

*Criminal Code*

That is why we must consider the situation very seriously.

Pregnancy, Mr. Speaker—and it is important to repeat it—is not a sickness. The doctors themselves acknowledge the fact, and since the hon. member for Hull does not deny it, that proves I am right.

The fact that she is pregnant does not necessarily mean that a woman is sick. Some women feel temporary discomfort, but generally with the almost safe medical advances and new techniques, few are really sick to the point that their health or life is endangered. That is why, Mr. Speaker, even if the words “health” or “life” remain, we cannot leave the words “or would be likely to”.

We can at least ask the minister to add thereto, as the hon. member for Montmorency suggested a while ago, the words “likely to endanger” so that the physician will have to prove that the condition of the patient is liable—since there is a fifty-fifty chance—to endanger her health or her life.

To show how important the shades of meaning of those words are, I would like to remind the minister of two precedents that already have been mentioned. It is quite important to clarify the situation for physicians, experts, professionals and to protect them. In addition, we must give precise details, since some cases could go before the courts, in order to help judges and lawyers. Moreover, the minister has spoken about it a while ago.

For several years, Mr. Speaker, the Canadian and British courts have been broadly interpreting—and I insist on the word broadly—the reservation provided in subsection 2 of section 209 of the Criminal Code, so that it is now generally recognized—we know the great influence of precedents—that to save the life of the mother, it is not necessary to wait until the latter is in an imminent danger of death.

And to confirm my statement, I rely on two specific cases to show how important it is to specify the terms of that section not only to protect the patient, the father and the mother, but also the physician and the courts.

• (5:10 p.m.)

In the famous Bourne case in England—and I hope my colleagues remember it—the judge

stated that the doctor had the right to procure the abortion of his patient. It must be observed that it is not a question of interpretation but rather an extract from the judgment. The presiding judge alleged that “the doctor has the right to procure the abortion of his patient if he thinks the pregnancy will likely contribute—note the significance of those words likely contribute—to ruin the physical and mental health of the latter”.

Legally, the words “will likely contribute to ruin the physical health” mean that there is more than a fifty-fifty chance. From the scientific point of view this is almost a certainty.

In other words, Mr. Speaker, the word “likely” is not necessary here. It is even dangerous.

This interpretation was later corroborated in the Newton vs Stongo case, where it was explained that “the protection of the woman’s health meant the protection not only of her physical health but of her mental health also”.

The courts of justice, the doctors or patients can go as far as that in requesting abortion if the word “likely” is not clearly defined. The word “health” should also be defined.

In that judgment the court ruled “that the protection of the woman’s health meant the protection not only of her physical health but of her mental health also.”

In the bill now under consideration mention is made of health in general in paragraph (c). What do we mean by health?

If a pregnant woman has a headache, visits her doctor—the hon. member for Hull, for instance—and requests an abortion, that doctor can read the Act and say that the headache in question “would or would be likely to endanger her life or health”. Then abortion would be allowed. The headache would be considered as an unusual and abnormal illness and indicate that the physical condition of that woman is deficient at this time.

Mr. Speaker, let us define the word “health”, for the matter is of consequence. Otherwise, one might allege all kinds of indispositions to request abortion.

The more I look into that legislation, the more I feel that the government is opening the door to all possible excuses not to discharge its responsibilities and apply the law.