

## APPENDIX "QQ"

## BRIEF

Submitted by the Catholic Hospital  
Association of Canada  
to the Standing Committee of the  
House of Commons on Health and Welfare

ON THE MATTER OF  
ABORTION

February 1968

312, Daly  
Ottawa 2.

The CATHOLIC HOSPITAL ASSOCIATION OF CANADA, representing the administrators of some 300 hospitals (comprising about 35 per cent of the total hospital services available to the Canadian public) recognizes the need to CLARIFY the present text of the Criminal Code on abortion, while remaining averse to proposals to "LIBERALIZE" it.

But BEFORE ANY CHANGES OF ANY KIND are contemplated, we urge that the whole question be thoroughly investigated and that better means of investigation be adopted than those at present being used.

Our brief is confined to an ADMINISTRATIVE question, that is, the practical problem that would confront hospitals if, without PRIOR consideration of all possible consequences, Parliament moved too hastily to legalize a practice considered morally repugnant to a *major part* of the Canadian population.

As the matter stands at present, Catholic hospital administrators are guided by norms of conduct which preclude their being involved in the actual business of procuring abortions and, in consequence, of providing any buildings, equipment and personnel under their administration for such a purpose.

We note that there is no question of their being obliged to change their present norms of conduct. ON THE CONTRARY, proponents of a "liberalized" abortion law admit that it should exempt those who object to being involved in procuring abortions.

However, we fear that any such exemption clause would be a "pseudo-solution" in that, far from making the law agreeable to all concerned, it would only be another source of division for our Canadian society. Hospitals would be divided into "consenting" and "dissenting" groups. The former would have to bear the whole load of a new class of clients (which, as the experience of other countries shows, could build up in a few years into hundreds of thousands) on top of their already overtaxed hospital services. They will no doubt come to resent being left with what doctors admit to be "distasteful" work. Relations will be strained between the two groups of hospitals. This will have repercussions on the communities they jointly serve and provide another severe cause of dissension at a time when Canadian unity is already sorely menaced.

We, therefore, urge that the full implications of any such "solution by exemption" be studied BEFORE, NOT AFTER, having recourse to it.

This and other problems considered in other briefs are of a gravity and complexity such that we feel that the only adequate means to study the whole question with the thoroughness it deserves would be a Royal Commission.

Respectfully submitted on behalf of the Catholic Hospital Association of Canada and its Board of Directors to the Parliamentary Committee on Health and Welfare by:

Maurice Dussault, O.M.I.  
Executive Director.

Date: February 8, 1968.

The purpose of this brief is solely to recommend that the fullest possible investigation be made into the matter of abortion, Nos. 1-6

I Catholic hospital administrators are guided by norms of conduct which preclude their supplying means for procuring abortions, Nos. 7-10

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**WE THEREFORE RECOMMEND** that your Committee espouse the proposal that nothing less than a Royal Commission can be regarded as an appropriate means of enquiry in this case, No. 30

The purpose of this brief is solely to recommend that the fullest possible investigation be made into the matter of abortion

1. In conveying to your Committee the aversion of the Catholic Hospital Association of Canada to any measures designed to broaden the legal grounds for abortion, we do not wish to imply that the existing text of the **Criminal Code on this subject should remain as it is. We admit that it needs to be clarified.**

2. The term "abortion" in this brief refers only to the act of directly and deliberately killing a human foetus in the hope that, in consequence, such killing will benefit the mother of the foetus or society. We do not refer to what is sometimes called "indirect abortion" which results concomitantly and unavoidably from a medical intervention primarily directed at achieving a purpose other than the death of the foetus.

3. Many of our 300 hospitals which together form a considerable part of the total health services of the nation, are the sole hospital of their particular community.

4. The concern of Catholic hospital administrators for all forms of suffering, physical and moral, is a sacred heritage handed on to them by predecessors who began the task over 300 years ago of covering the huge extent of

Canada, from East to West and to the far North, with well constructed, well equipped and competently staffed hospitals. For it happened that, in the division of the tasks of building our nation, that of founding and developing of our Canadian hospital system was undertaken almost entirely by Catholic hospitaliers.

