

Family Allowances Act, 1973

is a matter that raised considerable debate. The legal advisers had a chance to explain, and the Minister's legal advisers also commented on the subject, and they all said, as far as I know, that of course the Minister does not have the right to make the presumption of death of a child. As I said before, under our common law, this right belongs to the provinces, and we on this side of the House believe that if the question is not dealt with by the province it should be dealt with by the courts, in other words, not the provinces but a judge in a province should be authorized to do so.

Mr. Speaker, I would like to refer to the Conference on Conformity and Uniformity in Canadian Law. Section 13 of the Uniform Vital Statistics Act defines the conditions for registration of deaths and requires that the decease of any person occurring within the province be recorded as provided under the Act. Here again, according to the legal experts I consulted, it is clear that presumption of death is a matter of provincial jurisdiction.

In my experience as a Member, Mr. Speaker, I often came across similar cases, for example respecting old age security pensions, where cheques were still being addressed to the names of retired people after death. The province failed to tell the federal Government about such deaths—and it is the province's responsibility to do that—so the payments continued. There have been cases of fraud. Some of the circumstances are unbelievable, and I remember a case in my constituency which cost thousands of dollars to a person who did not know that he was actually carrying out a fraudulent operation when selling food to an institution for retired people, because the cheque deposited to pay for the food was made out to the name of someone who had been dead for almost a year. The Minister of National Health and Welfare could not say that someone had died, she did not even know about it. It is up to the province. Under provincial common law the province is responsible for dealing with such matters. I would not want anybody to think we want or wish the Minister would assume that right.

Mr. Speaker, I would also like to remind you that, in the opinion of the Joint Standing Committee of the Senate and the House of Commons, as it is specified in the proposed amendment, a judge must issue the death certificate and this procedure should not come under ministerial responsibility. This is further support to the argument whereby the Minister should not have the right to presume death, but that ought to be done by the judge of a court.

Mr. Speaker, the Bill also has constitutional implications and in my opinion, is subject to certain sections of the Constitution. For instance, I have in mind Clause 5 of the Bill, the clause which concerns the presumption that a child is dead and which reads as follows next to the heading "Presumption as to death of child":

Clause 5: New. This amendment would allow the Minister to presume a child to be dead where the Minister has reasonable grounds to believe that the child is dead.

Mr. Speaker, we on this side of the House are particularly concerned about Clause 5 which deals, as I said, with a provincial jurisdiction. I suggest it is up to the courts to rule whether a person, even a child, is deceased or not. I do not think that we on this side would want to leave things as they stand now in Clause 5 and allow the Minister to declare that such a person is presumed to be dead and, consequently, to take away from the parents any family allowance to which they were entitled.

We feel, therefore, that it is important to keep on paying family allowances when a child has disappeared. On this, I feel it is normal to appeal to the Minister and tell him: When a child has been lost or absent from his home for a long time, any parent would continue searching for him. As parents, there are things we must do, for instance, cooperate with the police in their efforts to find the child. Also, incur legal and travelling expenses to hasten the return of the disappeared child and ensure a serious and thorough search. The bereaved parents have to pay for a great many things, including photos, telegrams, telephone calls, fees to people who specialize in these things.

Having been involved for 11 years in education, Mr. Speaker, I remember the great many phone calls I received from concerned parents who find that, at 6 o'clock in the evening—it gets dark very early in January—their child had not yet returned from school. What do they do in such a case? Generally, they call the police, the school board or the school principal, and a great many other people. They anxiously look everywhere and face various problems. I suggest, therefore, that the expenses they must incur searching for their children could be reduced somewhat if they continued receiving family allowances.

Mr. Speaker, I do not want to deal any further with this motion. I should like to return later to amendments 6, 7 and 9 and submit arguments concerning them.

● (1220)

[English]

Mr. Ian Waddell (Vancouver-Kingsway): Mr. Speaker, my remarks in this debate will concern the groupings and certain sections of the Act. The Hon. Member for York East (Mr. Redway) stated that we are only talking about a procedural matter in giving the Minister of National Health and Welfare (Mr. Epp) the authority to declare a missing child dead. I do not believe it is a procedural matter but a question that the Government should consider in more detail because it is on a very slippery constitutional slope.

I have looked at some Acts and Law Reform Commissions reports. Perhaps my friends to my right could let me hear myself think.

The Acting Speaker (Mr. Paproski): Order, please. The Hon. Member who is having a conversation is well aware that he is creating a disturbance by crossing back and forth be-