

Bill to Amend—Second Reading—Debate Continued

Dec 7/10

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Tardif, for the second reading of Bill S-204, An Act to amend the Criminal Code (protection of children).

Hon. Sharon Carstairs: Honourable senators, let me begin by acknowledging the words of my fellow Manitoban. It was good to hear him in debate, although there were few things in his speech with which I was in agreement.

In response to his brother's surprise that we were wasting taxpayers' dollars on this bill, let me state unequivocally that I consider the protection of our children — the future of this country — to be of the highest priority.

The appearance of section 43 in the Criminal Code is in itself a strange use of the Criminal Code. The purpose of the Criminal Code is to inform citizens of behaviour that is unacceptable in a free and democratic society. The Criminal Code is almost entirely prohibitive. It states that we shall not murder, steal, or assault, physically or sexually, our fellow citizens. The Criminal Code, for the most part, prohibits actions. However, in the middle of this code that prohibits actions we have a section that permits an action. It permits a schoolteacher, parent or person standing in the place of a parent to use force in the correction of a child.

I was interested in Senator Plett's response to Senator Hervieux-Payette's question about a neighbour using force on his child. Senator Plett clearly disapproved of such an action, and I agree, but when we allow a child to play at a neighbour's home or in a neighbour's yard, we are giving that neighbour permission to stand in the place of a parent. We are, therefore, protecting that neighbour if he or she should use force against our child. The neighbour could use the defence of section 43.

Senator Plett clearly takes offence at the state crossing, in his view, a line where government rather than the parent determines how to raise a child, but we cross this line often for the protection of children. Earlier this afternoon in this house, we debated Bill C-36, which seeks to impose rules that will govern the things our children might eat or toys that will be in their possession. Only last week, the government imposed by regulation stronger requirements for baby cribs. The purpose of these bills is to enhance the safety of our children, and I suggest enhancing the safety of our children is exactly what Bill S-204 will do.

Section 43 in its original state also gave us the right to use corporal punishment on midshipmen and the mentally defective, as defined by the bill. Those parts of the section have been repealed. Why — because it became repugnant for us to allow the use of force on midshipmen and the mentally defective. Earlier common law provisions made it possible for men to use corporal punishment against their wives. This use, too, has been prohibited. Why then do we still believe it is permissible to hurt our children?

I enjoyed Senator Plett's personal stories, although I suspect that my interpretation of these stories will differ from those of my Manitoba colleague.

I was interested that his second son is not an advocate of corporal punishment. This is the son whose story he told where clearly, spanking did not work. However, Senator Plett should be congratulated for recognizing this failure. After the second spanking failed to work, Senator Plett chose an alternative strategy. Tragically, many parents do not have Senator Plett's perception.

All too often, what is called a spanking does not work, and it escalates and becomes serious abuse.

There is a court case at this very moment in Toronto where a mother is charged with child abuse. It started as a simple spanking. When the simple spanking did not work, it escalated to a severe beating. Honourable senators, all too often this escalation is the pattern of abuse. It starts with what appears to some

Not all parents have the control clearly exercised by Senator Plett.

I was particularly struck by the letter from his granddaughter, who wrote:

Spanking is also a quick way of dealing with a problem and the kid can forget about it and go back and play.

This is clearly a well-behaved child and one who is also bright. She understands cause and effect. However, surely discipline is not supposed to be transitory. I am sure my younger daughter would have far preferred that I give her a spanking rather than denying her access to her horse, which was stabled 35 minutes from our home and required her father, her mother or both of us to take her. When she was denied access to her favourite activity — an activity I might say that at the age of 38 she still engages in five times a week — she understood that the consequences of her behaviour were not short term or transitory.

However, I take great offence at the material presented with respect to Sweden, which is wrong and, unfortunately, the work of a largely discredited and biased researcher. The Swedish story is a success story, and the proof of this success has been that so many other countries — 14 to date — have adopted its policies to similar success.

First, the law in Sweden did not change in 1979. That change was largely symbolic. It was the change in 1957, which made corporal punishment an assault in Swedish law, that resulted in an attitudinal change in Sweden against corporal punishment now reflected in an over 93-per-cent rate of acceptance by the Swedish people.

The normal Swedish parent, according to Staffan Janson, a professor and pediatrician who has been in charge of the national Swedish studies in child abuse, said in a letter to me:

Today's parents actually think it is disgusting to beat children.

Second, law reform in Sweden has not resulted in a greater willingness of child welfare authorities to remove children from their homes. To the contrary, few children are removed. In

2004, for example, only 200 children were placed in immediate custody — a very small number.

Third, the people of Sweden have a much greater public awareness of violence against children; and yes, the reporting rate has increased simply because Swedes will not tolerate such actions.

Fourth, studies have shown that Swedes are neither afraid of their children nor unwilling to discipline them. They are simply unwilling to hit them. The aim of law reform in Sweden has been to protect children not to punish parents. Perhaps the most positive impact has been on the health of Swedish children and their well-being. Sweden has seen a decrease in the number of children turning to drugs and an increase in the number who have turned away from violence. I encourage senators to read the studies by Dr. Joan Durrant, University of Manitoba, 1999; Dr. Ake Edfeldt, University of Stockholm, 2005; Dr. Goran Juntengren, Research Director, Primary Health Care, Southern Alvsborg County, Sweden; Mali Nilsson, Chair, International Save the Children Alliance Task Group on Corporal/Physical Punishment and Other Forms of Humiliating or Degrading Punishment; the work of Staffan Janson, Klackenberg-Larrson and Magnusson, 1998; Kai-D. Bussmann, Claudia Erthal, Andreas Schroth and many others whose work I would be pleased to share with honourable senators.

In the final analysis, colleagues, this is a simple concept. Do I, because I am physically bigger and stronger, have the right to use my brute strength against someone who is smaller and lighter just because I am that person's parent? I simply do not believe I do. Yes, I have the right to teach my child acceptable behaviour and I have the right to discipline when that behaviour is unacceptable. I have the right to use time outs and denial of privileges.

I want to close by thanking Senator Plett for the story he told about discussing his corporal punishment by his father at his father's dying bedside. His father told Senator Plett that his punishment did not hurt the father as much as it did the son. That, hopefully, has put that myth to bed.

Hitting hurts and it hurts even more when done by someone the child believes loves and cares for them. Children are deeply humiliated by such acts and, although, quick to forgive, they are not quick to forget and, all too often as studies show, it teaches them that hitting others is acceptable. I simply believe it is not.

Honourable senators, join me and 400 organizations in this country that support the repeal of section 43.

(On motion of Senator Comeau, debate adjourned.)