IV. ABORTION

A. Introduction

This Chapter of the Report includes reviews of new Commonwealth abortion legislation, and key litigation in the general area. It also discusses new executive observations on relevance of the leading English ruling in the 1938 Bourne case to Commonwealth legislation. In addition, it considers how cases have addressed issues of spousal consent and parental consent, which has tended to be in favour of freeing women's decisions from the control of others.

Although the thrust of legislation and litigation has been towards liberalization and decriminalization, opposition to such a thrust has remained active. In a number of jurisdictions, legislation has been proposed which would limit the legality of or access to abortion services. In mid-October 1983 in the New Zealand Parliament, for instance, a Private Member's Bill, the Status of Unborn Children Bill, was defeated. The Bill was aimed at abortion rather than either contraception or contragestion (see Chapter II, D, above), defining "unborn child" as a human embryo or fetus "at any time after implantation" (section 3). Its provision in section 5(2) that "There shall be a presumption that every unborn child will in the natural course of events be born alive" raises interesting conflicts of legislative presumption and scientific fact, since mounting scientific evidence indicates a very high rate of spontaneous embryonic loss. Section 5(3) provides that the presumption may be rebutted by evidence on a balance of probabilities. Professor David Baird, of Edinburgh University's Centre for Reproductive Biology has observed that "only about one fertilized egg in four results in a viable offspring" (Introduction, Abortion: Medical Progress and Social Implications, Ciba Foundation Symposium 115 (1985)). Whether the bulk of loss occurs before or after implantation is a scientific matter that would have been relevant to operation of the proposed presumptions.

A Private Member's proposal in the Saskatchewan provincial legislature of Canada to limit access to abortion services was held unconstitutional in December 1985 by the Saskatchewan Court of Appeal, on the ground that the Bill purported to affect criminal law, which is a federal responsibility. The comparable attempt by Mr. Joseph Borowski to limit availability of abortion through constitutional challenge before the Saskatchewan Court of Appeal awaits decision, as does the opposing constitutional challenge to restriction of abortion maintained by Dr. Henry Morgentaler. His challenge before the High Court and Court of Appeal of Ontario has failed (see D, below), and the appeal is pending presentation before the Supreme Court of Canada.

A theoretical expansion of abortion availability has occurred where several Commonwealth jurisdictions' abortion legislation recognizes rape as a ground. In the early history of the Common law, it was accepted that a husband could not be guilty of raping his wife. He might be convicted of assault, or of related violence, depending upon local law, but, as the classical texts observed, "... the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract" (M. Hale, The History of the Pleas of the Crown (Emlin ed. 1736) at p. 629). The proposition cited no authority, and has been questioned on the ground that in fact, it lacks legal authority. Further, some courts have distinguished cohabiting spouses from those living separate and apart, whether or not by judicial order of separation, and have considered rape convictable in the latter case. Increasingly, however, legislation is providing that in principle husbands are convictable of rape of their wives. Where legislation also provides a rape indication for abortion, a wife made pregnant in this way by her husband may avail herself of lawful abortion no less than any other woman.

It is a matter of speculation whether legal acknowledgement of spousal rape would increase recourse to abortion to any appreciable degree. Where pregnancy follows such an offence, abortion may be accommodated under a mental health indication. In New Zealand in 1984-85 for instance, the Report of the Abortion Supervisory Committee for the year ending 31st March 1985 shows that of 7275 abortions, 6965 were due to serious danger to mental health, and a further 174 involved serious danger to physical and mental health (Report at p. 10). Alleged rape was a factor in 78 cases of the 7275. The potential for a husband to be convicted of rape of his wife has been accepted, however, by Commonwealth judgments and proposed legislative changes that are explicit, or that are implicit in, for instance, replacement of rape by various other sexual offences of which husbands can be convicted when their victims are their wives.

Where rape laws are retained as such, a number of Commonwealth jurisdictions are moving to make them applicable between husband and wife. It has been held in Scottish law that a husband has no immunity in principle from rape liability against his wife (H.M. Advocate v. Duffy, [1983] S.L.T. 7 (H.C.)), and in another case where the couple were living apart in accordance with a judicial order, the Full Court of the Supreme Court of Victoria refused leave to appeal against a husband's conviction (R. v. McMinn, [1982] V.R. 53). The English Criminal Law Revision Committee in its Report Sexual Offences (H.M.S.O. Cmnd. 9216, 1984) divided on rape between co-habiting spouses, but recommended liability when the two do not live together. In Australia, however, it has been proposed in the Australian Capital Territory, New South Wales, South

Australia, Tasmania and Victoria that spousal immunity from rape liability be partially or totally abolished.

A particularly sensitive issue regarding abortion concerns that undertaken following prenatal genetic diagnosis disclosing the female gender of the fetus. The knowledge may be a by-product of genetic testing performed to diagnose genetic abnormality, or itself be the goal of prenatal testing such as amniocentesis or chorionic villus sampling. At the February 1985 World Congress on Law and Medicine held in New Delhi, India, evidence of sex-based abortion was presented which aroused considerable discussion. Abortion due solely to fetal sex was believed by some to be symptomatic of the devalued status of girls and women in the societies in which it is practised. To others, its condemnation reflected an attempt at "ethical imperialism", through which the values developed in one region of the world were being transmitted across geographical and political boundaries to regions whose value-systems were different but no less worthy of respect. The explanation was offered that sex-based abortion, which might be of male fetuses as well as of female, is a proper extension of family planning, and legitimately serves the wishes of parents with several children of one sex who want one of the other sex. It is observed to be not necessarily the case that parents prefer boys to girls, and that if that preference is present, it will not endure in society since a scarcity of children of one sex will soon result in their raised status.

Counter-arguments were presented that in countries pursuing policies aimed at one-child families, that child is likely to be preferred to be male, and that in any event in multi-child families preference might be to have a boy first and then a girl, perhaps balancing the birth rate of the sexes but producing a society whose women are accustomed from birth to the status of being second and to the role of being socially led by a male. This opposition to sex-based abortion was itself resisted by the claim that, if it is undesirable, the remedy lies not in mandating parents to suffer the socio-economic disadvantages of having a daughter, and mandating the daughter herself to endure a disadvantaged life, but in redressing the disadvantages. That is, it was claimed that if women were to have equal opportunities with men in the labour force, in career and professional opportunities, in inheritance rights, in the capacity to provide for their families and, for instance, to give their children their family names, the birth of a girl would not be considered a disadvantage to families in contrast to the birth of a boy.

