

*Government Orders*

that arose can be seen in some of the newly defined offences, such as launching an indiscriminate attack which would affect civilian populations. This does not correspond to any provision in existing Canadian criminal law.

It was therefore decided in preparing this legislation for the consideration of Parliament that the grave breaches of protocol should simply be made direct offences under Canadian law. In one or two instances that approach would have created some anomalous results because of different standards. To avoid that this legislation, Bill C-25, simply proposes to amend the Geneva Conventions Act, the earlier 1965 statute, in a manner which will provide that all grave breaches, including those defined in both the conventions and the protocols, will now be direct offences under Canadian law.

The result is that the double criminality test will be eliminated for convention grave breaches.

Bill C-25 is not only concerned with the concept of grave breaches under the convention and the protocols; it also deals with the full question of the war crimes legislation. I want to touch on that briefly because that was legislation passed in the Thirty-third Parliament, and many members present recall the debate at that time. One of the important differences to bear in mind is that the legislation passed by Parliament dealing with war crimes would apply not only as all other criminal law does to crimes committed henceforth, but it also has retrospective application.

The grave breaches of the Geneva conventions and protocols on the other hand can only apply to crimes committed from here on out. That is a point that Canadians feel is very important, as reflected in the hard choice that this Parliament made when dealing with the criminal law to deal with war crimes.

The other aspects of the protocols that are touched by this bill relate for example to the matter of the Trade-marks Act. This simply has to do with the importance of protecting international emblems that are worn to identify, in this case those who bear the distinctive emblem which is the equilateral white triangle on an orange background.

I pause to point out that recently we heard allegations coming from the Middle East where there is continuing conflict about soldiers using the outward appearance of being representatives of the news media. At other times

we know of soldiers pretending to be representatives of the Red Cross and using the Red Cross emblem to get passage to areas from which they would be excluded as military personnel.

For example, that is why the international emblem of the Red Cross is likewise protected under our Trade-marks Act. It is one of the ways in which we can use our law, as other countries who are parties to this same convention can use theirs, to do all we can to see that these important international emblems that give safe and neutral passage to those who are trying to protect innocent civilians and to preserve humanitarian conditions in times of conflict are not victimized by having the military interests on either side use these designations to gain passage to where otherwise they would not. It is important for the integrity of the Red Cross or, in this case, the emblems that are worn by those who carry out the provisions under the Geneva protocols.

In the changes proposed to the Geneva Conventions Act, which I referred to earlier, we find that there is also an amendment to the National Defence Act. The code of service discipline under the National Defence Act currently provides punishment for a number of offences corresponding to grave breaches of the conventions and protocols.

However, this code which applies to Canadian Armed Forces personnel contains a statutory limitation on the prosecution of offences under its purview. Of course, members realize that such limitations are not contemplated in either the Geneva conventions or the protocols. Those are the kinds of offences against which the clock never ceases to run but where justice sooner or later must be realized and achieved.

In order to be in compliance with both our obligations set out in the Geneva conventions and protocols and consistent with our own domestic provisions for armed service personnel, the statutory limitations in the code of service discipline must be amended so as not to apply to grave breaches of the conventions and protocols. That is another point I wanted to bring before members as an explanation of Clause 7 of Bill C-25.

In conclusion, I think that the 1977 Geneva protocols are fundamental humanitarian instruments. They are important for Canada, as they are for all other countries of the world, because they represent a sincere effort to create and maintain a civilized world. The imposition of order and those standards, even in times of armed