

The Abortion Issue in Contemporary Canadian History: The Unfinished Debate

by Alphonse DE VALK

Among lawyers there is a saying: hard cases make poor laws. In 1962 there was a celebrated legal case, the case of the Van de Put family in Liège, Belgium. This case aroused interest throughout the world including Canada. One week after having given birth to a baby girl born without arms as a result of the thalidomide drug, the mother agreed with her husband, her sister, her mother and the family doctor, to give the newborn baby barbiturates in a mixture of honey. Subsequently all five were charged with murder. There was much popular sentiment favouring the defendants and a demand for acquittal.

The defense was based on the assertion that the five defendants felt pity for a “hopelessly condemned and wretched human being who faced a prospective existence without a glimmer of human existence.” In his summation the defense attorney stated:

If you tell the accused that they are not guilty you will have found the human conclusion to this trial. If these people chose a solution which may be erroneous they have only to account to their own conscience. God, perhaps, has already forgiven them. You may disapprove of the stand they took, but you cannot condemn them.

The all male jury found the defendants not guilty.¹

Major newspapers throughout Europe and America seemed to consider this verdict just and equitable. One exception was the Vatican daily, the *Osservatore Romano*, which considered the

¹ *Globe and Mail*, November 6, 9, 12, 1962; *Linacre Quarterly*, August 1967, p.250.

verdict of ‘not guilty’ a mistake and an unhappy omen.

Another cause célèbre which also received much publicity in 1962 was the case of Mrs. Finkbine of Arizona. Here, too, public opinion seemed to be on the side of the mother. Mrs. Finkbine, a Phoenix housewife and local television performer, believed her baby might be deformed as a consequence of the thalidomide drug. Upon being denied an abortion in Arizona, the then 30 year old mother of four flew to Sweden for an abortion. Later on, the foetus was reported deformed.²

The thalidomide crisis of 1962 and 1963, with its hundreds of horribly deformed babies, was an indication of how deeply and rapidly the consensus about abortion was changing. While it was short-lived it was, nevertheless, of lasting importance. First, it suddenly revealed that many people were quite prepared to allow and accept abortion. Secondly, it became clear that they were prepared to do so on the mere *possibility* of a baby being born seriously deformed.

From 1963 on, the rule of “hard cases make poor laws” was forgotten. American periodicals such as *Pageant*, the *Saturday Evening Post*, *Parents Magazine*, the *Atlantic Monthly*, *Redbook* and others, which of course were also widely read in English-speaking Canada, all pleaded for liberalized abortion laws. The subject was usually dealt with in a standard version, opening with a horror story of a bungled back-street abortion, followed by a statement of indignation at the absence of safe legal ways of doing abortions, and proceeding with quotes from eminent doctors in favour of making abortions legal. The article would then move on to consideration of proposed law reforms and conclude with an illustration of a particular bill going through a state legislature. The illustration would suggest that members of only one Church opposed the new legislation, and that the attitude of this Church compared unfavorably with that of – what were usually called – the more ‘broad-minded’ and ‘progressive’ religious bodies. Indeed, it was

² Her case was mentioned again in an article on (the few) abortions being done in Canadian hospitals, *Globe and Mail*, April 11, 1967.

implied, the attitude of this Church could be explained only as an unacceptable attempt to impose the views of a minority upon the majority.³

Among Canadian magazines the periodical most persistently in favour of legalizing abortions was the much read women's magazine *Chatelaine*. From the beginning of the 1960's until today this magazine has spearheaded or championed a variety of attacks on the more traditional sexual and family morality. In August 1959 it was the first popular magazine in Canada to publish an editorial and an article calling for a change in the abortion law. A second article appeared in March 1963, after the thalidomide crisis and the growing controversy over the sale and availability of contraceptives had revealed the direction in which public sentiment was moving. It was written by a Vancouver United Church Minister, Rev. Ray Goodall, who repeated his plea for a new law two months later in the United Church *Observer*, a monthly with several hundred thousand subscribers. *Chatelaine* would continue to sponsor legal abortions from then on. As for the United Church *Observer*, it may be noted that already in 1960 the General Council of the United Church had approved a statement which, while condemning abortion in general as the destruction of human life, accepted it as an emergency measure.