States Parties to the Convention on the Elimination of All Forms of Discrimination Against Women are obliged to seek to reduce not only the stereotyping which may induce parents to prefer boys over girls, but also the economic, social and other

circumstances which may make such parental choice rational. Parental preference reflected in sex-based abortion may be a symptom rather than a cause of women's low status in many Commonwealth societies. It is often the case that abortion is conditioned by a variety of social inequities that attacks concentrated on abortion alone conceal, and thereby perpetuate.

There is reason to believe that liberalized abortion laws save women's lives, and protect the welfare of children and families that depend on women's well-being. A ten-year study of abortion-related deaths at Kenyatta National Hospital in Nairobi, Kenya, ending in 1983, concluded that

> "The study clearly shows that illegal abortion is an important cause of maternal death among admissions for abortion in Kenyatta National Hospital, accounting for 80 % of such deaths" (S. Wanjala, N. Murugu and J. Mati, "Mortality due to abortion at Kenyatta National Hospital, 1974-1983" in Abortion: Medical Progress and Social Implications (1985) Ciba Foundation Symposium 115, 41 at p. 47).

Septic abortion with its complications accounted for 97.4 percent of deaths from induced abortion (ibid.) The success of liberal abortion laws is shown in Singapore, of which it has been observed that

> "One of the most important objectives underlying the move to legalize abortion in Singapore was to discourage illegal abortion and thereby reduce the mortality and morbidity associated with abortions performed under unsafe conditions" (A.J. Chen, S. Emmanuel et al.," Legalized Abortion: The Singapore Experience" (1985), 16 Studies in Fam. Planning 170 at p. 177).

The law was first liberalized in 1969. Septic abortion cases admitted to government hospitals fell from 350 in 1964 to 28 in 1974 (see ibid.) and it has been found that "With the further liberalization of abortion laws in 1975, the number of septic abortions diminished to a negligible amount" (ibid.).

Even liberalized abortion laws may preserve pockets of inequity. Britain's Abortion Act 1967 remains inapplicable to Northern Ireland, where women unable to afford to travel to England, Wales, or Scotland are denied protection enjoyed by other women in the United Kingdom. An estimated 1,600 women each year from Northern Ireland have abortions in England (Sunday Telegraph, London, Oct. 31, 1982).

B. New Legislation

A number of Commonwealth jurisdictions have enacted laws liberalizing provisions on abortion since the publication of Emerging Issues in Commonwealth Abortion Laws, 1982. The new Acts have not endorsed legitimacy of the abortion option with enthusiasm, but have primarily represented exercises in damage control. They recognize the inescapable incidence of abortion and aim to channel it into safe, lawful hands rather than to keep it in unsafe hands of unqualified practitioners and of women acting on themselves. In contrast, a recommendation for decriminalization of abortion was made in the 1986 report A Feminist Review of Criminal Law commissioned by the federal agency Status of Women Canada, in order to afford women control over their reproduction and sexuality, and to end inequity in access to services. Rather than embrace such libertarian principles, the new Acts are limited pragmatic attempts to deal with countries' harmful abortion experiences.

Following several years of deliberation, including in some cases consideration of alternative models, Barbados, Bermuda, Ghana and Montserrat have recently enacted laws for the legitimate performance of abortions. Against a background of considerable abortion experience and almost no prosecutions (see P.K. Menon, "The Medical Termination of Pregnancy Act 1983 (Barbados)", 34 Int'l and Comp. L.Q. (1985) 630), Barbados decriminalized abortions by distinguishing between pregnancies of not more than 12 weeks' duration, those of 12 or more weeks' duration but not more than 20 weeks', and those of 20 weeks' duration or more. Where a pregnancy does not exceed 12 weeks' duration, it is lawfully terminable when an individual medical practitioner acting in good faith is of the opinion that continuance of the pregnancy would involve risk to the life or grave injury to the physical or mental health of the pregnant woman or that there is substantial risk that a child, if born, would suffer such physical or mental abnormalities as to be seriously handicapped. In determining risk to health, "the medical practitioner must take into account the pregnant woman's social and economic environment, whether actual or foreseeable" (Medical Termination of Pregnancy Act, 1983, s. 4(3)). Further, the woman's written statement of her reasonable belief that pregnancy was caused by rape or incest "is sufficient to constitute the element of grave injury to mental health" (s. 4(2)).

The same indications govern pregnancies of 12 or more weeks' duration but of under 20 weeks, but they must be found by two medical practitioners (s. 5). For pregnancies of 20 or more weeks' duration, 3 registered physicians must be of the opinion that termination is immediately necessary to save the woman's life or to prevent grave permanent injury to the physical or mental health of the woman or her unborn child (s. 6). Termination of any pregnancy exceeding 12 weeks'

duration must be conducted in an approved hospital (s. 9). Nevertheless, where abortion appears immediately necessary to save the life or prevent grave permanent injury to the physical or mental health of the woman, provisions relating to the number of medical opinions and place of performance of the procedure do not apply (s. 11).

Immediate necessity also renders inapplicable the Act's conscience clause (s. 10), and also its consent provision which in other cases requires that "a medical practitioner may require the written consent of the pregnant woman before administering treatment for the termination of pregnancy" (s. 8(1)). Since a practitioner in a routine case has a discretion but no duty to obtain consent in writing (the practitioner "may", but not "shall", require written consent), it may appear that in emergency the practitioner may dispense not only with writing, but also with consent itself; that is, on immediate danger to the woman's life or permanent health, abortion may be undertaken without her consent. This is reasonable where she cannot give consent, for instance when she is unconscious or sedated, but may raise difficulties when she is competent to decide to risk her life or health for her unborn child, and determines to do so. When she is responsible for the welfare of other dependent children, her choice may appear irresponsible, but when it is based on conscientious convictions, the choice may weigh heavily in the balance.

