

*Criminal Code*

• (12:20 p.m.)

Section 237, which is the section relating to abortion, is found in the Criminal Code. Clause 18 of the bill merely says:

Section 237 of the said act is amended by adding thereto the following subsections:

"(4) Subsections (1) and (2) do not apply to"—

Then it refers to a very specific situation, where you have a qualified medical practitioner, supported by a committee of doctors, in an accredited or approved hospital, and the therapeutic abortion is carried out where the life or health of the mother is in danger. Within those restricted circumstances, subsections 1 and 2 of existing section 237 of the Criminal Code do not apply.

This is a deliberate policy amendment dealing with a specifically defined situation. It withdraws the application of two subsections of section 237 from that specific situation. What the hon. member attempts to do in amendment No. 17 is to eliminate that section completely. I suggest that is a policy decision on her part which goes well beyond the policy contained in the amendment and is therefore beyond the scope of the bill. I suggest it is as much beyond the scope of the bill as if the hon. lady had introduced a new clause.

In amendment 18 the hon. lady says that she wants section 237 of the act repealed. She does not refer to the bill; she goes back to the original Criminal Code. She is, in effect, introducing a new policy decision; she is introducing a new clause in the bill. The hon. member is not interested in attacking the bill by repealing one of its clauses; she wants to repeal the whole section of the original act. I suggest, therefore, that her amendment goes beyond the scope of the bill and introduces her own policy quotient into the original section, to which the bill relates in only a very restrictive way.

Turning to amendment No. 20, what the amendment does, in effect, is to repeal section 237, subsection 1, of the Criminal Code. It does not relate to clause 18, which has to do with a specific amendment to section 237 of the Criminal Code. The amendment of the hon. member goes well beyond that and eliminates a subsection of the original code. In other words, what the amendment purports to do is to exempt any female person from aborting herself; it would eliminate that section from the code. It would also eliminate the section relating to modality, the administration of a drug or other noxious thing, the use of an instrument, and manipulation of

[Mr. Turner (Ottawa-Carleton).]

any kind. So the amendment goes well beyond the scope of clause 18 and goes back to the code. It is, in effect, a separate policy decision and repeals a subsection of the code to which the amendment contained in clause 18 in no way relates.

The same objection applies to amendment No. 32. The effect of this amendment is to repeal section 237(3)(a) of the Criminal Code. The amendment does not relate to clause 18 by way of a clarification, amendment, rejection or deletion; it goes back to the code itself and introduces a separate policy decision beyond the scope of the policy contained in the bill. It thereby goes beyond the scope of the bill.

**Mr. Eldon M. Woolliams (Calgary North):** Mr. Speaker, do you want to make a decision on the other amendments before I deal with No. 20?

**Mr. Speaker:** Obviously the Chair would have to make a decision on amendment No. 20 also, because in my view it would appear to be in the same category as the amendments to which hon. members have already referred.

**Mr. Woolliams:** I appreciate that the amendment has to be within the scope of the bill. I ask Your Honour to look at clause 18, which provides as follows:

Section 237 of the said act is amended by adding thereto the following subsections:—

Then clause 18 sets up a new law so far as abortion is concerned; it adds subsections to the code. My first submission is that clause 18 changes the law and practice of today; therefore the bill does amend section 237. A small change was made to my amendment, but I make nothing of that because I think the wording used by the officers of the law branch is better than the wording I used. However, the procedure is the same. What I could have done, rather than asking that section 237 be repealed, is add the word "unlawfully". I think the amendment is in order because it is within the scope of the bill and is part of the purpose of the bill.

Let us consider the law as it stands at the present time. Two sections of the Criminal Code are very important and must be read together in order that they not be ambiguous. I refer the house to page 348, volume No. 10 of the proceedings of the Standing Committee on Justice and Legal Affairs. Professor Mewett was explaining to the committee what