It became apparent yesterday to members of the House committee that the Kaska Dena did not ratify the agreement the Council of Yukon Indians had made with the Government of Canada, but were expected to be subject to the provisions within Bill C-33, Bill C-34 and Bill C-55 vis-à-vis their land claim negotiations, currently stalled because there is not agreement on a mandate for negotiations from the minister's office.

It also became known that only four of the 14 Yukon First Nations ratified the agreement. Most would agree that one of the major selling points for supporting the triumvirate of legislation was the premise that this would create certainty that would allow development of a positive environment for economic development and community development.

The Kaska are saying that their position is at peril unfairly and that it needs to be given immediate consideration. At this point, I cannot pass judgment. I do not know whether I agree or disagree with them.

My hope is that when this bill is considered in the Standing Senate Committee on Aboriginal Peoples, these questions can be answered. Some say that aboriginal people have been studied to death. Maybe the Senate committee will help study them back to life, or at least offer honourable senators a comprehensive view of what, for all intents and purposes, has been a complex and confusing development.

Canadians and Yukoners are interested in more jobs and less debt. I imagine that improved access to land, water, resources, education and training will take care of the "more jobs" part. In doing so, perhaps Canada will be addressing, in part, our indebtedness to the native peoples for having welcomed and assisted us in building present day Canada.

Native peoples in the Yukon are asking the government what devolution of jurisdiction to the territory will mean to their future land claims and their shot at survival and prosperity. I believe that these are legitimate questions. I believe that, in the circumstances, the proper forum in which to have them answered is the committee and, therefore, we will not object to Bill C-55.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Lucier, bill referred to the Standing Senate Committee on Aboriginal Peoples.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Gigantès, seconded by the Honourable Senator Hébert, for the second reading of Bill S-6, An Act to amend the Criminal Code (dangerous intoxication).—(*Honourable Senator Lavoie-Roux*).

Hon. Thérèse Lavoie-Roux: Honourable senators, first of all, I would like to take this opportunity to tell His Honour the Speaker of the Senate how delighted I was at his appointment and to offer him my congratulations. I have worked with him on several occasions, particularly on the Standing Committee on Internal Economy, Budgets and Administration. He was always a team player and demonstrated very good judgment. I am certain that he will share these same qualities with us in the Senate, and I congratulate him on his appointment.

Honourable senators, the purpose of Bill S-6, introduced by Senator Gigantès, is to put a stop to the defence used before the courts by Henri Daviault, who was too drunk to be held responsible for dragging a 65-year-old woman out of her wheelchair and raping her. The bill proposes the creation of the offence of "dangerous intoxication," which would be punishable by imprisonment for up to fourteen years. In order to be found guilty of this offence, the accused would have to have committed a violent act as defined in the bill while in a state of self-induced intoxication caused by alcohol or drugs.

The Minister of Justice, Allan Rock, has promised to amend the Criminal Code to limit this defence, but only after public study of a working paper on the subject. The discussion paper on reforming Part I of the Criminal Code deals with the question of intoxication as a ground for defence. At the present time, Part I does not provide for a defence of self-induced intoxication. Rather, this defence has arisen under case law and is usually resorted to for offences of "specific intent," but not for offences of "general intent." Intent is a fundamental concept in our criminal system. The confusion around the issue of intoxication as a defence comes from the distinction between specific intent offences and general intent offences.

I am told that the Supreme Court of Canada itself would have contributed to this confusion in 1960 when it stated that intoxication could be pleaded in defence in the case of specific intent offences, but not in that of general intent offences. Under Canadian law, the Crown must establish both elements of the offence: the material element, or *actus reus*, and the mental element, or *mens rea*. If an individual's mind is so clouded by alcohol or drugs that he or she is incapable of forming the specific intent to commit a given offence, then this individual shall not be considered as presenting the mental element required and, therefore, shall not be found guilty of the offence. In many cases, even if the specific intent cannot be established, the accused may nevertheless be found guilty of a general intent offence.

In the *Daviault* case, the Supreme Court tried to abolish this artificial distinction between specific intent offences and general intent offences. If drunkenness can negate mental intent for a charge of murder, why could it not be pleaded in defence for charges of assault or sexual assault? In a majority, four to three decision, the Supreme Court judges found that extreme intoxication could be pleaded in defence of any offence. In their opinion: