

APPENDIX "CODE-13"

Campaign Life  Coalition

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**A RESPONSE TO
THE NEW GENERAL PART FOR THE
CRIMINAL CODE OF CANADA**

**PRESENTED TO
THE STANDING COMMITTEE ON JUSTICE
AND THE SOLICITOR GENERAL**

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Campaign Life Coalition is the national pro-life organization working in the political arena on the life issues of abortion, infanticide and euthanasia.

The proposed changes to the new General Part of the Criminal Code touch on the right to life of individuals and the duty to protect human life. In order that such values continue to be fully enshrined in Canadian law, we make the following observations and recommendations:

DUTIES: MEDICAL TREATMENT EXCEPTION

The Law Reform Commission recommends that the General Part contain a provision whereby no one has a duty to continue medical treatment for which consent is expressly refused or withdrawn.

Patients already have the right to refuse medical treatment. If a patient does not consent to medical treatment and it is imposed on him or her, it constitutes an assault. Therefore, it is unnecessary to codify this in the Criminal Code.

Where a patient is unconscious and cannot provide consent, the physician must act in accordance with ethical medical practice. That is, a patient who is unable to give consent receives all appropriate medical treatment. No physician who conducts him or herself in this way is

subject to any criminal liability. Thus, the patient receives the most appropriate care and the medical practitioner is free of any medical liability. It is unnecessary to make any change to the Criminal Code in this regard.

The Law Reform Commission further recommends that the General Part contain a provision that no one has a duty to continue medical treatment which is "therapeutically useless".

We oppose this recommendation. Under the present law, there is no requirement for a physician to provide therapeutically useless treatment. Therefore, there is no advantage to including this in the Criminal Code.

On the other hand, there is a very real danger if such a provision is included. It opens the door for the courts to interpret "therapeutically useless" treatment to include food and water when the patient must be fed or hydrated by someone else. It would therefore be permissible to terminate a patient's life by starvation. In order to protect vulnerable patients we must insist that this provision not be included in the Criminal Code.

CONSENT TO DEATH: NO DEFENCE

S. 14 of the Criminal Code provides that no person is entitled to consent to have death inflicted on him or her and that such consent does not affect the criminal responsibility of the person who inflicted death.

We recommend that the substance of s. 14 be retained. The sanctity of human life must be the foundation of criminal law. It would be a fundamental corruption of criminal law to delete any provisions which in their absence would authorize or make possible so-called "mercy-killing" or assisted suicide.

The candidates for mercy-killing are the weak, handicapped and terminally ill in our society who are least able to speak on their own behalf. Society, which provides medical care for such persons, may have a dangerous financial bias in favour of ending their lives. It is crucial therefore that the Criminal Code continue to protect society's most vulnerable citizens.

When a person is severely ill, there is a very real danger that consent could be manipulated, thereby legalizing an action that would otherwise be homicide under the Criminal Code.

CONCLUSION

We appreciate this opportunity to make known our concerns about the recodification of the Criminal Code. We would appreciate being kept informed of any further developments in this regard.