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Hon. C. William Doody (Deputy Leader of the Government): I will certainly pass that along to the appropriate department.

PENITENTIARY ACT

BILL TO AMEND—STATUS REPORT

Hon. Earl A. Hastings: Honourable senators, before the Orders of the Day are called, may I briefly give an update report on the progress of Bill S-19, an act originating in this chamber, which amends the penitentiary Act to reinstate the statutory visitation privileges of Members of Parliament.

Bill S-19 was given first reading in the House of Commons on January 21, 1991, and was considered by the Standing Committee on Privileges and Elections on January 22, 1991, together with those private members bills originating in the House of Commons, which were placed on the order of precedence at the end of December, 1990.

The Standing Committee on Privileges and Elections is responsible for deciding which private members bills and motions must come to a vote. Votable bills are protected in that they cannot be talked out without a decision. They are moved to the bottom of the order of precedence after each hour of debate until the fifth hour, when the Speaker will interrupt the debate to put the question.

The Standing Committee on Privileges and Elections, in its twenty-second report, honourable senators, designated Bill S-19, standing in the name of Mr. Nunziata, as a votable item. This is the first time that the standing committee responsible for private members business has selected a senate bill as a votable item.

ABORTION

THIRD READING—DEBATE CONCLUDED—DIVISION DEFERRED

On the Order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips, for the third reading of the Bill C-43, An Act respecting Abortion.—(*Honourable Senator Nurgitz*).

Hon. Nathan Nurgitz: Honourable senators, I yield to my colleague, Senator Johnson.

● (1200)

Hon. Janis Johnson: Honourable senators, I wish to join the debate on Bill C-43 and begin with some quotes from submissions made by witnesses to the Standing Senate Committee on Legal and Constitutional Affairs, and from others, concerning this bill.

The first brief from which I would like to quote is from the Legal Education Action Fund for Women and is dated January 19. In it appears the following: "The core problem with the bill is that it labels as criminals women who seek abortions on

the basis of their own priorities and aspirations if these priorities do not coincide with those of a doctor and the state."

The Society of Obstetricians and Gynaecologists of Canada stated in November, 1990: "The decision to perform an abortion should be considered a medical one and, as such, the issue of therapeutic abortion should not be included in Canadian criminal law."

The Tories for Choices stated in 1990:

It has now been two years since the former Criminal Code legislation was struck down by the Supreme Court of Canada. Available data show no significant increase in the number of women seeking abortions. Women have continued to adhere to the same high standards of practice that characterize the delivery of all medical procedures.

I now wish to quote the eloquent words of the Honourable Barbara McDougall, who, in May 1988, said:

There is no question that the issue is a moral issue. The question is, who is to make that moral judgment; the court in its red robes and ermine, the church in its silk robes and rings, or politicians in the green chamber, people like us, men and women of ideals and principle? ... Why are any of us in a position to make this judgment best? Why is the woman who is carrying the child not the person who can make that judgment best? Do we honestly believe that she who has the life within her will make a worse decision than us?

Lastly, I wish to quote the comments of the Honourable Kim Campbell, the Minister of Justice, when she addressed the standing committee on January 18, 1991: "Personally, I am comfortable without legislation." She went on to state that Canadians were uncomfortable and that that is why we have this bill. She said: "In a sense it puts the medical code into the criminal code." I say, fellow senators, why is it there?

I could regale you today with hundreds of other quotes from associations, societies and women across Canada about the importance of defeating this regressive legislation. It is not the right bill for our times. It does not reflect the realities of the 1990s and the fact that women have rights and equality under the law and the Charter. It takes us to pre-1969 and the days when women had absolutely no control over their reproductive lives—we were so powerless that to have a tubal ligation required the husband's signature. We had no choices then, and the freedoms we have achieved in the last 20 years have been hard-fought battles all the way. Power is not easily surrendered, and that is the issue here. Women have the right to decide what is best for them, just as men do, and this bill denies our rights, for it recriminalizes a procedure we have a right to access, if that is our decision.

I have listened patiently to the debate. I know that senators speak from their own convictions. But no matter where one stands, let us be fair—no one here is not "pro" life. That is the worst and most offensive misnomer I have ever heard. It implies that people who are against the bill, or who believe

that women should choose on this matter, are somehow against life itself. It is absolutely crazy.

