

Private Bills

quick glance, wherein clauses or sections of the act of 1887 are being amended to meet the requirements of the Quebec Hospital Act and, in another instance, the Quebec medicare plan. If this is so, if this is the purpose, to have the Quebec Hospital Act prevail, which I am sure is what the case must be within the constitution, why do we have to go through the process of the Parliament of Canada seeking to comply with a law of a province, which that province has exclusive jurisdiction under the constitution to enact in any event?

It would seem to me that if the Quebec National Assembly, exercising its authority under the constitution to pass legislation with respect to hospitals, were in fact to pass such legislation, then any federal legislation would become null and void. How can there be two jurisdictions here? How can there be the Parliament of Canada saying with respect to a particular hospital, "Here is one set of rules, one set of circumstances, one set of proscriptions and activities," and the Quebec National Assembly, exercising its authority under the constitution, saying "Here is another set of circumstances, and here is something else that is going to prevail"? It seems to me that we do not need to go into the process of saying, "Yes, we will pass other legislation now with respect to the Royal Victoria Hospital in order that a statute of the Parliament of Canada and the operations of the Royal Victoria Hospital meet with or comply with the requirements of the Quebec Hospital Act." Surely those operations must do that now. Surely, the Royal Victoria Hospital must comply with the provisions of the Quebec Hospital Act, which is exercised exclusively within that province?

Surely, the operation of the Quebec medicare plan as it has application to the people in that province is paramount and overrides any decisions which the Parliament of Canada might make, because it is operated within the province's exclusive constitutional jurisdiction? These are the doubts or wonderments I have in my mind. I am not objecting to advancing the structure, the authority and the provisions relating to the hospital so that its administration and internal operations may be modernized and brought up to date, reflecting more the needs of the people in that province who go to that hospital. I am not questioning that at all, but what I am questioning is the whole constitutional issue of whether we are really on the right track, and whether or not the most appropriate thing might be simply to repeal the statute of 1887, because obviously the bill before us came here by petition. It is a private bill. It came by petition of the principals of the Royal Victoria Hospital themselves. I do not know who they are at the moment, who signed the petition, or sought to have the bill introduced in the Senate. That is immaterial. But whoever they are, they represent the hospital, and the hospital as a corporate society is saying, "We no longer want to have the authority to establish convalescent cottages outside the province of Quebec. We only want the authority to have the hospital established and maintained within the province of Quebec, as it always has been."

Then they are seeking to say, "In addition to that we want the federal statute that was enacted in 1887"—and presumably there was good reason for its enactment at that time, since there was not any medicare plan, any hospitalization plan,—which was enacted and established

[Mr. Howard (Skeena).]

at a different time, under a different set of circumstances, and with a different concept about society with respect to medicine, hospitals and payment of bills to be changed now and adjusted to meet the Quebec Hospital Act.

I submit that the Quebec National Assembly, operating within its jurisdiction, has enacted sufficient legislation within its own jurisdiction that we are not competent in a constitutional sense to question it. This is the thought that I have to express. There may be some points I missed in all of this, not having had the opportunity to look at the record of the proceedings before the Senate Legal and Constitutional Affairs Committee which examined this particular bill. I do not know whether or not this question of the constitution, this question of the exclusive jurisdiction of the province to enact legislation in this field of health and medical care, was discussed in the Senate committee, to what extent it was discussed, and what answers were given by the constitutional authorities. But it seems to me, without that kind of background knowledge of what they did, this is a valid point that should be considered.

I am not saying that we should not give second reading to the bill and refer it to the committee. That will take place in due course this afternoon. But it seems to me that unless those questions are answered, and answered clearly, we are in fact likely to be offending against the British North America Act, against the attitude of the government of Quebec which consistently has been to uphold rigidly and clearly the provisions of the BNA Act in those areas where the Quebec National Assembly has exclusive jurisdiction, and this appears to be one of them. I say that this appears to be one of them, unless there are some constitutional provisions within that act, as there are sometimes, that carry forward a special arrangement outside of the provisions of the constitution, such as was the case in Nova Scotia, where for many years the province of Nova Scotia had a special set of laws relating to divorce matters. They were laws of the Parliament of England that, by virtue of a provision in the BNA Act, were carried forward and remained in effect in what became the province of Nova Scotia.

As I say, there may be some provision in the BNA Act with respect to the Royal Victoria Hospital, or with respect to the establishment of hospitals, which gave at that time some authority to the Parliament of Canada to be able to enact special statute law in that area. These are things that need to be examined. I hope that when the bill gets to committee this question will be cleared up because it would seem rather a needless exercise for us to go through the process of passing a statute with respect to amending the Royal Victoria Hospital Act of 1887, and then find out it was not necessary, that the whole process was ultra vires of our jurisdiction in any event.

• (5:30 p.m.)

[Translation]

The Acting Speaker (Mr. Boulanger): Order. I am sorry to have to interrupt the hon. member but his time has expired.

I recognize the Parliamentary Secretary to the Minister of National Health and Welfare.