The most important Canadian press organ taking up the case for legal abortions was the Toronto daily paper, the *Globe and Mail*. It was to emphasize the separation of law and morality. Its views represent those of a fairly small, but in English-speaking Canada very influential, school of intellectual liberalism. Its earliest call for a change in the law came in an editorial of September 1961, following which it published a series of seven articles by prominent individuals representing law, medicine and the churches. Only one of the seven, the Catholic spokesman, rejected abortion outright. From 1963 on, the *Globe* began its campaign to have the law

³ For an analysis of such articles, see F. CANAVAN, "History Repeats Itself" *America*, May 21, 1966, p. 738. The Church in question was, of course, the Roman Catholic Church.

changed. From then on it may be said to have been the most important champion of legal abortions among the media in Canada. I believe that it published more editorials on this subject than all other major Canadian newspapers together. It consistently hammered away at this subject over the next number of years until the law was changed in 1969. It resumed writing on the subject in 1970 when the abortion-on-demand movement gained momentum; since then it has continued writing on the subject in an effort to counteract the growing strength of those opposed to abortion.

The reasons which the editorial writers of the *Globe and Mail* have given for their stand during these years have varied from editorial to editorial. In addition to the separation of law and morality theme, one of its more persistent themes has been the claim that only Roman Catholics oppose legalization of abortion.

At the beginning of the controversy, in 1961, the *Globe and Mail* claimed that in view of the number of illegal abortions, the existing law was being rejected, and that “a law which is rejected by the public is seldom a sound law.”⁴ Already at that time, it cautiously queried whether “women should be allowed to make their own moral decision” and whether churches should have the right to present their view of the moral issue to others than their own adherents. At the beginning of 1963 the *Globe* declared that a law which no longer conformed to the practices of society could bring all law into contempt.⁵ Abortion, it said a few months later, “raised the whole difficult problem” of the relationship between law and morality. The *Globe* continued to publish editorials during the next few years. By the close of 1966 the paper had repeatedly asserted that abortion was a question of private morality and that law, therefore, should *not* be concerned with it. As an explanation as to why the law had made abortion its concern in the past, the paper offered religious beliefs which it now declared both outmoded and representative only of a minority.

⁴ *Globe and Mail*, Sept. 1, 1961, p. 6.

⁵ “Two Problems to be Faced,” Editorial, *Globe and Mail*, Jan. 2, 1963.

During 1967 the *Globe and Mail* had gone further in two directions. First, the paper maintained that abortion was not a question of morality at all but only of medicine, and that decisions for abortions, therefore, should be left in the hands of the medical profession. This view coincided with that of the Canadian Medical Association which had adopted a similar attitude. Secondly, the paper began to place more emphasis on the Women's liberation philosophy.⁶ In an October editorial, the *Globe* attempted to have it both ways, arguing at once that the decision whether or not an abortion should be performed "should legally reside with the medical profession" and also that every woman should be permitted to have an abortion as a matter of right.⁷

Also by the end of 1967 the *Globe and Mail* had become more impatient. While the House of Commons Standing Committee on Health and Welfare conducted its hearings on abortion, [in the name of Canada's politicians,] the *Globe* claimed that the elected representatives were being intimidated by "what they know is not the majority of the Canadian people."⁸ Finally, in a March 1968 editorial the *Globe* made its strongest attack yet, pursuing some themes which it had followed for five years or more. These were, first, the theme that abortion was not forbidden by law because it was harmful to society, but that it was harmful to society because it was forbidden by law; and secondly, the theme that only Catholics opposed abortion, that Catholics did so because of some religious fable of their own, and that they were imposing their religious peculiarities on the rest of the nation. The editorial started with the following:

One wonders if once again the conscience of some Roman Catholic Canadians will be allowed to violate that of millions of other Canadians.

⁶ See, for instance, the article by Jean HOWARTH, "Abortion: A Matter of Conscience," *Globe and Mail*, May 25, 1967.

⁷ Editorial, "The Reform Must Be Real," October 6, 1967.

⁸ *Ibid.* See also the editorial, "A parliamentary bear pit," October 14, 1967.

