

Business of the House

BUSINESS OF THE HOUSE

Mr. Stanley Knowles (Winnipeg North Centre): On a point of order, Mr. Speaker, may I ask whether the government house leader would consider calling a meeting of house leaders perhaps later today to see whether we might have a discussion about the time to be spent on the matters we are about to begin to debate. I am not suggesting any over-all time limit in view of certain positions which have been taken, but I wonder whether the house leader would consider calling a meeting so that we might discuss the time we would spend on the first eight or ten amendments which are now before the house.

Hon. Donald S. Macdonald (President of the Privy Council): Mr. Speaker, as I mentioned to the member and to the hon. member for Peace River (Mr. Baldwin) I should like if possible to arrange a meeting this evening. I hope just as soon as the hon. member for Shefford (Mr. Rondeau) returns to the house we might be able to arrange a meeting for possibly after eight o'clock this evening. I think it might be useful to work out a procedure, in view of the fact that we have used up the equivalent of 12 full sitting days for the second reading and report stages, and since there are only 25 sitting days remaining for legislation at this session.

[Translation]

GOVERNMENT ORDERS

CRIMINAL CODE

REPORT STAGE

The house resumed, from Friday, April 25, consideration of Bill C-150, an act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and the National Defence Act, as reported (with amendments) from the Standing Committee on Justice and Legal Affairs.

Mr. Gérard Laprise (Abitibi) moved amendment No. 15:

That Bill C-150, An Act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and the National Defence Act, be amended by inserting

[Mr. Sharp.]

in clause 15, after the words "person who" on line 11 on page 35, the following words:

"being unavoidably prevented from finding a medical practitioner".

● (3:00 p.m.)

Mr. Speaker, I moved that amendment to clause 15 on page 35 of reprinted Bill C-150 in order to clarify the meaning of subsection (2) of the section 209, so as to prevent any misunderstanding in the implementation of this legislation.

First I shall read the new section 209 which clause 15 of Bill C-150 would substitute to the present section. I quote:

(1) Every one who causes the death, in the act of birth, of any child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child, causes the death of such child.

So the amendment I move Mr. Speaker, would add after the words "a person who" the following words:

"being unavoidably prevented from finding a medical practitioner."

Mr. Speaker, this amendment would prevent any person from killing a child in the act of birth if it is possible for such a person to find a qualified practitioner.

I am afraid, Mr. Speaker, that the proposed amendment to Bill C-150 would open the door to any quack who could say afterwards he acted in good faith and thus would not be prosecuted for criminal negligence.

The amendment I am introducing would oblige the woman seeking abortion, under section 209, to take all possible practical steps to find a qualified doctor to perform the abortion. Thus, in case of practical impossibility, the woman concerned could go to another person she feels is qualified enough to perform the abortion.

I am thinking, in particular, of areas very far from medical centers, hospitals, or qualified doctors. Were the case to arise in such places, it would become necessary to request to help of a person who, though not a doctor, could provide the help needed by the woman or girl whose life is endangered.

Mr. Speaker, according to the Model Penal Code of the American Law Institute, abortion will be justified only when performed in an

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accredited hospital, except in cases of emergency, when hospital services are unavailable.

I would like to point out here that this section from the Model Penal Code of the American Law Institute has not yet been adopted everywhere in the United States; it is simply suggested that with its inherent restrictions it should become part and parcel of the American law.

In my opinion, we should here in Canada enforce the same restrictions in the case of persons likely to perform abortion, I mean doctors. Mr. Speaker, if I have introduced this amendment to the Criminal Code, it is with a view to throwing some light on paragraph 2, section 209, so that persons lacking the qualifications to perform abortion would do so only if it were truly impossible to find a qualified doctor or if the services of a duly accredited hospital were not available.

Mr. René Matte (Champlain): Mr. Speaker, the time has now come to study the amendments to the clauses of Bill C-150 dealing with abortion.

With regard to the first amendment proposed to us, I feel it would be well to consider the importance of the specification suggested by my colleague, the hon. member for Abitibi (Mr. Laprise).

When the doctor is not at the bedside of a woman about to give birth or to have a miscarriage, it is absolutely normal for the persons closest to her to try and help her. However, Mr. Speaker, this type of situation seldom occurs. Indeed, considering modern progress, the number of public clinics and means of communications, it is practically impossible for that type of situation to occur.

That is why we want to make the legislation more specific with regard to the intervention of another person. This would make the legislation even more efficient.

I feel, Mr. Speaker, that all those things should be considered. It would be extremely easy for clever people to use some means to an end that would not always be good.

By proposing this amendment, we want to prevent—and we take this opportunity to say so—in the event where it is really impossible to find a doctor, that the one who lends a hand should be accused of homicide or infanticide. It would be completely in order for that person not to have to suffer the consequences of an inadequate law.

We all agree on that. I insist on the fact that those cases do not occur. I fail to see

how anyone other than a doctor could be authorized to procure an abortion.

• (3:10 p.m.)

The legislation even states specifically that these are cases which will be decided by a board of doctors. Therefore, is it possible that a person would have to provoke abortion? This will never happen.

What can happen is a birth, as mentioned in the section. Therefore, at the time of delivery, even if it is premature, there is of course a birth. The birth can be normal. I cannot possibly imagine that the person who would give this service would provoke the death of the child during birth. In other words, it is practically impossible that a person could be accused of having provoked the death during the process of birth. I cannot see how such a situation could occur.

Last week, or two weeks ago, here, in Ottawa, a woman gave birth to a child on her way to the hospital, in a taxi or in a police car.

Mr. Speaker, even if I have never had the opportunity of seeing such things, I feel that, in these circumstances, I would know what to do. This situation does not occur very often. That is why we want to bring in this legislation a particular provision in order to avoid illegal abortions and to prevent unscrupulous people to prevail themselves of this clause to work in a field exclusively reserved to doctors.

That is why we want to add in section 209 the following words:

—being unavoidably prevented from finding a medical practitioner.

Mr. Speaker, as I said earlier, there are some isolated areas where no physician is available. Therefore, one could presume that the legislation was devised having regard to such situations. In general, when a pregnancy evolves normally, no serious complications occur. But when difficulties crop up, pregnant women go where they can easily be treated by physicians or where the physician is willing to make house calls.

By adding to that clause the words “being unavoidably prevented from finding a medical practitioner”, we might limit the number of possible cases and run the risk of making the legislation applicable to unforeseen situations.

As everybody knows, the interpretation of statutes is always emphasized, especially by those who wish to use them for improper purposes. It is unfortunate, but it is common

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knowledge. People often say that nobody is more familiar with the law than a thief. Nobody is better acquainted with the law than a person bent on mischief.

Therefore, we must be explicit and not be content to say:

This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child, causes the death of such child.

Indeed, if we find it good enough to say:

—by means that, in good faith—

—several individuals will come and prove their good faith after having procured abortion, caused the death of a child almost fully developed, and then, abnormal and criminal acts will again be justified.

This is why we ask that these words be added, and the clause would then read:

This section does not apply to a person who, . . . being unavoidably prevented from finding a medical practitioner—

By so doing, we specify a most important point since it excludes, as my colleague said a while ago, the quacks and other unscrupulous people that are always ready to render a service to persons in trouble. It often happens that a pregnant woman is momentarily depressed and she sometimes feels compelled to resort to the services of individuals who will appear willing to help her while their sole intention is to extract money from her.

Then they will try to do something which only a doctor is allowed to do. This is why the clause should be amended to read:

This section does not apply to a person who, being unavoidably prevented from finding a medical practitioner, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not yet become a human being, causes the death of such child.

Mr. Speaker, I will sum up my views by saying that such a case almost never happens because nature already does things rather well and, generally, there are no particular difficulties.

Thanks to the progress of medicine, a woman who becomes pregnant knows it after a few months. At that time she is already under medical care, and since it almost never happens that a person other than a doctor is called to help a pregnant woman, let us not allow shady individuals to take advantage of the vagueness of this clause to counter precisely the principle we want to incorporate in this legislation.

[Mr. Matte.]

I think we should then add, if this section is approved:

—being unavoidably prevented from finding a medical practitioner—

Mr. Speaker: Is the house ready for the question on the amendment moved by Mr. Laprise?

[English]

Is it the pleasure of the house to adopt the said motion?

Some hon. Members: Yes.

Some hon. Members: No.

Mr. Speaker: All those a favour will please say yea.

Some hon. Members: Yea.

Mr. Speaker: All those opposed will please say nay.

Some hon. Members: Nay.

Mr. Speaker: In my opinion the nays have it. I declare the motion negatived on division.

Amendment No. 15 (Mr. Laprise) negatived on division.

Mr. Speaker: Mr. McCleave—

Mr. Woolliams: Mr. Speaker, may I move this motion on the hon. member's behalf? The hon. member is not here at the moment; he is away on other business.

Mr. Woolliams (for Mr. McCleave) moved amendment No. 21:

That Bill C-150, an act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and the National Defence Act, be amended by inserting in clause 18 after subsection 7 of section 237 on page 44 the following subsection:

"(8) Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person."

He said: I shall be very brief on this point, Mr. Speaker, because the amendment speaks for itself. It reads:

Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person.

In other words, there shall be nothing in the Criminal Code that would force a hospital

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to set up a special therapeutic abortion committee or to compel a doctor to perform the operation. The amendment is that simple. I think it merely clarifies the law. The witnesses who appeared before the committee—the minister will verify this—pointed out that the rules and regulations which govern hospitals are within the jurisdiction of the provinces; most hospitals come under the jurisdiction of the provinces.

Basically, the suggestion is that the Criminal Code does not and should not require a hospital to set up a committee to deal with this question. A hospital may set up a committee to deal with it, or ask a doctor to carry out the operation, but there should be nothing in the act that forces a hospital to do so. This matter is really clarified by the provincial law, but it is thought that the hon. member's amendment would clarify the position so that hospitals will understand what is intended and that provincial law governs in this regard. There is nothing more I need to say. That is what it really means.

● (3:20 p.m.)

Mr. G. W. Baldwin (Peace River): Mr. Speaker there are just a couple of questions which I should like the minister to answer. The hon. member for Calgary North (Mr. Woolliams) has touched on them. I refer to the distinction between civil and criminal law, particularly the implication here with regard to the responsibility of hospitals and medical practitioners. I think this is quite important, not only for us. The value of the amendment put forward is that it would make the position of the government in this respect more clear. As the minister knows, there is a general section in the Code, I believe it is section 107, which provides that anyone who fails to obey any act or regulation of parliament is, by inference, guilty of an offence. This would be of some consequence to medical practitioners who are concerned with what their duties are under the law.

Inasmuch as we in this party have taken it upon ourselves to vote on the various clauses and amendments in Bill C-150 as our consciences dictate, I believe that medical practitioners should have a similar freedom. I know what most of them would probably do, but I think they should have that right and freedom. Therefore it becomes incumbent upon the government to indicate what opinion has been given to the minister by his legal officers as to the responsibilities, not only under the criminal but under the civil law, because one

of these amendments is obviously drafted in the belief that there may even be a civil responsibility falling upon a hospital or upon a doctor in the case of abortions.

I want to remind the minister of a case of which he may not be aware because the section is not now in the Code. Some years ago there was a provision in the Criminal Code that no civil proceedings could be launched against any person who had been charged with common assault and had suffered a penalty or had been acquitted of the charge. This was distinct from proceedings in respect of charges of grievous or actual bodily harm where civil actions could follow. That particular section dealing with common assault, which no longer appears in the Code, was the subject of varying interpretations by the appellate division in the province of Nova Scotia and, I think, in one other province. The Supreme Court of Canada gave no authoritative decision on the point. It was held in one of these judgments that the federal parliament had no jurisdiction to enact legislation under the guise of the Criminal Code, attempting to amend or change the Criminal Code by saying that civil proceedings could or could not be taken in cases of a possible infraction of the Criminal Code. In other words, the criminal law was to be considered by itself and it was not possible for the federal parliament to go outside the criminal law and to say that once an act had been declared to be a criminal act it should or should not be the subject of civil proceedings.

I am quite confident that a great many medical practitioners and hospitals in this country will be most concerned as to what their legal position will be and what the government is purporting to do in this bill. For example, there is an implication in clause 18 that there is a statutory duty falling upon a medical practitioner or upon a hospital and that the refusal by a medical practitioner or by a hospital to permit to be carried on within the precincts of that hospital or by that medical practitioner the act of abortion, which has been made legal under certain circumstances by amendments to the Criminal Code, might subject either the medical practitioner or the hospital to certain penalties either in the civil law by an action for damages or under the criminal law.

I have my own views on this matter but I bring it up to permit the minister to indicate the government's position. Under the rules under which we operate, what the minister

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says in the house is not binding upon any court, but I am sure it will be of some interest to us, and certainly to myself, to know what his view is before I come to a decision on which way I intend to vote on this amendment.

Hon. John N. Turner (Minister of Justice): Mr. Speaker, amendment No. 21 on the order paper and the related amendments, 22, 23, 31, 39, 40 and 41, purport to exempt from any civil liability hospitals which may fail to set up a therapeutic abortion committee, or a doctor who may refuse to perform a therapeutic abortion, or any practitioner who may refuse to participate in this type of operation. I may say that a therapeutic abortion is only one of a number of situations where conscience may preclude a doctor or a nurse from participating in an operation which is lawful. I might bring to the attention of the house the question of blood transfusion in the case of a doctor who is a Jehovah's Witness. There is the case of a doctor faced with the problem of administering a blood transfusion to a child whose parents refuse consent on the ground that such an operation is contrary to their religious belief. In other cases doctors are often faced with a problem of conscience when they may be called upon to perform a hysterectomy or a tubal ligation following several Caesarean deliveries. There are also other grey areas where questions of conscience arise, even though conflicting views or doubts exist as to the law, for example, in the case of sterilization generally and also organ transplants. So this is not a unique situation for the medical profession.

Also, I should like to draw to the attention of the house the fact that the substance of these amendments does no more than recognize what has actually been happening already in a number of hospitals with respect to therapeutic abortions. We have no evidence that questions of conscience have posed a practical problem.

Getting down to the question of criminal obligation or liability or civil obligation and liability arising from this amendment, let me say briefly that according to the advice I have received there is nothing in clause 18 to which these amendments relate which would in any way impose a criminal obligation or criminal responsibility on a hospital which refused to set up a therapeutic abortion committee or upon a doctor who refused, for reasons of his own personal conscience, to perform such an abortion, or upon a nurse or

[Mr. Baldwin.]

any other person involved in the medical services who refused to perform or participate in a therapeutic abortion. So there is no additional criminal obligation or liability attaching to the medical profession as a result of clause 18.

Turning now to civil liability, the civil liability of doctors, nurses or hospitals is based on negligence, that is to say, the failure to meet the standard of care owing to the patient. Although the phrase "standard of care" is a common law expression, the same standard of care is required within the civil law as well, and although the philosophical approach to negligence is different from that of the law of delict, in effect a reasonable standard of care is required in both cases. Obviously this standard of care is to some extent affected by legislation, including the Criminal Code, in the sense that a doctor would not be held civilly liable for failure to perform an act which the law prohibits him from performing. Where, however, the act may lawfully be done, as is the case under the proposed amendment to section 237, one of the factors to be taken into account in the event that the question of civil liability arose would obviously be whether or not the patient had been fairly and properly advised of the limitation imposed by conscience on the range of treatment available to the doctor and to the hospital.

• (3:30 p.m.)

