

*Government Orders*

legislative standard of care. It says expressly that if you intoxicate yourself to the point at which you lose conscious control and do harm to another, you have departed from a standard of care we are entitled to expect from each other.

With that criminally blameworthy misconduct you are not entitled to rely on your self-induced intoxication as a defence in law. That is the link that was missing when the court analysed the common law rule in Daviault. By this bill we are inviting Parliament to provide that link and to demonstrate that self-induced intoxication will not be a response.

While we are creating a legislative standard of care it is not the case that the crown attorney will have to prove in each case that there was a departure from the standard. It is not the case that standard is open to different interpretations depending on who is prosecuting, who is judging and where the case is being tried. We are stating in Bill C-72 conclusively that intoxicating yourself to the point at which you lose conscious control and harm others is a departure from the standard of care.

• (1220)

That is not going to be an issue at a future trial. It is a conclusive assertion by the House of Commons and the Parliament of Canada as the starting point for determining criminal liabilities.

Another important feature from a constitutional perspective is that the Daviault judgment was in relation to all crimes in the Criminal Code. The analysis of the Supreme Court of Canada was in relation to the criminal law generally.

Bill C-72 has been crafted so that it is relevant to crimes of violence. Having narrowed the ambit of the principle for the purposes that we have identified in this statute, we have demonstrated this parliamentary response is proportionate to the threat of violence and association with intoxication. It is a reasonable response from the legislature in that regard.

While there was no section 1 evidence before the court in Daviault, I hope when the bill is heard by committee there will be evidence to establish the facts referred to in the preamble, the close association between violence and intoxication, the disproportionate effect of such violence on women and children, and the extent to which that violence deprives women and children of the equality rights to which they are entitled under the charter so that a firm foundation will be laid for demonstrating the valid purpose and power of Parliament in enacting this legislation.

[*Translation*]

We must not underestimate the value and scope of the preamble to the bill. It is an expression of the reasons and considerations that have led Parliament to legislate in this way. These reasons and considerations have been written down and

may usefully guide the courts in applying these amendments to cases that come before them.

[*English*]

It was suggested during the consultation process leading to the bill that as a matter of perception if we left Daviault alone and did not legislate, the perception would be clearly given that self-induced intoxication could excuse criminal behaviour with the result of a decrease in the reporting of crime, including in particular crimes of violence by men against women.

The feeling is if in the end result in any event the man were to be held not accountable, what is the purpose of going through the reporting of the prosecution. The preamble recognizes violence and the threat of violence have a disadvantaging effect and play a significant role in placing women and children at risk and denying them the right of security of the person and equal protection of the law guaranteed by the charter.

The new standard of care requires all members of society to take responsibility for not harming others. It would thereby assist in protecting the rights of all Canadians to the security of the person and the equal benefit and protection of the law.

The 1993 violence against women survey demonstrated that alcohol played a prominent role in violence against women. In more than 40 per cent of violent incidents the abusers had been drinking. The rate of assault for women living with men who drank heavily was six times higher than for those whose partners did not drink at all.

[*Translation*]

The preamble recognizes the close association between violence and intoxication. A number of studies have suggested that without necessarily being the cause, intoxication creates an environment that is conducive to violence. The new standard of care will reinforce among Canadians the obligation we all have not to do violence to others, whether we are sober or in a state of extreme intoxication.

• (1225)

[*English*]

It is important that the bill go to committee so that a parliamentary committee can hear evidence on these important factual points to provide a foundation for establishing the need for this legislation. I have already identified as an option which the government is considering the prospect of referring the legislation, after its enactment and before its proclamation, to the Supreme Court of Canada to establish its validity before it is proclaimed in force. That judgment will be exercised once we have the opinions of Canadians on the issue of validity. If we feel there are significant questions which require reference we will keep that option in mind.