It concluded with the line:

At stake here... is a certain high conception of liberal democracy.⁹

This editorial attack followed the publication of a Pastoral Letter by the Canadian Catholic Conference of Bishops a few weeks earlier. In their letter the Bishops made a point of explaining how their opposition to abortion was *not* the consequence of some religious belief peculiar to Roman Catholics but rather the consequence of an understanding of the common good which should be common to everybody.¹⁰ Perhaps, it might have been better if this had been emphasized more. The effectiveness of the letter also would have been improved if – as spokesmen for the Church had done on one or two other occasions – it had been explained why the Bishops took a different attitude toward changing the Criminal Code in the case of abortion than towards the earlier changes of the same code with respect to contraceptives and divorce. Originally, of course, the Bishops had also opposed changes in regard to these last two, but had revised their attitude following the Second Vatican Council and the increasing abuse of the existing laws during the early sixties. Thus, from 1965 on they ceased to oppose changes in the law, satisfying themselves with encouraging their own faithful to adhere to the old tradition by strength of their religious convictions rather than by means of prohibitions in civil law. There is no doubt that this change in policy confused many people, including the *Globe's* editorial writer.

At the time, one observer noted that underlying the text of the *Globe's* editorial was “the suggestion that the Roman Catholic Bishops of Canada do not have the right to issue a pastoral statement opposing a change in the law that deals with the

⁹ March 11, 1968.

¹⁰ The statement has been reprinted in *Contraception, Divorce, Abortion*, Ottawa, Canadian Catholic Conference, 1968.

safeguarding of human rights...”¹¹ No doubt this was a correct assessment though it should not be misunderstood. A reading of all the editorials on abortion as well as on other matters related to law and family life such as contraceptives, divorce, and homosexuality, shows that underlying this editorial attack on the Roman Catholic Church was not just antipathy toward Roman Catholics, though some of that may have been present. A far more important explanation must be sought in what the editorial writer himself had given as reason, namely his “certain high conception of liberal democracy.”

The *Globe's* conception of democracy is based on a modern liberal and utilitarian philosophy which has developed out of the nineteenth century intellectual liberalism of John Stuart Mill. This philosophy denies that religious morality should have any influence on civil law at all. In order to preserve society, it is said, people must share *some* principles. But those basic principles are minimal and entirely rational and utilitarian. Religious principles or religious ideals are classified as non-rational and therefore belong to private morality. Sexual morality and mores, too, will fall under private morality and private judgment because they are based on ‘variable tastes and conventions.’ Hence, civil legislation ought to be separated completely from religious principles or morality.¹²

When we check the arguments used in 1968 and 1969 we find that among the most frequently quoted phrases and most commonly expressed sentiments were that “sin is not the same as crime” and that morality ought to have nothing to do with civil law. It appears that the removal of abortion from the Criminal Code reflects an increasing acceptance of what, in fact, is a new concept of the relationship of law and morality. At the same time it would also appear that this understanding of the law-morality relationship is still opposed by a great many people once they

¹¹ Rev. George GORDON, General Secretary of the Canadian Catholic Conference, in a letter to the editor, *Globe and Mail*, March 15, 1968.

¹² For a more extensive discussion of this issue, see Alphonse DE VALK, *Morality and Law in Canadian Politics. The Abortion Controversy*, Montreal, Palm Publishers, 1974, Chapter 10.

understand what is at issue.

Let us not proceed to relate how the law was changed, nor what positions were taken by public, semi-public and private bodies, nor how the debate evolved in the House of Commons. We know that the law was finally changed in May 1969. We also know the change was worded in such a way as to permit virtually abortion on demand. From the parliamentary debates in 1969 it is clear that this development was contrary to the expressly stated purpose of the government which intended to permit abortion only under fairly restricted circumstances. For the details of those events I refer you to *Morality and Law in Canadian Politics. The Abortion Controversy*.¹³ It retraces the developments of those years blow by blow and almost from day to day.

However, in order to indicate with what confusion the passage of this law was accompanied, it suffices to quote a paragraph from this book summarizing the views of the nine speakers of the Liberal Party who spoke in favour of the proposed law. The paragraph reads as follows:

Taking the nine speakers as representative of the party as a whole, it is clear that the motivations for accepting new abortion legislation were extremely varied and often contradictory. It was almost a case of nine different people with nine different reasons. One member supported the legislation because he did not think that existing law permitted any abortions at all. Another member favoured it because, like the Minister of Justice, he thought that a law which already permitted abortions needed further clarification. A third did not believe a fetus was human and thought that it was merely a question of preserving a woman's health. A fourth speaker, however, was convinced that the unborn child was alive and human, but that society needed compromise. A fifth accepted the proposals only as a step forward on the road to abortion on demand, contradicting others who favoured the new law but who vigorously denied that abortion on demand was either desirable in itself or would result from the proposed legislation. A sixth gave criminal assault on a woman as his sole reason – without noticing that the

¹³ See footnote 12.