Section 237 as amended imposes no duty on the board of a hospital to set up a therapeutic abortion committee; it imposes no duty on any medical practitioner to perform an abortion; it imposes no duty even on a medical practitioner to initiate an application on behalf of a patient. In these circumstances it is not considered necessary to purport to exempt them from duties which are not imposed by the criminal law. On the other hand, if we were to purport to grant such an exemption it might be misleading to the medical profession and unfair to patients, because such a conscience clause, so far as the medical profession is concerned, might tend to obscure the civil obligation of the profession to the patient to ensure that a patient is able to make a free choice as to both her medical adviser and hospital, untrammelled by the limitations on the conscience of her medical adviser or by the policy of a particular hospital. In other words, it is clear that under civil law, in the case of a

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hospital not having the facilities or not choosing to have the facilities, or of a doctor precluded by his own conscience from performing such abortions, there might be civil liability attaching to both to advise a patient of her right to go to another hospital and ask for another doctor. But certainly there is no civil liability attaching, as far as we can see, as a result of the operation of the Criminal Code itself.

Mr. Baldwin: Am I to take it there is no intention on the part of the government, particularly by this amendment, to vary the rules as to civil responsibility which normally exist between an individual and a hospital or an individual and a doctor, or to prevent provincial laws from operating? This is a sensitive area, as has been illustrated by the events of the last few days and the exchange which took place between the Prime Minister (Mr. Trudeau) and the Minister of Transport (Mr. Hellyer). The minister seemed to think the Prime Minister was trying to lock the country into a constitutional chastity belt despite the fact that the provinces lost their jurisdictional chastity a long time ago. I want to be sure we are safe here.

Mr. Turner (Ottawa-Carleton): The hon. member suggests there is a constitutional aspect to this as well. The relationships in civil law between the patient and the doctor, between the patient and the nurse, between the doctor and the hospital, the nurse and the hospital, are relationships falling within the operation of provincial law, the civil law and the constitutional responsibility of the provinces—the subject of statutes which regulate hospitals and the professions. These are properly provincial matters, and this is another reason not to trespass on any of these civil relationships which may be accessory but which are not directly affected by this legislation.

[*Translation*]

Mr. Matte: Mr. Speaker, I have a question for the minister.

In that case, if a constitutional matter is involved, would it not have been advisable to let the provinces adopt some legislation relating to abortion, and has any consideration been given to such a course of action?

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I do not deem it right to use the Criminal Code to infringe upon the constitutional or civil law of a province. According to legal experts, clause 18 does not impose any criminal obligation or responsibility, nor any civil

liability. Civil liabilities are determined rather by the civil law and I do not find any advantage in using the Criminal Code to affect civil relations between parties. Such matters come exclusively under provincial jurisdiction.

Mr. Matte: Mr. Speaker, I have another question for the minister.

Since this obviously relates to the social aspect, to health, would it not be preferable, before amending the Criminal Code, to hear the views of the provinces on the matter?

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I can only repeat that, since civil relations come under another aspect of the law, they are not directly affected by the amendment to clause 18. I see no reason to wait until the provinces have been consulted.

Mr. Laprise: Mr. Speaker, I wish to support amendment No. 21, proposed by the hon. member for Halifax-East Hants (Mr. McCleave), because I myself presented an amendment along those lines. In fact, it is amendment No. 31, which reads as follows:

Nothing in subsections (4), (5), (6), and (7) shall apply to any group of medical practitioners nor to any medical practitioner, who has refused to proceed with an abortion nor to any member of the hospital staff of a hospital who has refused to take part in an abortion on purely medical grounds or on any other grounds, so that no judicial proceedings may be instituted against them.

Mr. Speaker, the amendment means that no judicial proceedings may be instituted against any group of doctors, any member of the hospital staff of a hospital, or any doctor who has refused to perform an abortion or to take part in one.

The fact that six amendments proposed relate to the same subject shows how important it is to clarify Bill C-150, and particularly clause 18.

There were many questions raised on that point? Gynecologists and physicians have feared that if clause 18 were passed as proposed by the government, the bill could on some occasions coerce those who, for reasons of principles or any others, refuse to perform an abortion.

Then, if a woman asked for an abortion and died during the operation, some legal proceedings could be brought against the hospital or the physician. Such a situation could be quite embarrassing and since they would be liable to legal proceedings, the physicians or hospital authorities would be in a dilemma.

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On one hand, there is the conscience and on the other the law which compels us to ignore our beliefs and our conscience. This is dictatorship.

Mr. Speaker, I feel that if, under section 18, women are given all possible freedom to obtain an abortion, the same freedom should be granted to the physicians or the personnel of any hospital.

● (3:40 p.m.)

Many are concerned about that amendment. Indeed, the Catholic bishops of Canada have recently made a few suggestions, after having thoroughly studied the bill. It is no secret that since the government has proposed amendments to the Criminal Code, especially in connection with abortion, the Catholic bishops of Canada have on several occasions thoroughly examined that problem.

As for our amendment, the Canadian Bishops' Conference renewed their request to the government and to the Minister of Justice (Mr. Turner) a few days ago, so that the amendment to the Criminal Code would at least respect the freedom of all physicians and hospitals, because this bill could allow proceedings to be taken against them or make them liable to public prosecution.

In my opinion Mr. Speaker, this is of great importance, since the question is whether or not the doctors' and hospitals' freedom is to be respected. I think that such a question should not be put in the house, and least of all be subject to an amendment to the Criminal Code.

This is why, Mr. Speaker, the government should, I think, pass the amendment before the house in order to permit a vote on the matter because I hope that the minister would not want to take this responsibility alone and for his government. He should in that regard respect the freedom of doctors, hospitals and their personnel to perform or not to perform abortions on request.

Mr. Matte: Mr. Speaker, I have been in this house for ten months, and I am still at a loss to find a way to have our arguments taken into consideration.

And what is even more discouraging is to realize that everything has been decided in advance. Nothing is more depressing for us than to realize that all we do is bring forward, for posterity, arguments which we did not make up ourselves, but found by referring to appropriate sources.

[Mr. Laprise.]

Since this matter deals first of all with medicine and the first signs of life, we consulted scientists and gynaecologists who explained to us what is a human being and at what time it appears in the human foetus.

Medical practitioners explained to us why they objected to abortion, and that is why we ask, in this amendment which I fully support, that gynecologists, whose opinion we must take into serious consideration, are not subjected to such an obligation.

We did not invent our arguments. We consulted the Association of the Hospital Medical Boards of the province of Quebec Inc., whose opinion should not be taken without due consideration.

Its submission was made to us in January 1969, and it reads as follows:

You will find herewith the opinion of the Association of Hospital Medical Boards of the province of Quebec on the matter of abortion, now being considered in the house.

This report represents the general opinion of medical practitioners in the hospitals of the province.

We hope that this will enlighten you so that you may take a fair and equitable position towards every citizen of our country.

Mr. Speaker, an argument based on such an opinion deserves consideration, it seems to me.

In this brief, the Association requests, and I quote:

The Q.A.H.M.B. agrees:
—that an amendment to the existing text of the Criminal Code be submitted.

Mr. Speaker, we moved many amendments. To prove that this is an important matter, we moved seven amendments on this subject. The minister said a moment ago, that this is not a problem, since we are enacting a legislation based on an established situation in hospitals. As a matter of fact, I do not know where the minister has obtained this information, but when an association of hospitals makes a statement like the one I just quoted, I suggest the minister should think about it seriously. Perhaps he has considered only the whole country. As far as I am concerned, I am not speaking here for the whole country, although the documents we have received prove that the situation is almost the same throughout Canada.

But as regards the province of Quebec, the Association of Hospital Medical Boards of the province of Quebec agrees:

—that the procedure for the consideration of cases by therapeutic abortion committees in every hospital be accepted.

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—that the doctors who decide, after serious consideration within their hospital committee, to approve a therapeutic abortion be no longer considered guilty of that act under the Criminal Code.

In effect, it is the safeguard of their integrity and of their profession that it is sought to ensure. I go on quoting:

We believe that scientific medical research alone can bring the true solution to this problem, and we favour the setting up of any study committee.

One can see, Mr. Speaker, that these are not ordinary men speaking, but real professionals. And they are telling us that medical experts alone can express their views on that question. But if we decide to pass a legislation, even though the doctors themselves ask that we should not legislate now, because scientific and medical research are still not advanced enough, we will be disregarding the advice of these experienced men.

The report goes on, and I quote:

—that abortion, in the present state of medical science, is still considered killing a human being; that every doctor or hospital should be free to refuse to take part in that medical practice.

That is the very purpose of the amendment before us. After having studied this bill, doctors considered all that had been said on the subject for the last few months. This is the reason why they thought fit to advise those who will have to make a decision on the course to follow. I am reading on:

—that this technique where the life of a human being (foetus) is at stake, the decision must not be left to the patient alone.

—We are against a bill which would give rise to false hopes among the population.

We furthermore ask that hospital, authorized to perform therapeutic abortions, be appointed by medical associations in every province to ensure the quality of the established standards.

Mr. Speaker, the question I was putting earlier to the hon. minister was precisely presenting the same view point. We are dealing with the public health, which is a provincial responsibility. And if this legislation is contrary to the set standards, the mentality and the established rules according to the views of the doctors of a particular province, especially in the case of Quebec, it is undoubtedly going against current opinion.

This is another reason for doctors to object, and of course I fully support such an attitude.

And the Association concludes as follows:

● (3:50 p.m.)

This is why the Q.A.H.M.B. is against the present text of the amendment C-195 and wants it to be amended in order to restrict its provisions to the cases where the mother's life is seriously jeopardized.

Mr. Speaker, when we examine the amendment requiring that nothing in the clause be construed so as to make compulsory for a hospital to establish a committee dealing with therapeutic abortion or for a qualified medical practitioner to procure the miscarriage of a female person, we can see the tremendous importance of that amendment. Why? Because it deals with the individuals who are most intimately involved in the problem. I refer, of course to the medical practitioners themselves. When physicians demand to be protected by us, we should consider their request seriously.

I am told that the situation never arises, that an accomplished fact is merely being sanctioned; that the attitude of Catholic hospitals is being explained; that we live in a pluralistic society. We recognize all that.

Mr. Speaker, we are not dealing here with a matter of religion, but one of conscience. It is a question of mentality. Why not respect the various ways of seeing things? I repeat that we should follow the advice given to us, almost pathetically, by the doctors themselves who are trying to make us understand that we are trespassing on their grounds.

We have dealt only with the social aspect of the question, when the only thing that really matters in fact is whether or not one should approve abortion.

It is imperative that we should know whether we are dealing with a human being or not, whether or not there is murder when the foetus is killed. Doctors or scientists only can tell us that.

Now, they themselves tell us to be careful. They say that the progress of medicine is such that we must prevent major errors being committed by legislating on matters which, not only do not concern us, but concern only the doctor and his patient.

To go back to the Quebec Association of Hospital Medical Boards, and more specifically to the brief it presented on the omnibus bill. For over 20 years now, that Association has represented hospital doctors in that province. We are therefore not dealing with just anybody, not with the members of the Ralliement créditiste, nor layment in this regard. The medical board is the organization which, in every hospital, groups all the doctors who practice there.

Recently, following the introduction of the government bill on abortion, this Association consulted all its members, by writing to them, or on the occasion of meetings called to

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discuss this bill. The directors of the Association studied all the opinions expressed and they would be glad to submit their conclusions on abortion and on this bill.

We do not base them on the opinions of a couple of doctors, or on those of a small group but on that of all the doctors of a province as a whole, which is, in itself, a nation. Are we going to disregard all that? It would be far better, Mr. Speaker, to grant the provinces the right to legislate on that matter, in spite of the Criminal Code. Let Quebec become independent, if it has to! If we are to accept everything that is going on here, within this chamber which is on the way to becoming a modern Sodom and Gomorrah, I understand better still those who promote the independence of Quebec and want all the Quebecers to be sole judges of what they have to do, according to their own way of thinking.

Such are, Mr. Speaker, the arguments that come to my mind following this brief submitted by all the doctors of Quebec as a whole, a brief simply pooh-pooed by the Minister of Justice (Mr. Turner).

The doctors of the Quebec hospitals believe that any abortion is a homicide, that the foetus is a human being. Should therefore people who hold such a belief be compelled to perform abortion? That is what we want to prevent by the proposed amendment. I cannot help thinking, Mr. Speaker, how strange it is that something which appears to me so logical, so sensible and so clear will of course be rejected. Nothing could be more stupid.

I revert to what I said at the beginning, Mr. Speaker, namely, that the problem is to find means to convince those people. I have been wondering about that for ten months, for we refuse to believe what the newspapers said last week, to wit, that most people favour abortion. We have received indications to the contrary as late as this morning, at least from the province of Quebec.

I am more and more convinced that sooner or later those opposing the controversial sections of Bill C-150, even those who, at the present time, yield to Trudeau madness, Trudeaumania or anything that issues from Trudeau this or Trudeau that, and who, for that very reason, have up to now deemed it appropriate to approve abortion, will in the end endorse our opinion.

The Prime Minister (Mr. Trudeau) said earlier about the resignation of the French president that politicians' careers were short-lived.

[Mr. Matte.]

It seems that a political career is not so short-lived! For him a 10 year period is short, because he expects himself to remain in office for at least 10 years. Mr. Speaker, I do not think he will do so because, before 10 years, we shall already have noticed the disastrous effects of the decisions we are about to take in the house. It will take much less time to realize we were mistaken in legalizing abortion, on which we did not have enough information, and in failing to follow the advice of great scientists.

That is why we will be accused of playing politics, of filibustering and of making a political football of this issue. They are all wrong because, in fact, all our arguments are based on medical science. Let us stop shifting the problem and considering only its social aspect. By legalizing abortion it is sought to safeguard the practitioners' prerogatives, rather than discuss the social aspect of the problem.

It is sad to see a young girl pregnant. It is not very interesting either to find that a mother with too many children has not enough money to raise them properly. Such considerations are reasonable but they have nothing to do with the subject now under discussion.

• (4:00 p.m.)

What we want to determine now is, whether abortion is something normal or whether it is homicide. In our opinion, of course, it is homicide. We did not consider exclusively, however, our religious beliefs. We wanted to find out what the greatest authorities had to say and we know now that medicine and science are entirely on our side.

According to the present teaching of the medical science, the foetus is a living human being which has the right to live, like every other human being. Even from the legal point of view, the foetus is already considered as a full human being, since it can become an heir and since the State still considers non therapeutic abortion as a crime punishable by life imprisonment.

It is admitted by all serious gynaecologists that the cases where therapeutic abortion would really save the life of the mother have become extremely rare thanks to the progress of science in this field.

[English]

Mr. Deputy Speaker: I am sorry to interrupt the hon. member but his time has expired.

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Mr. John Burton (Regina East): Mr. Speaker, as I understand the principle of this amendment, it is to protect the position of people who may be involved with a request for an abortion, and to protect the position of those people who have a conscientious objection to carrying out abortions.

Amendment No. 21, which is before us at the present time, deals with the position of hospitals as institutions and also with the position of medical practitioners. On the basis of the rulings handed down by Your Honour on Friday, as set out in the Special Notice Paper, I note that consideration of amendment 21 will dispose of amendments 22, 23, 31, 39, 40 and 41. Several of these amendments which will be covered by amendment 21 make reference to the position of hospital staff and personnel and make some attempt to protect them. The point was noted on Friday when the procedural ruling was under discussion that in effect amendment 21 did not cover the hospital staff and personnel who were referred to, particularly in amendments 31, 41 and one other.

