



**Province of British Columbia**

Canada

OFFICE OF THE AGENT GENERAL IN THE UNITED KINGDOM AND EUROPE

10 February 1988

Hon. Peter Dueck  
Minister,  
Ministry of Health  
Room 346, Parliament Buildings  
Victoria, British Columbia  
V8V 1X4  
CANADA

Dear Mr. Dueck,

I am writing to you in support of your stand on Abortions in British Columbia.

I was saddened by the Federal legislation on January 28 that made Abortions legal in our Country.

Thank you for taking this moral stand. It would be devastating if our Provincial Government allowed abortions to become an ordinary operation like tonsillitis.

Thank you again and I wish you every success.

Yours truly,

Mrs. Lorelei D. Yergatian  
Secretary

:LY

CC: Hon. William Vander Zalm  
Premier



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February 17, 1988

Premier Bill Van der Zalm  
Province of British Columbia  
Legislative Building  
VICTORIA,  
Vancouver Island, B.C.

Dear Mr. Premier,

I would like to congratulate you on taking a very bold and courageous step in dealing with the abortion on demand issue.

I admire your leadership and your courage in taking this step to protect the rights and privileges of the unborn.

Sincerely Yours,

Dr. Stan Cassin, M.L.A.  
Calgary North West

SC/slm



Province of British Columbia  
OFFICE OF THE PREMIER

February 26, 1988

Dr. Stan Cassin, MLA  
Calgary North West  
203A Market Mall Executive Centre  
4935 - 40th Avenue N.W.  
Calgary, Alberta  
T3A 2N1

Dear Dr. Cassin:

I received your letter of February 17 indicating your support for my stand against the establishment of abortion clinics in our Province.

There is a time when it becomes necessary for we in public life to take a stand, and to do what is right no matter how difficult that may be. The Supreme Court of Canada clearly placed this government in that position. I can assure you that we will make every effort to strengthen the family in British Columbia and to provide healthy alternatives to abortion so that no woman shall feel the need to submit to an abortion either from lack of information, counselling, shelter or support.

I am most grateful to you for taking the time to write to me. It was nice to hear from an out of province elected representative who is supportive and I thank you for the encouragement you have expressed.

Sincerely yours,

William N. Vander Zalm  
PREMIER



Province of  
British Columbia

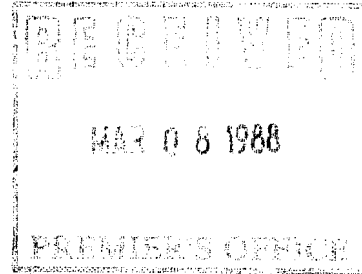
Ministry of  
Health

Parliament Buildings  
Victoria  
British Columbia  
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OFFICE OF THE MINISTER

March 1, 1988

Honourable William N. Vander Zalm  
Premier  
Parliament Buildings  
Victoria, British Columbia  
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Dear Mr. Premier:

I have enclosed an Issue Paper which examines the regulation of abortion clinics in the Province. Please advise me if you require any further information in connection with this matter.

Yours sincerely,

Peter A. Dueck  
Minister of Health

enclosure

## ISSUE PAPER

### Issue

What means are available to the Province to control the operation of abortion clinics?

### Background and Discussion

The effect of the decision of the Supreme Court of Canada in Morgentaler is that medical practitioners may perform abortions in clinics or in their offices--as with any other medical procedure--without prior review or approval. The procedure need not be performed in a hospital and no formal screening mechanism has been established by the College of Physicians and Surgeons of British Columbia .

The vast majority of abortions are performed during the "first trimester"--the first 13 or 14 weeks of a pregnancy--and many of these are done during the first part of that trimester. In these cases, the procedure is very straightforward and acceptable medical practice would permit it to be done in a physician's office with a local anaesthetic.