When the pregnant woman is aged under 16 years or is of unsound mind, her parent's or guardian's written consent is required (s. 8(2)), except in the above-described condition of immediate necessity. Outside such condition, however, the Act appears to supersede the position at Common law established in the Gillick case, recognizing autonomy of the "mature minor" (see Chapter II, B, above). It is not clear from the Act whether the necessary parental consent to asbortion of a person aged under 16 years is itself sufficient consent, or whether a young person of adequate understanding could refuse to submit to an abortion with legal effect. Her refusal might justify a medical practitioner's decision not to abort her even when parental consent has been given. Since adults' refusals of consent may not prevent emergency abortions to save their lives or permanent health, however, a person aged under 16 may be aborted without her agreement in comparable conditions of emergency.

Under authority of the Act, the Minister responsible for Health has made regulations which emphasize and implement physicians' duties to be familiar with counselling functions, and to give or ensure availability of appropriate counselling before terminating pregnancies. Counsellors must advise on alternatives to abortion, on the consequences both of having and of not having abortions, and on methods of contraception

and availability of family planning services. The Act also permits regulations to be made on residence requirements a woman must satisfy in order to be eligible for services under the Act, perhaps for the purpose of preventing Barbados from becoming a centre for abortions in its region. Existing regulations indicate that no need has been found for such control to be exercised.

Shortly after Barbados amended its law, Bermuda became another Commonwealth country in the region to amend its abortion law. The Criminal Code Amendment Act 1983 became operative in August 1983 immediately on enactment. Its effect is to add new sections 196A to 196D to the Criminal Code, exempting from liability to the conventional prohibitions of abortion both qualified medical practitioners and their assistants who act in good faith in designated hospitals to procure miscarriages, and the pregnant women who thereby permit themselves to be aborted. This is lawful, however, only when the hospital's therapeutic abortion committee has by majority certified its opinion that pregnancy resulted from incest or rape, that continuation of pregnancy, however arising, would or would be likely to endanger the woman's life or health, or that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

These latter indications reflect in general those provided by Britain's Abortion Act 1967, but the mechanism of therapeutic abortion committees constituted in designated hospitals reflects the regulatory system created in 1969 in Canada. It differs only in minor ways, such as in copying the committee structure of three doctors but expressly requiring that at least one of them be a qualified psychiatrist. The Act repeats Canadian practice of permitting but not compelling designated hospitals to establish committees. Whether committees will be established, and whether hospitals, physicians or prospective patients will press the Minister responsible for Health to designate sympathetic hospitals for purposes of the Act, remains to be seen. The Act names The King Edward VII Memorial Hospital as capable of having a committee, and the inference may be that this centre will be equipped to bear main responsibility for abortions. It will be interesting in years to come to see if experience in Bermuda repeats the inequity in provision of access to services found in Canada by the Badgley Committee in 1977 (see R.J. Cook and B.M. Dickens, "A Survey of Abortion Laws in Commonwealth Countries" in Three Studies of Abortion Laws in the Commonwealth, Commonwealth Secretariat (1977) at pp. 42-44).

In Ghana, the Criminal Code (Amendment) Law, 1985 substituted new provisions on abortion for those previously existing in the Criminal Code. Section 58(1) now contains the standard prohibition of acting to procure miscarriage by a woman herself, or by any other person on a woman whether she is pregnant or not, and

includes related offences of supplying things knowing that they are to be used for abortion. Section 58(2) provides an exemption, however, where continuance of pregnancy would involve risk to a pregnant woman's life or injury to her physical or mental health, or where pregnancy results from a sexual offence such as rape or incest, or where there is substantial risk that, if the child were born, it may suffer from or later develop a serious physical abnormality or disease. The procedure must be undertaken by a registered physician specializing in gynaecology, or by any other registered physician acting in a government hospital or in an approved private hospital, clinic or other place.

It is uncertain whether a woman attempting her own abortion must be shown to be pregnant before she can be convicted. Section 58(1)(a), dealing with this case, is silent on the issue, but section 58(1)(b), which concerns a person who acts on another is expressed to create an offence "whether or not that woman is pregnant." At historic Common law, a woman acting alone had to be proven pregnant in order to be convictable, and the exclusion of the pregnant-or-not provision found in clause (b) from clause (a) is consistent with this origin of the law. The fetal damage indication is restrictively expressed, covering substantial risk that the child would be affected by "serious physical abnormality or disease". The omission of serious mental or psychiatric abnormality may mark an interesting distinction between the visibly abnormal and the mentally or functionally abnormal. It is unclear whether neurological malfunction affecting, for instance, facial expression or gait, will be found to express itself in a physical abnormality.

By section 58(3), abortion and miscarriage are defined to mean "the premature expulsion or removal of conception from the uterus or womb before the period of gestation is completed". Removal <u>from</u> the uterus suggests that implantation is a precondition to abortion or miscarriage, so that an intent to remove a conceptus from the fallopian tube <u>through</u> the uterus would constitute contraception as opposed to abortion. This reading is consistent with evolving perceptions in Commonwealth laws distinguishing abortion from contraception and contragestion (see Chapter II, D, above).

Montserrat's Penal Code No. 12 of 1983 excludes from its customary prohibition of abortion terminations of pregnancies performed in hospitals or other places approved by the Chief Medical Officer if performed by doctors following agreement of two doctors on given indications. These are that there is risk to the pregnant woman's life, or risk of injury to her physical or mental health from continuation of pregnancy greater than if the pregnancy were terminated. A further indication is substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped. Requirements of two doctors' opinions and of place of performance

do not apply where in good faith a doctor is of the opinion that the procedure is necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

C. The Applicability of R. v. Bourne

The two earlier Commonwealth Secretariat reports in this series, Three Studies of Abortion Laws in the Commonwealth (1977) and Emerging Issues in Commonwealth Abortion Laws, 1982 included tables indicating the grounds on which each Commonwealth jurisdiction permitted the performance of abortion through its legislation and case-law. The relevant table has been brought up to date, as of April 1986, and appears as the Appendix to this Chapter.

