

Criminal Code

improving the law we were faced with difficulties arising through insufficient accurate information. Without that information, of course, it will be impossible to improve our laws.

We must face this problem, Mr. Speaker. I think all hon. members have received sufficient correspondence and talked personally to enough constituents to realize that this is a growing and pressing problem, not only from the standpoint of the health of the individual but from the standpoint of the health of the entire community. If we are not prepared to face it, we must find a reasonable procedure which will allow for an acceptance of decisions with respect to the question of abortion that can in some way meet what seem to be almost extreme and unresolved positions.

I believe there are few questions with respect to modern-day family life that are more in need of thorough study, more thorough than any of the studies I have read to date, than the whole question of response of society to the question of abortion and the total health of the family.

• (4:40 p.m.)

Mr. Thomas S. Barnett (Comox-Alberni): Mr. Speaker, I rise to say a few words in support of the bill before us. I hope it will be referred to the committee for further consideration. I am sure the hon. member for Peel South (Mr. Chappell) is aware that there is on the Order Paper Bill C-165 in the name of my colleague, the hon. member for Vancouver-Kingsway (Mrs. MacInnis). Except for the number of the bill, it is identical in every way to the one we are considering. As a result of the way in which bills get on the Order Paper, the hon. member's bill is being dealt with earlier because of its lower number.

I wish to deal with one or two points raised by the hon. member for Egmont (Mr. MacDonald). He referred to the fact that a decision made by two people to bring a new life into the world is a matter of serious social consequence and one that should not be indulged in lightly. I agree with that portion of his remarks. However, I was astounded when he suggested that the mover and second-er of this bill, whom he referred to as distinguished members of the legal profession, were in effect taking a simplistic approach to this question from a legal point of view by simply suggesting that certain provisions be deleted from the Criminal Code.

Like the hon. member for Egmont, I am not a member of the legal profession. However, I am amazed that he would suggest that if the subject matter of abortion were removed from the Criminal Code—that is, if the various sections which make it a criminal offence were taken from the law of the country—we would be in the position where there would be no law on this subject. I suggest that the hon. member for Egmont is being simplistic in his approach, rather than the members who proposed this bill. All that is suggested is that these matters be removed from the area of what constitutes a criminal offence.

I suggest to the hon. member that all the normal laws of the land with respect to health matters, who legally

[Mr. MacDonald (Egmont).]

can carry on the practice of medicine or surgery, are not in any way affected by what is or is not in the Criminal Code in this connection. The hon. member suggested that if this bill is passed, there will be a vacuum in the law on this very important question. That is not in accordance with the legal facts as they prevail in this country. Let us consider what is involved.

Mr. MacDonald (Egmont): Would the hon. member permit a question?

Mr. Barnett: Yes.

Mr. MacDonald (Egmont): Would the hon. member indicate what legislation would cover the controls that might exist with respect to the whole range of an individual's options if there were nothing in the Criminal Code or any other statute with respect to the terms under which a woman might secure an abortion?

Mr. Barnett: I do not have all the relevant information before me. I am well aware that we have a great many laws which restrict the practice of medicine and provide who may perform surgical abortions in this country. The question of what can or cannot be done as far as individuals are concerned depends a good deal on the laws which state who can or cannot practice in the area of health. This law, in my opinion, adequately deals with the question of whether an abortion should be performed. I agree with the hon. member that abortion on demand is a lot of nonsense. There is no such thing. Even with the legislation in the Criminal Code—

Mr. MacDonald (Egmont): Perhaps I can be more specific, to help the hon. member with what he has in mind. Can he indicate what legislation presently exists, either federal or provincial, that guarantees the rights of the father with respect to the question of abortion?

Mr. Barnett: Mr. Speaker, that may or may not be so, but I suggest that the Criminal Code as it presently stands does not deal with that question in any way. In any event, I suggest that when a married woman approaches a doctor, in the ordinary practice of his profession the doctor would have some right to exercise his medical discretion to determine whether the other parent should be consulted. This, of course, moves into the question of social legislation.

I do not argue with the hon. member that there should not be certain changes in some of the relevant provincial social legislation. My main point is, first, that the passage of this bill would not leave a complete vacuum in the legislative field in this area, as suggested by the hon. member. Second, this whole subject matter should not be dealt with in the Criminal Code as part of the criminal law. There is a place for offences committed by those who are licensed to practice in the field of health services, but the questions that arise in relation to this provision in the Criminal Code are theological rather than criminal. The question should be considered in that light. In my humble submission, Parliament and the