

Pension Acts

You may remember, Mr. Speaker, that the white paper proposed to recognize this exceptional burden of disablement by making an annual allowance of not less than \$400 and not more than \$1,200 for specified amenities for the exceptionally disabled, 100 per cent pensioner. You will see in the proposed new legislation that the government has not only maintained its support of this philosophy but it has doubled the amount of the allowances proposed in the white paper, thus responding to the recommendations of the veterans affairs committee.

The minimum and maximum allowances, as proposed in this bill, are \$800 and \$2,400 per annum. While these allowances will normally be paid on a monthly basis, they may also be made in lump sums for specified amenities to relieve pain and discomfort and to increase, as far as possible, the enjoyment of life for the pensioner. This new exceptional incapacity allowance is, of course, in addition to any other allowances to which the pensioner is already entitled by the act and will be tax free.

The second important new clause I wish to speak about relates to the proposed pension review board. This part of the bill was given intense and painstaking study by every group and body involved in the overhaul and restructuring of the Pension Act. The students of veterans legislation agree that this proposal is the key change in this up-dating of the Pension Act.

The Woods Committee had urged that appeals of Canadian Pension Commission decisions should be subject to consideration by a completely independent body, whereas the white paper proposed another version which, while similar in principle, was different in structure. The veterans organizations at first concurred with the proposal made by the majority of the Woods Committee but they subsequently modified it considerably. The proposal which is now delineated in this bill is that recommended by the Standing Committee on Veterans Affairs and demonstrates again the flexibility of the government's position under the white paper technique.

The Pension Review Board which is now proposed will be a new and independent body and will consist of a chairman and four other members appointed by the Governor in Council. This will provide the veteran who is dissatisfied with a previous ruling of the pension commission with a new and improved adjudicating process for an appeal to a higher and independent body.

Under the proposed procedure, the Commission will continue to be responsible for the first two levels of adjudication, as at present, but the Pension Review Board will function as a final court of appeal for all pension claims and will be the final authority on the interpretation of the legislation.

[Translation]

Mr. Speaker, it is essential that all decisions concerning veterans be made with the utmost fairness and with scrupulous impartiality. I am convinced this has always been the case but I am wholeheartedly in favour of any change in the legislation which will solidify this impression in the minds of the veterans and the general public.

[Mr. Dubé.]

The third change in this new bill, to which I would like to draw your attention and which is indicative of progress in this area, concerns the creation of a new agency called the Bureau of Pensions Advocates. This Bureau will be independent of both the Department of Veterans Affairs and the Canadian Pension Commission, and will be directly responsible to the Minister.

For the past 40 years or so, the veteran who so wished was entitled to free legal assistance for the preparation and presentation of his application for pension.

It is the Veterans Bureau, a branch of the Department of Veterans Affairs, which puts free of charge at the disposal of veterans this legal assistance service. Such administrative dependence of the Veterans Bureau upon the department or the Canadian Pension Commission has sometimes led to misunderstanding about the role and the allegiance of the Veterans Bureau.

Therefore, the government has thought that it was absolutely necessary to dispel any impression that the Veterans Bureau does not always stand up for the veterans. It is therefore proposed to give this agency the new name of Bureau of Pensions Advocates and to make it, under the act, a separate and independent agency, somewhat in the manner of the Canadian Pension Commission.

In addition, the relation between the new Bureau and the pensioner will be the same as that existing between a lawyer and his client, which means, in practice, that the Bureau will no longer be obliged to convey to the Commission all the information it has on its client.

[English]

The fourth feature in the new act, to which I want to draw particular attention, deals with an area of pension legislation which has always created problems. I am referring to that section of the act which, over the years, has come to be known as the "benefit of doubt" section. This section has application to every facet of pension adjudication. Almost every time the Pension Act has been amended the wording of this section has been subjected to lengthy debate and it has been rewritten several times. Its vagueness has led to many interpretations.

Although the "benefit of doubt" was written into the Pension Act many years ago, "doubt" in this context meant different things to different people. We have now specifically defined what it means. We have now identified the guidelines for both claimant and adjudicator. The onus on the applicant will be less stringent than it is in the ordinary civil courts of the country. It will not be necessary for a pension applicant to establish his case by a preponderance of evidence. It will be sufficient for the veteran to produce credible evidence that is not contradicted. Furthermore, the adjudicating authority must draw every reasonable inference in favour of the applicant. Simply stated, this means that in any case in which any reasonable doubt exists, and in which any credible evidence is not refuted, the claim must be resolved in favour of the veteran.

• (3:30 p.m.)

A fifth impressive innovation in the Bill is also a completely new part of the Act. It is designed to recog-