In many jurisdictions where no case-law has explained the abortion legislation, it is accepted that the 1938 English jury direction in R. v. Bourne, [1939] 1 K.B. 687, [1938] 3 All E.R. 615 is applicable. This leading case has invariably been accepted where it has been judicially considered in the Commonwealth, including at highest judicial levels, as being a correct explanation of the abortion law. Where legislation has not been judicially interpreted, legal commentators and Attorneys-General generally understand that the direction which interprets England's Offences Against the Person Act, 1861, section 58, also interprets local law derived from this origin. Where local legislation shares Common law roots with this provision but is immediately traceable to another codification, such as, for instance, the Indian Penal Code, 1860, the case is again considered an authoritative interpretation.

The Bourne principle provides that, even when legislation expresses only a prohibition of abortion, often described as "procurement of miscarriage", the procedure is nevertheless lawful when undertaken in good faith to save a woman's life or to save her physical or mental health. In the Bourne case itself, a doctor was acquitted of an offence for performing an abortion to save the patient from becoming "a mental wreck". The judge recognized the legal justification of abortion when performed to save not only life itself, but the condition of continuing life, namely health, and that health has both physical and mental aspects. Commonwealth legislation often now makes explicit the meaning the Bourne case found implicit in the English 1861 Act, and enacts the legality of abortion when intended for preservation of life and of physical and mental health. Few legislatures that have an explicit provision depart from this. Zimbabwe's Termination of Pregnancy Act, 1977 provides only a physical health indication, although it allows abortion for rape, which was the origin of pregnancy in the Bourne case.

The 1982 Emerging Issues report table of Legal Indications for Abortion showed that in a small number of Commonwealth jurisdictions where no case-law had interpreted their legislation, which was expressed only in terms of prohibiting abortion on the model of England's 1861 Act, it was uncertain whether the case of R. v. Bourne was considered applicable. In order to reduce this uncertainty, a questionnaire was sent to the offices of the Attorneys-General of those jurisdictions. It was designed to obtain opinions on whether abortion was justifiable or excusable when undertaken to save a woman's life, physical health or mental health. We are greatly indebted to officers in the various Attorneys-General's departments who took time to consider the questionnaire and to offer their researched opinions on the matter. Those opinions are reflected in the updated Appendix.

The strongly preponderant view is that the Bourne principle is applicable to legislation making no explicit statement of grounds upon which abortion may lawfully be performed. This may be through direct acceptance of the Bourne direction, or through recognition and sometimes enactment of a necessity defence to a criminal charge. The defendant in Bourne was a doctor, but the necessity defence was recognized as a Common law principle. Accordingly, it might be available to other than doctors; indeed, where a doctor declines to become involved in a case because of legal uncertainty about possible prosecution and loss of professional status, necessity for a non-doctor to act may appear more acute. Some jurisdictions observed, however, that an abortion initiative by a non-doctor is more likely to be prosecuted than action by a doctor.

Opinions on applicability of Bourne do not enjoy the status of legal precedent, of course, and clearly do not bind courts of their jurisdictions. As exercises in legal interpretation they are valuable, however, and reliable indicators of the principles by which the law may be enforced. Only two jurisdictions considered the Bourne principle excluded by their law. Accordingly, a woman whose continued pregnancy endangers not her life itself but poses, in the words of the questionnaire, "grave risk" to her physical health or continuing mental health could not have pregnancy terminated. Opinion in Kiribati is that only preservation of life itself is defensible, and that abortion to preserve only physical or mental health against grave risk would be an offence. Similarly, opinion in Antigua and Barbuda is that, if no medical treatment other than abortion will preserve a woman's physical or mental health, she must be left medically untreated. Nursing care may be rendered to her, of course, while continuation of her pregnancy is medically managed.

Opinions in Law Officers' departments in Northern Nigeria differ. Although they are all under the Penal Code of Northern Nigeria, no relevant case-law exists, and, while the view in

some states is that the Bourne principle applies, the view in others is that the Penal Code's permission of saving "life" is to be read more restrictively. It may be relevant to note, however, that, unlike Kiribati and Antigua and Barbuda, Nigeria is a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women. It may be asked if this would influence judicial interpretation of the Penal Code in favour of preserving women's physical and mental health against grave risk.

An indication of Commonwealth standing of the Bourne principle came in January 1986 from Queensland, Australia. In R. v. Bayliss and Cullen, District Court Judge McGuire reviewed the historic and international foundations on which the relevant case-law of the abortion provision in Queensland's Criminal Code is built. In a comprehensive ruling (of 72 transcribed pages, including three appendices, unreported to date) he observed that:

> "Bourne has spawned offspring who have grown to adulthood. They cannot now - at least by Courts of first instance - easily be disowned or made to disappear. It is hard to turn the clock back." (Transcript at p. 122).

It may be speculated that the Bourne ruling has become a cohesive principle in Commonwealth jurisprudence. In the jurisdictions in which its application is uncertain, its significance is such that courts cannot ignore its effect, lest their decisions may be per incuriam (not precedents due to oversight of relevant law). A court rejecting Bourne will be expected to specify its reasons; that is, it must expressly find that under the legislation of its jurisdiction, women's health cannot be preserved against grave risk posed by pregnancy.

D. Litigation

While the overwhelming majority of Commonwealth jurisdictions have had no experience of abortion-related litigation in recent years, or indeed ever, the few that have been active have been very active. In Canada, cases have been brought in Federal courts and the provincial courts of British Columbia, Manitoba, Ontario, Quebec and Saskatchewan. In Australia, the Bayliss case in Queensland has become a local abortion cause celebre comparable to the Morgentaler saga in Canada. A number of cases are prosecutions for performing abortions, but most are peripheral to that issue. They involve procedural matters pertaining to prosecution and questions of control of access to abortion services. A series of related minor cases involves injunctions sought by and against abortion clinics, notably those opened by Dr. Morgentaler in Ontario and Manitoba, and

prosecutions of protesters involved in scuffles and forms of mischief to property.

