• (1510)

**Mr. Kaplan:** Mr. Speaker, before making arguments on the motions perhaps I could indicate our agreement with the Government House Leader as to our willingness to debate all stages this afternoon.

**Mr. Robinson:** Mr. Speaker, on behalf of my Party I am also pleased to indicate that we are prepared to debate both report stage and third reading this afternoon.

**Mr. Speaker:** Perhaps we should indicate for the record that there is agreement by unanimous consent that the matter will proceed through all stages today.

**Some Hon. Members:** Agreed.

**Mr. Speaker:** The Hon. Member for York Centre (Mr. Kaplan) on a procedural issue.

**Hon. Bob Kaplan (York Centre):** Mr. Speaker, I might indicate at this time that I will make my arguments relating to all of the motions that you have referred to, which I think will be of assistance to the Chair.

These are a set of amendments which would make it possible for war criminals residing in Canada to be prosecuted under Canadian law, within Canada, for crimes to be defined by the amendments that were committed in other countries, particularly during the Second World War, according to some of the submissions we have had.

I submit that this motion and the others are within the scope of and relevant to the subject matter of subclause 5(3), and therefore of Clause 5 and therefore of the Bill, and is therefore admissible.

Bill C-18 deals with over 200 subject matters which include not only drunk driving, computer crime, and telewarrants, but murder, perjury, lotteries, threats, forcible entry, weapons, wiretaps and a host of other topics. It is a very heterogeneous Bill. It does not deal with the entire criminal law but with a great part of the criminal law.

The effect of Clause 5 of Bill C-18 is narrower. It amends Section 6 of the Criminal Code which sets out and deals with a number of specified crimes committed outside Canada which can be tried in Canada, although they are extraterritorial. In particular, these include air piracy and the murder of diplomats.

Subclause 5(3) of Bill C-18 does yet a narrower set of things. It amends Section 6 of the Code to add to it two new extraterritorial offences—hostage taking and the diversion of nuclear material—to those which can be tried in Canada by virtue of Section 6.

The present motion seeks to amend subclause 5(3) to add two more crimes abroad to those to be added to Section 6—namely war crimes and crimes against humanity, including but not limited to those of the Second World War—with the amendment being closely modelled on the hostage taking and nuclear material provisions, and also drawing wording and concepts from the Charter of Rights and the Charter of the Nuremberg Tribunal.

The scope and subject matter of a clause or subclause is not the same thing as the text of the clause or subclause. If it were, no amendment would ever be possible.

There are at least five precedents for these motions being admissible. First, in 1977, in Bill C-51, the Bill proposed to add additional crimes to the list of crimes that were contained in Section 178.1 of the Criminal Code, which sets out the crimes whose investigation can justify an application to wire tap.

In the committee, amendments were accepted and adopted to add additional crimes to the list of crimes being added to that list. The reference is Justice Committee proceedings, 1977, issue 23.

Second, in 1976, in Bill C-84, the Bill to abolish capital punishment, the Bill set out which murders would be considered first degree murders. At report stage a motion by the Hon. Member for Durham—Northumberland (Mr. Lawrence) was ruled to be in order and was adopted, to add an additional item to the list of crimes which are first degree murder, namely a murder committed by a person already convicted of a murder. The reference is *House of Commons Debates*, 1976, pages 15091-15093 and 15195-15196.

Third, in 1954, at the adoption of what is basically our present Criminal Code, in Bill C-7, the Bill contained a provision, Clause 400, which is now subsection 415(1) of the Code, sidenoted "Printing circulars, etc., in likeness of notes", bank notes. In the Senate, at Government request, subsections (2) and (3) were added, creating and limiting a separate but not dissimilar offence sidenoted "Printing anything in likeness of bank note, etc." The reference is *House of Commons Debates*, 1953-54, pages 3918-3920.

Fourth, in the very committee proceedings which dealt with the present Bill, Bill C-18, Clause 10 proposed to amend Section 73 of the Criminal Code which deals with forcible entry and forcible detainer of real property. In the Code, Section 73 defines forcible entry and forcible detainer and Section 74 makes them each an indictable offence subject to two years imprisonment.

The committee, no doubt correctly, considered Clause 10 to open up the law of forcible entry and detainer to amendment and further amendment, to the point where our committee adopted a new Clause 11, changing them from purely indictable offences to offences punishable either on indictment or on summary conviction. In other words, hybrid offences. That is a provision that was not contained in the original Bill. The reference to that is our meeting of April 15, 1985, at page 461.

Fifth, again in the present Bill C-18, Clause 137 amends Section 605 of the Code to provide a Crown appeal against, among other things, a stay of proceedings in a case by indictment. Our committee adopted a new Clause 181 to amend Section 748 of the Code which was not amended by the original Bill, to provide a similar Crown appeal against a stay of proceedings in summary conviction cases. Again, a whole