Government specifically meant to exclude abortions for rape. Finally, several speakers who presumably had voted numerous bills into law against the wishes of others, asserted that in the matter of abortion, they did not have the right to impose their views upon society....¹⁴

As noted above, it is not my intention to devote this entire paper to re-tracing the course of events before 1969. The title for this paper refers to the Canadian issue as “The Unfinished Debate.”

An examination of this ‘unfinished debate’ leads us to a consideration of three points:

- First - the fact that the abortion debate in Canada is by no means settled;
- Secondly - the reason why the 1969 legislation has failed to settle the abortion issue and is unlikely to settle it in the near future;
- Thirdly - some of the *effects* which this continuing controversy has had already.

There is no doubt that today abortion is an important social, moral and political issue. This should be clear even to the observer who judges importance on the basis of statistics and the frequency with which articles appear in newspapers. Moreover, abortion is not only an important controversy in Canada. For instance, at the moment it is also very much in dispute in Europe. During the four weeks of May 1974 which I spent there, I read newspaper reports and articles on the following events: a demonstration against abortion in London, England; the approval, after months of heated controversy, of a new liberal abortion law by the West-German Lower House with a vote of 247 to 233 with 9 abstentions; a defence by all full professors of moral theology at German universities, both Catholic and Protestant, of everybody’s duty not to touch the life of the unborn human (this defence was also accompanied by an attack on Pope Paul’s encyclical, *Humane Vitae*); a T.V. program about unmarried pregnant girls who choose to be mothers rather than have an abortion; a meeting of close to 200 medical doctors from all over western Europe plus a few Americans in Noorwykerhout, Holland, which led to the founding of an International Association of Medical Doctors in Defense of Human Life; the rejection of the abortion law passed in the

¹⁴ *Op. cit.*, p. 107.

German Lower House by the German Upper House; the subsequent over-ruling of this rejection by another legal body; and the removal, at the time of the change-over between German Chancellors Willy Brandt and Helmut Schmidt, of the Minister of Justice, Jahn, who had run afoul of the majority of his party by opposing abortion. I also read about Belgian citizens protesting the opening of an abortion clinic across the border in Holland where abortion is still forbidden but where the law is also under attack and the authorities close their eyes; finally there was the announcement that in Sweden the law has just been changed to permit abortion on request during the first twelve weeks of pregnancy. It is useful to point out that compared to the English-speaking countries and with the exception of Sweden, the abortion debate in continental Western Europe has gotten underway only fairly recently.

In Canada abortion has already proven to be one of the rare examples of a legal reform which stirs up more controversy after the law has been amended than before. An examination of newspapers across the country shows that after the law was changed in 1969, few issues other than the bread and butter issues such as inflation, pollution, etc., have been given more space and attention than abortion. For example, during the eight month period of April 1-November 30, 1970, the Toronto *Globe and Mail* carried 45 articles and news reports, six editorials, plus assorted letters to the editor in which abortion was the subject of discussion. Another more recent example: in April of 1974, an ordinary local daily newspaper in Western Canada, the Saskatoon *Star-Phoenix*, carried nineteen articles, news-reports and letters to the editor on the subject of abortion.

A survey of periodicals in the early part of 1974 showed that the May issue of the Canadian *Reader's Digest* carried an article entitled "How safe is Abortion?" The national edition of the Anglican monthly, the *Canadian Churchman*, of April 1974, devoted a centre spread to a report of an Anglican task force in favour of legal abortions now published as a booklet entitled, *Abortion: An issue for conscience*. Several Roman Catholic weeklies carried articles on one or other aspect of abortion. An issue of *Saturday Night* carried the word 'abortion' on its cover, pointing to an article inside. This proved to be a first for the more popular Canadian magazines because the author spoke out *against* abortions. *Chatelaine*, true to its tradition, carried an article lauding Dr. Morgenthaler of Montreal who, as is known, has done a thousand or so abortions annually in his own clinic over the last five years. No doubt there are other articles in other papers and periodicals elsewhere which have escaped my attention.

