

Canada Pension Plan

been expressed in language that will be found in other statutes.

Mr. Knowles: Can the draftsman give the assurance and can she in turn give it to the house that there are other examples in our law where this kind of language is used and has this kind of effect? We are not arguing the point. We just want what the minister says to be the fact.

Miss LaMarsh: I am told that in the Public Service Superannuation Act a similar double negative has been used.

Clause as amended agreed to.

On clause 63—*Person deemed to be surviving spouse.*

Mr. Dinsdale: Mr. Chairman, I have been reading this clause very carefully. It deals with the very difficult problem of common law marriages and it seems to me that the minister is going to be in much the same difficulty in interpreting this clause as it was suggested she might be in regard to the previous clause. For example, in subclause 1 (a) there is reference to unions that have resulted from marriage being prohibited by reason of a previous marriage that has not ended in divorce or annulment, and it suggests that such a union will be recognized under the pension plan. We then come to subclause 1 (b) which specifically states toward the end that the pension is paid to the survivor of the union as long as at the time of the death of the contributor neither the survivor nor the contributor was married to any other person. It seems to contradict subclause 1(a). I wonder if the minister could enlighten the committee on the interpretation of this? In other words, if there is a survivor of a marriage in which there have been irregularities, does the married survivor take precedence over the partner of the union that has been solemnized under the law?

Perhaps we could bring the problem into focus by asking if the terms of this clause correspond to the statute which applies to common law marriages under the veterans pensions regulations?

Miss LaMarsh: I am informed that under subclause 2, in the situation mentioned, where a man is married and separated from his lawful wife and has been living with another woman for at least seven years, in those circumstances a man would be prohibited from marrying the second woman because he was still married to the first. If he were living common law with a woman and had been

living with her for seven years, she would in effect become the widow under this law. This is the situation under subclause 2 where the wife is not entitled to separate maintenance.

I am informed that even in the case where clause 2 is not called into play, in order to disentitle his wife under subclause 1, the man may decide on the common law wife rather than the wife being entitled to the benefit.

Mr. Dinsdale: I take it from the minister's explanation that actually the decision with regard to these common law or irregular unions will in the final analysis be made by the minister, and it would be necessary for her to review all these cases?

Miss LaMarsh: In the strictest sense, that would not be necessary. It is expected this would be done by departmental procedure so that these cases would all come under review in the regular course. If there were any special representations made or complaints were made, they would go to the minister for special consideration.

Mr. Dinsdale: Can the minister indicate if this conforms to the policy applied under the veterans pensions legislation?

Miss LaMarsh: I am so informed, yes.

Mr. Rhéaume: I want to get some sort of commitment from the minister when we are dealing with this provision for common law unions, because this is a reasonably accurate description of most of the liaisons in the Northwest Territories. I could give the committee an hour or two of case studies, but perhaps it will suffice to say that there is an expression in the north that a common law union is only embarrassing for the first day. After that, it is accepted.

This leads me to a question under paragraph (b) which indicates that it has to be established to the satisfaction of the minister this is the case. Then it goes on to give a hint of a few of the general criteria. I should like the hon. lady to assure me she would be reasonably lax in her adherence to these criteria in deciding on the eligibility of the wife or husband, as the case may be. In particular, this clause says that at the time of death there must be no marriage partner still somewhere in the picture. In the case of strictly common law liaisons, particularly among people who are living on the land, it is a fact it is almost impossible to survive in the physical sense of the word, without a partner. This is because of the division of labour. A man simply cannot