Important as these principles were, they only touched on basic humanitarian problems and did so in a rather general way. It was acknowledged that more specific rule applying to specific situations were necessary and that these rules should be codified in a treaty that would enable all States to ratify their acceptance of these obligations. This development was to lead, in 1949, to the adoption of the four Geneva conventions.

The Geneva conventions are a major step in the development of humanitarian law, in that they provide significant new forms of protection for those who are most vulnerable during periods of armed conflict. They have now been ratified by most countries, including Canada.

Although these instruments were considered very important, the search continued for even more effective forms of protection.

In 1977, after four years of intensive negotiations, two additional protocols to the four Geneva conventions were adopted.

Like the conventions, the protocols clearly define how the signatory States must act during periods of armed conflict, in order to protect as much as possible those persons who are unable to provide for their own defence.

The fundamental and comprehensive nature of the obligations and form of protection set forth in the protocols make these instruments as important as those to which they are attached.

[*English*]

But Canada has not yet ratified the two Geneva Protocols of 1977. A Canadian delegation participated very actively and effectively over the years 1974 to 1977 at the diplomatic conference which adopted these instruments.

Indeed, at the conclusion of those conferences the Canadians present signed the protocols thereby committing us to consider seriously the possibilities of ratification.

Certainly the process of ratification is a lengthy one. It includes the stage we have now reached today with Bill C–25 coming before the House of Commons for second reading. It is a stage that requires careful consideration of the obligations which are set out in the protocols.

It may seem strange at a time when peace is breaking out all around around the world that we would be busy with the rules that govern the protection of the innocent and the civilians in times of armed conflict. Yet we are also mindful of the need both to preserve international norms and standards that can protect human rights, and to ensure that we carry out our obligations and anticipate the darker side of what may yet happen from time to time.

In looking at these protocols and the changes which they require us to make in existing legislation, Bill C–25 represents the next important step that must be taken for Canada to ratify the 1977 protocols. Perhaps the most important provision in Bill C–25 is in respect to the amendments to our own Geneva Conventions Act passed by Parliament in 1965. That act was the implementing legislation necessary for Canada to ratify the important Geneva protocols that had been developed in 1949.

In the 1965 statute, one of the important obligations that Canada assumed related to grave breaches, or war crimes. When drafting the Canadian implementing legislation, the question of Canada's obligations with respect to punishing grave breaches was viewed as having a fundamental importance.

● (1210)

The approach that was agreed on in the Geneva Conventions Act in 1965 was called the double criminality test. This is important to understand in light of legislation just recently passed here in Parliament relating to war criminals.

Let me explain the way the double criminality test applies. For an act or an omission to be punishable under this regime of international and domestic law it had to constitute both a grave breach of the Geneva conventions and a corresponding offence under Canadian criminal law. When consideration was first given to ratifying these protocols it seemed that the implementing legislation could simply take the same form as the 1965 Geneva Conventions Act.

However, there was a problem with this double criminality test. Thus that approach was found not to be feasible. For example, the different kinds of problems