

*Right to Life*

consider having an abortion might then apply for it. On the other hand, if certain criteria were to be adopted, some women who would not meet those criteria would be turned down and, in order to have an abortion, would go through a criminal process. Further, some women—although they could obtain an abortion—would not wish to record their names on whatever Government form, and would therefore not apply to a recognized medical clinic.

Madam Speaker, when abortion is readily available, understandably people will feel a lesser need for ordinary birth control methods. A great many women even feel no real need for contraception when they can have access to abortion. Later on, these same women are greatly incensed when they realize, after they have become pregnant, that abortion is refused to them. Such an attitude would explain, even among married women, this common lack of concern and frequent disregard for the most simple and easily accessible contraceptive measures to avoid unwanted pregnancies.

Finally, it should be emphasized that repeated abortions lead to a great many medical problems for the patient, as well as the medical profession and the community as a whole.

Even without such problems, it is clearly a tragedy to treat human life, be it just an embryo or a foetus, with total disregard and to suppress it because it is expedient to do so.

Madam Speaker, those are the considerations I wanted to bring to the attention of the House.

• (1650)

**Mr. François Gérin (Parliamentary Secretary to Minister of Justice and Attorney General of Canada):** Madam Speaker, I want to thank the Hon. Member for presenting the motion. This is a very delicate matter indeed and, as a result of our parliamentary reform, a Member may now raise a votable item after a five-hour debate. I am grateful as well to my colleagues for listening to and participating in the debate.

The motion under consideration deals with one of the most pressing issues with which Canadians have to come to grips. I am convinced that the remarks made by the Hon. Member for Grey—Simcoe (Mr. Mitges), among others, will be a source of enlightenment to us.

I would suggest that Parliament can make a useful contribution to this issue, but I do not think time has come to amend the abortion legislation, nor that these debates are the ideal approach. A constitutional amendment process has already been adopted under which the provinces and the federal Government must give their approval, so we ought to consult the provinces before going any further. It must be done. Besides, we must ensure that we amend our Constitution only after a thorough analysis of all the factors involved, and not before Canadians have had every opportunity to voice their opinion on the issue.

The question of protecting the unborn child has given rise to a great deal of controversy, and many Canadians have taken firm stands on this issue. In a famous U.S. court judgment in

the case *Roe vs Wade*, Judge Blackmun of the United States said as follows, and I quote: "First of all, we admit we are aware of the emotional and delicate character of the abortion debate and the clashing and vigorous opinions held on the subject, even among physicians." In fact, we have just heard the Hon. Member for Gaspé (Mr. Marin), himself a physician, express his own concerns in this respect, saying that he was aware of the deeply held and apparently absolute belief that were often involved. The general ideas and experience of a person, what he or she knows of the problems of life, his or her religious upbringing and attitudes towards life and family and the values they represent, as well as the standards he or she tries to live by, all this can influence the ideas and beliefs of this person about abortion."

The Members who are moving this resolution are proposing that the rights guaranteed under Section 7 of the Charter be conferred upon the human foetus or unborn being. That Section of the Charter guarantees to everyone the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. The issue of whether or not the Charter protects the rights of the unborn child is already before the courts. In the case of *Borowski vs the Attorney General of Canada*, those who oppose the current abortion provisions of the Criminal Code argue that Section 7 already protects unborn human beings, that the foetus is a person and that, therefore, the word "everyone" in Section 7 guarantees the protection of the unborn child. In other words, the courts were asked to rule on the question of whether a foetus is a legal person from the time of conception, or immediately afterwards. The trial court decision was that the word "everyone" in Section 7 does not apply to unborn human beings. However it indicated that it was difficult to rule on the question of whether legal status should be conferred upon unborn human beings. Justice Matheson stated that although, in view of the great strides made in the medical field, from a social viewpoint, it would be desirable to confer legal status on the foetus, whether or not it would prove viable in time, it is Parliament's responsibility and not that of the courts to draft the appropriate legislation to confer on the unborn child some or all the rights enjoyed by living individuals. Nothing in the law can lead us to conclude that the foetus is a legal person. That is why, on the basis of the term "everyone" as it appears in the Charter, the applicant's request must be denied".

That decision was appealed before the Saskatchewan Court of Appeal which has taken the case under advisement and should make its decision known within the next few weeks.

The matter of the consistency of the Canadian legislation on abortion with the Charter has also been reviewed in the case of the *Queen vs Morgentaler, Smoling and Scott*. In that case, it has been alleged that the restrictions to abortion as set in the Criminal Code were an infringement to the right to life and to the freedom and security of the individual. The Ontario Appeal Court has rejected that plea and has deferred