

of Canada to the Inuvialuit. There should be better answers to these questions than we have heard today.

The Hon. the Speaker: It is moved by the Honourable Senator Macquarrie, seconded by the Honourable Senator Balfour, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Senator Steuart: On division!

Motion agreed to and bill, as amended, read the third time and passed, on division.

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND
READING—DEBATE ADJOURNED

Hon. Stanley Haidasz moved the second reading of Bill S-16, to amend the Criminal Code.

He said: Honourable senators, I welcome this opportunity to open the debate on second reading of Bill S-16, which was given first reading last week in this chamber.

The urgent and vital issue of our abortion laws and, in particular, the protection of the unborn child has always been on my mind. I recall on December 8, 1981, when, on third reading of the Canadian Charter of Rights and Freedoms, I moved in the Senate an amendment to add a special clause stating that "nothing in this Charter precludes Parliament from legislating on the rights of unborn children." However, that did not pass. After the January 28 decision of the Supreme Court that a vacancy now exists in the criminal law of Canada as a result of that decision, I believe that it is high time to address this question—especially since section 251 of the Canadian Criminal Code has been struck down.

Daily almost 200 to 300 children are being killed in abortion clinics. That, I believe, is not only immoral but also intolerable.

The purpose of this bill is to reassert society's vital interest in its unborn children. That interest is as fundamental to the continued existence of our society as it is to the existence of the human race.

I should also add that according to our most recent national statistics the increase in our population is barely 1.7 per cent; and in the province of Quebec it is 1.4 per cent. If we examine this even further—as especially demographers tell us—the present generation will probably not replace itself at the present diminishing birth rate occurring in Canada.

In examining the legislative options open to us in the matter of abortion, I think we need to begin with facts rather than myths; the facts of biology, medical science, legal tradition and the law still existing in the Criminal Code of Canada, as well as the facts set forth in the Supreme Court decision of January 28.

● (1430)

Many of these facts are being ignored in much of the contemporary debate concerning this topic. In particular, the Supreme Court of Canada judgment, and especially because it

[Senator Steuart.]

involves not one written decision but four, has left itself open to misunderstanding and misinterpretation. Let us ask ourselves: What did the court actually say? The majority held that the system of abortion committees, established by section 251 of the Criminal Code, violated security of the person for many women. It also declared, however, that other procedures might be devised which would not conflict with the principles of fundamental justice. The decision did not establish that abortion is a right in Canada. Madame Justice Wilson did claim it to be so, but she was a minority of one; and no matter how close Chief Justice Dickson or Mr. Justice Beetz came to that position, they did not declare that such a right exists.

Of course, Mr. Justice McIntyre, relying on the analysis of the law of abortion by the Ontario Court of Appeal, said that no basis can be found in our history, philosophy or legal precedent for the idea that there is a right to abortion in Canada.

Justice Wilson was strongly in favour of the American position set forth in the *Roe vs Wade* decision under which abortion is a matter of right for a woman in the first trimester, then gradually the state acquires more and more interest in the developing child. However, as has been widely observed, any line of demarcation, such as 12 weeks, 20 weeks or 30 weeks, is entirely arbitrary. Justice Wilson discounts the value of the unborn child and the seriousness of abortion in the early stages of life.

Some would suggest that the bill before this house is in conflict with the decision of the Supreme Court of Canada in *Morgentaler's* case. Some believe that the Supreme Court has made full, legal protection for children in the womb an impossibility. I believe they have failed to understand the full implication of the court's decision.

The judges who struck down the abortion law made pro-abortion statements. Chief Dickson wrote that:

... forcing a woman by threat of criminal sanction to carry a fetus to term, unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman's body and thus a violation of security of the person.

Such a statement does not strip Parliament of its power to make laws protecting unborn children. I think it is of crucial importance for us in this chamber to understand the fact that the judges of the Supreme Court of Canada explicitly stated that they were not making a ruling on the constitutional rights of the unborn child. Nor did they make any findings on the nature of life in the womb.

I think it is clear why the judges have done this. In the fall of this year the Supreme Court of Canada will hear an application from Mr. Joseph Borowski, a former Minister of Highways in the Manitoba government. Mr. Borowski is asking the Supreme Court of Canada to find that unborn human beings are included in the term "everyone" as found in the Charter of Rights. If the Supreme Court agrees with Mr. Borowski that the term "everyone" includes unborn children, then children in the womb will enjoy a constitutionally-pro-