

Children's Rights

In addition, the Minister of Justice has actively encouraged the provincial attorneys general to enact provincial legislation that would provide for the mandatory recognition and enforcement of foreign custody orders in Canada, and to date eight provinces have done so. In 1976, Canada proposed that the 1980 Hague Conference on Private International Law deal with the problem of international child abductions and it appears that formal approval has now been given by the Netherlands State Commission to include the subject of child-napping on the agenda for the 1980 meeting.

Another question of concern is child abuse. The Minister of Justice has also shown concern over increasing the responsiveness and the effectiveness of the criminal law in cases of child abuse. This concern has resulted in an amendment proposed to section 4 of the Canada Evidence Act contained in Bill C-51, introduced on May 1 of this year and, we hope, reintroduced soon in this session. This amendment recognizes that criminal convictions are difficult to obtain in child abuse cases because it must be established beyond a reasonable doubt that a particular person assaulted the child.

Abuse of children generally takes place in the privacy of the home in the absence of witnesses who can or will testify. Normally the only witnesses to the abuse are the other members of the family, that is, the other parent and other children. Under existing evidence rules, if the parents or adults of the household are not legally married, the law considers them strangers for the purposes of criminal proceedings and the prosecution can compel one to testify against the other. However, if the parents are married, the spouse not charged is neither compellable nor competent to give evidence for the prosecution, even if he or she were willing to do so, unless the offence is one of a number of specified exempted offences, and a non-sexual assault on a child is not one such offence. The amendment proposed provides that the wife or husband of a person charged with an offence against any specified code sections where the victim is under the age of 14 is a competent and compellable witness for the prosecution without the consent of the person charged. The specified sections include common assault.

Additional study is continuing in the Department of Justice in an attempt to increase the effectiveness of other Criminal Code provisions relating to cruelty to children. In particular, this involves the offences of abandonment and exposure, failure to provide necessities of life, and assault as well as the provision relating to the right of a parent or school teacher to use reasonable force by way of correction against a child.

[Translation]

Mr. Speaker, unfortunately, I lack the time to go over the list of measures that the government has taken over the years to promote children's rights. In this regard, I think the move by the hon. member for St. John's East, which will allow us to discuss the matter at length in committee and formulate any recommendation that may be necessary to improve the situation further is welcomed by the Minister of Justice and the government. I expect that later on in the debate, which is

unfortunately getting shorter, somebody will seize the opportunity to move that the subject of the bill, once it is withdrawn, be referred to the Committee on Justice and Legal Affairs.

● (1752)

[English]

Mr. W. Kenneth Robinson (Parliamentary Secretary to Minister of National Health and Welfare): At the outset, Mr. Speaker, I should like to congratulate the hon. member for St. John's East (Mr. McGrath) for presenting this bill for further consideration, despite the fact that it has been before the House before but was not referred to committee for consideration.

I assume the Chair will give us a little extra time because of the remarks made at the outset of this private members' hour. I intend my contribution to be very short and I do not propose to encroach upon the time limit.

The hon. member for New Westminster (Mr. Leggatt) talked about group homes. I should like to say that in my riding of Toronto-Lakeshore such a home was opened only last week. More and more communities are realizing the feasibility of providing such group homes. I am glad that the subject matter of this bill will probably be referred to the Standing Committee on Justice and Legal Affairs for consideration; it is to be assumed that no one will talk it out today. I will therefore restrict my remarks to the question whether the implementation of a bill of rights for children is the best mechanism for reaching the objective the hon. member has in mind and also whether the timing is right.

The several principles of the United Nations declaration of the rights of the child which are included in Bill C-204 can be summed up as a child's right to an environment which encourages his or her physical, mental, social and spiritual growth. Quite frankly, I am not sure how we can legislate for that, or even legislate against actions which would interfere with growth. We are, in fact, faced with a dilemma because children are so completely dependent on adults for their development over such a long period of time and under conditions of such intimacy that I think a positive declaration of rights can amount to nothing more than guiding principles with little impact in law. Yet despite the probability that there would be little legal impact, I recognize that the bill would still be very useful as this nation's statement of its ideal role vis-à-vis children regardless of the reality. There is, though, a danger, as I see it, in such a document. We risk assuming that in the act of printing words we have made the ideal reality. Let us not fool ourselves. Not all of Canada's seven million children are assured protection, health, social security, an atmosphere of affection or full opportunities for play and recreation. And saying they should be won't make it so.

Another danger with respect to the bill is that it introduces a subtle adversary concept. The idea of children's rights or "kids' lib" is too often pitted against the concept of parental rights. I have had this experience myself. In my constituency, some parents who are excellent at the job of child rearing and