The central litigation in Canada is Dr. Morgentaler's prosecution in Ontario. The case, now pending in the Supreme Court of Canada, is strictly not an abortion case, since the charge is that three doctors conspired to perform an illegal act, namely abortion. The conspiracy charge makes the criminal defence of necessity more difficult to employ. While it may be shown ex post facto that performing abortion on a particular woman was necessary, it is not so easily arguable that it is necessary to conspire with others, in advance of any individual woman presenting herself, to terminate a pregnancy. The defence was primarily concerned in fact with constitutional arguments that Canada's Criminal Code restriction on abortion violates the Canadian Charter of Rights and Freedoms. The constitutional challenge, mounted in an extensive hearing before a trial jury was empanelled, was wide ranging, and resisted principally by the Attorney-General of Canada, rather than that of Ontario, because the issue affects federal law. The constitutional challenge failed, and a regular criminal trial followed, at the end of which the jury acquitted the three defendant doctors (R. v. Morgentaler, Smoling and Scott (1984), 12 D.L.R. (3d) 502 (Ont. S.C.)). The prosecution exercised the right it enjoys in Canada to appeal against the acquittal, successfully, and the defendants cross-appealed unsuccessfully against rejection of their constitutional arguments. The Ontario Court of Appeal ordered a new trial ((1985), 52 O.R. (2d) 353), but the defendants have exercised their right to appeal further to the Supreme Court of Canada. This appeal is unlikely to be argued before the autumn of 1986.

Another abortion-related charge is pending against Dr. Morgentaler in Ontario but, although he has continued to operate his abortion clinic in the province, the provincial Attorney-General has undertaken not to consider proceeding until the Supreme Court of Canada's decision is known. Meanwhile, in Manitoba, pending charges involving Dr. Morgentaler's clinic in that province will also not be pursued until the Ontario case is resolved. The Manitoba charge was originally for conspiracy but, on the defendants' protest, it was amended to a direct prosecution for unlawful performance of abortion. Spin-off litigation in the province concerned Dr. Morgentaler's application to the College of Physicians and Surgeons of Manitoba for approval of his clinic. The College's refusal was subsequently held to have been improperly reached since the College did not afford the applicant proper means to present his case. The College will be required to resolve the application properly. The Attorneys-General of Ontario and Manitoba have decided not to seek injunctions against Dr. Morgentaler's clinics in their provinces, but in Quebec, where Dr. Morgentaler practises without provincial governmental intervention, a

private person is acting for an injunction to restrain Dr. Morgentaler's activities. It would be very remarkable were the application to succeed.

Mr. Joseph Borowski, a resident of Manitoba, holds views on abortion diametrically opposed to Dr. Morgentaler's. His constitutional objection to the Criminal Code is not that it prohibits abortions, but that it permits them. Acting in his lawyer's province of Saskatchewan, he sought to challenge the constitutionality of the law, but was faced with resistance on the procedural ground that, as a person with no special personal legal interest in the matter, he lacked standing to present his case. The Supreme Court of Canada eventually ruled on that issue, in favour of Mr. Borowski (Borowski v. Attorney-General of Canada (1981), 130 D.L.R. (3d) 588). In subsequent litigation on the merits of his claim he was unsuccessful ((1983), 4 D.L.R. (4th) 112 (Sask. Q.B.)) and judgment is now pending in his appeal to the Saskatchewan Court of Appeal.

The Federal Court of Appeal of Canada upheld a federal trial court's decision declining jurisdiction on an allegation that hospitals' therapeutic abortion committes were interpreting too liberally the Criminal Code's permission of their certification of abortion if they were to find danger to "health" (Carruthers v. Therapeutic Abortion Committees of Lions Gate Hospital et al. (1983), 6 D.L.R. (4th) 57). The basis of the decision is that, although the federal Criminal Code establishes the law, questions of health fall within provincial jurisdiction. The applicant subsequently failed in his provincial application before the British Columbia Supreme Court and Court of Appeal to have committees' practices reviewed and declared illegal (Carruthers v. Langley (1985), 23 D.L.R. (4th) 623). The Courts considered that as members of a hospital society, the plaintiffs lacked standing to seek civil review of conduct they considered criminal. The Ontario Supreme Court in the 1984 Medhurst case on spousal consent (see E, below) added that such committees' decisions are medical, and non-justiceable.

The flurry of court proceedings in Queensland, Australia, concerning the abortion clinics run by Dr. Bayliss is comparable to that seen in Canada. Events originated in May 1985 when, in a spectacular raid on an abortion clinic, 47,000 patients' files were seized. Dr. Bayliss was arrested and charged with conspiracy regarding the clinic's activities. At a bail application, the prosecution failed in its effort to have a bail condition imposed that the defendant not perform any more abortions. In the Supreme Court of Queensland a judge in chambers refused the Crown's appeal from that decision (Re Bayliss O.S. No. 326 of 1985, unreported), on the ground that the restriction sought was excessive. It was considered that abortion itself is not necessarily unlawful, and no need existed to restrain the defendant's performance of lawful procedures. The Full Court

of the state Supreme Court upheld this assessment. The Full Court also ruled, in response to a separate challenge by the defendant, that the search warrants under which the initial raid had been conducted were invalid.

It appeared that the original conspiracy charge was no longer sustainable, since evidence obtained in consequence of invalid warrants was not usable by the prosecution. Upon a former patient's complaint, however, proceedings were pursued against Drs. Bayliss and Cullen for unlawfully procuring a miscarriage. In preparation for the direction on law to the trial jury, District Court Judge McGuire prepared a comprehensive written ruling (see C, above), which was released following the jury's verdict on the facts of the case. The defence was that the offence charged against section 224 of the Queensland Criminal Code was defensible under section 282, which exempts from criminal liability one who in good faith reasonably performs surgery on an unborn child to preserve the mother's life. The trial judge explained the law consistently with the Bourne direction and the Australian case-law which had given effect to the principle. At the end of January 1986, both defendants were acquitted.

In contrast to the frenzy of litigation in the Canadian jurisdictions and Queensland, other Commonwealth jurisdictions appear to have been quiescent. The New Zealand Court of Appeal's judgment in Wall v. Livingston, [1982] 1 N.Z.L.R. 734 upheld the High Court's decision that an applicant for judicial review of approval given to a proposed abortion under the Contraception, Sterilisation and Abortion Act 1977 lacked standing to obtain review. He was a stranger to the decision he sought to challenge, and could not claim to represent an unborn child. In drawing upon relevant English and Canadian case-law, the Court demonstrated the highly interactive Commonwealth jurisprudence that has evolved in this area of law.

