

As a result of this, the hazard to the child is increased. First, the child continues in the custody of the parent who has been acquitted on a charge of battering and is, therefore, available to be battered in the future. Second, there is a bitterness on the part of the parent which is likely to be expressed in brutality toward the child in the future. Third, the parent who has been acquitted of this behaviour sometimes looks upon his acquittal as a licence to continue this behaviour in the future. As a result of these prosecutions, in many cases the state of the child is worse than before the prosecution was instituted.

There is another problem with prosecution as opposed to treating outside the courts. If a parent who is inflicted with this illness, I will call it, knows that if he goes to a doctor, the doctor must report his behaviour to a police agency, it is highly unlikely that the parent will bring the child to a doctor or to any medical person. He knows that he might likely be charged if the child is presented to a doctor. Although the child may need medical treatment, that treatment is not forthcoming because of the fear of the parent.

Prosecution leads to another aspect. Prosecution brings with it punishment. Under our Criminal Code, parents who are guilty of battering or striking their children are subject to penalties, either fines or imprisonment. This type of punishment does not get to the root cause of the battered baby syndrome. The root cause is mental and emotional instability and we shall never get at this by prosecuting the parents. The bill before us would make it compulsory for a doctor, within seven days, to report to the Attorney General of the province any injury to a child which in his opinion might have been caused by maltreatment.

• (5:20 p.m.)

With respect, I cannot agree that a doctor should be required to report to the Attorney General. Implicit in this arrangement is the idea that the Attorney General will then take action against the parents; the Attorney General is a prosecutor, an enforcer of the law. To support my position, I should like to quote from a paper prepared by a Dr. Schlesinger, an assistant professor in the School of Social Work at the University of Toronto—or he was in 1964 when this paper was prepared. He states:

Many authorities in human welfare, including doctors, lawyers, judges, social workers and other child care experts, have felt that we need to introduce strict laws to deal with "child cruelty".

Doctors, probably more than any other group, are a prime source for "finding" abused children because children are brought to them for treatment. Doctors are also best qualified to determine whether injuries are the probable result of accident or physical abuse. Therefore, it is necessary that they be legally freed to take responsible action on behalf of abused children, and for reporting these cases to an appropriate agency. That agency will then accept responsibility on behalf of the community to fully protect the child.

Such legislation must be directed to medical practitioners and hospital personnel coming in contact with children for the purpose of examination and treatment of injuries sustained allegedly from accidental or other causes.

Criminal Code

He goes a step further, as I would. Not only doctors but hospital personnel should be required to report such cases.

Our doctors and hospital personnel should have mandatory responsibility for reporting all cases of child injury where medical diagnosis and findings are incompatible with alleged history of how injuries were sustained and the syndrome leads to the inference of "inflicted injuries".

Doctors and hospital staff members reporting cases of suspected inflicted injuries should be made immune to possible civil or criminal action for the disclosure of matters which might be considered confidential because of the doctor-patient relationship.

This is a key point, because in the absence of this immunity I doubt whether any doctor would report. Unfortunately, the federal Parliament cannot confer this immunity from civil prosecution; only the provincial parliaments can do that. The writer of this paper continues:

All reports of cases of suspected inflicted injuries should be made to the public or voluntary Child Welfare service which carries the child protective function in the community.

In other words, Dr. Schlesinger says there should be a mandatory report and that the report should be to child welfare agencies who would then take responsibility for the child in question. And this is what we are trying to do, help the child. Supposedly, and hopefully, these agencies would also direct the parent to the proper medical authority for treatment.

Finally, the doctors or the hospital staff concerned would be protected from any civil or other proceedings which might result from their actions in making a report. I submit that the bill we are considering does not meet these standards. I maintain we should work together to bring pressure on the Minister of National Health and Welfare (Mr. Munro) and on the Minister of Justice (Mr. Turner) to get together with provincial ministers so that in every province there would be legislation making reporting mandatory in such cases, and providing for immunity from civil action. In this way, each province would afford to children the protection which is necessary and which only the province can provide.

As the hon. member stated, there is already some legislation in effect in Canada. In British Columbia there is the Protection of Children Act which requires every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child to report the information to a Children's Aid Society or to the Superintendent of Child Welfare or his duly appointed representative. This provision applies notwithstanding that the information may be confidential or privileged. The punishment for breaking a provincial statute is a fine not exceeding \$500.

In Alberta, there is a child welfare act, section 39(1) of which states:

Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to the director or to any supervisor of the Department of Public Welfare or to a municipal welfare director or to a solicitor acting on behalf of the Department of the Attorney General.