

Too frequently we find the risk itself is minimal and that those who use this particular route use it as a form of birth control. The sadness is that there are in Canada today many childless couples who yearn for that great gift, that great fulfilment of life, a child of their own or a child by adoption. This points out the fact that as a society we have not reached that desirable level of social development to fully respond to those needs. That is one of my greatest concerns. If society were well equipped to handle this very situation, if there could be a greater measure of care and understanding of the end results of existing laws, if we could respond to that great need out there among so many people to have that blessing and that opportunity for fulfilment in their lives, it is my view that this would be a better country as a result.

I think it is important as well to briefly review the law of abortion. Until 1969 the law in Canada relating to abortion had changed little since 1892. It generally provided that it was an indictable offence for which one could be sentenced to imprisonment for life to procure the miscarriage of any woman. I can remember as a young man scarcely understanding all these facts of life, as they are frequently referred to, the stories of the back-room butcher shop, the back-room operations, and the horrors that resulted from those operations, scarcely realizing at that time the enormous consequences to the mother and inevitably the destruction of the foetus.

In 1969 the Criminal Code was amended to provide an exception to the offence of procuring an abortion. It was not an offence if the abortion had been approved by a therapeutic abortion committee of an approved or accredited hospital. The grounds for approving an abortion was that the continuation of the pregnancy would likely endanger the life and health of the mother. That provision in 1969 we hoped would help to resolve some of the problems associated with this entire issue, an issue that affects so many people and in so many ways, but which unto itself divides the country in terms of perception and view. One of the agonies of those who support this Bill, or the concept behind this Bill is that there are so many differing standards from province to province, from city to city.

I would like to reflect on the attitude of a given community as opposed to the attitude of another community in the same province or in some different province where standards may vary, where economic circumstance may vary, where a variety of conditions may vary. On the one hand you find that the statistics for abortion are very low, and on the other hand, in another community, very high. It is perhaps difficult to put your finger on what causes that variation of perception of fact and of viewpoint.

● (1720)

The abortion amendments have not had the effect of placating any of the individuals or groups who have an abiding interest in the matter of abortion and whose views range from one extreme in which all abortions are considered to be murder to the opposite extreme in which abortion on demand is advocated. In that context, the remarks of Mr. Justice Black-

Criminal Code

mun of the United States Supreme Court in *Roe v. Wade* are equally applicable to the Canadian situation. He said:

We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that the subject inspires. One's philosophy, one's experience, one's exposure to the raw edges of human existence, one's religious training, one's attitudes towards life and family and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion.

It is obvious that the 1969 amendment has left many people dissatisfied. The issue of what our abortion law should be and what sort of protection should be given to the unborn is one of the most emotional debates in the country. A great many Canadians are concerned about the issue and the ramifications of the continuance of the debate on what the law should be.

Some have resorted to the courts to clarify the law, particularly since the advent of the Charter. In at least two cases, *Borowski* and *Morgentaler*, the courts in Saskatchewan and Ontario have upheld the abortion provisions of the Criminal Code. In the *Borowski* case, the plaintiff alleged that a foetus was a person and therefore the term "everyone" in Section 7 of the Charter of Rights and Freedoms provided protection for the unborn. In short, the court was asked to determine whether or not the foetus was, from the time of conception, or shortly thereafter, a legal person for all purposes. Of course, this was one of the issues as well before the United States Supreme Court in the case of *Roe v. Wade*.

I must say that Mr. Justice Blackmun has a great sense of perception and feel for the case. I personally find that I have never had the opportunity to meet him in person but I have great difficulty relating to *Morgentaler* when I see him on television. I have great difficulty relating to that man. As well, possibly because of my very nature which is somewhat reserved—although at times in the House that could be questioned—I have difficulty relating to Mr. *Borowski*, not because of the issue, not because of his dedication but perhaps because of his stridency and the sometimes extreme measures to which he seems to go. Nevertheless, my position on this issue has always been clear.

Again, I believe Mr. Justice Blackmun has probably identified the problem from his heart, mind and soul to a greater extent than anyone else whose opinions I have read. In *Roe v. Wade*, Mr. Justice Blackmun noted:

We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus, the judiciary at this point in the development of man's knowledge, is not in a position to speculate as to the answer.

I can imagine to what depths this learned judge must have gone in his own conscience to provide that very brief decision, a decision which says so very much.

I believe that the question of protection for the unborn should be decided by Parliament. What other direction exists? The issues involved are extremely complicated and involve questions which are essentially religious and moral in nature. The court is not the proper place, in my view, to resolve this controversy.