E. Spousal and Parental Consent

Case-law in Queensland, Ontario and other jurisdictions has recently been instructive in clarifying principles governing third parties' consent to and veto of a woman's abortion. In Attorney-General for Queensland; Ex rel. Kerr v. T. (1983), 46 A.L.R. 275, the High Court of Australia confirmed decisions of the Queensland state courts that an injunction could not be granted to an unmarried man to restrain the woman he had made pregnant from having an abortion. The Court reasoned that an injunction was inappropriate to restrain an anticipated offence triable by jury, that a fetus as such has no legal rights and none can be claimed on its behalf, and that a person claiming paternity of a woman's child has no control over her. This raises the issue of whether a man who is both father of a

woman's unborn child and also her lawful husband has a superior right.

It was held in Ontario that he has not. A husband's application for an injunction was rejected in Medhurst and Medhurst (1984), 46 O.R. (2d) 263 (Ont. S.C.), later affirmed in Re Medhurst and Medhurst (1984), 45 O.R. (2d) 575 (Ont. S.C.). In this latter case it was considered that if he had independent evidence of impropriety, a husband could ask a court to inspect records of proceedings of a hospital's statutorily constituted therapeutic abortion committee, in order to review whether it had acted according to the legal grounds for approving the procedure. As both husband and admitted father, however, he was held to lack standing to intervene in his wife's decision lawfully to seek abortion. Her unilateral act might constitute a matrimonial offence such as mental cruelty justifying divorce or other matrimonial relief. A divorce was granted on this ground in, for instance, Satya v. Siri Ram, A.I.R. 1983 Punjab & Haryana 252, by the Punjab High Court, India. When abortion is medically indicated for preservation of a wife's health, however, a husband's obstruction might also be cruelty on his part, and a violation of his legal obligations to provide his wife with necessaries of life. In Canada, this obligation exists under the Criminal Code.

The Gillick case in England (see Chapter II, B, above) involved issues not only of adolescent contraception, but also of adolescent abortion without parental consent or knowledge. Mrs. Gillick's claim expressly addressed abortion, and the terms in which the House of Lords rejected it clearly govern abortion. The majority judgments deal with legal principles of adolescent autonomy, taking contraception as an illustration of principle but not as an exclusive concern or focus. The dissenting judgments, being centred upon sexual offences, fail to address the abortion issue raised in the claim. Confirmation of the mature minor's capacity for independent decision-making is of double significance. It means that a minor of sufficient understanding may legally authorize an abortion procedure without her parents' consent or knowledge, but also that, if she is adequately aware of the health and other implications of continuing her pregnancy, she may resist abortion when her parents authorize the procedure. The younger she is, however, the more significance may be given to her parents' role in protection of her well-being.

A number of Commonwealth jurisdictions with laws approving abortion make express provision for minors which supersedes the Common law and excludes the issue from the general law on medical treatment of adolescents. In Barbados, for instance, the Medical Termination of Pregnancy Act, 1983 (see B, above) provides in section 8(23) that:

> "The treatment for the termination of the pregnancy of a female under the age of 16 years or of a person of unsound mind of any age shall not be administered except with the written consent of her parent or guardian."

Provisions of this nature do not leave minors' well-being to parents' arbitrary discretion, since, as the Gillick case established, parents enjoy powers in order that they may discharge their duties. An important duty of parents is to provide their children with medically indicated health care. A parent who refused to seek or to consent to abortion necessary to save a child's life or physical or mental health would bear legal responsibility under laws promoting child welfare and limiting child abuse. The responsibility binds anyone who act in loco parentis; in K. v. Minister for Youth and Community Services, [1982] N.S.W.L.R. 311, Helsham C.J. in Eq. authorized medically indicated abortion for a 15 year old ward of the Australian state of New South Wales over the refusal of consent of the Minister in charge, which he withheld on moral grounds. Further, the Common law defence of necessity to save human life would protect performance of abortion without parental consent where it was medically so indicated. Even when parental consent is a necessary condition of abortion, it may not alone be a sufficient condition. The minor's own consent may be required when she has capacity to give it, and to withhold it, unless continuation of pregnancy would be life-endangering.

