

one. This is a difficult point to get across because it is so involved. One has to study it as a lawyer, but the procedure is basically that of the bill itself. The amendment seeks to do away with the rigmarole of the committee and the hospital but the procedure is really identical. That is the way I have drafted it. I have changed two sections which must be read together but I am not changing the substance of the bill; I am merely changing the procedure for the protection of the public generally.

One advantage of my proposal is that the bill will no longer discriminate against Canadians who do not live in urban centres. The purpose is the same and the protection, basically, is the same. But the provision will be fairer in places where there are not enough doctors or enough committees or enough hospitals for the people who live in those areas. That is the only difference.

I say, with great respect to you, Mr. Speaker, and to your advisers, that this is not something one can understand in a few minutes or half an hour. The professor says that this amendment does not change the law but merely changes the procedure. Surely, then, the amendment to this clause as we have drawn it is acceptable. I submit it is correct in law. The sections concerned are both changed by the new bill. I am changing them a little differently. Now that I have explained it, I hope Your Honour will allow the amendment to stand. If it does not, and if the amendment to section 209 carries, the situation would be very bad indeed. It would be a travesty of justice. We should not have law like that in Canada.

If you disallow amendment 20, Mr. Speaker, you must then say that amendment 13 is out. I hope you will not make your ruling today. I want you to think well about this. If I were arguing this point before the Supreme Court of Canada I could not be more sincere. It is difficult to understand just how involved the procedure is. To quote the professor again, the amendment does not change the law as drafted in the bill. It does away with the necessity for the committee and the hospital and would prevent ruthless doctors waiting until a woman started to have labour pains and then killing a live infant or foetus. That, to me, would be murder in the hospitals. I do not believe the doctors of this nation would ever want to get into that position; I have great respect for the profession. But let

### *Criminal Code*

us not leave the law in such a state that it could happen.

**Mr. Turner (Ottawa-Carleton):** With the greatest respect, I feel the hon. member went well beyond the procedural argument to introduce matters of substance also. We discussed Professor Mewett's opinion in the committee, and we introduced contrary legal opinion. I am of the view, given to me by the law officers of the Crown and by the profession generally, that there is not too much validity in Professor Mewett's argument.

In any event, what the hon. member has done is to suggest that because Your Honour has allowed amendment 13 dealing with section 209 you should allow his amendment 20 which, he says, fits in with it. If you look at the code you will see that sections 209 and 237, those to which the amendments relate, deal with entirely different factual circumstances. Section 237 deals with miscarriage or abortion, the killing of the foetus before the natural moment of birth. Section 209 relates to any killing at the time of birth. These are two different factual situations, two different offences under the code. For the hon. member to try to link the admissibility of amendment 20 to that of amendment 13 is an argument which does not hold water either procedurally or in substance.

**Mr. Speaker:** I thank hon. members for their enlightening comments and I shall try to make a ruling which I hope will be acceptable to all.

So far as amendment 17 is concerned, no real case has been made by the hon. member for Vancouver-Kingsway or by the hon. member for York South. I believe they agree that this proposed amendment, identified as No. 17, does go beyond the scope of the bill.

I am afraid amendment No. 18 falls in the same category. I think I should say, in a general way, that this ruling is applicable also to the amendment put forward by the hon. member for Calgary North. I was most impressed by his argumentation. I think I might have been moved by it more if I were a member of the Supreme Court of Canada rather than Speaker of the House of Commons. He put forward a complex and able legal argument. My feeling, however, is that the Chair should not be placed in a position where the Speaker has to rule on legal points. The tradition and background of the position of the Chair is that the Speaker should rule only on procedural matters. This has been established on many occasions when arguments