

*Private Members' Business*

chip of parents whose meanness is matched only by their self-centredness. Nobody wins in this sort of game.

In this light it is therefore easy to understand why my colleague's bill elicits such sympathy. At first glance, it seems to resolve the problem of the additional trauma children must face when their parents divorce. However, despite appearances and its commendable objectives, it creates more problems than it solves.

Let us take a good look at Bill C-232. The proposed amendments aim to make it simpler for grandparents to request custody when parents divorce. In fact, grandparents would no longer be required to obtain leave of the court to present a request for custody of their grandchildren. Bill C-232 amends section 16 of the Divorce Act and places parents and grandparents on the same footing when it comes to custody requests. Six people will be involved from the outset instead of two.

This six-way struggle could become an eight-way or sixteen-way struggle, since the Divorce Act does not define "grandparents".

• (1125)

What about *de jure* grandparents? Does the term "grandparents" include both biological grandparents and grandparents by right? What about a single mother who marries the father of a child, which she later adopts, and therefore gains a share of parental control? Can the single mother's parents be considered the child's grandparents under the Divorce Act? What about remarriage after a divorce where custody is shared?

Take the example of the parents of Julien and Laurence. These children have four biological grandparents. Their parents divorce. The two parents remarry spouses who each have a child, Isabelle and Christine respectively. Isabelle and Christine each have four biological grandparents. If joint legal custody is given to Julien and Laurence's parents, these children will become part of two reconstituted families.

If one of the new couples divorced, no less than eight grandparents would be able to obtain custody of the children. If both couples divorced, twelve grandparents could be involved, I kid you not. Julien and Laurence's four grandparents could each demand custody of their grandchildren by way of two distinct divorce proceedings. Just imagine the legal wrangling.

If its main goal is to foster relationships between grandparents and their grandchildren, Bill C-232 is ineffective. It simplifies the procedure for grandparents but complicates the issue when both parents retain custody and there is no reason to take it away from them. In fact, with respect to their access to information regarding the education and welfare of the child, grandparents are given more rights at the time of the divorce than during the marriage. It is as though they have acquired parental authority, without the spouses being deprived of it.

The children will be subjected to a more complex dispute involving a greater number of parties. Everyone will make their pitch, claiming to act in the best interests of the child, but it is still the child who suffers.

With respect to parental authority, this is an exclusive power of the provinces under section 92 (13) of the Constitution Act of 1867. This concept of civil law is the prerogative of Quebec.

In granting more rights to grandparents, in interfering with the concept of parental authority at the time of a divorce proceeding, this bill represents an out and out encroachment on the jurisdiction of the provinces. It looks like Bill C-232 is trying to accomplish indirectly what direct action has failed to accomplish.

The common law provinces have no legislation explicitly protecting personal relations between grandchildren and their grandparents. The other provinces have been concerned with protecting the relations between a child and his parents. This is a laudable goal, but it is not enough.

Quebec, on the other hand, has enacted legislation promoting harmonious relations between grandparents and grandchildren. Article 611 of the Civil Code of Quebec allows grandparents who are denied such relations to make an application to the court for a decision on the terms and conditions of their relations with their grandchildren. Such an application can be made at any time. The spouses can be engaged in divorce proceedings or not. The application can be made even if the parents have never been married.

Article 611 of the Civil Code is the real solution to the problems created when there is interference in the personal relations between grandchildren and their grandparents. In Quebec, the recourse of grandparents is clear if the dispute is about a deterioration in harmonious relations attributable to the parents. Notwithstanding its honourable intentions, Bill C-232 is no more than a stopgap solution to the failure of certain provinces to bring in legislation in the area of civil law.

There is another aspect of Bill C-232 that concerns me. Clause 1(2) gives grandparents the right to make inquiries, and to be given information, as to the health, education and welfare of the child.

• (1130)

If this amendment was made to the Divorce Act, the grandparents of children of divorced parents would have the right to be given information that the grandparents of children of non-divorced parents cannot obtain.

Furthermore—and we think this is very serious—section 1(2) of the bill directly encroaches on Quebec's jurisdiction over the protection of medical and school information. Quebec already has its own Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information.