

area of law, Crown appeals against stays of proceedings, was open to amendment. The reference there is Bill C-18, first reading version, and *Votes and Proceedings*, April 15, 1985, at page 465.

I submit that all of the foregoing precedents argue that the war crime amendments presently before us should be admissible.

Subclause 5(3) does not simply add hostage taking and nuclear material diversion to Section 6. Rather, it opens Section 6 to amendments by the addition of whatever additional crimes, outside Canada, Parliament may choose to now make triable inside Canada by adding them to that list. It does not create new crimes; it just alters the consequences of existing crimes and that is the proposal of this motion.

I submit that in cases of doubt, motions ought to be ruled in order rather than out of order, to permit debate.

Finally, if you do not agree with these submissions, I would ask that you seek unanimous consent, as was done in some of the cases I have referred to, to make it possible that these important amendments be added to the Criminal Code at this time.

**Mr. Speyer:** Point of order.

**Mr. Hnatyshyn:** Mr. Speaker, I will begin and I know the Parliamentary Secretary wishes to make a contribution.

**Mr. Speaker:** Would you prefer that I hear the Hon. Member for Burnaby (Mr. Robinson) first?

**Mr. Hnatyshyn:** That is fine.

**Mr. Svend J. Robinson (Burnaby):** Mr. Speaker, I will be very brief because many of the points I was going to make with respect to admissibility have been made by my hon. friend, the Member for York Centre (Mr. Kaplan). I would only underscore the fact that the motions which we are now dealing with, which are four identical motions, would not change the essential thrust of Clause 5, the relevant clause. Clause 5 already makes reference within the four corners of the clause to a number of crimes which did not in fact occur within Canada. This includes the whole question of hostage taking and the diversion of nuclear materials. These are being added for the first time.

If the purpose of the amendment was to add to Clause 5 a matter which was not considered criminal in Canada, then certainly I would agree that we would be going beyond the scope of Clause 5. Instead, what is being proposed here in these amendments is that a provision be added dealing with the subject of war crimes.

● (1520)

There is no question that war crimes are recognized in this country as being crimes and as always having been crimes. The Constitution Committee, of which I had the honour to be a member, and I know the Hon. Member for Saskatoon West (Mr. Hnatyshyn) was a member as well, unanimously support-

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ed an amendment to Section 11 of the Charter of Rights which makes it very clear that should Parliament wish to act to make provision for trials in Canada of war crimes, that would not in any way offend the provisions of the Charter of Rights with respect to retroactivity.

I want to remind the House that on this question of trials within Canada for individuals who are suspected of having committed crimes against humanity, war crimes, this is not the first time that this issue has been raised either in the House or in committee. I recall vividly questioning the Liberal Minister of Justice, the Hon. Member for Shawinigan (Mr. Chrétien), and questioning the former Solicitor General, the Hon. Member for York Centre (Mr. Kaplan), on this very point and being told in no uncertain terms that it was the policy of the Liberal Government not to permit trials in Canada of suspected war criminals. I might say that I find it passing strange to find the Member for York Centre in his new manifestation standing up before the House and suggesting that we support an amendment which would permit such trials.

Dealing specifically with the question of admissibility of this motion, I want to underscore the fact that once again it is within the broad framework of Clause 5. It does not make a change that is fundamentally different. My colleague from York Centre has already cited one particular precedent on this matter. I would urge Parliament to move forward in order that those individuals who for one reason or another cannot be extradited to other countries be tried in Canada.

The admissibility of this motion, which is the matter to which I am addressing my remarks at this point, while it may be open to some debate and some discussion, Your Honour might very well agree having heard the persuasive arguments on this point and subject to what my distinguished colleague, the Government House Leader, will say, there does exist sufficient doubt that this matter should be put to the House for substantive debate. In the unlikely possibility that the Government House Leader is not prepared to support that particular suggestion, I urge the Speaker—and I know it is not up to the House Leader—to be persuaded by what will hopefully be unanimous sentiments in the House to reconsider. But if that is not the case, Mr. Speaker, I would be prepared to move a motion seeking unanimous consent to permit this particular matter to be debated.

**Mr. Speaker:** Further procedural arguments? The President of the Privy Council.

**Hon. Ray Hnatyshyn (President of the Privy Council):** With great difficulty I will attempt to deal exclusively with the procedural part of the matter. Some elements of policy have entered into these arguments but I will deal with the procedure exclusively. I think that is precisely what we are required to do at this time.

As you have pointed out, Mr. Speaker, Motions Nos. 1 to 4 in my humble submission seek to introduce a new class of offences into the Criminal Code which class is clearly not referred to in the long title of the Bill as passed at second reading stage. The Bill as passed did not deal with "war