While in the United States a considerable number of books have appeared on abortion during the last ten years, in Canada only one book had been published prior to 1974. It is little more than an exhortation in favour of

abortion on demand.¹⁵ In the spring of 1974 three new books appeared. One book is sponsored by the Anglican Church as noted above. Griffin House Toronto, is publishing a collection of essays edited by Professors E. Kremer and E. Synan, entitled *Death Before Birth: Canadian Essays on Abortion*. Most of its contributions are directed against legal abortions. Finally, there is the volume mentioned earlier, which has just been published by Palm Publishers in Montreal with financial assistance from the Social Science Research Council of Canada. It is also worth mentioning that since 1973, a pro-life group of young people in Toronto have published a monthly newspaper, *The Uncertified Human*.¹⁶

Literary endeavours, articles and books, radio and television discussions are only reflections of the controversy on the secondary level. Many other people are involved in more immediate ways or in less visible ways. After all, the starting point of the controversy is naturally the fact that women and girls actually do have abortions. In 1973 more than 40,000 abortions were performed in Canada. This means more than 40,000 persons were involved as individuals; they made the decision to end an unborn life, carried the burden of that decision, whether lightly or heavily. Their decision involved many other people: it involved their families, fathers and mothers, doctors, nurses, hospital personnel, Family Planning and Planned Parenthood organizations whose supporters encouraged them to have the abortion; Birthright and Right-to-Life supporters who encouraged others to have their baby instead. Also somewhere in the background there are those about whom we know least of all: the fathers of the unborn life which was snuffed out in the abortion.

Abortion touches a great many people. Many of them, I believe, would prefer to see abortion assume the anonymity of other medical operations and treatments. The fact that abortion has not assumed the anonymity of ordinary medical work but instead has remained controversial is due, of course, to the opponents of legal abortions who see in it much more than merely a medical technicality. They see abortion as a moral act of grave consequences. Among those who keep this notion alive are the organizations known as Birthright and Right-to-Life. Both have experienced a steady growth since 1970.

The Right-to-Life groups concentrate on the educational and political aspects of the abortion issue. They have spread to cities and towns throughout English-speaking Canada, numbering approximately 75 groups. Recently they have also entered Quebec. They are federated nationally in the Alliance for Life whose headquarters in Toronto sponsors a publication which appears five

¹⁵ E. PETRINE, *Abortion in Canada*, Toronto, New Press, 1971.

¹⁶ 1295 Gerrard St. East, Toronto, Ontario.

times a year and which has a circulation of 10,000. Its very active first president, Dr. Heather Morris, has appeared several times on national television and has addressed numerous meetings and spoken on many local radio shows throughout Canada. As an indication of the interest these groups have aroused it may be noted that in 1973, Right-to-Life groups, mostly in English-speaking Canada, garnered 353,000 signatures for a petition which was handed to Prime Minister Trudeau in May of that year requesting a stricter law and safeguards against abuse of the existing law.

The second organization, Birthright, has also seen steady growth since it was first organized by Mrs. Summerhill in Toronto in 1968. This organization concentrates solely on bringing effective and practical help to girls and women who want to carry their baby to term, but who, for one reason or another, find themselves under pressure to consider abortion. Today, twenty-six cities in Canada have such a band of volunteers while in the United States there are over 200 chapters. Some local chapters have been able to function due to the commitment of a few people, who, in spite of their original lack of experience, have nevertheless managed to become very effective. Other chapters have a large number of volunteers who work on a rotating basis. What was started with much trepidation and often in the face of some coldness or hostility from professional social workers, family bureaus, welfare workers and others who feared what they believed to be the meddling of incompetent do-gooders, has matured into a smoothly functioning operation.¹⁷

An example of the movement is the Birthright group in Saskatoon, a city of 135,000. There the Chapter was structured around a nucleus of wives of university faculty. It began operations at the beginning of 1972, after six months of preparatory work. It was organized on a non-denominational basis in conformity with the national Birthright Charter. With a volunteer staff varying from 30-50, who man an office with telephone on a part-time basis five days a week, this Birthright group helped close to 150 women carry their baby to term during its first two and one-half years of operation. In addition, of course, its volunteers answered many other calls and questions and organized an educational program of speakers and films for use in schools and elsewhere. During this period, half of its annual expenses were met through donations from branches of the Saskatchewan Catholic Women's League even though few League members belonged to the body of volunteers. The other half came from a variety of other sources.

