

Criminal Code

between application and abortion is the shortest possible.

The best way to increase the period is to insist upon multiple consultations. The legislation will increase the danger and risk involved in the procedure more than has been the case in the past. It will increase the risk and danger to the patient. The committee will probably have a discouraging effect on both the patient and her physician. There is a higher mortality rate when there is an exasperating abortion committee system. Awkward abortion legislation tends to divert patients from orthodox health care systems to self-abortion or criminal abortionists. The morbidity of criminally induced abortions is substantial. Criminal abortions in the United States are estimated to be one million to one and a half million a year, with deaths running from 5,000 to 10,000. The figures for Canada are probably proportional to those of the United States because our laws are essentially the same.

Why is there a cloud over abortion, necessitating an abortion committee in addition to other hospital committees? Abortion is as old as history; it was practised in primitive cultures by the midwives and physicians of Rome and Greece. The definitive edict against abortion is only about 100 years old. Abortion was practised in England up until the early 1900's. It is restrictive legislation of this type that many countries are today attempting to revise.

Abortion should be taken out of the Criminal Code and placed in the hands of qualified medical practitioners. This legislation is not good legislation; it creates barriers of time in respect of patients who would benefit by abortion; it does nothing to define the conditions where an abortion is indicated. People living in sparsely populated areas of Canada will be denied the services of an abortion committee unless they travel great distances, involving time, expense and danger to health. This legislation discriminates against them.

The legislation before us is a great abortion hoax. It does nothing to bring our abortion laws in line with public desire or 20th century needs. It is a step backward into the 19th century; it is not a step forward in the 20th century. Any real change in our abortion laws has yet to come. The minister would be wise to remove from the bill the provision for a therapeutic abortion committee and substitute therefor the practice which has been adopted for many years, that of consultation

[Mr. Ritchie.]

between the patient's own physician and a colleague.

Hon. John N. Turner (Minister of Justice): Mr. Speaker, I should like to speak briefly to amendment No. 24. By the amendment the hon. member is attempting to insist that any means used to procure a therapeutic abortion be employed before the period of implantation. We must reject the amendment. I think the simple way of stating it is that implantation occurs about five days after intercourse. Therefore this amendment would in effect negate the whole aim of clause 18 relating to therapeutic abortions. The woman would not know she was pregnant, and even if that fact could be determined there would not be enough time for the therapeutic abortion committee to consider the case or for the doctor to perform the operation. Therefore I submit to the house that in strict medical terms, and in terms of the facts, it would be impossible to implement this amendment. That is the simple answer to it.

But since certain latitude was allowed the hon. member for Calgary North (Mr. Woolliams) to reintroduce the argument he made before the committee as to the relationship between section 209 and section 237 of the Criminal Code, without repeating the legal arguments that I introduced on behalf of the government before the committee I want to state again that there is absolutely no relationship in fact between those two sections. With the greatest respect, Professor Mewett was in error when he suggested that if an abortion could not be legally performed under section 237, one could await the time of birth and obtain a defence under section 209. There are two different factual situations here. I should like to read the first two subsections of section 237 of the Criminal Code. These are the operative sections relating to the factual situation involved.

● (3:10 p.m.)

Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

Subsection 2 reads:

Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.