"Clinic" describes physical premises where various medical procedures are performed but there is essentially no basis upon which to distinguish a clinic from a physician's office. This means that controls to be applied to abortion clinics would need to apply to physician's offices generally in the Province. The types of controls that might be imposed could include requirements for the physical premises, requirements for staff levels and training and procedural requirements. Such controls would be unnecessary or inappropriate in many cases because they would apply indiscriminately. Therefore, it would seem to be preferable to regulate the procedure rather than the premises.

Abortion is clearly the practice of medicine and, as such, may only be performed by a medical practitioner. Regulation of the practice of medicine is conferred on the College by the Medical Practitioners Act. This means that the College would ordinarily be responsible for exercising any control over the operation of an abortion clinic or, more generally, the performance of an abortion in any circumstances. Because the Province does not fund abortions, it has effectively lost any controls that might have been previously exercisable under the Hospital Insurance Act or the Medical Service Act.

The simplest means to address this issue would be to seek the cooperation of the College in regulating the performance of abortions. The College of Physicians and Surgeons of Saskatchewan has recently passed a rule requiring that abortions be performed

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only in a hospital. This would eliminate the possibility of clinics being established and would substantially reduce--but probably not eliminate--the performance of abortions in physician's own offices.

The Medical Practitioners Act authorizes the College to make rules with respect to the manner in which medicine is practised. If the College is not prepared to make new rules respecting the performance of abortions, an alternative would be to amend that Act to permit the Lieutenant Governor in Council to make rules governing the practice of medicine deemed to be necessary. This course of action is likely to be strongly opposed by the College and the British Columbia Medical Association.

The Morgentaler decision held that Federal criminal laws restricting a woman's access to abortion are unconstitutional as being inconsistent with a right guaranteed under section 7 of the Canadian Charter of Rights and Freedoms. Where provincial legislation would have the effect of impeding access to abortion, it would be necessary--in order to comply with the Charter--to show that the law was a legitimate attempt to promote health or safety. Because abortions have been shown to be very safe medically during the early weeks of pregnancy, and in view of the stated position of the Government in this matter, it is anticipated that a court would have difficulty finding that such legislation was made to promote health or safety. In addition, the courts could view such legislation as an indirect attempt to exercise a criminal law jurisdiction and thereby find the legislation ultra vires provincial authority.

### Options

The FIRST option would be to seek the cooperation of the College in making new rules that would have the effect of restricting the performance of an abortion to specific locations.

The SECOND option would be to amend the Medical Practitioners Act to give Cabinet the authority to make regulations respecting abortion or other medical procedure.

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Vincent M. Dantzer, M.P.  
Okanagan North

OTTAWA, K1A 0A6  
1st March, 1988

The Honourable William N. Vander Zalm  
Premier of British Columbia  
Rm. 156, West Annex  
Parliament Buildings  
VICTORIA, B.C., V8S 1V9

Dear Mr. Premier:

I would like to personally commend you for the leadership you have demonstrated with respect to abortion funding.

It will be unfortunate if the Supreme Court in the future continues to so interpret the Charter of Rights as to in fact provide social legislation rather than interpret the law. You may be assured that I, and other Members of Parliament, who are disappointed with the results which will flow from this decision, will work hard to have legislation introduced to protect the rights of the unborn.

Once again, Mr. Premier, thank you for your principled stand.

Sincerely,

V.M. Dantzer, M.P.  
Okanagan North

VMD:w



PRIME MINISTER · PREMIER MINISTRE

Ottawa, K1A 0A2

Dear Sir or Madam,

Thank you for your recent correspondence concerning abortion.

The Supreme Court of Canada's January 28 decision striking down the federal abortion law contains significant implications for Canadian society. The Honourable Ray Hnatyshyn, Minister of Justice and Attorney General of Canada, has indicated that a legislative approach at the federal level is appropriate. To this end, Mr. Hnatyshyn and the Honourable Jake Epp, Minister of National Health and Welfare, have already been in consultation with their provincial counterparts as both levels of government consider their response to the Court's decision.

Our Government recognizes that abortion is a complex and sensitive issue which requires careful analysis. I assure you that your concerns will be given every consideration as we move to address this matter in a thoughtful and reasonable fashion.

Yours sincerely,