Saskatoon also has two active Right-to-Life groups, one for the city and

¹⁷ Louis SUMMERHILL, *The Story of Birthright*, Kenosha, Wisc., Prow Books, 1973, p. 134.

one for the university. The university group, centering around one strong personality had been active to such an extent that it incurred the ire of pro-abortion students represented by such groups as the Women's Directorate, the Committee for the Appeal of the Abortion Law and others, who succeeded in having the Students' Union rescind its status as a university campus club. It is only a small incident but, nevertheless, indicative of strong currents of hostility. The agitation between groups such as Women for the Repeal of the Abortion Law, Young Socialist Women of Trotskyite or Marxist-Leninist vintage or other radical feminist groups and the Right-to-Life groups illustrate the fact that as a nation we are seriously divided on the issue of abortion. Obviously, the 1969 legislation has failed to settle the issue. The question is – why?

In essence the answer is simple: the philosophies which inspire the pro- and anti-abortion groups are irreconcilable. The anti-abortion group considers the principle which is involved so important that they cannot be induced to accept the 1969 law. They hold the philosophy behind this law to be destructive of society. This division between irreconcilable philosophies was foreshadowed in the submissions to the House of Commons Standing Committee on Abortion in 1967 and 1968, especially by the two submissions which set forth most clearly these opposing views: that of the delegation of the United Church and that of the representatives of the Canadian Catholic Conference of Bishops.¹⁸

The United Church of Canada had stated in 1960 that, "the Christian conscience cannot approve abortion"; yet, the same statement accepted abortion as an emergency measure. Following this very important basic change from non-acceptance to acceptance, however qualified this may have been, the attitude of the United Church towards abortion changed rapidly over the next ten years.

Six years after the initial change, in 1966, the Church's General Council made it clear not only that abortions were justified "when the life of the fetus threatens the life or health of the mother," but that the term 'health' should be interpreted broadly, and that the air of guilt surrounding abortions should be rejected. At this time the General Council's official position was still that abortions for socioeconomic reasons were unacceptable. But two years later, in 1968, the United Church delegation to the House of Commons Committee on Abortion accepted socio-economic reasons as a just cause for abortion. Finally, in 1970, the United Church declared abortion to be purely a private

¹⁸ HOUSE OF COMMONS, Standing Committee on Health and Welfare, *Minutes of Proceedings*, (Hearings on Abortion), 2 Volumes. (Oct. 1967, March, 1968). See also A. DE VALK, *Morality and Law in Canadian Politics*, pp. 70-80.

matter between a woman and her doctor. This position was re-affirmed in August 1972 though the Church then indicated that it would like to see abortion on request restricted to the first twelve weeks of pregnancy.

It was at the House of Commons's hearings in 1968 that the United Church delegation presented its philosophical justification for abortion, namely the theory of "accruing value."¹⁹ The delegation stated that from the time conception takes place there is an "accruing value of life" and "the primary consideration ought to be for the life of the one who is now living."

This statement sounded attractive and at the time some Committee members were duly impressed. But as opponents of legal abortions had already intimated by their own submissions, there are difficulties with this theory both as a Christian theology and as a general theory of society.

Opponents of legal abortions argue that once God has created the soul, what is of man in the purely biological sense becomes human and therefore immortal. This human soul does not "accrue in value" in the sense that one day it is mortal and the next day immortal. Once created, it is equal in the sight of God for all, old or young, rich or poor, born or unborn. If there is no absolute certainty precisely when 'body tissue' receives the soul, and if there is no proof when a human being exists, then no action may be taken, and surely no action which means life or death, as if there were no human life at all. Thus the Roman Catholic delegation to the House of Commons Committee on Abortions explained that revelation does not explain *when* the soul is infused, transforming life into *human* life. As no one can tell when this takes place the only course of action at all respectful of human dignity and God's design is to base it on the knowledge provided by human reason. Science, the delegation said, confirms that life begins at conception. Consequently, life should be treated with the utmost respect from that point onwards.²⁰ The United Church delegation, however, followed the exact opposite approach. Their Brief stated – and it was repeated later on in a 1970 publication – that:

We believe it is futile to decide when the foetus receives a soul...
We rather regard the foetus, especially during the first seven months,
as potentially a human being, though not one yet.²¹

¹⁹ *Proceedings-Abortion*, op. cit., Volume 2, February 6, 1968, p. 603ff

²⁰ *Proceedings-Abortion*, op. cit., Volume 2, March 5, 1968, p. 820ff

²¹ THE UNITED CHURCH OF CANADA, *Abortion, A Study*, 1970, p. 19.

