

Canada Evidence Act

must have adopted a policy of talking out Bills. We have committees set up. We could all learn from a number of these Bills. If a Bill cannot be amended so that it is satisfactory in committee, then, of course, it should be defeated. However, a search light could be put on many of these Bills. The importance of a committee carrying out a study of a particular matter should be brought out. This is not a study by highly legally trained lawyers, but rather by ordinary, everyday representatives of the people who come in contact with those who face these difficulties.

I suppose there is a great number of people who do not know their rights and who are alleged to have breached criminal law. Many of them were in the wrong place at the wrong time. Maybe they had no business being there, but they were not there for any criminal purpose. However, I can understand a police officer taking such a person to the jailhouse or to the court room to question him about these matters. I am not worried about the seasoned criminal who may have been before a court two times, five times, ten times or, as in one case with which I am familiar, 150 times. Such people know their rights and demand them. There is no bluffing them. However, I am greatly concerned about young people who happen to be in the wrong place at the wrong time, with no criminal intent, who are apprehended and taken to be questioned. I certainly object to any type of law that deems that these people have been properly notified and advised, because, in some cases the police officers do not take the trouble to do so. As a matter of fact, as one or two police officers have told me, some police officers cannot be bothered. They are satisfied that a certain person has committed the offence, and that is it.

Let us say, for example, that John Doe is in a park at two o'clock in the morning and is taken by the police who believe him to have breached some criminal law. Why should he not be asked if he wants to phone his parents? His parents should have the right to know. If he is a young teenager, I think it should be a requirement that his parents be notified. He is there, never having been in a courtroom or perhaps never having been that close to a police officer, surrounded by policemen, and he is frightened stiff. He does not know what to do. He is simply a victim. He may or may not have committed a crime. Whether he did or did not, surely our laws should require that a teenager be permitted to phone his parents and have his father or mother come down. If he has a lawyer, he should be asked whether he wants to phone his lawyer. The police should not wait for him to demand it. Many of these young people would not think of demanding; they do not even know they have the right to demand.

I think we can enhance this right of access to counsel, and the more we do the closer we will come to the desirable standard we have set out in the Charter of Rights and Freedoms. That is a right. However, if these young people do not ask for that right, or do not know they have it then often they may be accused and charged when, actually, they should not even have been charged. Once they are charged they do have a terrible feeling about it all.

The Parliamentary Secretary mentioned that we must weigh the rights of society versus the rights of the accused. I say that is fine if we are satisfied that the accused, the person charged, is the one who has committed a terrible crime. Then we must weight the evidence. Even so, why should he not have the right to counsel, as set out in the Charter of Rights and Freedoms? Why should the police not ensure that he has the opportunity to call his counsel or at least to call a friend or someone? People have told me that they were refused the right to phone a friend. They did not know a lawyer. Their parents were not in the city and they wanted to call a friend. They were refused that right. I do not think that is at all right. That is not weighing the merits of society against the merits of the accused. Let us give the accused every possibility to prove his innocence. He should be considered to be innocent. If he is found not to be innocent, then the punishment of the law should come into force or effect.

It would be a very good idea to send this Bill to the committee for examination. It should be examined with a spotlight, a searchlight; making corrections when something is not right, and maybe adding to it to make it a better Bill. I am sure the mover of the Bill would have no objection to either. However, it would tend to make our people in Canada realize that when they are picked up, wrongly or rightly, then they will have the full right of a citizen to prove innocence before being found guilty.

Mr. Robert Daudlin (Essex-Kent): Mr. Speaker, like my friend, the Hon. Member for Scarborough West (Mr. Weatherhead), I would like to compliment the Hon. Member for Winnipeg North (Mr. Orlikow) for having brought this issue forward. I also share some of the concerns just placed on the record by the Hon. Member for Bow River (Mr. Taylor). All of us have had experience with respect to those people uninitiated with the law and proceedings before the bar who have found themselves involved with local police officers and law enforcement agencies, very much at a loss in terms of how to deal with it.

• (1750)

My hon. friend for Scarborough West raised a number of issues with which this Bill does not deal. Obviously, all of us in the House would not want to be party to a piece of legislation that could result in the requirement of a pro forma, the likes of which all of us have seen on TV. I do not believe we would see it as an improvement of individual rights for an arresting officer to read from a card or by memory "You have the right to remain silent and if you decide to waive that right you have the right to counsel. If you cannot afford counsel you have the right to have one appointed for you by the court under the legal aid system . . ." The confusion that could exist in the minds of those individuals who are brought before legal authorities under those circumstances would prevent them, I believe, from having the opportunity of really knowing what was being put to them by way of choices.

Under the current laws and rules of evidence that have evolved, as my friend from Scarborough West has indicated,