Some Commonwealth legislation addresses abortion of minors through an indication for abortion of a criminal offence, such as rape, incest, or sexual intercourse with a girl under a given age. Since the purpose of such criminal offences and of their often heavy punishment is to protect younger girls against the physical, mental and reproductive hazards of pregnancy, a parental discretion to deny a victim's health-indicated abortion through exercise of a veto appears incompatible with the policy of the law. In a sense, tolerance of a veto would appear to give a parent a capacity an offender faces punishment for exercising. Tolerance would be even more incongruous when the parent himself is the offender. Adolescent abortion may also be eased through a provision such as appears in Hong Kong's Offences against the Person (Amendment) Ordinance 1981. This permits doctors to find risk of injury to health from continuation of pregnancy exceeding the risk of abortion, which is sufficient to justify abortion and presumably to require parents to consent to it under their legal duties of child protection, simply on the ground that the patient is aged under 16 years.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion							Statutes and Cases in Force as of 1 March 1986
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
AFRICA								
Botswana	X	X	X					Penal Code (Cap.8:01), Secs. 160-162, 241
The Gambia	X	X	X					Criminal Code (Cap.37), Secs. 15, 140-142; R. v. Bourne applied.
Ghana	X	X	X	X	X			Criminal Code, 1960, Secs. 58-59, 67(2); R. v. Bourne applied.
Kenya	X	X	X					Penal Code (Cap.63), Secs. 158-160, 240; Mehar Singh Bansel v. R. [1959] E.A.L.R. 813; R. v. Bourne and R. v. Newton and Stungo applied.
Lesotho	X	X	X					Common law governed de jure by the "defence of necessity".
Malawi	X	X	X					Penal Code (Cap.7:01), Secs. 149-151. R. v. Bourne applied
Mauritius	X	X	X					Penal Code Ordinance (Cap.195), Sec. 235. Anath v. The Queen Supreme Court, 17 May 19?? Record No. 3103; R. v. Bourne applied.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Risk to Life	Legal indications for Granting an Abortion: Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	Statutes and Cases in Force as of 1 March 1986
AFRICA (cont'd)								
Nigeria								
Northern States	X	X	X					Laws of Northern Nigeria, Laws R.E. 1963, Penal Code (Cap.89), Secs. 232-235; R. v. Bourne applied.
Southern States	X	X	X					Criminal Code, Laws of the Federation of Nigeria, Laws R.E. 1958, Vol. II (Cap. 42), Secs. 228-230, 297; R. v. Edgal, 4 W.A.C.A. 133 (1938); R. v. Bourne applied.
Seychelles	X	X	X	X	X			Penal Code (Cap.93), Secs. 147-149, 226. Termination of Pregnancy Act, 1981 (Act 5 of 1981).
Sierra Leone	X	X	X					English Offences against the Person Act, 1861, Secs. 58-59; Common law governed de jure by the "defence of necessity"; R. v. Bourne applied.
Swaziland	X	X	X					Common law governed de jure by the "defence of necessity".
Tanzania	X	X	X					Penal Code (Cap.16), Secs. 150-151; R. v. Bourne applied.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion							Statutes and Cases in Force as of 1 March 1986
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
AFRICA (cont'd)								
Uganda	X	X	X					Penal Code (Cap.106), Secs. 136-138, 217; R. v. Bourne applied.
Zambia	X	X	X	X		X		People v. Gulshan, Smith, Finlayson (1971), Zambia High Court [Criminal] H.P. 11/1971, Penal Code (Cap.146), Secs. 151-153. Termination of Pregnancy Act, 1972, (Cap.554), Secs. 1-6.
Zimbabwe	X	X		X	X			Termination of Pregnancy Act, 1977; S. v. Collop [1979 (4)] SA 381.
ASIA AND OCEANIA								
Australia Capital Territory	X	X	X	Where it may be interpreted as a risk to health.				Crimes Act, 1900, Secs. 82-84; R. v. Davidson [1969] V.R. 667; R. v. Wald [1971] 3 D.C.R. (N.S.W.) 25.
New South Wales	X	X	X	Where it may be interpreted as a risk to health.				Crimes Act, 1900, Secs. 82-84; R. v. Davidson [1969] V.R. 667; R. v. Wald [1971]3 D.C.R. (N.S.W.) 25.
Northern Territory	X	X	X	X				Criminal Law Consolidation Act and Ordinance 1876 to 1974, Sec. 78-79A.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion							Statutes and Cases in Force as of 1 March 1980
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
Australia (con'd)								
Queensland	X	X	X					Criminal Code, Secs. 224-226, 282 R. v. Ross and McCarthy (1955) Q.S.R. 48; Queen v. Bayliss and Cullen (Jan. 1986)
South Australia	X	X	X			X		Criminal Law Consolidation Act, 1935-1966, Secs. 81-82. Criminal Law, Consolidation Amendment Act, 1969, Sec. 82a.
Tasmania	X	X	X					Criminal Code Act 1924, Secs. 51(1), 134-135, 165; R. v. Davidson (1969) V.R. 667.
Victoria	X	X	X	Where it may be interpreted as a risk to health.				Crimes Act 1958, Secs. 65-66; R. v. Davidson (1969) V.R. 667.
Western Australia	X	X	X					Criminal Code Act 1913, Secs. 199-201, 259; R. v. Bourne applied.
Bangladesh	X	X	X					Penal Code, 1860, Secs. 312-316, Memorandum Guidelines for Menstrual Regulation (MR) Memo No. 5-4/MCH-FP/ Trg./80 25 January 1980

