

they are not prepared for marriage—are not approaching this very serious moment in their lives with the full understanding that they are taking upon themselves a commitment, a contract, an agreement or a covenant for a mutual, exclusive, permanent union in which, with hope and love, they are preparing themselves to give to each other as responsible adult people ready to confront the difficulties which are part and parcel of every human marriage. As the statistics which were given in the House would indicate, many marriages today are not staying together.

Before I go on to speak about the act of kidnapping, let me question whether or not our society is helping to prepare young people for marriage. It is easier to get a marriage licence than it is to get a driver's licence, the reason being that before getting the latter licence you must take instructions and learn how to drive. However, all you need before getting a marriage licence is to be old enough, to have the \$5 or whatever is required, and to have taken a blood test.

Becoming married could be the beginning of a journey into a lifetime of happiness, or it could be the beginning of a journey into a lifetime of hell. So I think that society should take a close look at the requirements before a marriage licence is given and perhaps require some counselling before a licence is granted. I have had a good bit of experience in marriage preparation courses, marriage counselling, and so on, which is sought by many young people. On the other hand there are many young people who do not seek to have answers before they start on the road of married life.

I should like to say that I have had the privilege, as have many others, of coming from a very happy home. I think that this has had a great deal to do with everything I have done in life. It was through no choice of my own that I came from a happy home, it was just my good fortune, a blessing, or whatever we want to call it. I can never remember my parents saying a word in anger to each other, and I can well remember the day my mother died when my father said, in his grief, "This is the only thing she ever did to hurt me." It is a privilege to have come from such a home, and I appreciate the fact that many, many people have not had that privilege.

Today, we as legislators have the serious responsibility of having to face the problem of marriage breakdown and of having to face the problem dealt with in the bill put forward by the hon. member for Surrey-White Rock-North Delta, namely, that after a breakdown has taken place and marriage has finally come to an end, if children are involved there will always be heartache, sorrow, pain, and distress. No matter how the family courts, the lawyers, the priests or the ministers, and the social workers involved, deal with this, pain and agony will be present. But we still have to do something to protect people against extra strain, extra sorrow, and extra pain.

Now I would like to read a section from some material which tells us how the law we now have, imperfect as it is, has improved since the time when English society decided to pass a law to protect children. It was written by E. G. Ewaschuk, director, criminal law amendments, Department of Justice. He wrote:

Criminal Code

Since the common law misdemeanours of kidnapping and forcible abduction required an element of force, which is usually not required to persuade a young child to go somewhere, the statutory offence of child-stealing was created in 1814 by the enactment of "An Act for the More Effectual Prevention of Child Stealing".

He went on to explain that even in those days it was not uncommon for children to be kidnapped.

In the section of the act of that time there was the following provision:

—That nothing in the act shall extend, or be construed to extend, to any person who shall have claimed to be the father of an illegitimate child, or to have any right or title in law, to the possession of such child, on account of his getting possession of such child, or taking such child out of the possession of the mother thereof, or other person or persons having the lawful charge thereof.

● (1730)

The act simply said that the father, notwithstanding who ever happened to be taking responsibility for the child, was free to go and take the child at any time. Since then, as other speakers in this debate have indicated, there has been a growth in the notion that in the settlement which follows a breakdown of marriage, this may not be the best way to handle the matter. Now there are stipulations which permit the mother, at times, and the father at other times, to be responsible for the children of the marriage. In my experience, this act of stealing the child is almost invariably strongly linked with the abuse of alcohol, or alcoholism, which might have accounted for the breakdown of the marriage in the first place. In these cases either the mother or father has become addicted to alcohol. As a result they are no longer able to maintain a happy home, marriages break down, separation follows and divorce results. As might be expected, children are frequently given to the spouse who is not the alcoholic. However, in the strange love-hate relationship which follows, the person who has not been given custody, in a kind of revengeful mood, finds the child and somehow or other steals it away. Frequently, as has been indicated already, the one who steals the child runs away with it and disappears.

Many people are aware of how the movie industry in this past year attempted to bring this case home in a very real way, in the academy award winning movie called "Kramer v. Kramer". I think in that movie the stress and strain of the marriage, the change in the personalities of the people involved, the breakdown, the separation and the change in attitude toward the child from both parties was well demonstrated. I know of many cases which have the elements of the problems demonstrated in that movie.

One commendable feature of this bill is that it attempts to deal with the problem of jurisdiction. Now there is a sort of cure which is available in some instances, as the speaker from Surrey-White Rock-North Delta pointed out with respect to the issue of custody and jurisdiction. Karen Weiler of Osgoode Hall pointed out in an article:

The issue of custody, difficult to determine at best, is rendered more complex when interjurisdictional problems arise. Basically, one parent will be seeking to regain custody of the child which has been "snatched", while the other will attempt to obtain judicial sanction for his or her actions. The extent to which a court will intervene in settling the dispute is often unpredictable by virtue of the fact that a court may assume jurisdiction on several different bases.