

*Criminal Code*

at all respecting abortion. He did not directly face the implications of the harm to another principle. Of course I realize that if he had been able to deal in detail with all parts of the bill, with unlimited time, he might very well have met this point head on, but as his speech was delivered this question was not faced.

The human foetus is at least a potential human being. I think we can all begin with that measure of agreement. Perhaps if it is only that, hon. members might consider themselves justified in giving priority to the desires and needs of an actual human being, the mother, over this potential being. But if it is itself an actual human being, how can they logically take that position? Therefore the fundamental question, it seems to me, is whether the foetus is human, whether it is an actual human being.

It has always struck me as rather ironic that, to some extent at least, those who favour abortion oppose killing in war and capital punishment. Surely it is equally ironic that those who oppose abortion are often the same ones who seem to favour war and capital punishment. Perhaps this illustrates how closely we should look at a particular problem to see how our general principles should be applied to it.

Most therapeutic abortions are performed at about the 12th week when the foetus is in a comparatively early stage of development. It is before the time of the so-called quickening, which for some centuries was thought to be the time at which human life began or at which human life manifested itself.

On the other hand, science seems to be showing more and more the continuity of human life from conception to death, with characteristics of individuality perceptible from the very outset. The only sure fact seems to be that neither biochemistry nor medicine has progressed to the point where we can determine with scientific exactitude the time at which human life begins. At present it seems to be largely a matter of definition, of how we define human life. Because this is purely a question of a philosophical character the scientists are not necessarily any more competent than anyone else to give this definition. My understanding of the biochemical and medical evidence, is that the foetus is an actual human being from the beginning, but I recognize the matter is sufficiently in doubt that many hon. members look at the evidence differently.

It seems to me, however, that where scientific evidence is so inconclusive the presumption should be in favour of the foetus and against abortion. If the foetus is an actual human being, the direct killing of this human being would be a greater evil, at least in my scale of values, than any evil which might indirectly befall the mother. In doubt on a matter of such importance the presumption should be against abortion and the onus of proof on those who advocate it. This is an onus which I believe they cannot fulfil in the present state of scientific knowledge.

If this were the whole of the question before us I would be totally opposed to any abortion law reform. But I believe there are several practical considerations of a very important character which must be taken into account, as well as the theoretical considerations which I have advanced.

First, if it could be shown that reform would reduce the over-all incidence of abortion, thereby decreasing the incidence of the evil, this would justify reform. Statistics from other countries which have allowed abortion are not encouraging in this respect, however, and I could not in conscience, as I read these statistics, act on this basis.

A second consideration is that there are a large number of abortions being performed in Canada today outside hospitals and under medically unsatisfactory conditions which sometimes result in the death of the mother. If such abortions could be eliminated by reform of the law this would be a factor in encouraging reform. But again the experience of other countries, as I read it, is not encouraging.

Third—and it is only this consideration which persuades me that some measure of legal reform should take place—there are a large number of abortions now taking place in the hospitals of this country, performed by the best physicians and according to the best canons of medical practice; yet these abortions are all illegal and the practitioners are subject to criminal offences.

I strongly disagree with the hon. member for York South that the bill before us is merely a clarification of the present law. Section 237 as it stands is without qualification or exception. It reads:

Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.