5. Today, the concern for suffering which we share with all hospitals, prevents us from being indifferent to the plight of women who feel so menaced by what are called "unwanted pregnancies" that they are ready to consent to the desperate measure of abortion. They have our sympathy quite as much as that other category of persons who are also said to be very numerous and who are also inclined to resort to the taking of life (their own) as the sole means of escape from what seem to them to be intolerable difficulties. We join others in urging that the public policy, dictated by compassion, should be: these women must not be left to face their difficulties alone. The resources of the nation must be brought to their aid. But first, there must be a profound examination of the entire problem and its root causes.

6. The sole recommendation of this brief, therefore, is that no time should be lost in initiating the fullest possible investigation of the problem of abortion, especially in the context of our Canadian society.

#### I

Catholic hospital administrators are guided by norms of conduct which preclude their being involved in procuring abortions by supplying the necessary means

7. No arguments have as yet come to our attention which convince us that the principle of the inviolability of innocent life should no longer be invoked in favour of human offspring conceived, but not yet born.

8. We do not see why the very defencelessness and utter dependency of human beings in the prenatal stage of development should not constitute a special title to our compassionate protection as well as that of the law.

9. We know of no satisfactory arguments, nor even of a consensus in the medical profession generally, for the opinion that abortion, except for the rare instances when desperate measures are called for to save the life of a pregnant woman, can truly be

regarded as a therapeutic means to preserve her physical and mental welfare.

10. *Conclusion*: Our administrative policy is to object to providing the means to procure abortions, such as the buildings, equipment and personnel under our direction.

## II

We urge that all pertinent facts and statistics on abortion be obtained before even contemplating the possibility of changes to the law

11. Administrators must be guided, not only by norms of administrative conduct, but also by factual considerations. In this connection, we understand that there is considerable dissatisfaction in Great Britain over the rapidity with which new abortion legislation was put through before even the facts of the so-called "illegal abortion" problem had been established. This dissatisfaction is evidenced by a petition that was circulated (by a committee of non-Catholics) that a Royal Commission enquire into the matter before it was legislated upon, a petition which is said to have obtained half a million signatures. An article written by a British member of parliament, Norman St. John-Stevas, published in the periodical *AMERICA* (Dec. 9/67) states:

The first point that can be made is that the English debate shows the folly of rushing into legislation without adequate investigation of the facts and discussion of the issues. It became clear after the abortion bill had been introduced that no one had any reliable information about the incidence of illegal abortion, and that the statistics about legal abortion were also inadequate. Many estimates were offered, in the press and elsewhere of the number of illegal abortions taking place each year, the most popular figures ranging between 50,000 and 100,000, but on examination these turned out to be nothing better than guesses. Newspapers constantly used the figure of 100,000 but they were merely reproducing each other's estimates. The source of this figure appears to have been propaganda published by the Abortion Law Reform Association. The only scientific investigation carried out, that by Dr. C. B. Goodhart, based on a comparison of the maternal mortality rates in and outside hospitals, showed that the 100,000 figure was in all probability a fantastic exaggeration. Dr. Goodhart, in an article "The Frequency

of Illegal Abortion", published in *Eugenics Review* for January, 1964, suggested that the figure was much more likely to be in the region of 10,000 a year.

12. We note that proponents of liberalized abortion in Canada urge it as a remedy for a situation caused by illegal abortions of which they give estimates varying from 100,000 to 300,000 annually. Yet 100,000 is a figure objected to as fantastic for Great Britain whose population is  $2\frac{1}{2}$  times greater than that of Canada.

