

Oral Questions

for urgent review by the Supreme Court of Canada, whether he is willing to take the step which, obviously, only he can take, namely enhance the status and even the legitimacy of the Bill by submitting it now to the Supreme Court of Canada.

[English]

Hon. Doug Lewis (Minister of Justice and Attorney General of Canada): Mr. Speaker, I would advise my hon. friend that this course of action was considered. We felt it was our responsibility as legislators to grapple with this very difficult problem. We spent some time doing it and have come up with what we think is a reasonable solution to a very sensitive issue. We feel that it is up to Parliament to debate and decide on this matter and not, at this time, the Supreme Court of Canada.

Mr. Kaplan: Could the minister explain what is lost by taking the time now to refer it to the Supreme Court of Canada, before all of the debate and controversy and litigation which will inevitably occur and which in every case will be tied around the fate of a particular pregnant woman with a demand for urgent review by courts of appeal in the land? Why put the country through that when this step which would add legitimacy and would add stature to the government's draft legislation could be considered now?

Mr. Lewis: Mr. Speaker, I think what is at stake here is the authority of Parliament to legislate vis-à-vis the authority of the Supreme Court to interpret. We feel it is important that the legislation go forward with the imprimatur of Parliament on it. We believe that there was a request for leadership from the public. We have given that leadership. The legislation we are bringing forward has considerable thought put into it, considerable consultation. We believe that it should be debated here in the House of Commons.

Mr. Kaplan: Mr. Speaker, that will be one of the subjects of discussion and as I indicated to the minister, a whole range of issues is avoided by proceeding now to have the constitutionality of the matter reviewed.

I want to ask the Minister of National Health and Welfare about the issue of access. Is not the responsibility of the Government of Canada, which pays half of the cost of medicare and which is very proud of having developed a national standard health care service across

the country, to assure that there is equal access in all parts of the country, whatever the abortion law of the country, and that women have the same system and the same opportunities available to them.

Hon. Perrin Beatty (Minister of National Health and Welfare): Mr. Speaker, in taking the initiative that we have, the federal government spells out a context in which provincial governments can take decisions in areas which fall under provincial jurisdiction.

The Canada Health Act in no area spells out the specific procedures that must be provided in specific areas or in specific ways. For example, in the case of life threatening situations such as those involving cancer or involving heart disease, there is no requirement in the Canada Health Act that a province provide a specific service in a specific place.

This principle was well acknowledged by the then minister of justice of the day back in 1969 when abortion was last considered by this Parliament. The Leader of the Opposition, who was then minister of justice said this:

The relationships and civil law between the patient and the doctor, between the patient and the nurse, between the doctor and the hospital, the nurse and the hospital, are relationships falling within the operation of provincial law, the civil law and the constitutional responsibility of the provinces—the subject of statutes which regulate hospitals and the professions. These are properly provincial matters—

Some Hon. Members: Hear, hear!

Mrs. Marlene Catterall (Ottawa West): Mr. Speaker, my question is directed to the Minister of Justice. Given that the courts have before struck down a bill of this Parliament, why does he want to put the country through months of agonizing debate, this House through months of agonizing debate, only to have the ultimate constitutionality of the law decided, with the details of some poor woman's personal life being dragged through the courts for months on end?

Mr. Lewis: Mr. Speaker, I would repeat the comment that I made. There has been a demand from the public and from the opposition for leadership in this matter. We have applied ourselves to the question. We have drafted a bill which we think is a reasonable solution which defines entitlement to abortion. It is based on health grounds. We do not say it is perfect. We say that it is the best that we can do. It is not your bill, it is not my bill, but