

Criminal Code

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