The theory of “accruing value” is rejected by opponents of abortion also as a general theory of society. Again, the United Church group was not directly challenged by the Committee members at the time. But it is clear from the submissions of some of the other delegates such as that of Mr. Philip Cooper, Mr. David Dehler and again the Roman Catholic delegation, that opponents were especially disturbed by this type of philosophy. To put their implied objections into my own words, the theory of “accruing value” raises such questions as: *What* value is supposed to be accruing? By what *standards* is it judged to be “accruing” (by increased brain power, or heart beat, or muscle power, or size, or ability to move)? Does this value continue to accrue throughout life, or is there a decreasing value for those growing older and feebler, with all the consequences this involves about the rights of these older and feebler people to continued life? Are crippled people less valuable than healthy ones? Are people of higher intelligence superior to those of ordinary intellect? And so on.

The theory of “accruing value,” or the argument that it is not important whether or not the unborn are alive, but that it is important to save the quality of life of those already born, is not only held by representatives of the United Church’s General Council. In her submission to the House of Commons Committee in October, 1967, Mrs. Grace McInnes (NDP, Vancouver-Kingsway) said much the same thing.²² The same utilitarian philosophy was upheld by some pro-abortion speakers and members of the philosophy department of the University of Toronto, at the Canadian Abortion Conference held in Toronto in May, 1972. In August, 1972, Dr. Lise Fortier, president of the Family Planning Federation of Canada, speaking at a Canadian Bar Association Conference in Montreal, declared that a human foetus is a living being, but its life does not have to be respected above all else. “What is most important,” she said, “is not the life itself.. but the quality of that life and its purpose.”²³

Opposition to this utilitarian philosophy is perhaps most clearly expressed by three basic points elaborated by the Roman Catholic delegation which, I think, represent the views of most opponents of abortion, whether Catholic or not:

1. In spite of appearances, human life before birth is not intrinsically different from human life after birth.
2. Theology does not provide grounds by which one life may be

²² *Proceedings-Abortion, op. cit.*, Volume I, October 3, 1967.

²³ *Saskatoon Star-Phoenix*, September 1, 1972.

esteemed of higher value than another.

3. In the absence of scientific proof to the contrary, the date of conception must be taken as indicating the beginning of a new and distinct human life. Since all men are given an immortal soul nobody may destroy life which is not guilty of a criminal act.

Clearly, only one conclusion is possible: the opposing philosophies of the pro and anti-abortion supporters are irreconcilable.

About the third and final aspect of the 'Unfinished Debate,' namely the *effects* of the controversy, we may be brief. In general there has been increased dissatisfaction on the part of everyone, both supporters of the new law and opponents. In the medical world, this dissatisfaction broke out almost at once. Doctors became divided, nurses upset, hospital boards confused, patients irritated, public hospitals found themselves pitted against private hospitals, and all of them were left to wonder just exactly what the law meant. There is no unanimity on the meaning of the term "therapeutic." Some hospital abortion committees approach their task seriously; others are rubber stamp committees, approving every case which comes before them. They interpret the term "therapeutic" so broadly as to practically grant abortions on demand. This is the most prevalent approach in Canada today. Abortions are performed for such reasons as extreme youth, presumed risk of deformity, pressure of parents and a variety of socio-economic reasons, all of them *illegal* according to the intentions and declarations of the Liberal government, the sponsors of the amendment, though not according to the letter of the law as it was finally formulated and passed.

Apart from its refusal to write in conditions qualifying the term 'health' – and leaving aside the question whether the Criminal Code should have been changed at all – the government irritated opponents of abortion most by its refusal to have a written "conscience clause," giving hospitals, doctors and nurses the right *not* to participate in abortions. Increasingly, as the parliamentary debates with their frequent assurances that nobody would be forced to participate in abortion are forgotten, pressure builds up to make everyone a participant. In October 1970, Mr. Loffmark, the Health Minister of British Columbia threatened "to order all B.C. hospitals to grant legal abortions." This, he said, was to be done "on the grounds that hospitals supported by public funds will have to face up to their public responsibilities."²⁴ Similar remarks were made by the Minister of Health in Ontario, Mr. Lawrence.

²⁴ *Globe and Mail*, October 9, 1970, p. 11.

