

about disability pensions. Under the bill, pensions benefits will include any disability pensions. Therefore on the break-up of a marriage or common-law relationship, the bill would permit the splitting of disability pensions.

A disability pension is generally considered to be a wage-loss replacement scheme. In other words, a disability pension compensates the disabled person for the money which he or she can no longer earn because of being disabled. This is important in considering the problems that might arise under Bill C-55 as addressed by the committee.

A disability pension is really a source of income for disabled people and often their only source. In that sense, it is not the same as a pension of the type we were talking about under part two. It is not really a pension as such. It is a replacement of income.

Under the bill, the disability pension will not be treated as a source of income. It will, in fact, be treated as net family property and will be divided retroactive to the date of separation. So when and if divorce proceedings are concluded, a disabled person receiving a disability pension may find that he or she owes half of the disability income collected from the time of separation to the other spouse, who may be fully employed and receiving a full income. That seems obviously unfair, as we can see that the disabled spouse could be left with a large debt owing to the other spouse, and possibly also economically destitute.

Notice that the analogy is to income. It is the same as if there is a marriage breakdown and the claims can be made on the salary of the wage-earner. It is not quite the same as a pension, being a substitute, in the case of disability, for that very income.

This is an unfair provision, and the minister indicated in committee that it is a situation that the government wanted to avoid, and would therefore seek to provide a form of protection for disabled pensioners in the regulations.

Sharon Hamilton, Director of Pension and Special Projects Division at the Treasury Board, indicated to the committee that this is a problem and that there is some confusion.

There is this sort of confusion because everything is an annuity or an allowance under our pension plan. That which is payable in the case of disability we have not in the past had to characterize as being a different kind of benefit than a retirement pension. But in this situation, where we are looking at credit splitting, it becomes obvious that you are looking at a different kind of benefit in relation to a credit.

The officials have acknowledged that there is a need to protect disabled people in these circumstances. They have acknowledged that this bill does not provide that protection. In fact, the minister agreed that protection is needed. He testified before the committee, at page 32:19, that:

In the regulation we will certainly want to provide a form of protection because the problem you describe is a

very real one for disabled pensioners. We are looking at that problem to ensure that protection is there.

This is a convenient place to note the intention of the committee in its report, as I understand it. The Acting Chairman, Senator Doody, can correct me if I am wrong. The intention of the committee is to monitor this situation and to keep in touch with the Treasury Board officials and, if necessary, to have them come back and say whether they have been able to solve this acknowledged problem through regulation.

However it is still only a promise, and we must ask ourselves whether this promise is good enough. Is it good enough for those disabled people who may lose 50 per cent of the disability pension they have received from the time of separation?

• (1530)

Remember, these people are normally prepared, we understand, to have that disability pension treated as salary and therefore subject, for example, to garnishment and court order, just as any salary is in the context of a separation. What they are concerned about is that it would not be a matter of a court order of garnishment or a court order asking them to allocate part of their income, but that it will have the automatic result that 50 per cent of the disability pension they have received from the time of separation will suddenly become a debt. If it is the minister's intention to provide protection, again why not write it into the bill instead of providing it through regulation?

Honourable senators, when we sent this bill to committee after second reading, we had some questions concerning it. We outlined them in second reading. The minister and departmental officials appeared before the committee—as did a number of other interested groups—to attempt to answer our questions and clarify the bill.

We went through second reading to debate the principle of the bill and raise questions that we wanted the committee to look into. All of that took place here in this chamber. We then come back here at third reading to have a look at how those questions have been dealt with. As I say, the minister and departmental officials appeared before the committee, as did other interested groups, to attempt to answer the questions and clarify the bill. What we found was that a number of issues were left unresolved by the bill.

At the beginning of my intervention today, I discussed the dissatisfaction expressed by many people with the minister's promises regarding regulations and de-indexing. Although he has promised not to use regulations to de-index pension benefits, not many were reassured.

I also talked at that time about the problems brought out in testimony by spousal groups regarding the splitting of pension credits in the event of marriage breakdown. The bill will not help those spouses whose ex-spouses are living in common-law relationships.

Finally, I discussed the problems that may be faced by those receiving disability pensions. The bill does not provide any