

*Abortion*

Surely we have grown to the point where we do not do that any longer. We are here to embrace those who are faced with frustrations, but we cannot run away and we cannot present illusions to today's people or to future generations. We must face this squarely, be realistic, look at the repercussions and at the inheritance we want to pass on to future generations.

We do so, Sir, with some urging from the Supreme Court itself. Chief Justice Dickson has said:

Similarly, Parliament must be given room to design an appropriate administrative and procedural structure for bringing into operation a particular defence to criminal liability.

On page 35 of his judgment, he said:

Simply put, assuming Parliament can act, it must do so properly.

On page 37, he said:

I have no difficulty in concluding that the objective of s. 251 as a whole, namely, to balance the competing interests identified by Parliament, is sufficiently important to meet the requirements of the first step in the 'Oakes' inquiry under s.1.

On page 38, he said:

Like Beetz and Wilson JJ., I agree that protection of foetal interests by Parliament is also a valid governmental objective. It follows that balancing these interests, with the lives and health of women a major factor, is clearly an important governmental objective.

Then he went one step further. On page 39, he said:

State protection of foetal interests may well be deserving of constitutional recognition under s. 1.

There he refers to Section 1 of the Charter. Certainly we have the urging of the Supreme Court on our side. The Supreme Court is urging us to debate this thoroughly and to pass on to future generations the values that we think are important for the preservation of our way of life.

When we debate this issue, we are in fact debating the role of law. It is the law which is our guidance mechanism today. Society has lost many of the institutions of support that historically have given us the moral and ethical standards by which we could guide our lives. We have lost those moorings. By and large, society has now rejected regular church participation. Schools are preaching irrelevance, moral relevance and situational ethics. There is no anchor. There are no absolutes which can guide us any longer.

For many people, the only thing we have left to give us guidance is the law. Justice Dickson said on page 32 of his judgment:

The criminal law is a very special form of governmental regulation, for it seeks to express our society's collective disapprobation of certain acts and omissions.

For those who have no moorings, no ethical guidance mechanisms, no moral guidance mechanisms left, the only thing left is the law. Therefore, as we debate the law as we would like to see it today, we have to be especially careful about how we deliberate, about what we choose as our values and about what we think is important. For most people the law is the last guidepost of morality. It is the plumb line that tells

them what is right and wrong. While the law is designed to put before us the limits of behaviour that we find acceptable, for many people it is also the maximum, it is both minimum and maximum. Since we have diminished the use of the institutions we have to be careful of the law.

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While the law describes limits it does not describe "oughtness". It may describe how we can behave, how we are allowed to behave, but it never describes how we ought to behave. That sense of "oughtness" has melted away. For that reason we have to be very careful of how we define our law today.

The law itself has become for us the expression of our values, the protection of what we treasure, an expression of what we ought to be as well as the prohibitions of what we would design for our society in order to protect what we treasure.

That is why I support what is popularly called Option A, the amendment put forward by the Member for Kitchener (Mr. Reimer). That amendment allows us to circumscribe behaviour in a way which is reasonable. It protects what we cherish, namely, life. It provides access to abortion for those who really need abortion, and it makes a statement about life that is important to us. I commend to Members the speech made by the Member for Kitchener in which he described what we value in our society.

There is no doubt that this measure will be challenged in court. Whatever law is passed by this Parliament is going to be challenged. Whatever group is on the other side of the legislation will be certain to challenge it. However, I am convinced that the measures which this amendment provides for can withstand a court challenge. It is defensible before the Supreme Court. It is not enough for me to say that I believe that, because we are all entitled to opinions. We must be able to establish why we believe that and do so on a basis of argument and fact.

Because I am not a lawyer and do not have the advantage of a constitutional background, I took the trouble to engage a constitutional expert who has the respect of the entire legal community of Canada, has argued before the Supreme Court on a number of occasions, and is highly regarded there. I engaged the services of Mr. Goldie of the firm of Russell & DuMoulin. I would like to read to Members the statements he has made regarding such a motion as this. He said:

Parliament has a legitimate constitutional interest in the protection of the foetus.

That is his conclusion based on his study of the Supreme Court decision. He goes on to say:

In recognition of this interest, Parliament could restrict abortions to situations where the life or health (including psychological help) of the pregnant woman was threatened.

Parliament could adopt a standard with respect to the condition threatening the life or health of the pregnant woman which required some independent medical opinion.