I am sorry that I did not hear all of the remarks of the Minister of Justice (Mr. Turner) with respect to why he maintained that there is no need for this amendment No. 21. I am not in a position to comment on his remarks with regard to this point. While there may be some cause for protecting hospitals as institutions and also medical practitioners who may have conscientious objections to carrying out a therapeutic abortion, there is a third class of people who are in a more vulnerable position than either hospitals or medical practitioners. I refer, of course, to hospital staff. These people have no protection under the law, either in terms of professional status or employment, if they have a conscientious objection to participating in a therapeutic abortion. I feel that complete coverage should be provided to all groups of people under the proposed law. And that there should also be reference to hospital staff. Consequently I move the following amendment, seconded by the hon. member for Surrey (Mr. Mather), who has agreed to second this amendment as a courtesy:

That the proposed subsection (8) be amended by adding thereto the following words: "or any member of a hospital staff to assist in procuring such miscarriage."

Mr. Turner (Ottawa-Carleton): I would like to make a few remarks regarding the admissibility of this amendment, Mr. Speaker. I wish to direct your attention to the new Standing Order. I think it is important for the

house to receive some guidance from Your Honour, particularly since this constitutes the first real test for the Standing Order affecting the report stage of a bill. I draw your attention to Standing Order 75 (5) which appears at page 80 of the new Standing Orders. It reads as follows:

If, not later than twenty-four hours prior to the consideration of a report stage, written notice is given of any motion to amend, delete, insert or restore any clause in a bill, it shall be printed on a notice paper.

● (4:10 p.m.)

It is in accordance with that rule that 44 amendments were set out on the notice paper. Then if we go on to Standing Order 75(8) we see that it reads as follows:

When the order of the day for the consideration of a report stage is called, any amendment of which notice has been given in accordance with section (5) of this order shall be open to debate and amendment.

As I read this Standing Order its purpose would seem to be to limit debate to those amendments of which notice has been properly given in accordance with Standing Order 75(5). I recognize that 75(8) says, "shall be open to debate and amendment". This seems to imply that an amendment to an amendment under 75(5), of which notice has been given and which has been placed on the order paper, may be in order. I would submit to Your Honour, however, that there is another part to this Standing Order, 75(7), which contemplates an amendment as to form only. It reads as follows:

An amendment, in relation to form only in a government bill, may be proposed by a Minister of the Crown without notice, but debate thereon may not be extended to the provisions of the clause or clauses to be amended.

Then there is the following note:

The purpose of the section is to facilitate the incorporation into a bill of amendments of a strictly consequential nature flowing from the acceptance of other amendments. No waiver of notice would be permitted in relation to any amendment which would change the intent of the bill, no matter how slightly, beyond the effect of the initial amendment.

My submission to Your Honour is that that note underlines the purpose of Standing Order 75, namely, that once all relevant amendments have been placed on the order paper, once the debate has begun under Standing Order 75(8), and once the Speaker has listened to argument in respect of admissibility and relevancy, the house is precluded from going beyond the scope of those amendments. The obvious reason is it would be open to hon.

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members to move subamendments and thereby escape the provisions of Standing Order 75(5).

I would urge Your Honour to interpret this rule strictly. Otherwise the full import and purpose of the rule could be circumvented and amendments made on the floor of the house to any amendments which Your Honour has already seen on the notice paper. I would think the only freedom the house and, with respect, the Speaker have, is to look at consequential amendments as to form resulting from a prior amendment.

For these reasons I would urge Your Honour to refuse this amendment and hold it to be out of order. Otherwise it will be open to hon. members to speak to every subamendment of every amendment. If that were to be the case I suggest that the desire to proceed on an orderly basis would be defeated.

Mr. Woolliams: May I speak to this point, Mr. Speaker. I think the difficulty Your Honour may have is in respect of Standing Order 75(8) which states:

When the order of the day for the consideration of a report stage is called, any amendment of which notice has been given in accordance with section (5) of this order shall be open to debate and amendment.

The interpretation of this would seem to be that an amendment may be amended without notice, but if we look at what is before us it is an amendment that proposed section 8 be amended by adding thereto certain words. This is one occasion when I am on the side of the Minister of Justice in respect of the interpretation of the rules. This is not a motion that the amendment be amended but that subsection 8 be amended. It would be like bringing in an amendment to any clause at this stage.

If the hon. member had wished to move that amendment 21 be amended, he would have to move a substantive amendment to the amendment, but at this time he is seeking to amend a clause of the bill. I do not believe the rules were ever intended to be interpreted in this manner. I think Your Honour would be stretching the point very far if you permitted this. In fact, if you did I believe that by changing a few words I could move the amendment which was ruled out the other day.

Mr. Knowles (Winnipeg North Centre): Mr. Speaker, I happen to be one of those who do not think that either the main amendment now before the house or the subamendment that has been moved is really necessary. I do

[Mr. Turner (Ottawa-Carleton).]

contend, however, that the hon. member for Regina East has the right to move an amendment at this time and that the amendment he has proposed is in order under the rules. I would point out the fact that on Friday of last week, when the whole question of procedure was debated at some length, the hon. member for Regina East specifically asked His Honour whether it would be possible to move an amendment at this stage and was told by the Speaker that provided amendments were in order they could be moved.

Although the relevant citations have all been read I think they should be emphasized. I draw attention in particular to section 8 of Standing Order 75, which is very clear and very explicit. It states:

When the order of the day for the consideration of a report stage is called, any amendment of which notice has been given in accordance with section (5) of this order shall be open to debate and amendment.

What is before Your Honour at this point is the consideration of amendment No. 21 of which notice was given as called for under section 5 of Standing Order 75. What the hon. member for Regina East is endeavouring to do is to amend amendment No. 21.

Mr. Woolliams: He does not say that.

Mr. Knowles (Winnipeg North Centre): It is perfectly true he could have added a few words. He could have said that the amendment be amended by adding words to the proposal section 8 which is set out in the amendment, but surely it is not always necessary to multiply words when the meaning is clear. There is not before us something simply called section 8. There is before us an amendment which happens to have in it a proposed new section 8. The wording of my hon. friend's amendment proposes that the proposed new section 8, which is part of amendment 21 that we are now debating, be amended by adding certain words to it. I submit that is completely in line with the provisions and requirements of section 8 of Standing Order 75.

May I say to my hon. friend the Minister of Justice that I think he is on thin ice when he tries to rely on section 7. Section 7 does not relate to amendments that are on the order paper. It relates to a possible amendment to the bill itself made necessary because of something that has been done on the floor of the house in relation to other clauses. I do not like trading on the fact that I was on the committee and therefore know how much we went over all of this, but I may say we did

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feel that if we did not put in something like section 7 a situation could develop whereby amendments could be moved to various clauses of a bill, one of which might pass—it would be a red letter day if it did—and then it would be clear that certain other clauses in the bill would have to be changed slightly in consequence of the first change. If we did not provide for that situation I think we would be stuck with the impossibility of doing this because we have a rule which says that at the report stage we cannot debate or discuss any clauses except those concerning which notice of amendment has been given.

• (4:20 p.m.)

The purpose of section 7 of Standing Order 75 is simply to permit consequential amendments to other parts of a bill. It has nothing to do with the rule set out in section 8, namely, the right when an amendment is properly before the house, as amendment No. 21 is, to move an amendment to the amendment. That is what my friend the hon. member for Regina East has done, and I submit his amendment is in order.

I sympathize warmly with the Minister of Justice when he says that if this kind of thing can be done we will probably be here until August or September, but that does not invalidate the rule. Let me say to the minister that under the new rules there could have been a dozen amendments put down at the report stage to every one of the 120 clauses in this bill. This would mean something like 14,000 amendments and we might be here for a very long time.

Mr. McCleave: It would amount to 1,400.

Mr. Knowles (Winnipeg North Centre): It would be 1,400, I am sorry. I did my arithmetic very quickly.

Mr. McCleave: It sounds better.

Mr. Knowles (Winnipeg North Centre): It seems to me this is clearly what we provided in the rules. The rule of relevancy must also apply. My hon. friend's amendment has to be relevant to what has been proposed in the main amendment before us, but certainly his right to move an amendment is something we anticipated when we drew up these rules, and I think they are quite clear on that point.

Mr. Turner (Ottawa-Carleton): If you will recognize me again on the same point of order, Mr. Speaker—

Mr. Deputy Speaker: Order, please. The minister has already spoken. If he wishes to add further arguments I think he would have to do so by consent. I see one or two others who wish to enlighten the Chair. Perhaps the minister feels his remarks have been misunderstood. There is provision for an explanation on that ground.

Some hon. Members: Agreed.

Mr. Deputy Speaker: Apparently there is agreement on the part of the house to allow the minister to speak.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I am grateful for that agreement, but I do not want this taken as meaning I waive the right of an hon. member to speak more than once on a point of order. I accept the agreement on the part of the house and thank hon. members.

On this point of order I have three short arguments. Let me first underline what the hon. member for Calgary North said so ably. Even with a liberal interpretation of Standing Order 75(8), surely by the wording of the amendment it must be clearly an amendment to the amendment, in this case to amendment No. 21. What this subamendment tends to do is to amend the bill itself. It goes beyond amendment No. 21 even on a liberal interpretation of Standing Order 75(8), which suggests that the amendment must be an amendment to amendment No. 21. This is an amendment to section 8 as proposed in the bill, and it goes well beyond the scope of the Standing Order.

The second point I wish to draw to the attention of Your Honour is the seriousness of the ruling you will have to make. Standing Order 75(5) taken together with 75(8) limits the debate to any amendment printed in the order paper and submitted 24 hours before the debate begins. If amendments to amendments are to be allowed, then the limiting effect of Standing Order 75(5) and 75(8) would be completely bypassed. As the hon. member for Winnipeg North Centre has admitted, we would then be completely out of control. I suggest to Your Honour that Standing Order 75(5) is restrictive and taken together with 75(8) must limit the debate to those amendments on the notice paper.

My third argument is that if you look at the wording of the hon. member's subamendment you will see it really proposes to include the members of hospital staffs. These words are in fact included in some of the other amendments which have been grouped by

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Your Honour for disposition at the same time. You will notice that amendments Nos. 21, 22, 23, 31, 39, 40 and 41 are grouped together. On reading them you will see that what the hon. member is trying to do by tacking on this amendment is already proposed in several of these amendments grouped together with amendment No. 21 for discussion and voting purposes. I would think it is redundant on this ground.

[*Translation*]

Mr. Gérard Laprise (Abitibi): Mr. Speaker, I would like to say a few words about the point of order concerning the amendment moved by the hon. member for Regina East (Mr. Burton) and, with his approval, I would like to point out that six amendments have been put together for the purpose of the discussion dealing with the amendment No. 21 moved by the hon. member for Halifax-East Hants (Mr. McCleave).

But if we read carefully the amendment moved by the latter, we realize that the sub-amendment moved by the hon. member for Regina East is not included in the amendment No. 21 which we are discussing at the present time. This is one of the reasons which, I think, justify the amendment proposed by the member for Regina East.

Now I should like to raise another point. There is no subsection (8) in clause 18 of Bill C-150. Therefore neither the hon. member for Regina East nor any other member could move a subamendment thereto.

Mr. Speaker, one can read the following in Standing Order 75(8), and I quote:

When the order of the day for the consideration of a report stage is called, any amendment of which notice has been given in accordance with section (5) of this order shall be open to debate and amendment.

The hon. member's subamendment is therefore quite in order in my opinion and so as to allay the fears of the Minister of Justice, who denies the right to move that subamendment, I would say that he seems to want to have his bill passed as soon as possible, at any cost and without accepting any amendment. And what he fears the most is to see a filibuster, as he precisely said when he spoke the first time.

Mr. Speaker, I had myself moved a similar amendment, which I quote:

—any member of the hospital staff of a hospital who has refused to take part in an abortion on purely medical grounds or on any other grounds, so that no judicial proceedings may be instituted against them.

[Mr. Turner (Ottawa-Carleton).]

As a matter of fact, among the six amendments we are studying at the same time, I have one which includes hospital staff, but the same cannot be said of the amendment before us.

That is why I believe the subamendment moved by the hon. member for Regina East is in order.

[*English*]

Mr. Jack Cullen (Sarnia): Mr. Speaker, I feel that what I am really doing is reiterating the third argument put forward by the Minister of Justice. It is important that we should look at Standing Order 75 (10) because in relation to this specific amendment it states:

Mr. Speaker shall have power to select or combine amendments or clauses to be proposed at the report stage and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the subject of the amendment—

I suggest that in essence this determination has already been made by Mr. Speaker in that he has grouped amendment No. 21 with, among others, amendment No. 31 which contains the specific wording referred to by the hon. member for Regina East. I suggest, with respect, that so far as this amendment is concerned Mr. Speaker has already made a ruling under Standing Order 75(10).

• (4:30 p.m.)

[*Translation*]

Mr. André Fortin (Lotbinière): Mr. Speaker, I want to support the proposals of the hon. member for Abitibi (Mr. Laprise), the member for Winnipeg North Centre (Mr. Knowles) and the member for Regina East (Mr. Burton) who intend to propose a subamendment to sub-section (8) that the government wants to add to section 18 of the bill now under study.

Mr. Speaker, I think that the reasons referred to by the hon. minister of Justice (Mr. Turner) are not valid as far as procedure is concerned and the reason is quite simple. It is because we have to discuss a bill which contains 120 clauses and we have come to the report stage of the committee.

Like several other members, we moved amendments to modify the bill and make it acceptable. However, Mr. Speaker, as the debate proceeds, we can see the facts in their true light, at least on this side of the house, and that enabled the hon. member for Regina East to see that there is still a gap even in the amendments designed to improve the bill.

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Consequently, in the light of the debate, the hon. member for Regina East, pursuant to standing order 75(8), moved an amendment to improve the bill.

However, Mr. Speaker, it belongs to you to take a most important decision since the minister wants to speed up the debate, not caring what the members of the opposition have to say, rejecting any amendment and referring to clause which have nothing to do with the amendment. However, Mr. Speaker—

[*English*]

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I rise on a point of order. With respect, I do not want to allow that remark to go unchallenged on the record. My purpose in intervening was not to limit debate in any way but to ask for an interpretation of the rules of the house. I would appreciate it if the hon. member would stay on the point of order.

Mr. Deputy Speaker: Order, please. I would like to say at this point that I think we should limit the discussion to the specific point of order raised by the Minister of Justice, which has subsequently been commented on by other hon. members. I think that as much as possible we should avoid going beyond that point of order and the reasons why it should or should not have been raised. An important point is now before the house. I might point out to hon. members that I have given this matter a great deal of thought and am almost on the verge of giving a ruling. I do not want to curtail discussion, but I think any discussion we have should relate to the point of order originally raised.

[*Translation*]

Mr. Fortin: Thank you, Mr. Speaker, for being so lenient. I was just coming to this, in order to explain our point of view.

On the one hand, we can see the minister's position and, on the other, Standing Order 75(8) clearly states the bill shall be open to debate and amendment.

Mr. Speaker, there are about 44 amendments before us—that was foreseen—it seems to me that we were free to move a motion under Standing Order 75(5) which reads:

—any motion to amend, delete, insert or restore any clause in a bill, it shall be printed on a notice paper.

Now, Standing Orders do not indicate that once the motions have been presented, and a twenty-four hours written notice has been

given and put on the Order paper, that any amendment may be accepted. I think that on the contrary sub-section (8) specifies that it is permissible to move amendments in the light of the debate.

Therefore I think, Mr. Speaker, for this reason among others, that this amendment is most acceptable and will be approved by the house.

