

Criminal Code

Mr. C. Terrence Murphy (Sault Ste. Marie): Mr. Speaker, I, too, am most sympathetic about the problem raised by the hon. member, the problem that has become known as the battered child syndrome, as well as about some other problems that the bill attempts to solve. The problem of the physical abuse of children is very old. It dates back to the time when the father had the power of life and death over his child, to the time when parents used to sell their children into slavery and to the time when some fathers went so far as to mutilate children purposely so that they might evoke more pity from alms givers. That this problem is still with us despite everything we have done about it is made abundantly clear in an article in *Newsweek* magazine of June 3, 1968, which reads as follows:

Now that many of the older childhood diseases have been brought under control, pediatricians are paying increasing attention to the battered child.

'More children under 5 die every year from injuries inflicted by a parent or guardian,' reports Dr. Ray E. Helfer of the University of Colorado school of Medicine, 'than from tuberculosis, whooping cough, polio, measles, diabetes, rheumatic fever and appendicitis combined.' Although complete figures aren't available, Helfer estimates that at least 60,000 children are wilfully beaten, burned, smothered and starved every year in the United States.

The difficulty really is this: this type of abuse usually is not deliberate, in the sense that it was deliberate in the old days when a father injured his child in order that its injuries might evoke sympathy from the alms giver. The syndrome, as it is known today, arises from parental inadequacy, immaturity and a lack of ability to cope with the problems of today. These parents are people with problems. They have personality defects. They are neurotic, emotionally disturbed and some are mentally ill. To give an example, I wish to refer to an article on this subject which appeared in the November 7, 1969 edition of *Time* magazine. I quote:

● (5:10 p.m.)

In a study of 60 families with battered children, University of Colorado Psychiatrists Brandt F. Steele and Carl B. Pollock discovered one characteristic all these parents had in common. As children, they had been battered themselves, either physically or emotionally:

The article continues:

The pattern repeats itself when such children grow up and have children of their own. Overdisciplined and deprived of parental love in their infancy, they look to their own children for what they missed.

Such parents feel in effect that a baby who wets his diapers or hurls his Pablum at the ceiling is demonstrating that they are failures as parents. One young mother went into an all-day fit of hysterics because her young son refused to keep his coat on outdoors. Another told Colorado's investigators: "I have never felt really loved all my life. When the baby was born, I thought he would love me. When he cried, it meant he didn't love me. So I hit him."

This battering and deviant behaviour is an outer symptom of something wrong mentally or emotionally. Parents who abuse children are people who react violently to their own unmet needs. They need outside help. Who are these adults? Strangely enough, 50 per cent are male and

[Mr. Southam.]

50 per cent are female. The average age of the mothers is 26 and the average age of the fathers is 30. They are labourers, farmers, blue-collar workers, white-collar workers and top professional people. Some are in poverty, some are relatively wealthy, but most are in between. They live in large metropolitan areas, small towns and rural communities. Education ranges from partial grade school to advanced post-graduate degrees. It is clear that age, race, sex, economic level and occupation are not in themselves signs of the child abuser.

I wish to refer to a paper prepared by the Children's Division, The American Humane Association, in 1968. I quote:

Early in this decade, the child victim of parental abuse was labeled "The Battered Child." Much has been written and said about the "Battered Child Syndrome", that constellation of symptoms which, viewed together, unerringly point to a medical diagnosis of a physically abused child. Thanks to the medical profession the multi-faceted problem of the battered child has been given national recognition as a community problem of high priority order.

In medical conferences at state, regional and national levels and in the many state and local medical journals this has been a topic about which the profession as a whole has expressed great concern. The matter has been given even greater emphasis by pediatricians and roentgenologists in hospitals and clinic settings who are recognizing a responsibility toward the abused child—a responsibility which for too long has been ignored. Their concern stems from the fact that they frequently fail to properly diagnose the "Battered Child Syndrome" for what it is because they accept the glib stories of parents about the injuries resulting from accidental cause.

Numerous articles in medical journals place responsibility on the medical profession for properly identifying and diagnosing these conditions and for alertness to the signs and symptoms which spell physical abuse of children. These articles also express frustration in that when such cases are found, the community is often ill-equipped to fully protect and safeguard the welfare of these children.

I have been speaking about the battering parent. The real object of our affection should naturally be the child. How can we protect a child against this abuse? Studies have indicated that throughout this country and the United States there is no single pattern, but a number of approaches. Children's Aid Societies and children protection services are found in various cities, states and provinces. We try to help the child in other ways, such as through the use of the juvenile courts. Finally, there is the role of the police and the prosecutor, the criminal law, to punish the abuser of children.

The Children's Division of the American Humane Association states that prosecution of parents is least likely to provide proper protection for the child. There are a number of reasons. First, in any prosecution in a criminal court, the Crown or the prosecutor must prove the guilt of the accused beyond a reasonable doubt. In child abuse cases, this is often impossible, because the parent who is going to bat his child is not going to do it on Wellington Street on the Sparks Street Mall. The battering takes place in the privacy of the home. Therefore, obtaining proof which will result in a conviction is most difficult. In most cases where this procedure has been followed, no conviction has been registered. The parent trots out of the courtroom free.