LEGAL INDICATIONS FOR ABORTION

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	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
ASIA OCEANIA (con'd)								
Brunei Darussalam	X	X	X					Penal Code (Cap.22), Secs. 312-316, 81. R. v. Bourne applied.
Fiji	X	X	X	Where it may be interpreted as a risk to health.				Penal Code (Cap.11), Secs. 165-167, 265; R. v. Emberson and Emberson, Criminal case No. 16 of 1976.
Hong Kong	X	X	X	X	X	X		Offences against the Person (Amendment) Ordinance 1976 (Cap.212), Secs. 46-7, 47A. Termination of Pregnancy Regulations 1973. Offences against the Person (Amendment) Ordinance, No.13 of 1981, Termination of Pregnancy (Amendment) Regulations 1982.
India	X	X	X	X	X	X		Penal Code, 1860, Secs. 312-316. Medical Termination of Pregnancy Act, 1971, Medical Termination of Pregnancy Rules, 1975.
Jammu and Kashmir	X	X	X	X	X	X		Ranbir Penal Code, Samvat, 1989 (1932 A.D.), Secs. 312-316. Medical Termination of Pregnancy Act, 1974.
Kiribati	X							Penal Code (Cap.8), Secs. 150-152.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion						Statutes and Cases in Force as of 1 March 1986
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
ASIA & OCEANIA (con'd)								
Malaysia	X	X	X	X	X			Penal Code (Cap.75), Secs. 312-316, The Penal Code (Amendment and Extension) Act 1976 extended the Penal Code (FMS Cap.45) throughout Malaysia and repealed the respective Penal Codes of Sabah and Sarawak.
Maldives	X							Islamic Shari-a law
Nauru	X	X	X					First Schedule Criminal Code Act 1899, of Secs. 224-226, 282, R. v. Ross and McCarthy [1955] Q.S.R. 48 of Queensland (Australia) applicable as adopted law, 1968.
New Zealand	X	X	X	X	X			Crimes Act 1961, Secs. 183-187, as amended 1977, No.113; 1978, No.6 Hospitals Amendment Act 1975 (to amend Hospitals Act 1957). R. v. Woolnough [1977] 2 N.Z.L.R. 508. Contraception, Sterilisation, and Abortion Act 1977 as amended 1978, Abortion Regulations 1978, Abortion Regulations 1978 and Amendment No.1.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion						Statutes and Cases in Force as of 1 March 1986
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
ASIA & OCEANIA(con'd)								
Niue	X	X	X					Miscarriage Act 1966, Secs. 166-168
Papua New Guinea	X	X	X					Criminal Code (Cap.XXII), Secs. 228-230; (Cap.XXVI), Sec. 285, 319 Law Department/Legal Opinion, 13 Aug. 1974.
Singapore							X	Penal Code (Cap.119), Secs. 312-316, Abortion Act, 1974, Abortion Regulations 1974; Abortion (Amendment) Act 1980 (No. 32 of 1980).
Solomon Islands	X							Penal Code (Cap.5), Secs. 150-152, 227.
Sri Lanka	X	X	X					Penal Code (Cap.19), Secs. 303-305, R. v. Bourne applied.
Tonga	X							Criminal Offences Act (Cap.15), Secs. 94-96.
Tuvalu	X							Penal Code (Cap.8) Secs. 150-152.
Vanuatu	X	X	X					The Penal Code Act No. 17 of 1981, Sec. 117(3).
Western Samoa	X	X	X					Crimes Amendment Act 1969, Secs. 73A-73D. R. v. Bourne applied.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Risk to Life	Legal indications for Granting an Abortion: Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	Statutes and Cases in Force as of 1 March 1986
EUROPE								
Cyprus	X	X	X	X	X	X		Criminal Code (Cap.154), Secs. 167-169, 169A (amended by Law No.59 of 1974).
Gibraltar	X	X	X					Criminal Offences (Cap.37), Secs. 71-72. R. v. Bourne applied.
Malta	X							Criminal Code (Cap.12), Secs. 255-258.
United Kingdom England and Wales	X	X	X	X		X		Offences against the Person Act 1861, Secs. 58-59. Infant Life Preservation Act, 1929, R. v. Bourne [1939] 1 K.B. 687. Abortion Act 1967. Abortion Regulations 1968. Abortion (Amendment) Regulations 1976, Abortion Amendment Regulations 1980.
Northern Ireland	X	X	X					Offences against the Person Act 1861, Secs. 58-59. R. v. Bourne applicable.
Scotland	X	X	X	X		X		H.M. Advocate v. Anderson [1927] Scots L.T. 651, 239. Abortion Act 1967. Abortion Regulations (Scotland) 1968, 1976 and 1980.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Legal indications for Granting an Abortion							Statutes and Cases in Force as of 1 March 1986
	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
WESTERN HEMISPHERE								
Anguilla	X	X	X					Offences against the Person Act (Cap.56), Secs. 53-54, R. v. Bourne applied.
Antigua and Barbuda	X	X	X					Offences against the Person Act (Cap.58), Part IX, Secs. 53-54.
Bahamas	X	X	X	Where it may be interpreted as a risk to health.				Penal Code (Cap.48), Secs. 341, 353, 357.
Barbados	X	X	X	X	X	Where risk to health.		Offences against the Person Act, 1868 (Cap.141), Secs. 61-62, R. v. Bourne applied. The Medical Termination of Pregnancy Act, 1983. The Medical Termination of Pregnancy Regulations, 1983.
Belize	X	X	X	X		X		Criminal Code Ordinance 33/1980, Title IX, Secs. 108-110, 125.
Bermuda	X	X	X	X	X			Criminal Code, Title 8; Item 31, Secs. 194-196, R. v. Bourne applied. Criminal Code Amendment Act 1983.

LEGAL INDICATIONS FOR ABORTION

Commonwealth Countries by Region	Risk to Life	Legal indications for Granting an Abortion: Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	Statutes and Cases in Force as of 1 March 1986
WESTERN HEMISPHERE (con'd)								
British Virgin Islands	X	X	X					Offences against the Person Act (Cap.54), Secs. 53-54, R. v. Bourne applied.
Canada	X	X	X					Criminal Code, R.S.C. 1970 (Cap. C-34), Secs. 221, 251-252. Morgentaler v. R. [1975] 53 D.L.R. (3d) 161 (S.C.C.), R. v. Morgentaler [1976] 64 D.L.R. (3d) 718 (Quebec C.A., leave to appeal to S.C.C. refused).
Cayman Islands	X	X	X					General (Part V), Secs. 129-131; R. v. Bourne applied.
Dominica	X	X	X					Offences Against the Person Ordinance (Cap.44), Secs. 56-57; R. v. Bourne applied
Falkland Islands & Dependencies	X	X	X					Offences against the Person Act (Cap.56), Secs. 53-54; R. v. Bourne applied.
Grenada	X	X	X					Criminal Code 1958 (Cap.76), Secs. 238, 250-251, 254, 263; R. v. Bourne applied.

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	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
WESTERN HEMISPHERE (con'd)								
Guyana	X	X	X					Criminal Law (Offences) Act (Cap.8:01), Secs. 78-80, R. v. Bourne and R. v. Newton and Stungo applied.
Jamaica	X	X	X					Offences against the Person Law, 1864 (R.E. 1953, Vol. VI), Secs. 65-66, R. v. Bourne applied. Ministry of Health paper No.1, 1975 (M.P. No. H.H.490/01).
Montserrat	X	X	X	X				Penal Code No. 12 of 1983 Sec. 139.
St. Christopher -Nevis	X	X	X					Offences against the Person Act (Cap.56), Secs. 53-54, R. v. Bourne applied.
St. Lucia	X	X	X					Criminal Code, Book II, Title 24, Secs. 117-119, R. v. Bourne applied.
St. Vincent and the Grenadines	X	X	X					Indictable Offences Ordinance (Cap.6), Secs. 98-100, R. v. Bourne applied.

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	Risk to Life	Physical Health	Mental Health	Fetal Indications	Juridical (rape, incest etc.)	Socio-Economic	On Request	
WESTERN HEMISPHERE (con'd)								
Trinidad and Tobago	X	X	X					Offences against the Person Act (Cap.11:08), Secs. 56-58, R. v. Bourne applied.
Turks and Caicos	X	X	X					Offences against the Person Act (Cap.21), Secs. 38-39, R. v. Bourne applied. Criminal Code, Book II, Title 24, Secs. 117-119, R. v. Bourne applied.