

*Young Offenders Act*

I believe that under this subclause the judge is given powers beyond his jurisdiction. Is it logical for the judge to be investigator, policeman, psychiatrist or court clerk in the same case. I do not really think that the reason brought forward—unavailability of probation officers—could justify such a procedure. It would be granting a judge too much power and too much judicial and administrative freedom. A judge is a judge, but only a judge. Therefore, he must not try to perform the duties mentioned a few moments ago. The definition of a judge would then be completely falsified. He must remain neutral in his field, namely that of applying the law to the best of his ability, the reason why he was appointed and sworn in.

Thus in the following pages where the duties of the probation officer are defined, everything is ambiguous and complex and in my opinion this will result in dry and useless discussions.

I should like to draw once again the attention of the House to the document received from the Director General of Boscoville. Three short paragraphs from this document are, in my opinion, very constructive. I quote:

*Judge and "Superintendent"*

We should avoid giving the superintendent the responsibility of transferring a young person from one training school to another, in contrast with the provision of Clause 47 (1). The judge should be the person to assume the efficiency of rehabilitation measures that society, which he is representing in the last resort, takes for this young person. This should be respected if we want the judge to play the part that experience has proved to be essential to successful rehabilitation.

I agree with these remarks and I believe the government should seriously consider this particular aspect of the bill. The second comment reads as follows with regard to Clause 59, subclause (2) paragraph (b) on page 53 of the bill, and I quote:

A judge may by warrant commit a young person to detention. It seems to us that such a measure should not be applied towards a young person when there are detention facilities for adolescents within the judicial area where the proceedings are taking place. Being in contact with adult prisoners during imprisonment previous to a rehabilitation measure is inappropriate and a young person who is put in such a situation may well be stigmatized. Past experience has shown that such measures must be avoided if possible.

Once again, I strongly recommend that the government should consider this aspect in order to prevent the young offenders from falling prey to the nefarious influence of hard-core criminals. We are dealing with unlucky youngsters and not with the scum of society. Let us remember that.

I am now coming up to a point which appears to be vital and to which we never pay enough attention. I am speaking of clause 60(4) on page 55 of the bill, which reads as follows:

No person shall, except with leave of a judge, publish by any means any report

(a) of an offence committed or alleged to have been committed by a young person

Mr. Speaker, the mere phrase "except with leave of a judge", in my opinion, destroys the legal scope of this paragraph. Does the law provide for some preference? Is

[Mr. Beaudoin.]

it a good thing, whatever the significance or the sensational aspect of a case from a journalistic point of view, that a youngster should all of a sudden become the subject of a kind of publicity which will sully his reputation for ever? Is there one judge in Canada who does not understand this prime aspect of the young person's rehabilitation? In my view the government in this specific case, with the six words that I dispute thoroughly, is permitting abuses contrary to the most elementary freedom of the accused. I should like to quote the remarks of Mr. Gendreau of Boscoville in this regard:

It is said that it is possible for a judge to give permission to publish certain accounts of the trial of a young person.

For rehabilitation purposes, we feel that we must ban all publicity concerning the delinquent action of a young person when he appears before a children's judge. No permission to disclose to the public any aspect of the family or personal problem should be granted. The risks involved are too great for such a thing to be allowed.

This is clearly viewed from the rehabilitation standpoint which definitely implies that an individual should not have to bear social stigmas which are not conducive to social reinstatement. This is unavoidable in the case of adults and under no circumstances must it be permitted in the case of young people, for it would be a backward step.

This quotation is self-explanatory and if anyone should know something about rehabilitation in Quebec, it surely is Boscoville's director general because he is right in the middle of it.

In my view, the bill is positive in its principles. We are endeavouring to defend the young delinquent by helping him through the enactment of positive, not punitive laws.

This for example is truly a backward step as compared with the law of 1929 respecting probation. Already that act recognized the administrative role of probation officers. As I suggested briefly a few minutes ago, Bill C-192 authorizes the judge to designate whom he wants as probation officer and it even grants him the right to act as one and I am against that.

I believe the bill should be amended to take the present situation in consideration. Today, almost all provinces have probation services established under provincial statutes. Through experience it has been possible to rationalize the social role of probation services. At the same time, professional and scientific elements were gradually integrated into the practice. This measure is applied within officially constituted services. Of course, the work of probation services is always connected to the implementation of the act.

However, to submit its activities to the control and goodwill of the judge is nonsensical and anachronistic. In that bill, I note a clear interference by the federal government in an exclusively provincial jurisdiction and in a field already held by the province. In my opinion, the federal government must not in any way define the role, functions, rights and duties of probation officers. This responsibility comes under the provincial government and as far as I know, that government wishes to continue to assume its responsibilities in that field.

Mr. Speaker, it is therefore obvious to me that this bill, as drafted, cannot be passed. There are meaningless