

Criminal Code

be possible in the near future to examine the subject thoroughly in public, if possible before a parliamentary committee.

Mr. C. Douglas (Parliamentary Secretary to Minister of Communications): Mr. Speaker, I have not intended to become involved in this debate and I do not intend to take part very often in these discussions during the private members' hour. However, I feel bound to comment on some of the arguments which were put forward by my hon. friend from Windsor-Walkerville (Mr. MacGuigan), a learned member of the legal profession.

I am pleased that this bill has been put forward not by a member of the legal profession but by a concerned mother, a member of this chamber. I am pleased also that the spokesman from the opposition benches is not a member of the legal profession either. I say this because many times when we consider questions which are subject to legal interpretation and documentation we find ourselves moving away from the plain common sense of the issue. The common sense approach to this issue is: what are we as legislators doing to protect our children from the habitual sexual offender, particularly the sexual offender who wants to attack the young?

The hon. member made a good point when he said society itself was responsible in part for an alarming increase in the numbers of habitual sexual offenders. He mentioned that in times gone by the extended family comprised not only relatives, uncles, cousins and so on, but neighbours and friends right up to the policeman on the beat. That kind of society would not accept moral standards which are accepted now. In those days society itself presented opposition to the sexual offender which is not in vogue today.

I want to carry a little further the analogy of the policeman on the beat. If there is anything that policemen in this country view with alarm, it is the increase in sexual attacks on youngsters. I do not believe there is a policeman in this country who does not dread, in the day to day carrying out of his duty, the possibility of being called upon to investigate just such an attack on a youngster as was described by the hon. member who presented this bill. Policemen have an aversion to this type of crime. You can imagine a young policeman with children probably of the same age, six or seven years old, being called upon to investigate this type of offence. In some cases natural revulsion would almost prevent them from carrying out the duties they must perform as policemen in a logical manner.

I also want to discuss for a few moments the effects such cases have on a community, perhaps not on the large urban communities—I am speaking primarily here of small communities in which the residents and citizens are virtually a family in themselves. They see themselves and their neighbours as something of a family relationship, and when a crime takes place such as that described by the hon. member for York South (Mrs. Appolloni), it splits the community much more than it does those in the large urban centres. This is not to say a split does not take place in the large urban centres, but it is of much more concern to the small communities.

[Mr. MacGuigan.]

The hon. member for Windsor-Walkerville at one point mentioned that if this bill goes through it could result in extremely high costs for the courts and extremely high costs for psychiatric treatment. What price are we going to put on the safety of our children? We cannot put a price on the protection of our children from attacks such as those outlined in this private members' hour.

● (1632)

The hon. member also talked about the agreement of offenders to receive treatment. I simply cannot accept the suggestion that society can honestly say that a perpetrator of such a crime should be allowed to refuse treatment. How can we bring that into contention at this time, whether that treatment be out-patient treatment or treatment in a psychiatric institution? Who should have this responsibility? Should it be the judge who passes sentence or the psychiatrist who gives treatment? The buck has to stop some place. We can argue that this is not the judge's, society's or the psychiatrist's responsibility. That buck has to stop some place, and I suppose it stops here. If we decide that the judge has the responsibility to order treatment, then that responsibility is the judge's; and if he is going to be a judge, he has to accept that responsibility and act accordingly.

We cannot get into an argument about whether it is the judge's responsibility when he passes sentence or the psychiatrist's responsibility when he finishes treating the offender. It might be suggested that the psychiatrist might resent being told that he cannot let an offender go when his treatment is completed, but that is well taken care of in this bill. Proposed section 688.2(3) reads as follows:

The court shall order that an offender detained pursuant to a hospital order be set at large where

- (a) the offender would, but for the hospital order, have been set at large, and
- (b) the court is satisfied, upon the oral evidence of one of the psychiatrists upon whose evidence the hospital order was based, that the offender, if set at large, would not pose a serious danger to the public.

I think we also have to look at this matter from the viewpoint of the offender. Often these people know they have problems and desperately seek treatment, psychiatric or otherwise. Whenever an offence such as the one described by the hon. member for York South is committed, the community knows about it. In many cases the families of victims decide that they would prefer not to press charges.

The hon. member for St. John's East (Mr. McGrath) spoke of cases of incest. Those cases are also known about in communities. I think the protection we provide offenders is important, because if a judicial order provides that an offender shall receive treatment whether he wants it or not, the offender can then return to society after treatment and say: "I have undergone treatment, and according to the experts, the psychiatrists and the psychologists, I am now cured". As the law now stands, after serving sentences offenders must then return to society under the stigma of not having received treatment or recognition by society of the problems they face.

I wholeheartedly support this bill. If it cannot go from there to the committee I hope we can have some assurance from the