13. But even admitting, for the sake of argument, that the incidence of illegal abortions in Canada is such that we should seriously consider legalizing abortion, we do not know of any statistical information to indicate that such a measure would in fact be a remedy. We know that measures far more radical than that being proposed for Canada have been adopted in countries like Japan, USSR, Scandinavia, Poland, Hungary, Roumania, Bulgaria, etc., as far back as 10, 15, even 20 years. It seems strange to us that it should have been announced in the press that the presentation of a bill legalizing abortion would be given "high priority" in the current session of Parliament before any information is available to our legislators regarding the experience acquired in countries which have already had legalized abortion for many years. We find it stranger still that this Committee should have already recommended to Parliament, before it has finished taking evidence, that the grounds for abortion be extended in Canada.

14. *Conclusion*: If a hospital administrator neglected to obtain all pertinent facts and statistics about a given situation with which he was confronted, before proceeding to the question of what changes in policy that situation might require, his hospital would soon be in a mess. How much more Parliament should provide itself with complete information on such a grave matter as abortion before even thinking in terms of legalizing it.

## III

We fear the implications of applying the principle of "conscientious objection" to our situation in Canada because it will be just another element of division

15. We note that it is the intent of proponents of new abortion laws to remove abortion from the category of being a criminal

offense but at the same time to recognize it as an act morally repugnant to a segment of the population.

16. This intent is manifest in Section 4 of Bill C-136; in the bill presented to the British House of Parliament, copy of which has been inserted in the reports of the proceedings of this Committee; in the actual law passed by the same British House of Parliament; in what has been called the "model law" of the American Law Institute; and in the actual law—the first in the U.S.—passed by the State of Colorado, copy of which is also inserted in the reports of the proceedings of this Committee.

17. The proponents of all these projects of law, and of the two actual enactments of law in Great Britain and Colorado, evidently believe that those who object to the provisions of the law are entitled to invoke the principle of "conscientious objection", a principle established in regard to those who are averse to the taking of life "in casu belli".

18. The principle of conscientious objection was established at a time when it applied to a comparatively small group of persons, whose attitude could be considered to be of marginal concern and even to be somewhat eccentric. Abortion, however, is a problem of a quite different kind, and of vastly different dimensions, especially in Canada where the objectors are certainly going to be a major part of the population.

19. Section 4 of Bill C-136 is practically word for word the same as Section 4 of the bill presented to the British House of Commons, which reads as follows:

No doctor, nurse, hospital employee nor any other person shall be under any duty, nor shall they in any circumstance be required to participate in any operation authorized by this Act to which they have a conscientious objection, provided that in any civil or criminal action the burden of proof of conscientious objection shall rest on the person claiming it.

20. However, in the Abortion Act of 1967, actually passed by the British Parliament, the exemption clause had been somewhat modified:

...no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by this Act to which he has a conscientious objection.

21. Whether or not it is proposed that a Canadian law should incorporate one or the other of these formulas as a clause for conscientious objection, it must not be overlooked that our sociological situation is not the same as that of Great Britain. The situation in the United States is one which better approximates that of Canada since Christian institutions have contributed enormously from the beginnings of both countries to building up their respective hospital systems. Today, as in Canada, there are a great number of U.S. hospitals under religious administration. This situation is reflected in the so-called "model law" of the American Law Institute, and specifically in the Colorado State law, which has been enacted. Section 4 of the amendment 40-50-52 to a previous Colorado law states:

*Failure to comply:* Nothing herein shall require a hospital to admit any patient under the provisions of this act for the purpose of performing an abortion, nor shall any hospital be required to appoint a special hospital board as defined in this act.

22. If the hospitals of our Association were exempt from the provisions of a similar Canadian law, many of which hospitals are the sole available in their communities and all of which form a considerable part of the Canadian hospital system as a whole, this would obviously create something of a hiatus and place our hospitals in an invidious position. Many people (perhaps more than 50 per cent) in Canada would regard the hospitals who remained aloof as superior or nobler institutions because they would think them to be showing a greater respect for the sacredness of human life by the fact of extending this respect to the prenatal stage of development. This would be a distinction that the hospitals of our Association would not be happy to enjoy as it might well prove to be a source of dissension and create a certain animus between us and the other group which would be involved in the business of procuring abortions.

