

validity of section 51(e) of the Canada Elections Act was impugned and indeed it was held to be contrary to the Canadian Charter of Rights and Freedoms.

The charter has changed the position of the common law to which my hon. friend referred. He said the common law of England denied to prisoners the right to vote and that had been the position for many years. I understand it may still be the position in the United Kingdom.

The Canadian Charter of Rights and Freedoms adopted in the later part of this century has changed the common law. It gave to all Canadian citizens the right to vote. It was established as a fundamental right of citizenship in Canada. That right to vote is a very important one.

• (1720)

The fact is that the charter changed the law. We have to interpret old laws in relation to the charter and recognize that the situation has changed. I suggest that Bill C-340 introduced by the hon. member does not reflect much of a change that the charter has brought about.

The bill says that every person convicted of an indictable offence and sentenced to a term of imprisonment in a penitentiary will be denied the right to vote, in effect. Clearly, if the inmate is out of prison at the time, voting rights will return. However, if the prisoner is in penitentiary, which is exactly what is the case under section 51(e), then the right to vote is denied to that person.

I am sure that the hon. member is going to argue that only those convicted of indictable offences will face the loss of their voting rights. That may be true but of course there will be various indictable offences for which terms of imprisonment for less than a prison term may be granted where the person is not in a penitentiary but is in a provincial jail.

Under this new bill I assume that person will have voting rights because the term of the bill is that the person be in a penitentiary. Of course a penitentiary is a federal prison. Provincial prisons are not penitentiaries. Therefore, someone who has been convicted of the indictable offence of impaired driving, for example, will

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find himself or herself able to vote as long as the sentence is one of more than two years.

Persons who are convicted of indictable offences quite serious in their nature but receive a sentence of less than two years will be entitled to vote. In other words, the degree of severity of the sentence will be the sole determinant in whether or not voting rights accrue.

I am not sure that is a fair basis on which to place the distinction between who should have the right to vote and who should not among the class of person referred to, persons sentenced to prison terms.

The Royal Commission on Electoral Reform and Party Financing cost us \$17 million or \$18 million. It submitted an extensive report to the committee on which the hon. member for Churchill and I are privileged to sit that is spending its time studying the report. We have a four-volume report to work on. I have two of them here.

The commission has made certain recommendations with respect to the rights of persons in prison. One recommendation of the royal commission was that persons convicted of an offence punishable by a maximum of life imprisonment and sentenced for 10 years or more be disqualified from voting during the time they are imprisoned.

The committee is looking at that recommendation. I am not sure that it finds full favour with the members of the committee because it also bases the ban on voting on the question of the severity of the sentence rather than on the crime for which the person was convicted.

There is some interest in the committee in looking at crimes as the basis for depriving persons of voting rights rather than the severity of the sentence. Indeed some of the arguments put forward in the royal commission's report indicate that perhaps that kind of disqualification would be fairer.

In the course of its report at page 44 of volume 1 the commission said: "The scope of the current disqualification is clearly too broad. It fails to distinguish between types of offences and thus disqualifies persons who have committed offences that cannot in any way be considered significant violations of the essential norms of responsible conduct in a liberal, democratic state. In terms of Canadian jurisprudence this blanket disqualification cannot meet the proportionality test laid down in the Queen