

*Private Members' Business***PRIVATE MEMBERS' BUSINESS**

• (1700)

[English]

CANADA ELECTIONS ACT

MEASURE TO AMEND

Hon. Alan Redway (Don Valley East) moved that Bill C-340, an act to amend the Canada Elections Act (disqualifications of electors), be read the second time and referred to a legislative committee in the Departmental envelope.

He said: Mr. Speaker, Bill C-340 is an act to amend the Canada Elections Act dealing with the issue of prisoner voting.

The intention and the purpose of the bill would provide that any person who is convicted of an indictable offence and sentenced to a term of imprisonment in a penitentiary is not qualified to vote at a federal election unless the person is granted full parole or a statutory release or is no longer in prison on account of a remission.

This is, quite frankly, the traditional position of the British common law. This is the position that has been enshrined in the British common law for years and years and years, in fact dating back centuries. It is a position which has been adopted into Canada as a result of the adoption here of the British common law. In fact, the first reference to prisoner voting, apart from the common law in this country, is one which goes back to the Constitution Act of 1791. That is an act in which the British Parliament dealing with Canada provided that all those who had been convicted of treason or felony would be deprived of a vote and disenfranchised. In addition to that, the common law position itself deprived anyone who was a prisoner in prison of their vote.

Subsequently, in 1898, the Canadian election legislation expressly provided that anyone who was a prisoner would be deprived of their vote. That was something that was understood at that time. It was not controversial. There was not a great debate about it. It was the common understanding of the people of this country at that time that that was the way things were as far as prisoner voting was concerned. So that particular piece

of legislation was put in place and has been in place up to the present time in this country.

It is not something that is unique to Canada. It is not something that is unique to Great Britain or the United Kingdom. It is widespread, right around the world, that prisoners are deprived of their vote. In fact, if we look at other countries we see that that is the case in such countries as Greece, India, Jamaica, Norway, New Zealand, the United Kingdom, all but eight of the United States and in Australia as well, except for some of the states.

Recently, however, the courts in this country have addressed the issue and a number of prisoners have taken cases to the courts on whether or not prisoners have the right to vote in the light of the Charter of Rights and Freedoms. There are a number of cases which have been decided by the courts and a number of cases have been appealed or are under appeal right now.

There are three leading cases on this issue. There is the Sauvé case which is a decision in the Ontario courts of a prisoner who was imprisoned in Collins Bay penitentiary in Ontario. In that case the judge, Madam Justice Van Camp said:

It seems to me that Parliament was justified in limiting the right to vote with the objective that a liberal democratic regime requires a decent and responsible citizenry. Such a regime requires that the citizen obey voluntarily the practical efficacy of laws relied on and willing acquiescence of those subject to them.

The state has a role in preserving itself by the symbolic exclusion of criminals from the right to vote for the lawmakers. So also, the exclusion of the criminal from the right to vote reinforces the concept of a decent responsible citizenry essential for a liberal democracy.

Those were the words of Madam Justice Van Camp in the Sauvé case in Ontario, a position which has been questioned by some other courts in other cases.

There is the Badger case in the province of Manitoba and the Belczowski case in the province of Alberta. The Belczowski case in effect found that as a result of section 1 of the Charter of Rights and Freedoms that the Canada Elections Act excluding prisoners from voting was too broad and that there was a right for prisoners to vote.

In both the Sauvé case and the Belczowski case the decisions have been appealed through the various appeal courts and are now at a stage where leave to appeal to