Boards of hospitals where abortions are performed periodically launch appeals to their provincial governments stating that all accredited hospitals should share in performing abortions. The Family Planning Federation of Canada has urged all provincial governments to “require all hospitals receiving public funds to provide abortion services.” M.P. Stuart Leggatt (NDP, New Westminster) demanded in the House of Commons in March, 1973, that there be an investigation of hospitals refusing to set up abortion facilities.²⁵ In January 1974 the official blueprint for a radically new system of provincial health care in British Columbia, written by Dr. Richard Foukes, recommended that all public funded hospitals with surgical facilities be required to perform abortions and sterilizations. At the same time the *Toronto Globe and Mail* in an editorial demanded the same thing. The editorial concluded with the following note:

It seems obvious that hospital boards should never have been allowed a choice in the matter. The Government should change the discretionary portion of the law and simply require hospitals which receive public grants to establish abortion committees.²⁶

Thus as the declarations of yesterday are forgotten, some people are prepared to compel everyone to participate in the acceptance of abortions.

Naturally, abortion has affected the medical personnel. Nurses are being taught that abortion is really quite acceptable; in spite of that many continue to find the destruction of life the antithesis of what they believe. Some nurses who refused to assist at abortions have been penalized by demotion or, if they are part-time nurses, have not been called up for duty. Gynecologists who are opposed to abortion are not being employed by hospitals where abortions are being done. Students in medical school who are opposed to abortion are advised to find a specialty other than obstetrics. Thus a new law which meant to clarify has become the source of confusion, division and discrimination. As for the psychological impact, I do not have statistics nor case studies showing how medical personnel are affected when they are busily saving lives on one floor while destroying them on another. But it would seem logical to conclude that abortion will ultimately affect the life-saving ethic of the medical

²⁵ One such hospital is Saskatoon's City Hospital, see *Star-Phoenix*, March 5, 1973. The F.P.F. resolution was reprinted in the Federation's News-letter, *Family Planning and Population*, Spring, 1973, Vol. 1. For Leggatt, see *Hansard*, March 27, 1973, p. 2643.

²⁶ For Dr. Foukes, see *CP* report, Saskatoon *Star-Phoenix*, Jan. 18, 1974, p. 26. The *Globe's* editorial was entitled “Law that denies equality,” Jan. 18, 1974.

profession.

I could continue discussing other effects related to the ones mentioned already: the present dilemma of doctors and hospital boards who feel trapped by what they consider to have been a *political* decision; politicians who do not know how to resolve the dilemma of choosing between contesting sides in a battle which they consider to be a *medical* affair; school authorities who are at a loss as to how to treat the subject within the educational program; churches which are moving further apart because of their diametrically opposed views on this subject; the revulsion of many people when they discover that scientists keep aborted foetuses alive for purposes of medical experimentation; etc., etc. Among the consequences which are not at all clear, is the effect of abortion on the Canadian family. If the opponents of abortion are correct, on the long range legal abortions will have a very pregnant effect on the family indeed.

Let me conclude by reminding you what the opponents of legalized abortion regard as the major evil: the introduction into our society of the principle of selective killing; the introduction and approval of the principle that the end justifies the means, that one may kill human life innocent of any crime in order to save the life of those already existing. This, they say, is the most important implication of legalizing abortion. If today, we permit the killing of those who are a burden because they are in an *early* stage of development and not yet born, then to-morrow, we will permit the killing of those who are a burden because they are in a *late* stage of life and no longer of any use.

Opponents of legalized abortion argue that if it is politically possible to repeal the amendment it should be repealed in order to return to sane tradition. They say that if the government permits or is forced to continue the present situation, the consequences of legal abortions will fester like an open wound, gradually infecting other areas. They argue that legalizing abortion has resolved nothing and that, on the contrary, it has added to new and graver problems which in their philosophical implications will create far more dangerous conflicts than the practical problem of how to stop illegal, backstreet abortions. For a society to have many illegal abortions, they say, is no doubt a very serious situation. It will be very difficult to stop them. But to *legalize* abortion is to corrupt the law, and thereby ultimately to corrupt society. It will prove far more difficult to stop that corruption than it will be to stop illegal abortions. Such is the view of opponents of legalized abortions.

We do not know how many Canadians are opposed to abortion. We do know that opponents of legal abortions are neither restricted to Roman Catholics nor do they number a mere handful. Lutherans, Mennonites, Pentecostals, Greek Orthodox, Jewish Orthodox, Evangelicals, Mormons, all

oppose it, not to mention some agnostics and such Presbyterians, Anglicans and United Church members who disagree with the various Task Forces or Boards of Evangelism of their Churches. Moreover, much more important than mere numbers is the character of the opposition, especially the tenacity of their convictions and the nature and depth of their argumentation. The latter appears to be formidable indeed. I conclude, therefore, that the Canadian debate about abortion is not yet finished.