[*English*]

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, may I say just a brief word with respect to two points that have been made from the other side of the house. First, may I deal with the point emphasized by the hon. member for Sarnia when he argued that Mr. Speaker's grouping of a number of amendments, as he did on Friday, ruled out this kind of subamendment. May I point out that on Friday, as recorded in *Hansard* on page 7972, at the very time when Mr. Speaker said that amendments Nos. 21, 22, 23, 31, 39, 40 and 41 were being grouped and marshalled, the hon. member for Regina East rose and asked Mr. Speaker a question on this very point. As a matter of fact, he said that these amendments deal with the position of medical practitioners, staff and other personnel who may be involved in abortions. In other words, at that very point, when it was relevant, he asked Mr. Speaker whether it would be possible to move an amendment to deal with one of these points. Mr. Speaker's reply was:

Of course, this will have to be considered when the hon. member suggests these changes to the house. It may be possible to move subamendments provided that they are in order.

Mr. Turner (Ottawa-Carleton): "It may be possible", and it is decided when the question is raised. Mr. Speaker did not decide it.

Mr. Knowles (Winnipeg North Centre): Of course he did not decide it, because the amendment had not been drafted; he did not have it in his hands. My point is that it is in order generally, because of what Mr. Speaker said, to decide that a particular amendment, because of its form, may or may not be in order. But to assert that it is not in order is, I suggest, quite false. I submit that the hon. member for Regina East protected himself by making that point on Friday.

The other point is that the Minister of Justice and the hon. member for Calgary North said two or three times that the hon. member is trying to go behind the bill amending the Criminal Code by seeking to amend subclause 8 of the bill. There is no subclause 8 in the

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bill. Clause 18 of the bill has only seven sub-clauses. Amendment No. 21 has been ruled in order, which permits the attempt to add a subclause 8 to the clause that is in the bill. The hon. member for Regina East is not trying to go behind the amendment or the bill; he is not trying to get something into the Criminal Code through the back door; he is dealing specifically with an amendment that is before the house under the provisions of section 5 of Standing Order 75. The hon. member is claiming his right under section 8 of Standing Order 75 to propose an amendment. I think his right to propose an amendment at this stage is beyond question. The only question that has to be decided is whether the form and the substance of his amendment are in order, and in particular whether his amendment is relevant. I for one think it is.

Mr. Burton: Mr. Speaker, without adding to the discussion needlessly, I would just like to note—

Mr. Deputy Speaker: Order, please. I was just going to recognize the hon. member for Champlain. I will then recognize the hon. member for Regina East.

• (4:40 p.m.)

[*Translation*]

Mr. Maitte: Mr. Speaker, I would like to discuss briefly, the usefulness and the wisdom of sub-section (8) now under discussion.

Indeed, amendment No. 21 might not be entirely acceptable to the minister unless it were slightly amended. Therefore, I believe that the possibility of amending the bill has been considered, as pointed out a while ago by the hon. member for Lotbinière (Mr. Fortin).

In the past, I have seen the house clarify some particular matter. An amendment has been moved; it was slightly amended and the government agreed to it. So it was quite appropriate to consider the possibility of slightly amending an amendment under sub-section (8), in order to make it perhaps more acceptable.

In my opinion, we should not make the mistake of creating a factual situation for the duration of the debate on this bill, whereas standing orders provide that any amendment, and I quote:

—shall be open to debate and amendment.

The rules could not be any clearer.

[*Mr. Knowles (Winnipeg North Centre).*]

Mr. Laprise: Mr. Speaker, if I may, I should like to mention one point.

As recorded on page 7963 of the official report for Friday last, April 25, Your Honour suggested a slight change to amendment No. 28 in order to improve it, and it was agreed to.

[*English*]

Mr. Deputy Speaker: Order, please. That point has already been raised.

Mr. Burton: Mr. Speaker, in drafting this subamendment I attempted to keep the wording as simple as possible in order to concentrate on the purpose of the subamendment. However, if weight is given to the proposition of the hon. member for Calgary North that this is in fact an amendment rather than a subamendment, I would certainly be prepared, with the permission of the house and the consent of my seconder, to add a preamble to my subamendment so that it would read:

I move that amendment 21 be amended by adding the following words to proposed subsection (8)—

I would be prepared to do that if that is in fact the difficulty involved in accepting the subamendment I have moved.

Mr. Deputy Speaker: Order, please. If there are no further submissions to be made I think I can deal with this question. I have considered the two points raised, the original point of order raised by the Minister of Justice whether or not an amendment to a motion moved under the provisions of Standing Order 75 is admissible, and the point raised by the hon. member for Calgary North whether in fact this amendment meets the criteria long established for the admissibility of amendments, namely, whether it is consistent with and relevant to the motions. My ruling on whether or not the amendment is admissible as an amendment, namely, whether it is consistent and relevant to the motion, is that it is. On those grounds I do not think it would be necessary to make any changes in its wording.

On the other point, I realize the importance of the point raised by the Minister of Justice. It seems to me that Standing Order 75 is very specific. It does provide for debate and amendment. I listened to the Minister of Justice with a great deal of care, as I always do, but I feel that this Standing Order is declaratory and is perfectly clear. Under the circumstances I am bound to rule that the amendment is admissible. Is the house ready for the question?

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Mr. Robert McCleave (Halifax-East Hants): Perhaps I could say a few words on my amendment and the subamendment just accepted by Your Honour. First, I should like to thank the hon. member for Calgary North for filling in for me with an explanatory speech when I was not able to be here at the time when this amendment was called. My concern arises out of the fact that a good many of the witnesses who appeared before the committee or who made submissions had raised the point in committee or in correspondence with the members of the committee. They expressed a fear that since abortions will become legal under certain circumstances, some duty will lie upon hospitals or medical personnel to carry out abortions.

I heard the minister's argument in committee and I have been given the gist of his argument earlier this afternoon. But an ounce of caution is sometimes worth a ton of cure, and I believe that the words I have suggested will allay these fears and make it absolutely clear that these institutions and doctors cannot in any way be forced to perform abortions. I think the strongest argument I have in that regard is the definition of the word "board" in new subsection (6) (c) at page 43 of Bill C-150. It reads as follows:

"board" means the board of governors, management or directors, or the trustees, commission or other person or group of persons having the control and management of an accredited or approved hospital;

This debate has so far proceeded on the assumption that control and management would be vested in local hands, people aware of the conditions in the community. But I suggest that the definition of "board" as proposed in this legislation is broad enough so that a provincial body such as a hospital commission could assume control of all hospitals in a province. Therefore my fear is that while we have tried to put in the legislation some safeguard against hospitals being required to carry out therapeutic abortions if it is against the beliefs of those who have established or are running the hospitals, it could be circumvented by the definition of the word "board". I suggest that it would be perfectly possible for any provincial government, through a hospital commission, to assume over-all direction of accredited or approved hospitals. I think this fear can be overcome by the house adopting the subamendment proposed by the hon. member for Regina East and my own amendment.

One of the facts of life regarding Canadian hospitals is that many of these institutions are

established by groups whose religious principles are very firmly against abortion. I would not want to see them in any way inhibited from establishing even more hospitals as our nation develops and our northern areas are opened up. In the past they have been very good in sending religious groups to provide services that it was otherwise impossible to provide. But unless we adopt some safeguard such as I am suggesting the future development of hospitals, particularly in our northern areas, might be inhibited.

I believe generally in the principle of abortion because I think an individual should be free to choose whether or not she wishes an abortion to be performed on her. If by spiritual inclination she is opposed to it, then the remedy is entirely within the hands of the unfortunate woman. But when we move to the broader field involving hospitals, doctors and medical personnel, we have to add something to the legislation to establish clearly that a person cannot knock at the door of a hospital or at the door of a doctor asking that an abortion be performed.

Finally, when I drafted the amendment I made it parallel to new subsection 7 as it appears in the legislation before us. I also think the constitutional aspect is not affected. Subsection 7 does not eliminate any other steps that would have to be taken before an abortion could be procured. I am carrying it a step farther and ensuring that no hospital or medical person can be put in the position of being legally required to carry out or procure the abortion of a woman. For these reasons I have presented the amendment, and I gladly welcome the subamendment proposed by the hon. member for Regina East.

• (4:50 p.m.)

[*Translation*]

Mr. Roland Godin (Portneuf): Mr. Speaker, I should like to support the proposed amendment to the clause on abortion.

In my opinion, any measure to promote the family deserves careful consideration. I know that there are nowadays a great number of wives who accept their role as a mother and who endeavour by all possible means to preserve the life of their unborn child.

Now, as the family is the foundation of society, some special action should be taken to help it, because in my opinion, human beings, human resources, are the greatest wealth of our country.

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So much so that we rightly ask ourselves what would be the value of any other material resources of the country, if there were no human beings to use it.

Society spends huge sums in order to save and protect human life. In universities, scientists are carrying out research to discover some ways to cure fatal diseases.

Mr. Speaker, a man can conceive all sorts of projects in all kinds of fields, but he will never succeed by himself in reviving a dead person. And if we are here as human beings, it is not on account of our own power, but as the result of the respect which our parents have shown for life, in spite of the difficulties and hardships which they experienced.

Mr. Speaker, if we become conscious of the material advantages which science makes available to the nation, it is obvious that clause 18 of Bill C-150 now before us is based on wickedness or falsehoods.

It is true that families and children have less and less place in modern society, but I am convinced that life has an exceptional value, one that cannot be measured, and that all necessary means must be taken to preserve it even for those who cannot be seen but who are known to exist.

And I must congratulate the hon. member for Halifax-East Hants (Mr. McCleave) who proposes the following amendment:

Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person.

Mr. Speaker, amendment No. 21, proposed on April 14, 1969, is most appropriate, if we refer to some excerpts of the 880 pages of the Minutes of Proceedings and Evidence of the standing Committee on Health and Welfare.

From page 46, we refer to an article of Dr. Isabelle, on the inefficiency of therapeutic abortions.

Dr. Gaston Isabelle: —Those committees (for the study of abortion cases) were tested in the United States in the last four or five years.

And Dr. Isabelle quotes:

A few years ago, a number of hospitals set up Abortion Review Committees which were normally composed of specialists, in order to examine such requests of abortion. Generally, the committees produced unsatisfactory results for the following reasons:

In the same line of thought, Dr. Patrick Beirne, states at page 504, and I quote:

Just as individuals may have liberal or conservative views on assistance, the same applies in [Mr. Godin.]

the case of abortion committees. And the general public quickly perceives the difference between liberal and conservative committees.

In New York, two hospitals, a few streets away from one another, have abortion committees. In the first one, there is one therapeutic abortion per 16,000 deliveries. In the other, there is one abortion per 20 births. So committees are not guaranteeing us that our own interpretation of what seems a step for the public weal will be respected. One committee is not enough. I think that clearer information should be given.

Mr. Speaker, here is a text we received in January 1968 from the Quebec Association of Hospital Medical Boards regarding the bill under consideration. It is not recent, as can be seen. I quote:

At our inquiry we noted that most of the medical offices and boards of directors of hospitals in Quebec officially and formally protested against the establishment of therapeutic abortion committees in their own hospitals. Because of professional ethics and of the tendency constantly recorded in their profession, hospital doctors are greatly reluctant to belong to such committees and moreover they refuse themselves to make any therapeutic abortion.

It must be noted that such legislation does not take into account religious and moral convictions of a great many doctors and hospitals afraid of becoming liable to legal prosecution for not having committed what they consider a crime against their professional ethics. But are doctors not always trying to save their patients from death?

And on page 2 of the same report, one can read:

—any abortion purporting to improve the health or the well-being of the mother or to prevent the birth of a malformed baby becomes a social act of mercy killing. If it is permitted to kill such a baby when he is in his mother's bosom, why should it not be allowed when he is out of it. However, if abortion is performed when the life of the mother is endangered by pregnancy, it can then be considered not as euthanasia but as a case of self-defence. Self-defence does not imply necessarily the presence of an unjust aggressor. To warrant self-defence, however, there must be some proportion between the method of defence and the act of aggression, and the offensive act must be the only possible method of defending oneself. But specific medical information pertaining to cases when, in order to save the mother's life, it is obviously necessary to kill the foetus is extremely rare, according to all medical practitioners. Since such cases are unfrequent, one can even wonder whether a permissible legislation is warranted.

A further excerpt on page 3 of the same brief reads as follows:

Because this legislation may lead to abuse, the Association of Hospital Medical Boards of the province of Quebec objects to the legalization of therapeutic abortion when the only ground is the health or well-being of the mother.

• (5:00 p.m.)

Moreover, the Association is unreservedly against Bill C-150 on abortion as introduced by the government.

On page 4, among the reasons given, we find this one, and I quote:

Psychiatric symptoms

Psychiatric symptoms justifying abortion are rejected by the majority of medical practitioners and psychiatrists; however, some psychiatrists find some limited indications. The effects of abortion on a woman are often nefarious and may cause feelings of guilt and hostility. We should ask ourselves if by trying to solve one problem we are not creating another.

The conclusion of the submission says; and I quote:

Faced by these considerations the Quebec Association of Hospital Medical Boards still has the impression that the federal government wanted to solve this complex problem by quick legislation which seems to solve everything but which in fact aggravates the problem of illegal abortion.

The Q.A.H.M.B. considers that this problem must be studied from a medical point of view and finds it necessary to approach the abortion question only after careful scientific studies...and before any other government proposal is introduced.

In their view only a royal commission of inquiry could make an adequate study.

Dr. Robert Lavigne, 1010 Tassé Street, Ville St-Laurent.

Mr. Speaker, the medical profession of the province of Quebec has clearly taken a very careful stand in this regard. I hope that having heard the opinion submitted by the Association all hon. members will decide in favour of this amendment which I gladly approve without reservation.

Mr. Romuald Rodrigue (Beauce): Mr. Speaker, I support the amendment moved by the member for Halifax-East Hants (Mr. McCleave) as well as amendments Nos. 22, 23, 29, 31, 39, 40 and 41 on the same subject.

In an article published in *L'Action* on April 19, one could read the following:

Under the amendments proposed by Bill C-150 known as the omnibus bill, abortions will be allowed when the medical board of a State approved hospital feels that the physical or mental health of the mother is endangered unless the operation is performed.

The argument of pluralism is often put forward. Throughout those countries where abortion has recently been discussed, whether it be in England, in the United States, in France or in Canada, the arguments are much the same. Those who favour relaxing the law do so in the name of the pluralism of the given society and of social convenience.

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I am not against giving as much freedom as possible to everyone, against respecting all creeds, and the conscience of everyone, but it seems to me some consideration should be given to respecting the conscience of doctors, their religious and moral beliefs, for there are still doctors who work in hospitals who have professional conscience.

To my mind, the purpose of this section would be to protect the doctors, and other persons who work in hospitals and help the doctors perform their operations, who refuse to participate in abortions.

Because of professional ethics and the constant orientation of their profession, many doctors will refuse to perform that type of operation for several reasons. Many doctors are afraid to be exposed to legal proceedings for having refused to perform what they consider as murder and contrary to their professional ethics.

It should also be noted that the bill does not take into account the personal convictions of many doctors and hospitals. We believe all doctors always strive to protect the life of their patients. It is no secret that doctors constantly receive requests which, very often, are contrary to professional ethics and the constant orientation of their profession.

By legalizing therapeutic abortion in those cases where the pregnancy might endanger the health of the mother, the government gives the impression that one can procure an abortion for any personal reason.

In any case, applications will increase.

