

*Government Orders*

since it is the topic of this bill. Then I will establish the relationship between violence against women and the aggressor's intoxication. I will then look at the bill itself and I will conclude with its consequences for the problem of violence.

The authors Côté-Harper, Manganas et Turgeon define self-induced intoxication as follows: "There is self-induced intoxication when a person over-estimates his or her resistance to alcohol or drugs, with the result that, then, his or her actions cannot be considered intentional".

Therefore, if I consume more alcohol that my body can take I will be responsible for my actions. Self-induced intoxication was accepted as a defence by the courts in 1920, in the decision *Director of Public Prosecutions vs. Beard*. In that case, the court decided that a person whose self-induced state of intoxication was such that he could not form the intention of committing a crime could not be found guilty.

Therefore in the case of murder, the Crown must prove that the accused was seeking to cause the death of the victim. If the accused was intoxicated to such a degree that he could not gauge the consequences of his actions, he cannot be found guilty of murder. He will, however, be charged with manslaughter, with an included offence, because his intoxication did not prevent him from forming the desire to carry out the action which led to the death.

It is understandable that the courts have developed, uniquely for the defence of self-induced intoxication, two types of offences: those requiring specific intent—to cause death, in our example—and those requiring general intent—such as to beat a person, who then dies. In *R. v. George*, 1960, Mr. Justice Fauteux of the Supreme Court of Canada explained the distinction as follows: "A distinction must be made between the intention to commit an act in terms of the intended purpose and the intention to commit an act independently of the intended purpose. In certain cases, the intention to commit an act is sufficient for there to have been an offence, while in other cases there must be, in addition to the general intention, a specific intention to commit the act".

The courts had always maintained this distinction, when allowing the accused to use the defence of self-induced intoxication. It was reserved for crimes of specific intent.

On September 30, 1994, the Supreme Court of Canada set off in a new direction when it handed down its decision in the Daviault case. Very briefly, it allowed the accused, who had been charged with sexual assault, therefore general intent, to plead self-induced intoxication.

The court relied on the interpretation of sections 7 and 11(d) of the Canadian Charter in concluding that it was unjust not to allow a seriously intoxicated accused the right to use this

defence because a crime of general intent was involved. In an *obiter dictum*, the court recommended that Parliament resolve the issue through legislation. The decision raised a general outcry, both from groups defending women's rights and from police forces and some members of the legal profession.

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I will not go into the details, but rather move on to certain aspects of the wife abuse problem and then come back to the Supreme Court decision.

Studies have shown time and time again the link between violence and intoxication, whether produced by alcohol or by drugs. This link is common in spousal abuse.

A Statistics Canada study conducted in March 1994 on spousal homicide revealed that, in 1991-92, thirty-seven per cent of the wives and 82 per cent of the husbands who were killed had been drinking. Based on statistics on murderers reported by police, 55 per cent of the men and 79 per cent of the women were under the influence of alcohol, and 18 per cent of the men and 13 per cent of the women were on other drugs.

A previous investigation by the same organization had revealed that alcohol played a major part, i.e. 40 per cent of abusing spouses were under the influence of alcohol.

It also indicated that the risk of becoming victims of violence was three times higher for women living with a man who drank regularly than for other women.

Alcohol is therefore a factor that should be considered when dealing with violence against women. We need to ask ourselves what impact a decision like the one rendered in the Daviault case, which allows a man who assaults a woman while under the influence of alcohol to plead drunkenness in defence, will have on the spousal abuse issue.

Let us start by looking at the general effect on the abusing spouse. Officials who work with violent men agree that the key to eliminating violent behaviour in men is to make them aware of their responsibilities by punishing them and making them aware of the fact that they could benefit from therapy.

Ginette Larouche is a social worker who has written three books on domestic violence. She also participated in the soon to be defunct Canadian Advisory Council on the Status of Women. In her opinion, by not sending abusers to jail or by doing so only for a ridiculously short time, which is often the case, society is trivializing the criminal act they have committed. Then, by having them join support groups, we are telling them they only have a little behaviour problem to deal with.

This analysis is supported by Steven Bélanger, a psychologist heading Pro-Gam, the first therapy group for violent men in Quebec, which was founded in 1982. Listen to what he says. "A long term solution must be sought at a more comprehensive