parts, with the exception of pay and allowances which were coming to him, have been paid to the province from which he came. I am informed that it was only because of the question of legitimacy that the other money was not paid, and had it not been for that matter it would have gone to his legal heirs.

Mr. NEILL: Of course I was not discussing the question of the pay of the permanent force. If the minister says this is the decision of the department, that it only applies to the specific case about which I wrote, in which the question of the man's legitimacy did arise, I suppose I must accept that, but if that is so his department has an unfortunate way of stating a case. The letter contains this statement:

The unpaid balance of pay and allowances credited to the account of the deceased, which amounts to \$62, represents moneys not properly comprised in the estate.

Then I took up the question with the Department of Justice, and I have read the answer I received, that this was regarded as military pay and was not capable of being secured as an asset of the estate. In conversation with the official I interviewed in the Department of Justice I was told that the decision was based on broad general lines and that it applied to all soldiers. If the minister now says he has been advised by the Department of Justice that it applies only to a specific case where the legitimacy of the man is in question, of course that sheds quite a different light on the matter. Might I ask if the minister obtained his information from the Department of Justice, or whether he obtained it from his own officials?

Mr. SUTHERLAND: I obtained it from my own officials. There has been a good deal of correspondence and after my discussion with the hon gentleman the other day I went over the file very carefully and obtained all

[Mr. Neill.]

the advice I could get. I was assured that this was the reason, and that when the Department of Justice gave that decision they referred to this particular case. I am told, however, that in all the cases with which we have to deal such pay and allowances do form part of the estate.

Mr. NEILL: The ruling of the Justice department was given years before this case came up, and could hardly refer only to this specific case. Letting that go for the moment, however, I would suggest that this man's estate should receive this sum. As the minister has been advised, the estate consisted of three amounts. There was \$200 left in a savings bank account in Winnipeg, of which the department here very improperly took possession. They held that amount for thirteen years; they paid no interest and are not going to pay any interest, though they had no more right to the money than I have. That amount has been wrested from them and returned to the province; in due course it will find its way to their heirs. Then there were two cheques, each for \$70, found in his possession after he died. I suppose they were cheques for pay and allowances, but that sum also was kept for over thirteen years. Finally that has been handed over to the province, and in time that amount will find its proper destination. The other sum of \$62, however, for accrued pay, was money due the man, and no matter whether or not he was illegitimate he left a destitute mother and sister, and some of his heirs are on relief now. He earned this \$62, and outside the question of legal interpretation, on general principles of equity does Canada want it to be said that we did a dead man's relatives out of a few dollars because of some fine spun theory that we did not have a contractual obligation to pay? He went to the war and we undertook to pay him \$1.10 a day, but apparently we are trying now to renege on the bargain on the excuse that the man was illegitimate. That seems to me absolutely foreign to all sense of fairness. I do urge that instructions be given to pay this money as a matter of compassion, if you wish to call it that, though I would call it very bare equity.

Item agreed to.

Progress reported.

#### INDIAN ACT AMENDMENT

The house resumed from Wednesday, March 1, consideration in committee of Bill No. 21, to amend the Indian Act—Mr. Murphy—Mr. Cowan (Port Arthur) in the chair.