Psychiatric symptoms as a ground for abortion are vetoed by most doctors and psychiatrists. A few of the latter, however, have accepted them on a limited basis. The after-effects of abortion on a woman are very often harmful and arouse in her mind feelings of guilt and hostility. By alleviating one problem are we not simply giving birth to another one?

Such are the reasons for which a great number of doctors are against abortion.

There is also another aspect to consider: what will be the approach of the doctors toward the committees established in hospitals? Will they have to abide by the decisions of the committee to comply with cases where application should be made with a social purpose in mind?

I believe that doctors as well as all those whose duties are of a medical nature should be protected against any prosecution, for the sake of the society and for the advancement of medical science.

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Incidentally, I would like to quote an excerpt of a file concerning therapeutic abortion, and drafted by the organized medical staff of the Laval Hospital, one of the most famous hospitals in Canada, formerly specialized in treating tuberculosis and now dealing with heart disease and others. There is the quotation:

On the other hand, Mr. Roy Hefferman, a famous American obstetrician declares that doctors who perform a therapeutic abortion are either ignoring the modern methods of treating pregnancy complications or do not bother to waste their time applying them. The inefficiency of therapeutic abortion is demonstrated, besides, by an American study which shows that out of 1,600,000 deliveries, the mortality rate is of 0.98 for 1,000 in hospitals where it is performed and of 0.87 for 1,000 in the hospitals where it is forbidden.

Considering the progress of science for the past decade, the proposed amendments to the Criminal Code are not justified, in my opinion. Today we are in a better position to treat some diseases. In the next few years, we shall witness even more important developments in science and the cases where it might be necessary to perform a therapeutic abortion will seldom occur.

Mr. Fortin: I thank you, Mr. Speaker. I think it is my duty to take part in this debate on abortion on which deal amendments Nos. 21, 22, 23, 31, 39, 40 and 41, that the Chair has grouped together for a more orderly discussion.

Mr. Speaker, having read the amendments which I have just listed as well as the omnibus bill itself, especially clauses 14 and 15 which deal with abortion, we find the bill very "weak".

When one takes the time to go carefully over the very few speeches made in favour of abortion, one realize the weakness of the reasoning which tends to legalize abortion as proposed in this bill.

I think we are forgetting some basic facts while discussing this famous omnibus bill and more particularly the clause on abortion.

Mr. Speaker, it is clearly established one cannot put aside this basic principle, this great truth, that birth is not the beginning of a human life but one of its stages.

Mr. Speaker, it is clearly acknowledged by every intelligent being that birth is only the answer to nine long months of expectation. Birth is really but a coming out into the world which has been prepared by the mother, the father and the child in the womb of his mother during nine months.

Everybody admits, Mr. Speaker, that the fetus in the womb of his mother has got life.

[Mr. Rodrigue.]

The scientific knowledge available to us in 1969 allows us to believe that foetal life exists. The fact is of course recognized by everybody.

Therefore, Mr. Speaker, childbirth is not the beginning of life but only a stage in life. This stage is really minor importance really, since what is most important is precisely the birth or the progress of life in the mother's womb.

[English]

• (5:10 p.m.)

Mr. Deputy Speaker: Order, please. I recognize the Minister of Justice on a point of order.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, with the greatest respect to the hon. member who has the floor, we are debating a fairly narrow amendment which is related to whether a hospital shall be obliged to establish a therapeutic abortion committee, etc. The general philosophy of the subject should be left to amendment No. 19 which deals with the deletion of clause 18. Here we are dealing with a specific point and perhaps Your Honour might suggest that the hon. member should confine his remarks to that point.

Mr. Deputy Speaker: Order, please. As the Minister of Justice suggests, we are dealing with a specific amendment and subamendment, and the debate ought to be confined as much as possible to that amendment and subamendment. I may also say that sometimes it is difficult for the Chair to restrict debate. It is impossible sometimes to prevent hon. members from expressing opinions or viewpoints which may go beyond the strict framework of the amendment being considered. Nevertheless I suggest to the hon. member for Lotbinière that he should try as much as possible to confine his remarks to the amendment and subamendment now before us.

[Translation]

Mr. Fortin: Mr. Speaker, with all respect, this time I cannot accept the remarks addressed to me through you by the Minister of Justice (Mr. Turner). I think he is going too far.

Mr. Speaker, we are not dealing with trucks, asphalt, etc. but with the life or death of a child who will decide about that? A therapeutic committee. Now before knowing whether to be for or against an amendment, or for or against a therapeutic committee, one must know first on what we legislate. I feel,

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from the remarks just made by the Minister of Justice, that he is completely unaware of it. I should like to tell him that we are not legislating about trucks but about human beings, who do not grow like mushrooms and that there is no such thing as spontaneous generation. We are deciding about their life: grow or die, or die or live, according to the decision of the Minister of Justice.

It is not a question of starting or stopping a truck. Since we are discussing life itself, I do not mind being called to order, but there are limits. When we talk of abortion, I agree that we should stick to the subject. However, we should at least be given the chance to speak on the amendment itself.

I was saying that birth is not the beginning of life, but only a stage. Therefore, when we want to establish therapeutic committees in the hospitals, impose no restriction and adopt a law which will oblige the doctors to practice abortion with the approval of this famous therapeutic committee, not only do we contribute to the murder of a human being but we also violate the freedom of the individuals who will have to commit that crime.

Mr. Speaker, this is a serious situation. The Medical Association of the province of Quebec spoke categorically against the bill, not as a whole, but on that particular point. The Canadian Medical Association also spoke against it, all of it. The medical practitioners want to practice freely. I feel it is obvious that nothing more is being proposed in this amendment. But, on the other hand, since we must consider the subject itself, I feel I was not out of order when I said that birth was not the beginning of life, but a stage.

Mr. Speaker, there are so many things we could say that I do not know where to begin.

A statement on abortion made by the Canadian episcopate and published in *L'Église de Montréal* reads as follows:

Consequences of the proposed amendment

The proposed amendment is well known. According to it, those who will perform an abortion will be, as in the past, liable to life imprisonment, but a qualified medical practitioner will be able to perform an abortion when the continuation of the pregnancy of a woman would or would be likely to endanger her life or health, provided it is performed in an accredited hospital and provided a certificate in writing has been obtained from the therapeutic abortion committee of that hospital. This proposed amendment urges us to make the following remarks.

Not only does this amendment allow for a direct and voluntary interference with an innocent's life, but it opens the door to the broadest interpretations.

This is exactly the purpose of this amendment and amendments Nos. 22, 23, 31, 39, 40 and 41, which are meant to clarify this legislation, and not to object to it, so as to enable any qualified medical practitioner of an accredited hospital to perform or not to perform abortion as he decides. I quote again the same article:

As can be noticed in the press and on the air, our people are already expressing opinions which reveal an obvious and alarming decline in the respect due to a child's life before his birth.

For instance, some merely see in the proposed amendment now under consideration a first step towards the official recognition of the "right to abortion" at will. Others see already in the amendment itself the possibility of making abortion available in a great many cases.

Mr. Speaker, I should like to deal separately with two points.

First, "the official recognition of the right to abortion at will."

The bill, according to clauses 14, 15 and others dealing with abortion, do not specify in which case abortion should be authorized.

There are a great many cases that can be foreseen, after discussing the matter with several doctors. I think we cannot pass a legislation to allow abortion in all cases, or every woman who requests it.

Mr. Speaker, the legislation we are going to pass must be restricted to certain cases where abortion is necessary, since, according to briefs submitted by the Canadian Medical Association and by the Quebec Medical Association, such cases are becoming increasingly scarce, due to the scientific progress of medicine.

Consequently, Mr. Speaker, the bill is only a first step towards the right to abortion at will. In other words, if a mother asks a doctor for an abortion, the doctor procures it.

If another mother who does not have the same illness as the first and whose pregnancy does not have any ill effects on her health asks the doctor for an abortion, the doctor will have to do the abortion whatever the motives the patient may have in asking for it.

Another mother may tell a doctor, she is sick, when actually her sickness is psychological and temporary, and ask for an abortion even if neither her health nor her life are in any way endangered. The doctor will then have to do the abortion.

● (5:20 p.m.)

The minister will say: There is always the hospital's therapeutic abortion committee. If that is so, then that committee should be free

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to use its discretion otherwise I shall have to conclude that the therapeutic abortion committee also, in accordance with the Act, would be compelled to allow the abortion.

In other words, if a mother or a pregnant woman asks a doctor for an abortion, whatever her reasons, the doctor does not have to consider those reasons. He can only make a note of that person's name and say: Madam, we shall have to submit your case to the therapeutic abortion committee. The only course open to the latter would then be to give its consent.

Now, what about the study of special cases? What about psychological troubles? What happens if there is no illness? Indeed, pregnancy—everyone admits it—is not an illness. It is merely a natural condition peculiar to women. The mother bears her child and is delivered nine months later. It is a privilege granted to women by nature itself.

Incidentally, a pregnant woman is not sick. It is suggested by this bill that pregnancy is an illness. In addition, the physician is considered as a robot or an abortion machine. It is apparently believed that he is unable to think, to consider, to reason and that he will be compelled to perform an abortion.

Through you, Mr. Speaker, I challenge the minister to rise and prove to me on the basis of the bill itself and not with a far-fetched argument that the physician is free to perform an abortion and that the therapeutic committee enjoys as much freedom in this connection. I challenge him to prove it to me, not by stating an obscure argument as lawyers alone can put forward, but by clearly telling me so. If the Canadian Medical Association, the Canadian episcopate and most Canadians have failed to find out that the bill grants such freedom to physicians, I feel that the minister himself will be unable to do it.

Mr. Speaker, I would like to deal with another aspect of this problem. For some people, the clause of the bill proposed by the minister will make abortion possible in a great number of cases. It is not necessary to develop that aspect, since it supplements the first, in the sense that here again no distinctions are made.

Mr. Speaker, it is impossible not to grab this opportunity to plead in favour of doctors and their freedom. The amendments were introduced not because we are against the principle of therapeutic abortions, but rather because we want the law to state that a doctor will be free to perform abortions or not.

[Mr. Fortin.]

At this stage, Mr. Speaker, I wish to read something very interesting to the house. It is a letter from Mrs. Marjorie Ruwald, Secretary of the Ottawa Committee for the Protection of Unborn Children, dated February 19, 1969. It reads as follows:

Dear Sir:

Now is the time to honestly face the facts regarding the amendments to the abortion legislation that are proposed by the government.

Is the government really anxious to protect the life and the health of women?

I shall only read part of it, Mr. Speaker. Since there is only a limited number of women in the house, it may be interesting to know their viewpoint on this subject, since they seem to know something about medical matters. And it goes on:

If such is the case, what evidence do we have that the proposed changes would achieve that aim in any way?

This is more or less what I asked the minister a short while ago.

Never has the health of Canadian women got as much protection as today.

I then wonder on what grounds could a woman want to be aborted?

Canada has one of the lowest rates of mortality in the world for expectant mothers—about three deaths per 10,000 births. Is it really possible to believe that the proposed changes could bring about an even greater improvement?

She asks questions. I now come to what is more particularly related to the amendment, and I quote:

We must sympathize with the liberal M.P. who lost his wife because he turned down the abortion alternative.

She now refers to a former speech:

Such a tragedy cannot be blamed on the Canadian legislation. And the tremendous advance of medicine since then must also be kept in mind. The mortality rate of expectant mothers has been reduced from 10 to 1 in one generation.

Since medicine has advanced to such a degree that the rate of maternal mortality has been greatly reduced, why then compel a doctor to make abortions whereas, by his knowledge and the technical facilities at his disposal, he could save that child, give him a right to live, allow him to live?

Instead of forcing a doctor to kill a human being, let us make it a right and a duty for him to save that human being—

● (5:30 p.m.)

[English]

Mr. Deputy Speaker: Order, please. I am sorry to interrupt the hon. member but his time has expired.

*Criminal Code***PROCEEDINGS ON ADJOURNMENT
MOTION****SUBJECT MATTER OF QUESTIONS TO BE
DEBATED**

Mr. Deputy Speaker: It is my duty, pursuant to Standing Order 40, to inform the house that the questions to be raised at the time of adjournment tonight are as follows: the hon. member for Vancouver-Kingsway (Mrs. MacInnis)—Combines—drugs—price fixing by B.C. pharmacists; the hon. member for Selkirk (Mr. Schreyer)—Air Canada—Winnipeg—transfer of base to Northwest Industries Ltd.; the hon. member for Edmonton West (Mr. Lambert)—Air Canada—strike of mechanics—inquiry as to matters in dispute.

GOVERNMENT ORDERS**CRIMINAL CODE****REPORT STAGE**

The house resumed consideration of Bill C-150, to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and the National Defence Act, as reported (with amendments) from the Standing Committee on Justice, and Legal Affairs, and amendment No. 21, Mr. Woolliams (for Mr. McCleave), and the amendment to the amendment (Mr. Burton).

[*Translation*]

Mr. Henry Latulippe (Compton): Mr. Speaker, we are faced with abstract realities.

The bill under consideration should never have been introduced as a logical, human bill that is likely to fit in our human and democratic society.

This bill is illogical and contains provisions that are not only beyond our grasp but go much further than what is permitted to advocate. Consequently, I believe that we are not sufficiently qualified to impose such a bill on the Canadian people, because it has to do with the very essence of life which is something divine and so great that we do not have the right to tamper with it. The procreation act is so sublime, so noble, that we would not be able to find adequate words to describe it.

We have in hand several reports that have been sent to us by the Canadian episcopate.

The bishops are not taking a stand from the Roman Catholic point of view, but from a Christian point of view, and we support wholeheartedly the amendment moved by the hon. member, because this amendment fills—

Mr. Laprise: On a point of order, Mr. Speaker.

I believe that a count of hon. members present would indicate there is not a quorum, and that the house cannot continue to sit.

[*English*]

Mr. Turner (Ottawa-Carleton): On this point of order, Mr. Speaker, I am wondering whether it is proper for a member on the other side to bring this matter to the attention of Your Honour in such a remarkable way and interrupt so abruptly one of his confrères who is making a particularly conscientious and serious speech.

Mr. Deputy Speaker: I must advise that it is the right of the hon. member to rise and request a count. I shall proceed to ask the Clerk to take a count.

(On the count being made, 21 members were declared to be present.)

Mr. Deputy Speaker: A quorum is present; the sitting will proceed.

[*Translation*]

Mr. Laprise: Mr. Speaker, I rise on a point of order.

When I raised my point of order, there were only 16 members in the house, but the minister's speech prompted others to return.

[*English*]

Mr. Turner (Ottawa-Carleton): With the greatest respect, I think that is a slur on the integrity of the Chair. Perhaps the hon. member would like to reflect on that.

Mr. Deputy Speaker: Order, please. Possibly we could listen to the hon. member for Compton (Mr. Latulippe).

[*Translation*]

Mr. Latulippe: Mr. Speaker, here I should like to quote a statement on abortion made by Canadian bishops:

The bishops devoted the second part of their statement to the legal aspects of abortion and more precisely to the proposed amendment to the Criminal Code by the government. First of all, they lay down the principle that to the State, the guardian of the common good falls the "sovereign duty of protecting effectively the human lives and in particular the weaker ones." At the present

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time, the role of the State is all the more necessary since the "complexity of modern life", in a world that is dominated by organization and techniques, makes the individuals live under heavy threats and since, under the guise of progress, some are ready to relax the laws to the point where they would no longer ensure life the thoughtful respect and the effective protection it deserves.

Let us say firmly that the progress of civilization resides in the ever increasing recognition, both theoretical and practical, of the dignity of the human being, of its sacred character and its absolute inviolability.

