

*Criminal Code*

of the pregnancy could make the woman concerned a mental as well as a physical wreck. Again, until the change in England in 1968 it would appear that any abortion in England, if done in good faith for the purpose of saving the life or health of the mother, was not a crime.

This could have been the subjective test of a doctor and possibly others. The change in England in 1968 spelled out the need for two doctors to agree, in good faith, that the continuance of the pregnancy would involve risk to the life or health of the pregnant woman, which includes her physical and mental health and also the health of any existing children.

What has been and, particularly, what is now the law in Canada? Some take the view that the courts would read into the section the word "unlawfully" so that our law would be the same as it was in England until 1968, and was here for so long. Others are of the view that any abortion would be illegal and the doctor could be charged, no matter the justification from a medical standpoint. In fact, a doctor could find himself in the impossible situation where he could be charged criminally if he performed an abortion and sued civilly if he failed to do so, if such operation might reasonably have saved the mother's life. But even worse is the moral conflict in the doctor's mind. Medically and privately he may feel a duty to end the pregnancy to preserve the life or health of the woman but is faced with a possible criminal charge or at best the public charge of practising close to the line. This would also apply to those assisting the doctor, and the patient could be embarrassed.

One thing is certain, that under Canadian law the uncertainty is such that the medical profession and all its patients have a right to demand that we, the legislators, make the law clear and positive. The amendment would restate the law as it was in England as of 1861, was here for so long and may in fact still be the law here, but it goes a little further. Whereas in England there were no safeguards until 1968, the amendment would provide adequate safeguards similar to those now in force in England, namely, the termination of the pregnancy must be carried out by qualified medical persons, in accredited institutions, after approval by more than one doctor. This, in my opinion, puts the subject where it belongs, in the hands of the medical profession, in hospital, as with all other matters of health.

[Mr. Chappell.]

I have received hundreds of representations arguing with much force indeed that there should not be any restriction, that because it is a matter of health it should be left to the woman in question and her physician, as is the case in all other matters of health. However, this is not only objectionable but offensive to a large portion of our population. Therefore we are faced with two opposing philosophies, those who wish complete freedom and those who would deny abortion under any circumstances.

● (4:00 p.m.)

At times, and on some issues, compromise is essential. The proposal in this case, though not completely satisfactory to either group, should be acceptable to both. Those who wish greater liberty in making individual decisions would obtain clarification of the law, enabling abortion to be carried out under control. Those who are against abortion under any circumstances would succeed in obtaining a reasonable restriction.

May I remind those who are still reluctant to support the proposal that the law as it now stands is uncertain and confused, and that should abortion be denied when the life and health of the mother are at stake, that is to say, should the mother be denied protection from death because the medical profession is prevented from acting, we would be maintaining a law so inconsonant with today's view of individual rights as to bring it into disrespect and force people not only to hold it in contempt but to disregard it.

We cannot allow personal philosophical interpretations to deprive those who have satisfied their own consciences, and seek protection for their own lives or health, of the benefit of today's medical science. In conclusion, may I point out that no one is required to submit to, or participate in, any termination of pregnancy against her or his will.

**Mr. R. Gordon L. Fairweather (Fundy Royal):** Mr. Speaker, members of parliament are now discussing a matter which, for some of us, goes to the very depths of our consciences. I wish to say at the outset that I am not here to exchange consciences, and perhaps that is a good admission to make. Neither am I here to choose sides about quality of consciences, although I myself will have no difficulty in supporting all these proposals but one which I shall discuss in a minute and tell hon. members, if they care to listen, why I find it unattractive.