

the envelope filled in by the service voter and containing his vote could not be sent by the deputy returning officer before whom it is completed directly to the district named on it. The envelope itself could be the same as that now used, except that the address would not be printed on the front but filled in there and then. If for some reason it could not then be examined and the vote counted in the same way and by the same persons as the civilian votes, it would be a small matter to create a special returning office as is now done. I can myself again see no reason why the efficient machinery already set up and at its disposal could not be used. If this case, of St. John's West, is a fair example, I can say of it without hesitation that all the 34 envelopes produced before us would have been rejected in a matter of minutes in any counting done in St. John's, and an addition of less than 400 votes to the 25,000 odd that were in fact counted would have entailed very little extra work and time.

This procedure, besides reducing to a minimum the chance of votes being recorded that have been cast by voters outside the district, would also, it would seem, help to eliminate the undesirable feature in the present system of deferring the counting of service votes until after polling day. That, however, is a large topic outside the strict scope of this particular enquiry; there is no causal connection between it and the uncertainty of the final count. I mention it only in passing.

The foregoing observations are, as I said at the beginning, merely ancillary to the issue proper of the petition and not essential to its determination. But, there remains one matter to be considered of which the same cannot be said. It raises a question of the first importance and the only one that has presented any real difficulty. I will add that it is with great reluctance that I have given the answer to it which I proceed to explain.

Much has been said in this judgment about uncertainty. But that is a broad term, and the exact nature of the uncertainty brought about in the case of this election must be kept in mind. The Canadian election law closely resembles the English, and the English reports contain a fair number of cases in which elections have been avoided and declared invalid because the result of the election could not be exactly ascertained. Irregularities occurred which plainly could have affected the result, but there was no means of discovering just how they did effect it. Now this election in St. John's West is not such a case. It is not unlikely that 34 electors would have their votes counted in an English election who had no right to cast them; but, if that were the case, the remedy would be simple and easy. Once it was established that they had voted and that their votes had been declared void, an order would be made for the opening and examination of the ballot papers, the offending votes would be traced and the number of votes given for the respective candidates clearly ascertained. And this without revealing how any particular elector had voted. Such an order would obviously be futile here. It would be impossible to sort, out of the 424 votes cast by service voters, the 34 in question.

But that does not end the matter. Without going into the feasibility of it, if the 34 electors were asked to repeat their voting in the election, and did so in the same manner and using the same unidentifiable ballot papers, it would be sufficient. Nobody wants to know for which candidate any elector voted, and that knowledge is unnecessary. All we need to know is how many voted for the