Besides, in the field of ethics, all things hold together; evil breeds evil; it is the first step which is most painful. We were discussing contraception yesterday; today we are talking about abortion; tomorrow it will be sterilization, euthanasia, infanticide. Every battle lost is fraught with a still worst defeat. Between civilization and barbarism the road is shorter and the slope is even more slippery than one could imagine. Another step, one step too many, and it is the Fall, and as Pascal wrote, "Earth is rented to the very depth of the abyss".

According to the bishops, the government bill, in its present form, should be rejected as a whole for three main reasons.

The first one deals with the very purpose of the legislation. According to the proposed amendment, the therapeutic abortion becomes legal every time that, upon the experts' advice, the mother's life or health are endangered or liable to be endangered by pregnancy. The legislation aims therefore at permitting "direct and voluntary attempt against the life of an innocent child", and that is immoral. Inasmuch as morality must affect legality, the government project, at the very outset and in its essential content, is therefore vitiated. In denying the principle of absolute inviolability of an innocent life, it strikes a blow to the core of civilization, it shakes it right to its foundations.

The government legislation, under its present form, opens the door to serious abuses.

I think that those who have a little sense of justice and humanity, are conscious of what they can achieve, who are aware of the dignity of human life and who know to whom this life belongs, will ask themselves the right questions on this very essential legislation. I quote further:

● (5:40 p.m.)

If the bill is so imprecise, it is perhaps because the government was not quite ready to legislate. "The parliamentary committee on this question recognized in its report of December 1967 the inadequacy of the studies and inquiries on which the new legislation should have been normally based. Why is it then that its decision was so prompt on the substance of the debate and why has it submitted to the government preliminary recommendations, binding our whole future? Above all, why was the government so quick to include in the bill conclusions which, according to the committee itself, could only be hypothetical and premature? Have they both given in to the pressures of the so-called Liberal opinion? Did they

[Mr. Latulippe.]

want to stay one jump ahead of their opponents, and specially of the Roman Catholics? The bishops, it goes without saying, are not accusing anybody. They are even careful not to point out that the parliamentary committee and the government saw fit to introduce their amendment proposals before having heard those who on the religious level are supposed to speak on behalf of 50 per cent of the Canadian people. They are simply wondering if, in this hour of decision, the Canadian people have really before them all the necessary information and if parliament has the right to venture into new legislation of such significance. "For people and for civilization", without weighing by means of appropriate research the moral, psychological and sociological consequences". That is also the question we are asking ourselves and that, when the day comes, we shall ask the government.

The new legislation will not solve the problem of secret abortions and death caused by childbirth.

Mr. Speaker, according to those logical warnings approved by very competent lawyers, I believe once again that we even have no right to legislate on this matter the way we are doing it today and I ask the minister to withdraw from Bill C-150 the subsection dealing with abortion and to postpone the consideration of that matter until the time we have the necessary information and are sure of acting for the common good, according to a Christian point of view and in a logical way.

Then we may perhaps introduce a similar bill, provided full freedom is granted every member to vote according to his conscience, his common sense and his sense of justice.

The Department of Justice must live up to its name. In fact, its function is not to pass unjust legislations. Now I believe the legislation we are getting ready to pass is one of the most unjust we have ever brought out in Canada, and we have no right to pass unjust laws that go against the will of most people.

I go on quoting the statement of the bishops:

Does that mean that the Church, at this very moment and for that sole case, is going beyond the limits of the role to which, following the last council, it had consigned itself by announcing that, from now on, it would only interfere in temporal matters when public interest was at stake? Certainly not. We need only point out, in this respect, that the statement makes a very clear distinction between the moral and the legal aspects of abortion. When, dealing with the latter, it rejects the government approach, it does not do so on behalf of catholic morality as such, that is clear enough, but just in the name of morality itself, for the sake of the dignity of the human person, that is, once again, for the sake of the common

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weal which it has undeniably the right, as well as any other group of citizens, to conceive and to defend according to its own views.

The bishops, in the present case, are deliberately addressing the Catholics. If they feel they should abide by their views, the latter have henceforth to trace the line, where abortion is concerned, between moral and civil law. As in any temporal matter, and whether they support or oppose the intentions of the government, they should, as citizens, trust their own conscience, trust their own private judgment on what they feel the common good requires according to their experience and inner thinking, and not necessarily according to whatever wording the bishops have deemed advisable to draft.

In practice, the foetus should be always considered as a human person; abortion, from the standpoint of morality, is always the murder of an innocent being.

Mr. Speaker, we would yet have many a thing to say on the subject. There were, for instance, lively discussions in the committee; but the members who sat on it did not adopt a stand directly. Highly competent men come before the committee as witnesses, among others, Dr. Benoit Légaré, a gynaecologist from the Saint-François d'Assise Hospital in Quebec City. He appeared before the committee. He expressed his point of view; he spoke as a Christian and spoke conscientiously. He did not stake his conscience; he entrusted it to the Almighty and spoke laconically, logically, humanely and like a Christian on that situation;

We have not come here as Catholic doctors. We would, indeed, be ill-advised to try, through legislation, to impose our moral code on those who do not share our religious beliefs. Any argument based on those principles would weaken our plea considerably.

We have come here this morning as doctors concerned with helping our legislators to formulate a law that is just and respectful of human life. Accordingly, we will remain strictly on the level of natural law. We therefore intend to convince you that the foetus, from the instant of its conception, is a human being, albeit imperfect. If we achieve this, I feel that our testimony will have been very useful.

Doctor René Jutras, paediatrist, basing himself on genetics, will take care of the technical aspect of what we have to say to you.

I admit that doctors and biologists have yet to agree unanimously on this point.

I know that there are some who will maintain that at the start the foetus matter is too imperfect to be classified in the category of human beings. But, where is the one so learned he can decide whether this perfection appears in the eighth or twelfth week of life?

Mr. Speaker, all the evidence given by serious, competent and responsible men who want the good of the nation, who understand the very essence of life shows clearly that

they oppose the clause now before us and that they do not think it should be agreed to for any reason whatever because it runs contrary to the respect that every person in his right mind should have for human life.

[English]

Mr. Deputy Speaker: Order, please. I regret to interrupt the hon. member but his time has expired.

Mr. P. B. Rynard (Simcoe North): Mr. Speaker, I should like to make a few comments on this particular clause. It is interesting to note that while I may not confine myself strictly to legal interpretations, I am glad to adopt that course because there are certain moral and social principles involved in a bill like this. The situation could not be otherwise.

● (5:50 p.m.)

Why we do not practise preventive medicine in this field, rather than draw up clauses that pretend to treat the problem after it has been created? Sex used to be taboo; now it is a consumer item. Books by the score are written on sex. Television portrays sex almost every night. I am sure the Minister of Justice watches television and must have seen this program the other day on which a lady was introduced who was not even wearing coloured glasses—

Mr. Turner (Ottawa-Carleton): I turn that kind of stuff off now.

Mr. Rynard: The minister says he turns that kind of stuff off now. I think that by the introduction of this bill the minister is giving encouragement to the publicizing of sex. This is the sad part of it. I have a very high regard for the minister and did not think he would be led into the position of not protecting the public better than he is. All the minister is doing by means of this bill is an indirect way, by permissiveness of stimulating the rapaciousness of the sexual appetite, when he should be preventing it. Why ask the doctor to murder? Why not prevent this situation from arising?

The promotion of sex goes on and on. Let us stop and take a good, clean look at this question. Knowledge and science have arrived at the point where almost complete birth control is possible. Why should the medical profession be put in the position of treating something which can be prevented? The minister talks about hospitals in this regard. I am sure that many hospitals will not want to

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carry out this type of operation. When this bill passes, perhaps they will have to do it. How does the minister propose getting around this? I can name hospitals that will not carry out abortions. It is only fair and proper that the minister tell us how he proposes to get around that problem.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, under the rules I can only answer that question by asking the hon. member a question. Will the hon. member accept a question?

Mr. Rynard: I am always glad to receive a question from the Minister of Justice (Mr. Turner), Mr. Speaker.

Mr. Turner (Ottawa-Carleton): Was the hon. member here earlier in the day when I spoke directly on this question and assured the house that, within the terms of what I said, there was no criminal obligation or responsibility on the medical profession to force them to participate in or perform a therapeutic abortion? I also said that in so far as there was any civil obligation or liability, this did not arise in any way from clause 18. In other words, the bill does not purport to encroach in any way upon the relationship between the hospital and the doctor, the doctor in a hospital and the patient, the nurse and the doctor, doctor and the nurse, and so on. Is the hon. member aware of the fairly full treatment I gave to that question earlier in the day?

Mr. Rynard: Yes, Mr. Speaker. I am also aware of the abortion cases that are sent from one hospital to another. It is in this respect that I think the minister is closing the door. I ask, what is he going to do about it? Does the minister propose that this be paid out of medicare hospitalization? In Russia, only about 4 per cent of these cases are eligible for that type of treatment. The next thing will be the licensing of prostitution.

Mr. Turner (Ottawa-Carleton): Oh, no.

Mr. Rynard: The minister does not believe that. Would the minister like me to tell him what the score is in England? I do not think he has read what the situation is there. I will put it on the record so he will understand the problem. The extract I shall read to the house illustrates very effectively what the problem is in this regard.

This article was written by Dr. Lewis and is to be found in the *British Medical Journal* for January 25, at page 241. Dr. Lewis writes about an angry lady who wanted a hysterectomy for prolapses and could not get one.

[Mr. Rynard.]

There is no exaggerating, she could not get a hysterectomy because the hospitals were filled with patients requiring abortions. This article reads:

Lewis points out that when the abortion law was changed the gynecologists did not expect a very great change in their practice. They thought that there would be a slightly more liberal attitude to the problem. He continues: "How wrong we were. I am afraid that we did not allow for the attitude of, firstly, the general public, and, secondly, the general practitioners."

I suggest to the Minister of Justice that he, also, can be awfully wrong in this respect. The article continues:

In 1958, 1,600 abortions were notified in England and Wales; the estimated number for 1968 is 35,000.

I hope the minister listened to those statistics.

One curious feature of the present pattern is that only 45 per cent of the patients are married. Since far more married women become pregnant than single ones, it is hard to see why medical indications should be so much more frequent in the unmarried.

That is the type of permissiveness to which the minister is opening the door by this bill.

The whole character of the gynecologist's work in outpatients has changed, says the author, because he has to deal with two, three or four requests at every session; often it takes longer to refuse than to grant the request. "And I have made no mention of the large numbers of pregnancies that are being terminated in registered nursing homes for reasons of convenience and financial gain, masquerading as legal operations under the new act." He feels that this state of affairs will continue, and that it is unrealistic to expect a small section of the community, the gynecologists, to adopt a moral attitude completely at variance with that of society as a whole.

This is the area in which society is sick. That is why I point out to the minister that we should be dealing with prevention rather than trying to cope with the problem after it has been created.

Mr. Deputy Speaker: Order, please. I am sorry to interrupt the hon. member, but it is six o'clock. Prior to calling it six o'clock, in view of the fact that the hon. member will be continuing his remarks after the dinner adjournment I might remind him that we are dealing with a specific amendment and sub-amendment which ask that no hospital be obliged to establish a therapeutic abortion committee. I invite the hon. member to restrict his remarks as much as possible to that specific matter. It being six o'clock, the sitting stands suspended until eight o'clock.

At six o'clock the house took recess.

AFTER RECESS

The house resumed at 8 p.m.

Mr. Rynard: I was saying when the house rose at six o'clock, Mr. Speaker, that the pressure which will be brought to bear on hospitals and on the abortion committees of those hospitals—if they have one and they likely will have—will be great, indeed. If any arguments are needed to substantiate this assertion they will be found clearly set out in the report of Dr. Lewis on B.M.J. which I placed on record.

This is what will happen: a certain clause of this bill, once adopted and passed into law, will gradually be the subject of wider interpretation. This is what has happened elsewhere. Today, in Europe, I believe probably less than 4 per cent of abortions performed there are carried out for valid medical reasons. In the long run, the pressure of the affluent society, or of the just society—which, in effect, means “do what you want to do whether it is morally right or not”—may be great enough to break down the moral conscience of abortion committees and hospitals. This is what I fear. Where they have not had abortion committees on religious grounds, they will be made to create them.

If proof of this is required, hon. members need only look at today's *Ottawa Citizen* where an article appears by Karl E. Meyer concerning social conditions in the Baltic countries. He says:

Moralists would become discouraged in visiting Denmark, Sweden and the Netherlands. Not only are these countries allowing permissiveness to become a way of life, but nearly everybody seems incorrigibly relaxed about it, even those who may have their doubts... The sky is the limit as long as nobody gets hurt. Or, as Irene van der Weetering, who holds the Provo seat on the city council, complains: “They smother us with tolerance.”

This seems definitely the trend in Europe today. I wonder whether the Minister of Justice would continue to follow his present course if he felt he was setting a similar trend in motion here in Canada. They certainly did not set out with that intention in Europe, and I warn hon. members that with the permissiveness contemplated here we might well be starting on the same road.

I am one who feels that television can be singled out as a primary agent of change. The author of the article I mentioned quotes a Swedish journalist as saying “Television has

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the power of legitimizing things.” The article goes on to say:

As a result of all these factors... the Dutch, Danes and Swedes are on the way to creating societies where anything goes.

These things go on in communist countries, but these are atheistic in their thinking.

● (8:10 p.m.)

In Denmark and Sweden, there are new forms of marriage, social acceptance of homosexuality, abolition of censorship, permission to use soft drugs, compulsory sex education and easy access to contraceptives. All of these things exist in one or other of these countries. It may be that when the limits of permissiveness are reached the Dutch, the Danes and the Swedes will find that they have not solved any of the age old moral problems but have simply transferred them to a different plane. Their experience has a certain fascination for the rest of the world, and they should not complain, as some of them do, when we curiously peer and prod.

I intend to speak on some other clauses, Mr. Speaker, but I will conclude now by saying that anything that denigrates the spiritual and moral forces of a nation destroys the power of that nation to choose between right and wrong. This could very well happen to the abortion committees and our hospitals when the pressure is on.

[Translation]

Mr. Gilbert Rondeau (Shefford): Mr. Speaker, we are studying amendment No. 21 which reads as follows:

Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person.

However, Mr. Speaker, in my opening remarks I would like to point out to the house, if other hon. members have not done so already—for I have not had the opportunity to listen to all the speeches delivered on that important matter—that the end of the text of the amendment refers to “the miscarriage of a female person”.

During the debate of the committee on justice and legal affairs, when Bill C-150 was under study, I had the opportunity to remind the minister who, with much patience, sponsors the bill, that several pages of the bill, in particular pages 42 and 43, and a score of other pages, are devoted to “the miscarriage of a female person”. I asked him whether, as

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far as he knew, persons of another sex could undergo abortion?

I see that the bill was reported without any amendment and I find it strange to want to amend at this stage by making it clear that abortion should be practised only on a female person.

I would like to know whether according to the scientists of the Liberal party, there exists a third, a fourth or even fifth sex that we do not know. To the best of my knowledge, the house has not had the privilege of meeting any worthy specimen of those various sexes. To my knowledge, we have only known in this house two sexes: the male sex and the female sex. In fact there is only one person of the female sex here. We do not know people of the third, fourth, or fifth sex.

