CRIMINAL CODE

MEASURE TO REPEAL SECTIONS RESPECTING ABORTION

Mr. Hyl Chappell (Peel South) moved that Bill C-32, to amend the Criminal Code (Abortion), be read the second time and referred to the Standing Committee on Justice and Legal Affairs.

He said: Mr. Speaker, Bill C-32 would remove abortion from the Criminal Code and allow it to be a moral and medical decision rather than a legal one controlled by sections of our Criminal Code. Judging from the correspondence which I have received, I believe this subject has been discussed by almost every adult Canadian during the last three years. In fact, few subjects have received more consideration. Although there is extremely strong support for removal of the criminal prohibition, I am well aware of the fact that some in my riding, and indeed in every riding in Canada, are not only opposed to this extension of the individual's rights but would turn the law back and prohibit abortion completely.

Of course, abortion is an important moral and social issue and will always remain so no matter what the law says. We all hope that some day research and dissemination of information on family planning and birth control will make it unnecessary and obsolete. But our problem is here and now. Can we allow our laws to deny medical assistance to those whose moral beliefs can accept medical termination of pregnancy, and want it desperately?

In 1969, by amendment to the Criminal Code we restated the law, allowing abortion provided a committee of doctors in an approved hospital was of the opinion that the continuation of the pregnancy would or would be likely to endanger the life or health of the woman. That legislation passed with a substantial majority after lengthy debate in the committee and in the House. I believe there is a need to re-examine the basic points relevant to the first debate.

In England, as far back as 1861 a therapeutic abortion was lawful if necessary to preserve the life or health of the woman. That law remained constant for over 100 years from 1861 until codified in 1968. There was clear judicial pronouncement not only that the abortion was not unlawful if for the purpose of saving the life or health of the woman, but "health" was given a broad interpretation in that the courts recognized that continuation of a pregnancy could depress health both mentally and physically. That law was adopted in Canada and remained until, by a drafting error some years ago, the word "unlawful" was left out of the code.

After that we had uncertainty until 1969. A doctor might have found himself in the impossible situation where he could be charged criminally if he performed an abortion to save a life, and sued civilly if he failed to do so if such operation might reasonably have saved a human life. Even worse was the moral conflict in the minds of doctors. Medically and privately doctors might have felt a duty to end a pregnancy to preserve the life or health of the woman, but feared to do so because of possible criminal charges or, at best, public criticism. In 1968, England codified its law on abortion, spelling out the need for two doctors to agree that the continuation of the pregnancy would involve risk to the life or health of the pregnant woman. This included physical and mental health and also the health of her existing children.

When we were cross-examining the doctors who appeared before the Justice and Legal Affairs Committee in respect of the proposed abortion legislation, they agreed that abortions had been taking place in many Canadian hospitals for some time when the life of the mother was seriously endangered. It would seem, however, that this medical salvation of life was only sparingly used.

• (4:20 p.m.)

In 1969 we codified what had been the law in England and in Canada also for many years and had been the practice, to a limited extent, in some Canadian hospitals, namely, to allow abortion if a continuation of the pregnancy would or would be likely to endanger the life or health of the woman. But there is a limiting condition. It has to be authorized by a committee of doctors, in a hospital which has governmental approval and which has in fact set up such a committee.

Because the subject is so immensely important from both a social and individual standpoint, the entire nation and in fact the world has had to revalue its attitude toward the individual's behaviour and to rethink the basis or ground rules for legislation which interferes with an individual's rights. In Sweden, Singapore, Japan, just recently in England and Hawaii, New York state and Maryland, abortion is now at the woman's choice. In many other American states abortion is allowed in certain cases. Abortion is here both in law and fact, but does our abortion law properly respond to conditions as they exist in Canada today?

The Canadian Federation of University Women, which has a membership of 10,000 university graduates from every province and territory in Canada, at its conference in August, 1970, took the position that our present restrictive law on abortion constitutes a serious threat to the health of an alarmingly high number of Canadian women. They adopted the policy of liberalization abortion laws so that it would not be a crime for a licensed physician to perform such operation at the request of the woman. They argue that this would protect the health of many Canadian women who are forced to have illegal abortions by unqualified persons, under unsanitary conditions.

The Royal Commission on the Status of Women in Canada has recommended that the Criminal Code be amended to permit abortion by a qualified medical practitioner at the sole request of any woman who has been pregnant for 12 weeks or less, and at any period if the doctor is convinced that continuation of the pregnancy would endanger the physical or mental health of the woman.

The *Globe and Mail* in its editorial of May 19, 1970, pressed us to follow the abortion legislation changes just