

Historically, and I do not think anyone will deny this, a distinction was made under Canadian law, and under the British law on which our law is based, that until a child was born, the child had no rights under the law. Indeed, in the Criminal Code of Canada, there are offences like infanticide, which is when a child is killed at birth. There are offences like concealing a child and failing to provide assistance at child-birth. It is clearly understood that until a child is born, under the law of Canada, the child has no rights.

We have faced this problem in the law for literally centuries. We have faced it in Canada since Confederation, and before that it has been faced by British law. Therefore, we are talking about a very substantive change in the law if we want to protect the unborn child, and we need a constitutional amendment to do so. I am sure the officers of the Department of Justice understand that. I am sure that that is the advice they would give to those who say that they want a law that protects the unborn to the extent that some Hon. Members have mentioned.

The only way we will get such an amendment to the Charter of Rights and Freedoms is by going to the provinces and obtaining their concurrence to such a change. That is exactly what I have provided for in my Bill. I have provided that upon the enactment of the legislation I have proposed, the Prime Minister (Mr. Mulroney) would have to convene a conference of First Ministers to deal with the matter of a change in the Canadian Charter of Rights and Freedoms or, alternatively, introduce it as a priority item at a conference of First Ministers. If the Minister of Justice (Mr. Hnatyshyn) is so asked, he would prepare an amendment to the Canadian Charter of Rights and Freedoms that would achieve that purpose.

Let me make what I am saying abundantly clear. If we are to deal with abortion in the manner indicated by a great many Members, that is to say if we are to have greater protection for the lives of the unborn and assurance that abortions will be performed only in very extreme circumstances, then we must have a change to the Canadian Charter of Rights and Freedoms. We must have a constitutional base for a law. Otherwise, we are restricted to the kind of law that I have proposed in the Bill I have introduced, Bill C-312 which has been entitled the Abortion Law Interim Measures Act.

My solution to the problem is to have legislation before the House and to seek a constitutional amendment. Of course, we must recognize all the time that if a constitutional amendment cannot be achieved, if the House of Commons and the Senate of Canada with all its lofty deliberations refuses to amend the Canadian Charter of Rights and Freedoms, if Parliament approves an amendment but the provinces do not concur, then we have to recognize that we cannot change the abortion law of Canada in the substantial way that many Canadians and indeed many Members of this House seek. That is the issue and let us deal with it. Let us not hide behind resolutions.

Let me end by simply reading into the record the statement of Archbishop James M. Hayes, President of the Canadian Conference of Catholic Bishops. He said:

Abortion

The Government has introduced a Motion that proposes the totally unacceptable gestational approach for a new Canadian abortion law.

The position of the Catholic Church is that human life begins at conception and must be valued, respected and safeguarded from the beginning.

To a degree, this is an exercise in futility. Neither those who try to achieve protection for life like the Canadian Conference of Catholic Bishops, nor the people who believe in freedom of choice and the *status quo*, will accept this resolution with whatever amendments may be made. I would like to see Bill C-312 or some similar legislation passed, and I wash my hands of this resolution.

Mr. Howard McCurdy (Windsor—Walkerville): Mr. Speaker, none of us feels comfortable with being required to engage in this debate. I think it is an example of one of those situations in which Members of Parliament or of any legislature often find themselves, which is that they have to take a position and make their position known. There are times when one cannot be whipped from one side or the other by one's electorate. One must express one's view on the basis of one's philosophical, moral, and ethical point of view. I must say that I was disappointed in the intervention just made by my hon. colleague across the way. He pointed out that there are two quite different opinions on the issue. He said that there could be no compromise, then proceeded to take both sides. I hope that I will not be a victim of that approach.

• (2230)

We have entered into this debate tonight because the Supreme Court, almost exactly six months ago, handed down a decision which, on the basis of the Charter of Rights and Freedoms threw out Section 251 of the Criminal Code which regulates abortions in Canada. In so doing it once again posed the dilemma of reconciling divergent, often polarized opinions among Canadians.

There are very many Canadians, and I was among them, who did not see that decision as a victory of the enlightened over those of darkness. It was not a victory, in my view, for abortion on demand, and it was not an occasion for those on either side to regard the others as either stupid or unprincipled because they did not share these views of the polarized factions in this debate.

This is a significant issue to all Canadians. It is an issue of great controversy, an issue of great disagreement, an issue which tests Parliamentarians and tests the Government, a test which the Government fails by the very nature of its response.

We are given a resolution, which I will discuss in a moment, which may or may not be adopted, which promises legislation as a result of the outcome of this debate. Yet, we know that what we are involved in here is a charade. It is another example of the failure of the Government to live up to its responsibilities, another example of a Government which, in failing to live up to its responsibilities, would like to fool the Canadian people into believing that it is doing something of significance.