

The safeguarding of the civil liberties and social rights of a child or young person and the provision of a code of appropriate procedures and consequences which relate to specific unacceptable behaviour may be important and helpful to the court but, in the case of children and young persons, they are of less importance than the provision of legal machinery for meeting their particular needs. A Criminal Code based on the notion that specific offences merit a specified range of punitive procedures may be appropriate for adults but definitely not for children. A particular offence may be committed by two children of the same age. In one case the total social, emotional and intellectual needs of one child may require only a suspended sentence; while with the other child an indefinite and probably prolonged period of re-education, treatment and retraining may be required.

Another sentence immediately following reads:

Basically it is the position of this association that there should be a separation between the judicial process and the process of determining appropriate treatment, training, supervision and after-care.

Those are good, commendable objectives. At the outset of my remarks, I mentioned that the legislation we are considering, because of certain provisions in it and more particularly the notorious clause on pages 26 and 27 dealing with postponement of sentencing, could provide an adverse effect in respect of a young person for up to a period of 11 years. I refer, of course, to the difference between age 21 when the sentence could be imposed and age 10, which amounts to 11 years. That is a long time to wait, although I presume the offence for which the person was being detained would be of a very substantial nature indeed, such as murder.

When the hon. member for Calgary North (Mr. Williams) referred to the motorcycle cases, I was reminded of the rather strange thing that could happen under the suggested law in the case of someone just under 17 years of age who was involved in a misadventure in the course of which a policeman was killed. If two persons were involved in this misadventure it could happen that the more hardened of the two, the one with perhaps a greater responsibility for the killing of the policeman, would have his case adjudicated immediately and perhaps the cabinet in its wisdom would decide his sentence should be commuted. The other person, being under age 17, would have to wait until he was 21 years of age before there would be any disposition of his case. He might be an entirely different person by then. At the time of arrest, he might have been perfectly capable of rehabilitation, of remorse for his crime and of adopting a whole new attitude toward his responsibility in society. But he must wait until he is 21 years of age. God knows where he would be located in the meantime, but since I have had to make certain assumptions for the purpose of my argument let me assume he would be confined with people who would not help reform him in any way. His jailors may wish to reform him but he may be with a group of hardened people who only set him more in his antisocial attitude.

So, being an amenable person before reaching age 17, he is now at age 21 faced with a crime he committed at age 17. Where are his legal rights? The court may deal

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with him as if he had been then and there convicted of the offence, to which has was found guilty at 17. Perhaps I niggle too much when I look at those words, but it seems to me we then take a man at age 21 and decide to deal with him as if he had committed the offence at that time rather than at some time in the past. Because of his attitude at this time, largely induced by being in prison, I suggest this man could be found guilty of a capital offence, such as capital murder, in which case he might be hanged. We have these two persons, both involved in a crime, one of whom being a few days older than the other knows of his punishment, which may involve commutation of sentence, while the other person must wait four years and a few days until he is age 21. His attitude at this time may be entirely different. For this reason, I believe this is a very dangerous approach and one to which we, as Members of Parliament, should give very earnest consideration. We might wonder whether we should be looking at this type of delayed sentencing at all or whether we should take some entirely different attitude.

This is the reason I reject the philosophy of the legislation which is now before us. I say it is wrong in our enlightened society, and in what we profess to call a civilization, to have a threat of punishment hanging so long over people's heads, in some cases up to a period of 11 years and in many cases for a period of at least four years. What is this supposed to produce? Is it intended to produce a person who will absolutely bow to whatever whim his jailors impose on him? They may tell him not to be fractious because it would have an affect on the judgment given. He is not dealing with parole. He is appearing before a judge who takes the reports and then determines what punishment he should receive. So, I believe it is dangerous in this regard alone. I do not think it helps, because for one thing the rehabilitation period is put off, I presume, until after the time of sentencing. I believe these circumstances alone should make us take a long hard look at what we are being asked to do.

Then, I see things such as clause 4. The previous speaker could not find it, so I shall place it on the record. It has been read by others who have taken part in the debate. At page 5 of the bill under the heading "How Young Person Dealt With", we find this:

This act shall be liberally construed to the end that where a young person is found under section 29 to have committed an offence, he will be dealt with as a misdirected and misguided young person requiring help, guidance, encouragement, treatment and supervision and to the end that the care, custody and discipline of that young person will approximate as nearly as may be that which should be given by such a young person's parents.

Mr. Speaker, I suggest those words are novel words, but if they have any meaning in a bill such as this they would probably be better placed in a preamble or in some pious statement rather than being given the purported sanction of law. I suggest that they are so general as to be almost meaningless. No two judges and no two courts could determine exactly what is meant by these words. With everybody being put in the position of a young person's parents, this would mean there would be