

Abortion

held convictions. However, in the final analysis, I am proud that we as a House of elected representatives are to debate this difficult issue at the end of a long session. I say to you that I am sure the House and its Members will be equal to the task.

Hon. Bob Kaplan (York Centre): Mr. Speaker, in opening my remarks for the Official Opposition, I want to indicate right at the outset that we have decided that for our Party this will also be regarded as a free vote. It was an option that we had reserved in the expectation that the Government might propose a very one-sided, extreme motion which we would want to deal with as a Party. One cannot characterize the motion before us as extreme other than to say that it is extremely vague, to the point of being meaningless.

I have something to say about that but I want, first, to respond to the Minister's lecture on procedure. I think Canadians ought to note that absolutely nothing was said by the Minister on the subject of abortion.

[*Translation*]

All we had was a lecture on procedure. Personally, my conclusion is that no resolution will be forthcoming as a result of the motion that is before the House for the rest of this week. I expect, despite the efforts of individual Members of the House to get a consensus one way or another, that a resolution, with or without amendments, will be rejected by a majority of the House. And I want to point out that the Government is to blame for this procedure.

If the Government had tabled a Bill, we could have come out of this with some kind of legislation.

[*English*]

I think the failure of the Government to show leadership on what Members opposite delight in characterizing as a fundamental issue, an important moral issue, is going to result in a failure to have legislation. While Members opposite may want to go into the election, as the Minister said, saying, "We have tackled the tough issues", and that was his expression, I ask Canadians to notice, and I am making a prediction here, that there will be no result of this debate. There will be no legislation. The Government will have produced an abortion environment by default. We will have no legislation governing abortion at all.

While Members opposite will want to blame anyone but themselves, the fault for such a result is their own. They are taking sides in this debate by failing to show leadership, by failing to bring forward legislation.

Nearly six months ago, on January 28, the Supreme Court of Canada determined that Section 251 of the Criminal Code which regulated abortion in Canada violated the Canadian Charter of Rights and Freedoms. They struck Section 251 down. In so doing, they invalidated a law which had been on the statute books of our country for nearly 20 years. The law was introduced by the man who is the Leader of our Party in the House of Commons, the Leader of the Official Opposition (Mr. Turner). That invalidated law, when it was introduced,

was regarded as a better social alternative to the then existing situation.

I want to talk for a moment about that situation because it may be relevant again. There are Members who are proposing that we move to a situation in which virtually all abortions are illegal. What I would like to say to those Members is that this is not a new alternative. I invite them to look back at the situation that existed before the important reform introduced in 1969 by the man who is now the Leader of the Official Opposition in the House of Commons. That provision, and ironically it is still in the Criminal Code although of course it was amended in 1969, provides simply that everyone who, with intent to procure the miscarriage of a female person, and I am summarizing here, or who uses any means for the purpose of carrying out his intention, is guilty of an indictable offence and liable to imprisonment for life. That is the law that was replaced by Section 251.

I think there are a lot of us here, and a lot of Canadians across the country, who will remember why the reform was important and what we achieved by that reform. There are those of us who will remember the humiliation and danger that Canadian women were subject to under the legislative regime that existed until 1969 when the attempt to obtain an abortion was a criminal act. Low standards of health, poor medical facilities and unqualified practitioners were the order of the day for women who were driven by circumstances to decide for themselves that an abortion was required.

For the last 20 years I think we have been relatively well served by the law that was introduced in 1969. I recall this because I know it is fashionable to criticize Section 251, and I wanted to remind Hon Members that that law, when it was brought in, was a great humanitarian reform and was much appreciated. It was supported by the majority of the House, by Members from all Parties, made a lot of sense, and on top of that, it worked. When it was discredited and rejected by the Supreme Court of Canada, it was on the basis of the Charter of Rights and Freedoms.

I am going to talk about that in a moment, but it could have been rejected on another very important ground. It could have been rejected because, after 20 years of living with it, it no longer was working. I know there are those who say, let's bring back Section 251. After all, the Leader of the Official Opposition brought it forward and it worked. It worked for a time but it stopped working several years ago. It stopped working in some important respects of which I want to remind Members now, although I think perhaps all Members are aware of them.

In the first place, the statute relied on the following expression of the criterion, that the pregnancy or the continuation of the pregnancy should be, and I quote, "likely to endanger the life or health of the woman". No expression in the Criminal Code got kicked around more than the expression "likely to endanger life or health". In every hospital and in every doctor's office in our country it had a different meaning.