23. If great numbers of women are encouraged by the legalizing of abortion to take advantage of it—a phenomenon which seems to happen wherever liberal abortion laws are introduced—this will tax the facilities of our hospital system in Canada, already overburdened, and expecting to be further burdened by the added load of Medicare. The

abstention of the hospitals of our Association may result in the other hospitals being largely devoted to what is frankly regarded by doctors as a "distasteful" kind of work, with less time and facilities for the more satisfying or life-giving aspects of hospital work. This kind of division of labour, with the consenting hospitals getting all the abortion work and the dissenting hospitals getting nothing but the satisfying work, would quite likely lead to an ever deepening rift between the two groups of hospitals, extending to the communities they jointly serve.

24. It would seem advisable to remember that Canada is already in the throes of a severe crisis over linguistic and cultural divisions, threatening our very existence as a nation. This does not seem to be an opportune time to introduce another cause of deep dissension by moving rapidly towards legalizing a practice which a large section of Canadian society—perhaps a majority—abhor as gravely immoral and which, after all, is being imported mostly from countries whose philosophy of life is alien to that generally accepted by Canadians.

25. *Conclusion:* We believe that careful cognizance should be taken of the grave implications of introducing a practice which will force our population abruptly into taking sides "pro" and "con", a division which will be consummated, not resolved, by the principle of conscientious objection. If the proponents of abortion hope that eventually the nation will become united on this issue, then the possible grounds of such unity should be sought BEFORE, NOT AFTER precipitating the division.

#### IV

We urge that the gravity and complexity of this question require a better method of enquiry than the limited resources of a Parliamentary committee

26. Our conclusions as hospital administrators prompt us to urge that the question of abortion be not moved into preliminary legislative stages until the Canadian public as a whole has had an ample opportunity, and has been provided with the best means, to realize all the grave and complex factors involved. This has been the policy followed in regard to our linguistic and cultural divisions. The question of abortion should be regarded as sufficiently serious to merit the same consideration.

27. A public enquiry of the kind required by the manifold and difficult aspects of the question of abortion is, we respectfully submit, beyond the possibilities of a Parliamentary committee. Even the statistical aspect of the matter cannot be said to have been satisfactorily dealt with so far in the meetings of this Committee. It must ask itself, is it within its possibilities, or even within its power, to obtain figures a) of the actual problem of illegal abortions in Canada; b) of the statistical probabilities, determined by the experience of other countries where legalized abortion has long been in practice, that its proposed law will be a remedy to the problem of illegal abortions.

28. We note that the brief of the National Council of Women of Canada shows a preference for a Royal Commission of enquiry as the appropriate means to obtain knowledge of all pertinent facts and aspects of this matter. This we consider not only as an excellent proposal, but indispensable, given that the situation in Canada greatly differs from that of pro-abortion countries in which the practice of abortion has taken root, especially the Communist countries whose philosophy of government and life is not that of Canadians and may be the real reason why such countries see nothing repugnant in abortion.

29. We are sure that there are a great many Canadians of various faiths and philosophies who, like ourselves, will be troubled to the very depths of their civic conscience, by the prospect of a serious breach of the principle of the inviolability of innocent life arising from the promotion of legalized abortion. We can well understand how little this principle means to most of the countries which have legalized abortion, since their ideologies are based on the superiority of the state over the individual and the right to life is, of course, a personal right of the individual. In any event, surely all Canadians will feel that they will have a far greater likelihood of obtaining better guidance for their consciences were such a method of enquiry as a Royal Commission to be resorted to in a question which, after all, is literally one of life and death, not only for the individual, but for any given nation.

30. *Recommendation:* We therefore ask this Committee to espouse the proposal of a Royal Commission. Only in this way, we would add, would the laborious efforts of this Committee

be brought to a satisfactory conclusion since the work it will have accomplished would provide a useful start for the work of a non-partisan and more judicial body such as a Royal Commission, armed with the means and authority to go deep into the roots of the

question, and to make an exhaustive effort to establish the factual or statistical aspects in a non-partisan manner, not only in Canada but in regard to the countries whose example we are being urged to emulate, without knowing just what their example consists of.