

Right to Life

when we employ dilatory tactics. Any rule that is intended to stop and desist from this practice must have some benefit.

During the last months we have seen the provisions with respect to petitions misused, if not abused. I do not mean to cast any aspersions on particular Members, because a Member is entitled to use the rules as they exist. They are entitled to the technicalities of the law, but at the same time the Government has the obligation to remove mischief in the rules if it is preventing the ordinary transaction of business in the House of Commons.

In summary, I believe that is the point of the motion. It brings to a head the matter that has been long delayed over a three and a half year period. The House has failed to achieve the desired unanimity and it is time for the Government to act.

The Acting Speaker (Mrs. Champagne): I regret to interrupt the Hon. Member. It being five o'clock, the House will now proceed to consideration of Private Members' Business as listed on today's Order Paper.

• (1700)

PRIVATE MEMBERS' BUSINESS--MOTIONS

[English]

THE CONSTITUTION ACT, 1982

RIGHT TO LIFE OF UNBORN HUMAN PERSONS

The House resumed from Thursday, April 2, consideration of the motion of Mr. Mitges:

That, in the opinion of this House, the Government should consider the advisability of amending the *Constitution Act, 1982*, to include unborn human persons, and that the Governor General issue a Proclamation under the Great Seal of Canada to amend section 7 of the Canadian Charter of Rights so that it reads as follows:

"7. Everyone including a human foetus or unborn being has 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."

And the amendment of Mr. Domm:

That the motion be amended in the paragraph numbered 7 in the English version, by adding immediately after the word "unborn" the word "human".

The Acting Speaker (Mrs. Champagne): When the motion was last before the House, the Hon. Member for Western Arctic (Mr. Nickerson) had the floor, with one minute left. He is not present so I will recognize the Hon. Member for Simcoe North (Mr. Lewis).

Mr. Doug Lewis (Parliamentary Secretary to Deputy Prime Minister and President of the Privy Council): Madam Speaker, I am pleased to have this opportunity to speak on this very important motion. Protection for the unborn and the laws relating to abortion are issues on which fundamentally differing and opposing views are strongly and genuinely held by many Canadians. In view of the lack of consensus for major change in the abortion law, and because the existing law strikes an acceptable balance for Canadians who hold opposing

views, it is the Government's position that it would be inappropriate to bring forth such an amendment.

Section 7 of the Charter is the broadest and most general of the guarantees of legal rights. It 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 Supreme Court of Canada has interpreted Section 7 as giving the courts authority to assess the substantive as well as the procedural content of our laws.

Not long after the Charter came into force, those provisions of the Criminal Code providing for abortions under certain circumstances were challenged in the Saskatchewan courts by Mr. Joe Borowski. After a very thorough analysis of the law, the Saskatchewan Court of Queen's Bench ruled that Section 7 of the Charter did not provide protection for the unborn and that the term "everyone" in Section 7 did not include unborn human beings. Recently, the Saskatchewan Court of Appeal upheld this decision. Mr. Borowski may now appeal the decision to the Supreme Court of Canada.

From quite a different perspective, Section 7 of the Charter has been invoked by Dr. Henry Morgentaler in an attempt to assert that the Criminal Code provisions on abortion conflict with the mother's rights to life, liberty and security of the person. The issues raised in this case have been argued before the Supreme Court of Canada and we are awaiting its decision. As Members will observe, the effect of the Charter guarantees on the law in this area has not yet been determined by the Supreme Court of Canada. Therefore, quite apart from the substantive policy concerns, it would be inappropriate to move in this area without having had the benefit of the Supreme Court's final determination in this regard.

The motion put forward by the Hon. Member calls upon the Government to give consideration to amend the Constitution to provide protection for the unborn. Such an amendment would clearly affect the legislative powers of the provinces and the constitutional amending formula would therefore apply. The current constitutional amending formula provides that such an amendment would have to be authorized by resolutions of the Senate, the House of Commons and the legislative assemblies of two-thirds of the provinces having 50 per cent of the population of all the provinces.

Canada's First Ministers have agreed to a schedule of discussions for amendments to the Constitution. This issue has not been scheduled for consideration and it is unlikely that a consensus could be obtained either for the inclusion of this issue in the discussions or for its subsequent adoption.

In my opinion, this is not a proper way to initiate a constitutional amendment with far reaching and significant ramifications. Much work needs to be done before such an amendment could be considered. We would need to determine, first of all, what the implications are for a number of laws and practices which currently exist. The laws relating to abortion would perhaps be most directly affected, but we must also look at