

of the Quebec Legislative Assembly; clause 36 provides that:

Every child has a right to the protection and security that his family or the persons who replace it must ensure him.

Clause 44 of the same draft stipulates:

Illegal attack on a right or freedom recognized by this Charter entitles the victim to seek an end to the attack and reparation for resulting prejudice, moral or material.

Madam Speaker, the last work I have had a chance to consult is a volume published by the Canadian Mental Health Association. The book is entitled "In the Defence of Children's Rights". I quote from that volume because two of its articles, especially, are signed by persons who are well known in the field of social welfare. One of the co-signers, Mr. Claude Castonguay, formerly Social Affairs Minister in the Quebec government, writes on page 6, quote:

● (1640)

It is unthinkable that a battered child would remain at the mercy of those who mistreat him because the legislation does not provide enough security for those who might protect him.

All those points may appear interesting to citizens. The problem is their interest remains passive or transient.

And this is precisely where I wish to draw my colleague's attention. When the case of an abused child is brought to the courts—and I will come back to the last case examined by the courts of the province of Quebec, namely a judgment rendered November 12, 1974—tabloids seize that opportunity to publish scoops, report evidence and the judge's sentence, and a few weeks later the whole matter falls dead, until a new sensational case stirs up the emotions of the organizations concerned.

I believe the time has come for a complete revision of our philosophy on the child's fundamental rights, I quote another article from the same book by the Canadian Association for the Mentally retarded:

Dr. Eugene Brody, a professor in the Department of Psychiatry of the University of Maryland refers to the child's seven (7) fundamental rights as established by a United States Commission or joint Conference on the Mental Health of Children.

However, Madam Speaker, when one tries to find out at what time in history the rights of parents or their power over children were expressed, one has to go as far back as the history of roman law, of which I take the liberty of quoting a famous phrase:

Patria potestas in pietate debet non in atrocitate.

... in other words ...

... (the power of parents must be exercised with love and not cruelty)

I should like to point out to you, Madam Speaker, that that phrase did find its place in our legislation. Indeed, Criminal Code's Section 43 is essentially based upon this maxim. As you know, Section 43 reads as follows:

Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

However, the legislator realized quickly that certain people in charge of children committed abuses repeatedly. This is why, Criminal Code's Section 200 stipulates that these offenses are punished.

Child Abuse

However, Madam Chairman, we can easily see that Section 200 in its present form is inefficient. In fact, this article says:

Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for two years.

However, Madam Chairman, we cannot ignore Section 204 which reads as follows:

Every one who by criminal negligence causes bodily harm to another person is guilty of an indictable offence and is liable to imprisonment for ten years.

Yet, we have the ambiguous situation where a person who commits a criminal offense on a child is liable to a lesser penalty than one who commits the same criminal offense on an adult or a nubile person.

Madam Chairman, I think this is one of the facts that the committee should be instructed to investigate as it should study the necessity to revise the proposed bill on human rights which has already been mentioned during previous constitutional conferences, a bill that would contain specific provisions regulating the seven fundamental rights of the child mentioned by Professor Brody in his recent publication.

I believe, Madam Speaker, that since 1971, since such a motion was presented in the House for the first time, the Canadian provinces made progress in a way which allows us to hope that action in this area can be concerted between the federal and the provincial governments.

I take as an example bill 65 which was passed by the Quebec National Assembly in 1973, and which contains a section, Section 4, making it mandatory for anyone who is aware of an act of child's abuse to report the case to a Quebec court. Therefore, whether a parent, professor, baby sitter or teacher, any person aware of negligence toward a child must report the fact to a court of justice.

Let me refer also to the New Brunswick Child Welfare Act, under whose section 24 any person must report negligence toward a child. The same goes for section 49 of chapter 37 of Newfoundland statutes, whereby every person must report within seven days, any offence in this respect to the authority responsible for youth. The same applies in Manitoba, Saskatchewan and British Columbia.

Madam Speaker, I believe this issue, in addition to being of concern to provinces, should also be brought to federal attention. I will conclude my remarks with the main features of a brief submitted by the Society of Criminology of the University of Montreal and the Association of Women Graduates in October last. The brief is interesting, Madam Speaker, to the extent it emphasizes prevention rather than repression. While it is easy to pity abused children, and especially when one considers instances of injuries to them and their lack of defence, I believe it is more important to act before violations are committed, and instruct future parents of their eventual role, so that they will not commit what we wish to prevent.

This brief by the Association of Women Graduates tells readers that the best way of preventing abuse is future parent education. It is said on page 9 of the brief that courses in parental responsibility should be given in schools. It is also stated that assistance should be given to