I have given birth. I have nurtured a child. I have had a baby die. I hold life sacrosanct. It is precious, and so are our children. No woman is against a fetus. It is not a question of that; it is a matter of a woman's health when her physical and mental well-being may be seriously compromised by following through with an unwanted pregnancy.

This bill will hurt women, for it will limit access by causing delays in the system. Doctors are going to stop doing the procedure. Already today 14 per cent fewer doctors perform the procedure than was the case before May. They do not need the aggravation of potential lawsuits and the responsibility of sole decision-making. Who does?

I come from a family of physicians, men and women. I have seen their soul-searching on this issue and others. I know their sensitivities and respect their worries about such legislation. They are not bluffing or reacting just for something to do. They care, like we all do, about doing what is in the best interests of everyone. But the bottom line of this bill is—is it necessary, or, as grandma used to say, “When something is working, don't fix it!” The situation in Canada was working, especially since the 1988 Supreme Court decision.

Many years of working on women's health issues have shown me, above all else, that no one likes abortion or takes the decision lightly; some 99 per cent of women do not use abortion as a means of birth control; every woman who has one is emotionally affected; recriminalizing abortion will only hurt the very people we are trying to help most—the poor woman, the teenager, the single mom. Believe me, those who can afford it have other options than our system, and they use them.

Above all else, a woman who decides on an abortion will get one somehow, some way. After the agonizing comes action for a woman in this situation, and, if desperation sets in due to accessibility problems, delays, bureaucracy, or the like, she will resort to other means. That is unacceptable to me in this country today. We need to support women in their choices and not to continually challenge and defeat them because they are not in control of our society.

Women do not make the rules they have to live by. Yes, we are impacting more, but we still live by men's decisions in every aspect of our lives. Where does our freedom lie?

On this issue, trust me, I represent a large spectrum of popular opinion. I am of the post-war generation, the baby-boom crowd, as they call us. As a woman, I am offended by this bill. As a new senator, I feel a tremendous responsibility to fight it for the thousands of women who cannot speak to the issue and be heard themselves.

I thought that I would pass on this debate because the bill is so controversial, and I know how my government feels. I am also very loyal and respect my Prime Minister greatly. But the time comes in life when one must stand up for one's beliefs, for one has to live with oneself. I have never shied away from the principles I hold dear, and now is not the time to compromise on that score. The dignity of women is at stake. Our funda-

[Senator Johnson.]

mental right to choose is severely compromised by a law that will recriminalize a health procedure. Once again we are the scapegoats for people trying to find a way out of an issue that was best left alone. I know in my heart that we can do better.

In closing, let me say that the best way out of this situation is through education, counselling, and openness with our young people on sex education and family planning. Some progress has been made in this area, but not nearly enough attention is paid to family life programs in our schools and in our communities. The federal and provincial governments have to work in this area together. In fact, with the ever-changing family situations in our society, the Canadian family in the 1990s is an area of major concern. But that is another discussion for another time.

For today, this is a vote according to one's conscience. I was told that initially. I can respect anyone who votes that way. But if honourable senators vote on this bill on any other basis, then they are doing a great disservice to themselves and to the men and women—especially the women—of Canada.

Some Hon. Senators: Hear! Hear!

The Hon. the Speaker *pro tempore*: Honourable senators, if no other senator wishes to speak in debate on this motion—

POINT OF ORDER

Hon. Stanley Haidasz: Honourable senators, I rise on a point of order. On Tuesday last, when I was presenting my seven amendments to Bill C-43 I wanted to speak on my fourth amendment concerning a conscience clause.

Hon. C. William Doody (Deputy Leader of the Government): Has Senator Haidasz not already spoken in this debate?

Senator Haidasz: I have risen on a point of order.

Senator Doody: If the honourable senator has already spoken, then I am afraid the rules are very clear. If he wishes to speak again, he will have to ask leave of the Senate.

Senator Haidasz: Honourable senators, I rose on a point of order to state that on Tuesday last, when I was trying to make a speech to explain the reason for my fourth amendment for the inclusion of a conscience clause for health personnel in Bill C-43, I was interrupted by another point of order made by Senator Nurgitz. He had the right to do that. However, it prevented me from giving an explanation of my amendment.

● (1210)

With leave of the Senate, I ask that I be allowed to make a few remarks about the conscience clause that I proposed.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Leave is not granted. If no other honourable senator wishes to speak on this motion, the debate is considered concluded.