Therefore, why make a bill even more ridiculous by inserting the words: "the abortion of a person of the female sex"? What other sex can undergo abortion apart from the female sex? I find that absolutely stupid and ridiculous, and I demand why the legal advisors, the Prime Minister (Mr. Trudeau) and the experts who drafted this bill tried, through the present Minister of Justice (Mr. Turner), to get the Canadian people to swallow it? How is it that in a text of law, reputedly serious, we read that we are to procure the miscarriage of a female person only?

Mr. Speaker, I find in at least twenty different places in the bill these terms: "miscarriage of a female person".

However, the minister has not yet answered this question: How many sexes are there in Canada?

Mr. Speaker, at least the spirit of this amendment is in keeping with our beliefs when it provides that an hospital should not be obliged to establish a therapeutic abortion committee. In the name of the freedom which some members want to preach in the house so that a woman may feel free to have an abortion if she so wishes. We should ensure to hospitals and doctors unwilling to perform abortion the same liberty not to have to submit, for some reason or other, to the legislation which they do not want to be part of our statutes.

Mr. Speaker, in expressing my opposition to the provisions of Bill C-150 regarding abortion, I shall not deal tonight with the moral problems involved in abortion.

We have merely brought in arguments based on common sense or provided by medical authorities condemning abortion, even therapeutic abortion, a practice that this bill

[Mr. Rondeau.]

is trying to impose on our hospitals and medical practitioners.

The main argument against abortion is that this small being, as such, has the right to live. Consequently, society must do every possible thing to ensure him this right.

Mr. Eugene Quay, an American professor, wrote a study which was published in the *Georgetown Law Journal*. Here is what he said:

The protection of the life of an unborn child has always been a major concern in the oldest laws known. This matter has continued to form the subject of laws in all civilizations right through to the present time, because this thought springs from a universal sentiment that foresees the decline of civilization when this right is no longer protected.

Unfortunately, we have to realize that at the present time Canada's civilization is decadent, for rather than protecting the right to life, we do everything possible to eliminate such a right.

Section 3 of the United Nations Universal declaration of human rights, passed in 1948, stipulates that, and I quote:

Everyone has the right to life, liberty and security of person.

Paragraph (a) of section 1 of the Canadian Bill of Rights, passed in 1960, recognizes that:

—the right of the individual to life—

—exists in Canada and will continue to exist. However, in 1969, we are already willing to question that principle and to pass legislation to abolish it.

The convention to protect human rights and fundamental freedoms, signed in Rome in 1950 by the members of the European Council, states the following in paragraph (1) of section 2, and I quote:

The right of the individual to life is protected by law. Death cannot be inflicted intentionally, except in the carrying out of a death sentence passed by a court of justice in the case of an offence punishable by death under the law.

In his book entitled "The Right to Live" Mr. Norman St. John-Stevias wrote in New York in 1964:

Respect for human life is part of the moral consensus of western civilization—such consensus emanating from intuitive wisdom of a really human society.

It then appears that the right to life is universally recognized and the voluntary and intentional destruction of a living foetus in the body of its mother, or of a child at its birth, constitutes a practice which is universally prohibited.

● (8:20 p.m.)

Whatever the authors of the Criminal Code may say, life begins before the birth of the child and the severance of the umbilical cord.

The physicians who came to testify before the standing committee on justice and legal affairs, on March 25—and others before them—especially Drs. Légaré and Justras proved, without doubt, that life exists well before birth.

The hon. member for Calgary North (Mr. Wooliams) asked the following question of Dr. Légaré, a gynecologist at the St-François d'Assise Hospital, in Quebec City:

From the medical point of view, do you agree with the definition given in the Criminal Code?

And the physician replied:

From the medical point of view, no...but the unborn child is definitely a human being. The slides of Dr. Justras—

—will give you a medical proof.

Doctor Justras, head of the Pediatrics Department of the Arthabasca hospital, showed a series of slides which proved beyond doubt that life exists, imperfect maybe but real none the less, because when the foetus is 24 days old its heart starts to beat. Some Swedish physicians have ascertained that a foetal heart was still beating one or two hours after an abortion.

Thanks to the transparencies of Dr. Justras, it was possible to observe that on the twelfth week, a foetus sucks his thumb.

Mr. Speaker, there are even some members who have been doing the same since they have been here and who continue to do so.

On the sixteenth week, the eyes of the foetus are developed and on the twenty-sixth week, it is viable.

Life is by then so well established that in the Model Penal Code approved by The American Law Institute, paragraph 3 of section 230, dealing with abortion, it is stipulated, and I quote:

When the abortion is performed after the 26th week of pregnancy, it is murder in the second degree.

This referred to illegal abortions.

What shall we think now of therapeutic abortion. This is what I want to talk about, Mr. Speaker. It is precisely the problem that we study tonight. What shall we think now, I say, of medical abortion which the Minister of Justice wants to include in the Criminal Code in order to justify abortion?

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This is what was said on this subject by Dr. R. Gordon Douglas, professor of obstetrics and gynecologist at the Medical College of Cornell University in the United States. This is no idle talk; we are not dealing here with back-street butchers or with blue-stocking gossips:

If we make use of all our therapeutic armamentarium, we can put an end to all the troubles that can arise, for a mother, from the birth of a child.

In other words, thanks to medical knowledge in this field, the life of the mother is no longer in danger when she is bearing a child or when she gives birth to a child.

Professor Quay, in the book which I quoted a while ago, proves, from pages 181 to 220, that appropriate prenatal care and attention can practically always save the life of the mother without resorting to therapeutic abortion.

At this stage, I should like to say to the supporters of abortion that it is almost an insult to medicine to try and make believe that doctors are incapable to cure illness except by killing the foetus, while doctors have proved in the committee that therapeutic abortion is futile today, because treatment can help to cure the diseases that can sometimes attend pregnancy.

On the other hand, Dr. K. P. Russell, from the county hospital of Los Angeles, writes in the Journal of the American Medical Association and I quote:

For the past ten years, we have grown more and more aware of the fact that several indications—

—and here, he is of the same opinion as Dr. Légaré who was a witness to the committee of justice and legal affairs—

—we have grown every day more aware of the fact that many an indication in favour of therapeutic abortion is no longer valid...in the light of continuing improvement in the field of medicine and surgery.

Professor Quay, on the other hand, believes that if therapeutic abortion is to be legalized, it will hamper research in the field of gynaecology, with the purpose of saving human lives and that doctors will do it the easy way by destroying the foetus.

He also makes no bones about stigmatizing the mothers who seek therapeutic abortion.

A mother who sacrifices the life of her child in order to protect her own health is lacking something somewhere...and if there were to be some authority to decide whether to destroy an innocent life for social reasons, the interests of society would command to sacrifice the life of

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such a mother rather than that of her child who might one day become extremely useful to society. Some, even, go as far as to say that... "health of the mother"... should also cover... "mental health."

According to doctors who have conducted studies on the problem, the mental troubles about which some women are complaining to justify their application for therapeutic abortion, are just subterfuges in order to get rid of their child.

• (8:30 p.m.)

Moreover, nothing shows that mental disorders are cured by ending pregnancy. And finally, therapeutic abortion could in some cases heighten mental disorders in a pregnant woman, when they give rise to feelings of frustration, hostility and shame.

For instance, Dr. Perlmutter of New York Bellevue Hospital, in his analysis of therapeutic abortion, which appeared in the *American Journal of Obstetrics and Gynecology*, volume 53, 1947, page 1014, said the following:

There does not appear to be a single neurological or psychiatric condition which could justify ending pregnancy.

Even the threat of suicide resorted to by pregnant women to get an abortion cannot be a valid argument, according to Dr. Lawrence C. Iolb, director of the New York State Psychiatric Institute.

He wrote in 1958, in his book *Abortion in United States* the following:

There is an interesting report from Sweden about 344 women who were refused a therapeutic abortion, 62 of whom had threatened to commit suicide if their request was not granted. So far, none has committed suicide. The threat of suicide is frequently used for intimidation purposes.

As for "eugenic" abortion, designed to prevent the birth of children who are abnormal, crippled or affected by hereditary diseases, or simply to improve the human race, we find it equally unacceptable.

Let us keep in mind that our soldiers fought against Hitler who practised eugenics in order to preserve the integrity of the German race. Would we, today, include such a provision into our Code, or simply allow, because no mention is made of it, doctors to practise eugenics?

Professor Norman St. John-Stevás, on page 16 of the book entitled "The Right To Live" and previously quoted, tells the following story, and I quote:

A doctor is discussing with a colleague: "With regard to terminating a pregnancy, I should like [Mr. Rondeau.]

your opinion. The father suffers from syphilis and the mother, from tuberculosis. What would you have done? I should have terminated it, replies the other. In that case, you would have killed Beethoven!

Finally, a few words on the argument raised by the supporters of therapeutic abortion whereby the fact that abortions are common in certain hospitals is an argument in favour of adopting the amendment to the act.

Mr. Speaker, thefts and crimes are increasing in Canada as in every other country in the world. The efforts of the police to check crime are becoming less and less efficient. But who would suggest that our present legislation against crime be abolished? Who would suggest that our police forces, the R.C.M.P., and municipal forces should be abolished?

And last, the arguments whereby therapeutic abortions lead to a decrease in clandestine abortions—

The Acting Speaker (Mr. Béchard): Order. I am sorry to interrupt the hon. member, but his time has expired.

Mr. Rondeau: Mr. Speaker, would the house allow me to continue my remarks for one minute only?

The Acting Speaker (Mr. Béchard): The honourable member is aware that he must have the unanimous consent of the house. Does the house allow the hon. member to go on with his remarks?

Some hon. Members: Agreed.

Mr. Rondeau: Mr. Speaker, Professor Quay whom I quoted earlier, states the following:

The section on abortion proposed by the American Law Institute corresponds to the 1939 Danish law. Now while the number of legal abortions increased in 12 years to 5,000 per year, the number of criminal abortions, instead of decreasing or of disappearing, increased to 9,000 per year.

For all the reasons I have just listed, I do not think any hon. member, whatever his party—we have only heard from those objecting to the legislation—could put forward any argument supporting the bill because there is none.

I had the opportunity a few weeks ago to visit four western provinces and I was able to realize that opposition to abortion is as strong over there as it is here.

I believe all hon. members regardless of their faith should unite to ask the government to withdraw the proposed amendments to the Criminal Code relating to therapeutic abortion.

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Also, I am in favor of the proposed amendment to the effect that hospitals and medical practitioners unwilling to procure a supposedly therapeutic abortion which, doctors say, no longer exists could at least be free not to abide by the provisions of this bill providing for the creation of an abortion committee in hospitals.

[*English*]

Hon. Marcel Lambert (Edmonton West): Mr. Speaker, this part of the debate on this bill is different from that part of the debate that dealt with gross indecency. This is not just, shall we say, a mere truism. The amendments before us come as a result of representations made by various organizations, organized groups, pressure groups and individuals. They have been discussed in the public press, on radio and on television, and there has been a good deal of public debate on this matter. Therefore, even though I may not agree with these amendments, I feel they are much more legitimate than the ones contained in clause 7, for which there was no call from the public. They were not debated by the public, there has been no public demand for relaxations on gross indecency and therefore they seem to be a gratuitous offering on the part of the original author of the bill to some factions in the public interested in that type of activity.

Representations made favouring the adoption of clauses in this bill dealing with abortion have been made first of all, I suppose, by a lot of social workers and well meaning people. Many of them were naïve do-gooders to the extent that they believed adoption of this provision would reduce illegitimacy as the result of conception by young unmarried women or by married women who participate in extramarital affairs. It is thought that if such a young woman can go along to a hospital very quietly and have an abortion, this would eliminate the number of illegitimate children. Mr. Speaker, I do not think for a moment that that will be the case. It will be known when a woman goes to hospital. Women resort to the back street quack or to what is known as the abortion butcher because of the moral stigma attached to a woman carrying a child as a result of an illicit sexual connection. This is the reason for resorting to the quack and no amount of, shall we say, making abortions easier will reduce the immorality of the initial act and the immoral stigma. We will have to change society and say that a woman can conceive a child from whomsoever she wishes, and bear

it. But society will not accept that. Society does not say that, nor does society pretend at any time to sanction illicit sexual connections which may result in a pregnancy. Therefore, I think the argument that adoption of this provision will reduce illegitimacy is sheer fantasy.

Furthermore, I doubt that it will reduce the number of so-called butchers. Why do I say that? I say it because there is that social stigma attached to an illicit pregnancy. Here again, I think there are naïve do-gooders who suggest that liberalizing the abortion provisions in our Criminal Code will reduce illegitimacy and drive the abortion butcher out of his back room.

On another occasion, I think I shall have the opportunity to speak on the principle of abortion at will or on request, or on proposals which would make abortion much more permissive than at present. At this time I should like to limit my remarks to the purpose of this amendment. I am pleased to see this amendment being put forward. Anything said to me by medical practitioners about the government proposals dealing with abortion has been said in an endeavour to protect practitioners who would refuse to perform an abortion on instruction from any therapeutic abortion committee. The medical practitioner might be either on the staff of the hospital or be connected with the hospital and be entitled to practice in that hospital. Also, many of those doctors who have had a great deal to say to me limit their practice to some of the hospitals within the city of Edmonton where abortions will not be carried out. There will not be an abortion committee in those hospitals as long as the directing staff and the doctors of those hospitals maintain the same view. It is their freedom of practice that we are attacking.

• (8:40 p.m.)

I say it is absolutely wrong. It will be failing morally. I trust the provinces will take some appropriate action to prohibit any undue pressure, either on a hospital or a doctor practising in a hospital, to carry out a therapeutic abortion against their will. Hospitals today have no freedom with regard to their financing. They are directly controlled by the provincial authorities. If it is the view of a provincial hospital authority that all hospitals, regardless of the persuasion by the board of management or directing staff, shall carry out therapeutic abortions under penalty of some financial or other type of restriction,

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that will be wrong. It has been suggested the remedy does not lie in the Criminal Code. Now, is the time to speak out against any undue pressure.

It is the government's proposed amendment to the Criminal Code which sets up the therapeutic abortion committee. Bill C-150 will entitle a doctor to perform a therapeutic abortion under certain conditions, therefore it is now that we must raise the protest against any undue pressure being exerted. If the abortion committee is not set up or if a doctor does not wish to carry out a therapeutic abortion. There may have to be accompanying legislation from the provinces because no hospital may be able to found a claim in contract or otherwise under these sections against any provincial hospital authority that brought undue pressure. There might be a possibility of a claim for damages, but I think the grounds might be rather tenuous.

When dealing with this bill, we in this house cannot provide that there shall be a civil remedy against any provincial hospital authority that brings undue pressure on either a hospital authority or practising physician or any legal action being brought against either or both of them because of their refusal. I support the spirit of the amendment. I think it has its place at this point.

As my colleague the hon. member for Simcoe North (Mr. Rynard) stated, this is the point where we, as legislators, should indicate there must be no penalty on any hospital or physician refusing to carry out a therapeutic abortion as may be permitted under this act. I wish to reiterate the therapeutic abortion committee will be a creation of this act now before us. If there are to be any consequences arising out of the conduct of this potential committee, they should be expressed in the Criminal Code.

[*Translation*]

Hon. Martial Asselin (Charlevoix): Mr. Speaker, my comments will be similar to those made by the previous speaker on the amendment before us, which reads as follows:

"Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person."

The hon. minister of Justice, Mr. Turner, has probably received some time ago a written memorandum from the Medical Association of the province of Quebec, stating the

[Mr. Lambert (Edmonton West).]

clear opposition of its members to the obligation for the medical committee of a hospital to procure what is called a therapeutic abortion.

