[*English*]

ELECTORAL BOUNDARIES READJUSTMENT ACT

FILING OF OBJECTION TO REPORT OF COMMISSION FOR NORTHWEST TERRITORIES

The Acting Speaker (Mr. Corbin): Order. It is my duty to inform the House that an objection signed by the Hon. Members for Timiskaming (Mr. MacDougall), Western Arctic (Mr. Nickerson), Peterborough (Mr. Domm), Hastings-Frontenac-Lennox and Addington (Mr. Vankoughnet), Haldimand-Norfolk (Mr. Bradley), Surrey-White Rock-North Delta (Mr. Friesen), Parry Sound-Muskoka (Mr. Darling), Simcoe North (Mr. Lewis), Esquimalt-Saanich (Mr. Munro) and Halifax West (Mr. Crosby) has been filed with me pursuant to Section 20 of the Electoral Boundaries Readjustment Act, Chapter E2 RSC 1970, to the report of the Electoral Boundaries Commission for the Northwest Territories. If the House agrees, I would suggest we follow past practice and print the text of the objection as an appendix to this day's *Votes and Proceedings*. Is that agreed?

Some Hon. Members: Agreed.

[*Translation*]

The Acting Speaker (Mr. Corbin): Order, please. Shall all orders listed under Private Members' Public Bills preceding Order No. 246 be allowed to stand by unanimous consent?

Some Hon. Members: Agreed.

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[*English*]

CANADA EVIDENCE ACT

INCRIMINATING STATEMENTS

Mr. David Orlikow (Winnipeg North) moved that Bill C-446, an Act to amend the Canada Evidence Act (incriminating statements), be read the second time and referred to the Standing Committee on Justice and Legal Affairs.

He said: Mr. Speaker, the purpose of my Bill, as you have indicated, is to amend the Canada Evidence Act in respect to incriminating statements. It is my belief that a fundamental principle of our system of justice is that accused person are deemed to be innocent until they have been proven guilty. Yet, if and when these people are questioned or charged by the police without being giving the opportunity to be represented and protected by counsel they can in fact make admissions or statements and answer questions in ways which would very seriously prejudice their rights.

I am sure it is known by many Members of Parliament who receive reports from their constituents, and it is certainly known by lawyers, especially criminal lawyers, that frequently people who are being held by the police are not permitted to contact their lawyers when they ask for that right, or are not permitted to do so until after they have been questioned for as long as the police wish. There are many examples of that, Mr. Speaker.

I would remind Hon. Members of the Stephen Truscott case. This man was questioned by the police for long periods of time without counsel and was later charged and convicted of the most serious of offenses in our society, the offense of murder, without having had the opportunity, which I submit he should have had to have counsel present to make sure he was being questioned in a correct and proper way.

The Canadian Civil Liberties Association conducted surveys in the 1970s to find out what experiences arrested people had experienced in this regard. They conducted several hundred interviews and found that of those who requested access to the telephone a minority reported that such requests were granted immediately. In the greater number of cases, access to the telephone was denied outright or delayed until after questioning took place.

• (1720)

This survey only dealt with people who were later charged. Many of the people who were questioned and not given the right to get counsel were never charged. Even for those who were charged, the number permitted to get in touch with a lawyer was quite small.

I submit that the law should affirmatively oblige the police—and this is not the case now—as soon as practicable to advise an arrested person of his right to counsel and to make telephones available for such purpose. Some people will say that the law gives rights so that they cannot be involved in self-incrimination, and ask if this right does not also represent protection against police harassment. The answer is no. Many arrested people do not know they have such a right and many who do know lack the courage to exercise it. I refer to young people, native people, immigrants and particularly those who are not familiar with or comfortable in either of the official languages.

To repeat, I submit that the law should oblige the police, and it does not now do so, as soon as is practicable to advise an arrested person or people being questioned by the police of their right to counsel, and to make telephones available to such people. Until this is done the police should be barred from conducting interrogations until the arrested person has consulted with counsel or, having been advised of his right to do so, has waived the opportunity. To enforce such a provision, all of the information obtained by ignoring such measures should be inadmissible as evidence in court. What I propose is not something very revolutionary as I will try to indicate. It is the practice in Scotland and in the United States.

Let me list some of the major aspects of the Bill, Mr. Speaker. First of all, statements made by the accused must be made voluntarily to be admissible as evidence. Second, no statement is admissible unless its author is warned that he is not obliged to make a statement or that if he voluntarily chooses to make a statement it will be taken down in writing and can be used as evidence. Third, an accused is entitled to counsel and if he cannot afford counsel, one will be assigned.