

the discretion is to be based on these words—that the disability is a major factor contributing to his unemployability. I suggest to you there is no comparison whatever between the two types of case.

The CHAIRMAN: May I interject, Mr. Green? We were discussing what the effect of this phrase might be and Mr. Melville's suggestion was that there is a statutory presumption in the Pension Act which might be a helpful guide to those people who are assessing disabilities. I think he was pointing out, for instance, that it would be rather ridiculous to assume that a 50 per cent pensioner might be presumed to have died as a result of his disability if he was shot in an accident, and then at the same time to argue in this other legislation that a 50 per cent disability was not a major contributing factor. It is just a helpful precedent in our own legislation.

Mr. GREEN: The legislation covering the widow of a pensioner receiving 50 per cent or more is not written in in the shape of a presumption. As I understand it it is simply an automatic provision, that if the pensioner, the husband, got 50 per cent the widow would benefit.

The CHAIRMAN: Yes.

Mr. GREEN: And it is not a presumption, it is automatic, the widow gets the pension if the husband got 50 per cent or more?

The CHAIRMAN: It is based on presumption.

Mr. GREEN: It may be based on presumption but the presumption is not written into the law.

The CHAIRMAN: That is what I mean.

Mr. GREEN: And here we are trying to write into law a provision that the disability must be a major factor contributing to unemployability. That is actually written into the law.

The CHAIRMAN: I think I agree with you fully. I thought you were suggesting to Brigadier Melville that there was some comparison. I do not think he was suggesting it as a comparison. He was simply say that there is basis in legislation for the presumption on the part of these people in interpreting that it is a major factor.

Mr. GREEN: I suggest that General Burns has caused this confusion himself; certainly he did in my mind when he said the other day that there would be the general presumption that the disability is a major factor. Well, now, today he has said what, to my mind at least, really amounts to the opposite when he says that in the case of every pensioner the disability would be a contributing factor, and if that were the only significance of the whole test then every pensioner would automatically be entitled to get this supplementary allowance, and he does not want that to be the situation. Now, is it not a fact, actually, that there is going to be very very wide discretion on the part of the department to say whether or not a pensioner gets this supplementary allowance and there really is no such thing as a presumption at all? The actual fact is that the department is given very wide discretion as to whether or not supplementary allowance should be paid. Is not that the actual fact?

The WITNESS: I might say this, Mr. Chairman, that today I have endeavoured to indicate the way the question of unemployability will be judged. In my previous remarks, of course, it was what I meant by "presumption" which I sought to clarify.

Mr. GREEN: To what page are you referring, General?

The WITNESS: To page 35. The point was that the grant would not be automatic in the sense that a man would qualify if he received a specified percentage of pension. I think I gave my answer to Mr. Croll on types of case that it would be desirable, I think, to make provision for including.