Like the hon. minister and other members, I have received a request from the medical doctors asking that we oppose that provision in the bill. To date, the hon. minister has not heeded the appeal made by the Medical Association of the province of Quebec. I wonder whether all the doctors making this appeal to the hon. minister and to the members of this House can be wrong.

According to the bill, doctors refusing to procure therapeutic abortion would be penalized. I do not believe that such is the intention of the hon. minister. His Parliamentary Secretary (Mr. Cantin), signals that it is not. I would like the parliamentary secretary or the hon. minister himself to give the house a clear and definite answer about the intentions of the legislators with regard to the provisions of this act.

If a person goes to the hospital for a abortion and if the hospital or the doctors there refuse to grant the request, will they be punishable under the act? That was not explained and that is why I am speaking about the Medical Association of the province of Quebec this evening. I ask the hon. minister to clarify the bill for us.

● (8:50 p.m.)

It is obvious that Catholic hospitals in the province of Quebec did not allow abortions until now. Even when the mother's life was endangered. I do not believe the law can establish a criterion, permitting to determine whether the life of a pregnant woman is in danger because her pregnancy does not progress normally. I say the minister fails to do his duty by refusing to give on this bill clarifications that could protect doctors in Catholic hospitals who would refuse to perform an abortion.

Moreover, Mr. Speaker, I am completely opposed to the party in power legislating on what concerns the mother's health in the case of a difficult pregnancy or premature birth. I believe legislators have no right neither on life nor on the effects of a difficult abortion. They must not substitute themselves to Providence.

The object of my contribution in this debate is to tell the Minister of Justice that the provision concerning abortion is so complex, entails so many after effects and creates so many difficulties that the legislator is

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wrong in my opinion by interfering with the plans of Providence.

The hon. members opposite may gloat over my references to the Canadian bishops who recently vigorously denounced those provisions of the legislation. They asked the Minister of Justice to clarify the legislation so that doctors who refuse to perform an abortion will not be liable to prosecution.

We know that recently, in the United States, certain doctors were prosecuted by hospitals for having refused to perform abortions. We would not want, especially in the province of Quebec, that such proceedings be instituted against doctors. I insist on that point.

I beg the Minister of Justice to look at me. He is talking at present with one of his colleagues. I beg him to clear up the matter. I know the minister is taking advice from his parliamentary secretary and that he could not follow my speech. His parliamentary secretary will give him the message as usual. I say to the minister that he should make the legislation more explicit.

Mr. Turner (Ottawa-Carleton): I rise on a point of order, Mr. Speaker.

I am closely watching what the hon. member says. It is impossible to ignore him.

Mr. Asselin: Mr. Speaker, I rise on a point of order.

I did not hear what the minister said. Could he, please, repeat it?

Mr. Turner (Ottawa-Carleton): I said, Mr. Speaker, that "I was closely watching what the hon. member was saying because it is impossible to ignore him."

Mr. Asselin: I thank the Minister of Justice for giving so much importance to my remarks, but before we vote on this amendment, I should like to know whether the Minister of Justice is going to comply with the request of the Association of doctors and also of the bishops who have asked him whether these doctors would be subject to prosecution or to penalties under the Criminal Code.

I think the question is very ticklish and very important and the hon. Minister should at least give the members of the province of Quebec the assurance that doctors will not be prosecuted under the section on abortion.

On April 23, 1969, Claude Ryan published in *Le Devoir* an article under the heading "Conscience, médecine et avortement" in

which he warned the hon. Minister of Justice against all the possible consequences of his bill on abortion. The minister must have read that article. I do not claim that Mr. Ryan is an authority on abortion and medicine. The hon. member for Sherbrooke (Mr. Gervais) and the whip of the Liberal party are shaking their heads...

Mr. Gervais: All depends on the subject.

Mr. Asselin: The fact remains that this editorial of *Le Devoir* raises, in my opinion, a very important question and I fail to see how the minister can reject amendment No. 21, without giving the Quebec Medical Association some safeguard to the effect that its members will not be subject to legal proceedings under the law when they refuse to perform abortion.

I greatly admire the minister's courage and eagerness. He accepted to sponsor the legislation of the former Minister of Justice, the present Prime Minister (Mr. Trudeau). We know that when the minister introduced this legislation in the house he felt—and I think that he was right—that the bill should be divided in order to enable—

Mr. Turner (Ottawa-Carleton): No.

Mr. Asselin: The minister says no! But he did say that the bill should be divided in order to enable the members to express their views freely and according to their conscience. At that time, I think the hon. minister was quite right and, some time after the Prime Minister turned him down and told him that the bill would not be divided but would be considered as a whole, and that the members would have to vote only once.

We know that it was made into a vote of confidence for the government, and we noticed it on the last vote. Indeed, not one member from Quebec, not even the hon. member for Sherbrooke, voted against the government. Thus, on the 54 or 55 members from Quebec who think like those of the opposition and do not favour the omnibus bill, nor would want—

The Acting Speaker (Mr. Béchard): Order. I am sorry to interrupt the hon. member at this time, but I would like to ask him to confine his remarks strictly to the amendment now under consideration.

● (9:00 p.m.)

Mr. Asselin: Thank you, Mr. Speaker, and I shall heed your advice.

Criminal Code

With regard to the possible consequences of the amendment now under study, I think that I have a right to ask the members from Quebec—but not you, since you are Deputy Chairman of committees and Deputy Speaker—to follow the dictates of their conscience on the matters of abortion and homosexuality.

Finally, we have not heard any Quebec member oppose this bill, and yet, I know that in their inner conscience, some of them wished they belonged to the opposition so that they could vote freely, as was proposed by the Leader of the Official Opposition (Mr. Stanfield).

Before this amendment comes up for a vote, I should like the Minister of Justice to explain clearly what the situation of the government is with regard to the request of the bishops that doctors and hospitals not be required to procure abortion or to set up abortion committees. I should like the Minister of Justice to give us specific information and commit himself with regard to this problem, so that the doctors who refuse to procure abortions for reasons of conscience and professional ethics can be protected against resulting legal proceedings.

The Minister of Justice cannot, to my mind, go against the designs of Providence. When one fights nature, nature fights back.

At times, pregnancies are difficult; but doctors have from time to time met the difficulty by performing an operation to relieve the mother.

In closing, I therefore ask the Minister of Justice to clarify the situation and give hon. members some information, so that when the time comes to vote they will know how best to protect natural laws.

I trust the Minister of Justice can give us some details within a few moments and also tell us whether he has replied to the doctors of the province of Quebec who have requested that the act on abortion be amended. I am convinced that the minister of Justice will set forth for us the position of the government, after which I shall be able to decide on how I must vote on the proposed amendment.

The Acting Speaker (Mr. Béchard): Is the house ready for the question?

Mr. Asselin: Mr. Speaker, on a point of order. I asked the Minister of Justice whether he could give us some further information on the question I put tonight and that was put by other members. I want to direct it again to the minister. Will the doctors who refuse to procure miscarriages, as provided

[Mr. Asselin.]

by the law, be liable to prosecution? Even if I alone in the house tonight, I am going to object to the debate being carried on before the minister answers my question.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, on the point of order, I must say to the hon. member that I am not allowed to repeat my remarks of this afternoon, in which I sincerely answered all the questions he asked this evening. If he reads *Hansard*, he will find there the answers to all his questions. As for me, I am not permitted to repeat my remarks.

Mr. Asselin: Is the minister of the opinion that amendment No. 21 now before us answers the request of the doctors of Quebec and Canada that they not be liable to prosecution after refusing to procure an abortion?

Mr. Turner (Ottawa-Carleton): I have already answered that question, Mr. Speaker.

[*English*]

The Acting Speaker (Mr. Béchard): The question is on the motion Mr. Woolliams (for Mr. McCleave) No. 21 which reads:

That Bill C-150, to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and the National Defence Act, be amended by inserting in clause 18 after sub-section 7 of Section 237 on page 44 the following sub-section:

"(8) Nothing in this section shall be construed as obliging any hospital to establish a therapeutic abortion committee or any qualified medical practitioner to procure the miscarriage of a female person."

And the amendment to the motion (Mr. Burton):

That the proposed subsection (8) be amended by adding thereto the following words:

"or any member of a hospital staff to assist in procuring such miscarriage."

All those in favour of the amendment to the motion will please say yea.

Some hon. Members: Yea.

The Acting Speaker (Mr. Béchard): All those opposed will please say nay.

Some hon. Members: Nay.

The Acting Speaker (Mr. Béchard): In my opinion the nays have it.

And more than five members having risen:

The Acting Speaker (Mr. Béchard): Call in the members.

The house divided on the amendment to the motion (No. 21), (Mr. Burton) which was negated on the following division:

● (9:10 p.m.)

YEAS

Messrs:

Alexander	Marshall
Alkenbrack	Mather
Asselin	Matte
Bell	Mazankowski
Burton	Monteith
Cadieu (Meadow Lake)	Nystrom
Flemming	Paproski
Forrestall	Peddle
Fortin	Peters
Gleave	Ritchie
Godin	Rodrigue
Hales	Rondeau
Lambert (Edmonton West)	Rynard
Laprise	Schreyer
La Salle	Schumacher
Latulippe	Scott
MacEwan	Simpson
MacInnis	Skoberg
McCleave	Southam
McIntosh	Woolliams—40.

NAYS

Messrs:

Allmand	Haidasz
Anderson	Harding
Badanai	Honey
Baldwin	Howard (Okanagan Boundary)
Barnett	Hymmen
Barrett	Isabelle
Basford	Jamieson
Béchar	Knowles (Winnipeg North Centre)
Benson	Laing
Blair	Lang
Blouin	Laniel
Brown	Leblanc (Laurier)
Cadieux (Labelle)	Lefebvre
Cafik	Legault
Cantin	Lessard (LaSalle)
Chrétien	Macdonald (Rosedale)
Clermont	MacEachen
Comtois	MacGuigan
Corbin	MacInnis (Mrs.)
Côté (Richelieu)	Mackasey
Cullen	Mahoney
Davis	Major
De Bané	Marchand (Langelier)
Douglas (Assiniboia)	Morison
Drury	Munro
Fairweather	Noël
Forest	O'Connell
Forget	Orlikow
Foster	Ouellet
Gendron	Pelletier
Gervais	Pilon
Gibson	Portelance
Gillespie	Pringle
Givens	Prud'homme
Goyer	Richardson
Gray	Roy (Laval)
Groos	Saltsman
Guay (St. Boniface)	Serré
Guay (Lévis)	
Guilbault	

Sharp	Trudeau
Stafford	Trudel
Stewart (Cochrane)	Turner (Ottawa-Carleton)
Stewart (Okanagan-Kootenay)	Whicher
Sulatycky	Winch
Thomas (Maisonneuve)	Yanakis—91.
Thomson	

● (9:30 p.m.)

Mr. Speaker: I declare the amendment lost. The question is on the main motion. Is it the wish of hon. members that we ring the bells?

Some hon. Members: No.

An hon. Member: On division.

The house divided on the motion (Mr. McCleave) which was negated on the following division:

YEAS

Messrs:

Alexander	McIntosh
Alkenbrack	Marshall
Asselin	Mather
Bell	Matte
Burton	Mazankowski
Cadieu (Meadow Lake)	Monteith
Flemming	Paproski
Forrestall	Peddle
Fortin	Ritchie
Godin	Rodrigue
Hales	Rondeau
Lambert (Edmonton West)	Rynard
Laprise	Schreyer
La Salle	Schumacher
Latulippe	Scott
MacEwan	Simpson
MacInnis	Southam
McCleave	Woolliams—36.

NAYS

Messrs:

Allmand	Drury
Anderson	Fairweather
Badanai	Forest
Baldwin	Forget
Barnett	Foster
Barrett	Gendron
Basford	Gervais
Béchar	Gibson
Benson	Gillespie
Blair	Givens
Blouin	Gleave
Brown	Goyer
Cadieux (Labelle)	Gray
Cafik	Groos
Cantin	Guay
Chrétien	(St. Boniface)
Clermont	Guay (Lévis)
Comtois	Guilbault
Corbin	Haidasz
Côté (Richelieu)	Harding
Cullen	Honey
Davis	Howard (Okanagan Boundary)
De Bané	Hymmen
Douglas (Assiniboia)	

Division

Isabelle	Peters
Jamieson	Pilon
Laing	Portelance
Lang	Pringle
Knowles (Winnipeg North Centre)	Prud'homme
Laniel	Richardson
Leblanc (Laurier)	Roy (Laval)
Lefebvre	Saltsman
Legault	Serré
Lessard (LaSalle)	Sharp
Macdonald (Rosedale)	Skoberg
MacEachen	Stafford
MacGuigan	Stewart (Cochrane)
MacInnis (Mrs.)	Stewart (Okanagan- Kootenay)
Mackasey	Sulatycky
Mahoney	Thomas (Maisonneuve)
Major	Thomson
Marchand (Langelier)	Trudeau
Morison	Trudel
Munro	Turner (Ottawa- Carleton)
Noël	Whicher
O'Connell	Winch
Orlikow	Yanakis—94.
Ouellet	
Pelletier	

Mr. Woolliams (for Mr. Valade) moved amendment No. 24, as follows:

That Bill C-150, an act to amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatory Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff and National Defence Act, be amended by deleting in clause 18 the word "and" on line five on page 43 and the "period" after the word "practitioner" on line 8 on page 43 and inserting the following words: "and,

(e) that those means are employed before the period of implantation."

Some hon. Members: Explain.

Mr. Woolliams: I hear some hon. members calling for an explanation of this motion which I am moving on behalf of my hon. friend. Judging by the way so many of them have voted on the other clauses and amendments, I can understand why they believe these things should be explained to them.

• (9:40 p.m.)

Seriously, as I understand my hon. friend's motion the effect is to change certain words in clause 18 and add a provision for the setting up of a therapeutic abortion committee in accredited hospitals. According to the Criminal Code amendment, if the committee gives a certificate, then any medical practitioner can go ahead and perform an abortion providing it is to preserve the life or health of the mother. This brings me to the point I want to argue in dealing with this section. I want to try to explain what Professor Mewett recommended to the committee, though Your Honour, with the greatest respect, ruled out [Mr. Speaker.]

the word "unlawfully" that I wanted to add to section 237 which is being amended by this bill.

First of all, and despite what the minister has said, I ask the house to consider section 209. Section 209 of the Code which is in two parts, commences:

Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

That is subsection (1) of section 209. My good friend the Minister of Justice (Mr. Turner) says that this has nothing to do with abortion. Mr. Speaker, it is beyond me how he makes that deduction. The minister says he has consulted the law officers in this regard.

Let us see what section 195 of the Criminal Code has to say about when a person becomes a human being. That section provides:

A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother whether or not

- (a) it has breathed,
- (b) it has an independent circulation, or
- (c) the navel string is severed.

I ask the house to keep that section in mind and to go back to the provisions of section 209 to which I have just referred. In other words, an abortion of the foetus at that stage would be a criminal offence under section 209. However, there is an exception made in subsection (2), which reads:

This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

Yet, the Minister of Justice and his officers claim that section has nothing to do with miscarriage or abortion. Their definition of miscarriage or abortion must be far different from that of the House of Lords.

I should like to know why this exception is made if the section has nothing to do with abortion. If it has nothing to do with abortion, all I can say is that for the last 25 years lawyers have argued this section in defending abortion cases when they should not have done so.

Let us see what Professor Mewett has to say. I cannot believe that a person like Professor Mewett, who teaches criminal law at the University of Toronto, would not understand what is meant by a miscarriage or a simple abortion within the definition in the Criminal Code. I should like to put on record