

Canada Health Act

● (1250)

We were able to look at a series of suggestions and we received some advice from the professional sector. Of course, there was no place better to look than to the author of the current bible on health care in Canada, Mr. Justice Emmett Hall, who in 1979 was asked to make a study of the health care system in Canada. His report is entitled *Canada's National-Provincial Health Program for the 1980s*. The essence of his report is that he accepted the concept that we needed to ban extra billing and user charges. He had no difficulty with banning those charges but he insisted that if we were to ban them we had to be equally stringent in providing what he called adequate compensation for professionals.

If I may, I would like to take a couple of moments to read from Mr. Justice Emmett Hall's report. The Government has used that report on many, many occasions and the Minister has referred to it numerous times because it does indicate exactly what she wants it to indicate regarding extra billing and user fees. However, she has ultimately refused to accept what he also required as part of the twinning mechanism which he felt was absolutely mandatory. For the benefit of the record and for the benefit of the Minister who is present today, and I appreciate the fact that she is present, I would like to read what Mr. Justice Emmett Hall actually said in his report. At the top of page 28 it reads as follows:

Consideration and discussion of the question of outlawing extra billing however resorted to must always be accompanied by a recognition of the physician's right to adequate compensation and vice versa.

The next paragraph reads as follows:

These two elements must always co-exist; there cannot be recognition of one without recognition of the other.

The middle of that page reads as follows:

Provinces have the power to outlaw extra billing and should do so. It must be a condition of any legislation outlawing extra billing or balanced billing, in whatever form invoked, that the Province enacting such legislation will itself in the legislation agree to accept binding arbitration as now proposed. The two elements must be twinned.

Mr. Justice Emmett Hall then went on to say that he does not want there to be any mechanism whatsoever whereby that requirement can be overturned or appealed.

I think, Mr. Speaker, that the good words you have heard spoken this morning about the work of the committee in the last two months are indeed true. We have looked at this matter very seriously and there has been a certain amount of compromise on both sides of the House in the committee proceedings. We have come up with an amendment which does not actually accept the demand of Mr. Justice Hall that there be no mechanism for appeal. On page 9 of the amended Bill, beginning at line 31, paragraph (c) does allow for the legislature to do what Mr. Justice Hall indicated should not be done. He had indicated that any decision made by an arbitration board should not be amenable to appeal. In our attempt to compromise, we allowed that a provincial Government should have the right in the end to bring before the legislature and overturn a decision of some court of arbitration.

In the next few moments I would like to point out that subclause (2) of Clause 12, paragraphs (a), (b) and (c), provide the criteria that must be met by the province if it is deemed to have met the terms of reasonable compensation as we would like them to be. In the amended version of the Bill, that clause now provides that there must be a provision in each province for negotiation relating to compensation. Second, it provides that there must be provision for the settlement of disputes if, for some reason, the profession and the Government do not see eye to eye on the outcome of those negotiations. There is nothing wrong with that and we all agree with it. However, the difficulty lies in the wording at the beginning of subclause (2). This is where my one-word amendment must come in. We acknowledge the fact that if a province were to ban extra billing, it would then fulfil one of the criteria of Mr. Justice Hall, which was a very important criterion in his view. The Bill is now acknowledging what will happen if extra billing is not permitted in a province. Subclause (2) reads as follows:

In respect of any province in which extra-billing is not permitted, paragraph 12(1)(c) shall be deemed to be complied with if the province has chosen to enter into, and has entered into, an agreement with the medical practitioners and dentists of the province that provides—

—for negotiations and settlement of disputes.

What is missing is the word "only" which must be added to line 13 in order to make it work. Without that word, this clause has no teeth. Unless this is set into law with the inclusion of the word "only", thus making provision for negotiation and settlement of disputes, the paragraph will be inadequate and will, in effect, have no teeth.

The Government may argue that it is not necessary to include the word "only" in that paragraph, but those who have looked at it, including professional people, have realized that there is absolutely no protection here whatsoever without the word "only". This must be done if we are to follow Mr. Justice Hall's recommendation that if we are to ban extra billing, we must have equally stringent rules regarding the requirement for adequate or reasonable compensation. Only by adding that word will we have the requirement demanded by Mr. Justice Hall.

[Translation]

Mr. Lachance: Mr. Speaker, with leave of the House, may I call it one o'clock so that I can finish my speech later on?

[English]

Mr. Deputy Speaker: Do I have consent to call it one o'clock?

Some Hon. Members: Agreed.

[Translation]

Mr. Deputy Speaker: Order. It being one o'clock, I do now leave the Chair until two o'clock this afternoon.

At 1 p.m. the House took recess.