

ty legislation can be made to work against the very people for whom it was written. One woman was threatened with having her guaranteed income supplement entirely cut off because she could not provide the department with the amount of her husband's income. This woman has not seen or heard from her husband for over 11 years. Two recipients, a husband and wife, received an overpayment of \$70.40. A \$30 deduction was made for two months and a \$10.40 deduction the third month. Cases like this cause great hardship. It is taken for granted that government employees are fully qualified to look after the interests of these people who may have a lack of schooling. But they have great difficulty in dealing with the huge volume of letters they receive asking different questions, so a great many of them are set aside.

• (5:10 p.m.)

I have an instance of another overpayment, the overpayment of a widow's allowance by the Department of Veterans Affairs in the amount of \$296.52 because this lady had assets and property in excess of \$1,250. The allowance was in the form of a special award of \$175.00 monthly after her husband's death. Another overpayment by the Department of Veterans Affairs involved an amount of \$194.47 resulting from the fact that the lady in question had banked her \$70 monthly allowance instead of paying her son room and board as she had agreed to do, accumulating \$194.47 in excess of the maximum allowable amount. This was due to forgetfulness on her part but the allowance would not be paid again until she had given a cheque for \$194.47 to the department.

It is safe to assume that every member of this House has a score of such cases on his desk and that a considerable part of the time of each of us is taken up in attempting to resolve such difficulties as these. I have no doubt that every hon. member is as interested as I am in taking whatever steps are necessary to ensure that old age security and veterans legislation lives up to the original intent of Parliament. I would be the first to say that any cases involving fraud or wilful intent to defraud should be prosecuted to the full limits of the law. However, where there is no demonstrated intent to defraud, and especially when it can be shown that the overpayment is at least partly the fault of a federal employee, then the benefit of the doubt should be given to the recipient. Also, where it can be shown that repayment would work undue hardship on the recipient, the overpayment should be forgotten as is the practice in the United States.

I urge all my colleagues in this House to support my efforts to amend present old age security legislation so as to ensure that it can be administered fairly and humanely. All will agree, I am sure, that this was the intent of the legislation. It is our responsibility to make certain that the legislation is sufficiently flexible as to enable individual cases to be dealt with on their own merits and that there is, within the body of the law, the right of appeal against arbitrary decisions. We cannot do any less, and we should not delay any longer.

Government Administration

Mr. Alastair Gillespie (Parliamentary Secretary to the President of the Treasury Board): Mr. Speaker, I listened with considerable interest to the remarks of the distinguished member for Victoria-Haliburton (Mr. Scott). I share his concern, as I am sure do all other members of the House, with regard to the instances of hardship he mentioned and the difficulties which have been created for citizens, particularly older citizens, and in some cases for veterans.

I share his wish that our administration should be humane and fair. I should like to emphasize, though, that we are talking primarily about administration rather than legislation. Parliament has provided in its laws for certain rules to be followed and it has called upon the departments of government to administer the laws according to those rules. I should like to deal with some of the principles which I believe to be involved in the motion before us. It seems to me there are three principles which we could acknowledge at the outset. First, no one should profit unlawfully as a result of an error or as a result of negligence on the part of public servants. Second, no member of the public should suffer as a result of error or negligence on the part of public servants. Third, every reasonable precaution should be taken to prevent the occurrence of errors, in the first place, or their reoccurrence in the second place.

Let me deal briefly with each of these principles. As for the first, that no one should profit unlawfully as a result of the error or negligence of public servants, it seems to me that a number of instances might be cited. The hon. member refers to the overpayment of pensions by the DVA. I think he would agree that in some instances these overpayments may have come about as a result of information withheld by individuals not necessarily with intent to defraud but, perhaps, inadvertently, not volunteered. Any hon. member will know the legislation with respect to veterans' pensions requires a certain set of criteria to be met before pensions are paid. If the property or income of an individual exceeds a certain amount, the pension is affected. Should the hon. member wish to deal with this problem, I suggest he would have to do so as part of a separate piece of legislation.

Again, one would have to include provision for the kind of error which might occur as a result of a mistake in a customs situation. If an individual were to import or take with him materials which were dutiable, and they were not assessed, it could be claimed within this general ambit that he was profiting as a result of the error or negligence of a public official. What about the situation in respect of income tax, particularly refunds? Suppose an individual qualified for a refund amounting to, let us say, \$200 for which he has claimed and an official, making a mistake in the decimal point, sends him a cheque of \$2,000. What is to happen? The individual concerned has profited by that error to the extent of \$1,800 and, in a sense, all the taxpayers of Canada would be subsidising him.

The second principle I mentioned was that no member of the public should suffer as a result of official error or negligence. The Financial Administration Act, Section 23,