

*Dr. Morgentaler*

Immigration is bringing the bill before us for approval immediately.

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### INTRODUCTION OF BILLS

#### MEASURE FOR PAROLE OF DR. HENRY MORGENTALER— SPEAKER'S RULING

On the order:

Mr. Leggatt—Bill intitled: An act for the parole of Dr. Henry Morgentaler.

**Mr. Stuart Leggatt (New Westminster):** Mr. Speaker, I understand you have certain reservations about whether this bill can be classified as a public bill or should be a private bill. I wanted to direct a few remarks to Your Honour on that subject so that you might be able to rule on the matter.

This bill is not presented in any partisan spirit. In fact, the co-sponsors of the bill, with myself, are the hon. member for Fundy-Royal (Mr. Fairweather) of the Conservative party, and the hon. member for St. Paul's (Mr. Roberts) of the Liberal party. The reason it has cross-party sponsorship—and I emphasize this—is due to the public importance of the bill. My remarks are directed to this key issue that Your Honour will have to examine in terms of whether you rule it to be a private or a public bill.

The bill provides for the immediate parole of Dr. Henry Morgentaler. It would also permit parliamentary intervention in the parole system to provide him with parole. There is before the House at the present time a government bill, Bill C-71, to amend the Criminal Code to allow juries to be the final arbiter on questions of fact. In other words, it would prevent the kind of situation that occurred in the Morgentaler case, of a jury verdict of acquittal being overturned by a court of appeal, with the accused not then having access again to a jury of his peers.

Obviously, this is a matter of great public importance. The bill concerns only one man, but it concerns only one man because there is no other person in the Dominion of Canada residing in jail in the same circumstances. The bill does not deal with the subject of abortion, which is a matter entirely different and about which many members have different opinions.

On the procedural question whether this is a private or a public bill, I ask Your Honour to consider the precedent that a bill of public importance which applied to one individual is, in essence, a public rather than a private bill. This House has been run for a very long time on precedents that have been introduced in the past. Your Honour may be familiar with Bill C-107 which dealt with the case of Steven Truscott. In the Truscott case, the situation was almost identical to the one in the bill now before the House. Incidentally, that bill was introduced by the hon. member for Winnipeg North Centre (Mr. Knowles) who is acknowledged as one of the masters of the rules of the House. It was admitted as a public bill by the Speaker of that day, the Hon. Lucien Lamoureux, who is also acknowledged throughout the House as a great expert on the rules of the House. Therefore, if one were to look at

[Mr. Sharp.]

the precedents, one would have to say that two very great procedural minds have attacked this problem in the past.

To say that the bill came in inadvertently would do a disservice, I suggest, to both those hon. gentlemen. Obviously, the Speaker at that time believed that the Truscott case was of such public importance that it overruled the general principles in *Beauchesne* which would identify this as a private bill. At that time the conclusion was that it was a matter of public importance that should be dealt with. It was a single individual who had received so much publicity and there was so much concern across the country regarding his being in jail that the bill was introduced as a public bill although, as I say, the bill dealt only with the case of Steven Truscott and did not deal in any general way with any class of persons.

As I have said, Mr. Speaker, there is no other individual in Canada who resides in jail in these circumstances. Therefore, if it is Your Honour's view that I should present a different bill which does not name Dr. Henry Morgentaler, I suggest that would be a redundant procedure. In examining the Morgentaler case, the Supreme Court of Canada found no single precedent like it where a jury verdict had been overturned by a court of appeal and the individual in question not given the opportunity again to face a jury of his peers regarding the charge.

On the question of public importance, I contend that what may on the surface appear to be a private bill can also apply to a class of persons, simply because (a) we have a precedent of the House in the Truscott case, and (b) the situation is very similar in terms of the subject of the bill being a single individual. There is only one individual in this country who comes within this class, and that is a person residing in jail in these special circumstances. Bill C-71, a government bill before the House, attempts to correct that anomaly and to allow no longer courts of appeal to superimpose guilty verdicts on acquittals by a jury. That being the case, and since we will no doubt be dealing specifically with the subject, I submit this bill is appropriate as a public bill in order to release this class of persons who remain in jail as a direct result of the anomaly in the Morgentaler case.

● (1510)

Dr. Morgentaler has served more than one-third of his sentence. We have released people like Harold Ballard and we have released rapists and murderers and all sorts of strange people in the country, but for some reason or other the Parole Board has not seen fit to move in the case of Dr. Morgentaler. I realize that it sounds as though I am arguing the merits. I am not really arguing the merits except to the extent that I submit we are dealing with the key point in the matter of this bill, and that is, is it of sufficient public importance to merit introduction in the way the Truscott bill was introduced 1957?

**Mr. J.-J. Blais (Parliamentary Secretary to President of the Privy Council):** Mr. Speaker, my intervention is not going to be long in the event that Your Honour would wish to rule against the hon. member who has proposed this particular bill. I would simply point out to Your Honour that on Friday when the bill was initially introduced, you suggested that perhaps the matter could be the subject of debate if the hon. gentleman would approach