

Finally, if I could deal just with common sense, Clause 5 deals with extraterritorial jurisdiction. You have made certain rulings with respect to war crimes dealing with extraterritorial jurisdiction. The rest of the motions make absolutely no sense because they are totally derivative of your finding on the first four.

**Mr. Speaker:** I thank the Hon. Member for his argument. My ruling remains, the motions are in order. The Hon. Member is asking the Speaker to do something that any Speaker might like to do, which is to go beyond the procedural admissibility of an amendment and have some concern for the quality of the amendment, if you will. No Speaker can do that. The only thing the Speaker is asked to do is determine the procedural admissibility of an amendment.

There is nothing in Amendments Nos. 5 to 8 on their face that is derivative in the sense that the Hon. Member means. The Member means that their effect may be derivative to another motion. That cannot make the amendment itself out of order in terms of the putting of an amendment. As someone once said, it does not have to make sense to move it. I am left with a dilemma. I think the Hon. Member has made a profoundly interesting argument with regard to the amendment, but not the procedural admissibility of the amendment.

I apologize to the Hon. Member if I misunderstood his earlier intervention and its purpose and if I caused him any trouble, but certainly I find that Motions Nos. 5 through 8 remain procedurally in order.

**Mr. Kaplan:** Mr. Speaker, I would simply observe that based on your earlier ruling that you would not find it acceptable, as you did not find it acceptable, to consider what was out of order to be in order by unanimous consent, neither would you be prepared to accept unanimous consent that something which you have found in order is out of order.

**Mr. Speaker:** I think the Hon. Member knows that he has a way of achieving unanimous consent by not moving them, if that were to be his intention. May I therefore proceed.

**Mr. John Nunziata (for Mrs. Finestone)** moved:

Motion No. 5

That Bill C-18, be amended in Clause 5 by striking out line 2 at page 9 and substituting the following therefor:

"Canada.

(4.1) For greater certainty, it is hereby declared that a person who has been found guilty *in absentia* outside Canada, but who has not yet been punished, shall not be entitled to plead *autrefois convict* on account of that finding of guilt."

**Mr. John Nunziata (York South-Weston)** moved:

Motion No. 6

That Bill C-18, be amended in Clause 5 by striking out line 2 at page 9 and substituting the following therefor:

"Canada.

(4.1) For greater certainty, it is hereby declared that a person who has been found guilty *in absentia* outside Canada, but who has not yet been punished, shall not be entitled to plead *autrefois convict* on account of that finding of guilt."

*Criminal Law Amendment Act, 1985*

• (1550)

**Hon. Bob Kaplan (York Centre)** moved:

Motion No. 7

That Bill C-18, be amended in Clause 5 by striking out line 2 at page 9 and substituting the following therefor:

"Canada.

(4.1) For greater certainty, it is hereby declared that a person who has been found guilty, *in absentia* outside Canada, but who has not yet been punished, shall not be entitled to plead *autrefois convict* on account of that finding of guilt."

**Mr. Svend J. Robinson (Burnaby)** moved:

Motion No. 8

That Bill C-18, be amended in Clause 5 by striking out line 2 at page 9 and substituting the following therefor:

"Canada.

(4.1) For greater certainty, it is hereby declared that a person who has been found guilty *in absentia* outside Canada, but who has not yet been punished, shall not be entitled to plead *autrefois convict* on account of that finding of guilt."

On Motion No. 8—

**Mr. Svend J. Robinson (Burnaby):** Mr. Speaker, I want briefly to indicate the intent of this particular amendment. I recognize the concern that has been addressed by the Hon. Member for Cambridge (Mr. Speyer) but the intent of the amendment is to ensure that in a case in which an individual has in fact been found guilty in another jurisdiction or *in absentia* but despite the finding of guilt has never been punished for the offence for which he has been found guilty, he should not be able to claim in Canada that he has been found guilty and convicted and therefore not be put on trial for the offence here in Canada.

It has been argued that this particular amendment is irretrievably linked to the earlier amendments with respect to war crimes which were ruled out of order. In fact, that is not the case. Certainly the argument would be more compelling if the provisions with respect to trials of alleged war crimes in Canada had in fact been part of this Bill and ultimately part of the Criminal Code of Canada. We can only hope that following the report of the Deschenes Commission, such provisions will in fact be enacted by this Government which has not slammed the door shut to the possibility of trials in Canada as did the previous Government. That possibility does exist.

It is essential, particularly in the case of an individual who may have been found guilty in a jurisdiction with which Canada does not have an extradition treaty, that that individual should not be able to come forward and claim that he has already been convicted so he should not face trial. Certainly a significant amount of time has passed since the occurrence of war crimes but the passage of time can surely in no way diminish the gravity of these crimes. If indeed there are individuals in Canada against whom evidence exists of implication in war crimes and if in fact Parliament recognizes that they should not escape their day of reckoning and makes provision for trials in Canada with all of the legal safeguards inherent in our system of criminal justice, then I would submit