

other laws relating to children and the provision of medical care.

Second, we would need to approach the provinces and determine if there is support for such an amendment. The Constitution cannot be amended simply because the federal Government thinks it is desirable. Instead, the terms of any amendment must be worked out in close consultation with the Governments of the provinces.

I would interject here, Madam Speaker, that that is exactly what is going on as we speak today.

Those who support this motion must carefully consider the implications of such a resolution. The most immediate effect of the proposed amendment would be on the provisions of the Criminal Code relating to abortion, but it is unclear what the larger effect of such a Charter amendment would be. Presumably, if the Charter were to be amended, abortions could not be undertaken unless the principles of fundamental justice have been observed in relation to the interests of the unborn human being. Also, the principles of fundamental justice would have to be observed in relation to the interests of the mother since the current criterion for abortion is a demonstration of danger to the life or health of the mother.

What would the principles of fundamental justice include in such a case? According to the Supreme Court of Canada, Section 7 of the Charter provides a basis to review the substantive content of laws as well as the procedural aspects. If this amendment to the Charter is enacted, the substantive content of the Criminal Code provisions on abortion, and their impact on the life, liberty and security of the person of both the foetus and the mother, could very well be at issue. So would the procedures for determining if an abortion should be performed. The courts would be called upon to determine whether these procedures are consistent with the principles of fundamental justice for both the foetus and the mother.

There are also a number of questions about the effect of the proposed amendment on our therapeutic abortion laws which have not been answered. For example, are the current therapeutic abortion committees an appropriate procedural safeguard for constitutional purposes? Would we need a court? Would we need to provide a mechanism for independent representation of the foetus before such committees? If so, what would that be and how would a person represent the interests of the foetus? Given the serious time constraints, what procedures would be necessary to adequately protect the interests of the mother as well as the foetus?

I believe that these and many other unanswered questions must be considered prior to initiating any amendment to the Charter to give protection to the unborn. At the present time, the law seeks to draw a balance between the interests of the mother and the foetus. Would the balancing of interests continue, and if so, what sort of constitutional protection for the rights of the unborn would be best?

In addition to the effect that this amendment might have on the laws relating to abortion, there are a great variety of laws

relating to children and the health of mothers which might be affected. The resolution would provide a guarantee of security of the person for unborn human beings. Does this mean that those acting on behalf of the unborn child could prevent a pregnant mother from engaging in acts which might be harmful to the foetus such as smoking, drinking or eating improperly? How would such protections be enforced?

Before we could agree to amend Section 7, we would have to consider carefully the effect of such an amendment on our laws and practices. We would have to give the provinces the time to consider the implications of such an amendment.

In summary, I do not think that this is the time to approve such a motion. Much work remains to be done before we could consider a resolution to provide constitutional protection for the rights of the unborn. Even proponents of this objective have unresolved concerns. For example, the Canadian Conference of Catholic Bishops has not endorsed this motion as the most suitable means to implement the right to life of the foetus. Moreover, the interpretation of Section 7 of the Charter, as it relates to the rights of the unborn, is still before the courts. We should await the definitive word of the courts before considering changes to the Charter.

The legal implications of such an amendment require further consideration at both the federal and provincial levels. Were we to proceed, we would have to know the effect of such an amendment on existing laws and practices. This would enable us to put new laws in place and to frame the constitutional amendment in a way that would best achieve our objectives. There is an appropriate process for constitutional amendment. It relies upon close consultation with the provinces and their agreement with the amendment. That is our Canadian tradition, one which continues to serve us well.

The Hon. Member has proposed a very important matter for debate, something about which all Canadians have deep beliefs and strongly held convictions. Although the Government feels it is inappropriate to consider amendments to the laws dealing with therapeutic abortion now, the debate on this motion has been an important airing of views.

• (1710)

**Ms. Pauline Jewett (New Westminster—Coquitlam):** Madam Speaker, may I say to the Hon. Member for Simcoe North (Mr. Lewis) that I think he brought out a great many of the complications that would arise legally and in respect of other Acts should this motion pass. I hope that all Hon. Members listened thoughtfully and carefully to the incredible number of complications which he showed would occur if this motion were to pass. I will address other aspects of the motion, but I wanted to mention first how important I think the contribution of the Hon. Member were.

As we all know, the real intent of the motion is to outlaw all therapeutic abortions and effectively return abortions to the back alleys. The foetus as an unborn human person is what the motion is all about. I agree with the Hon. Member who has