Erskine May, Chapter VI, pp. 431-448

Bribery: Duration of Parliaments: The Ballot

Bribery Since the Reform Act

Prominent among the evils of the electoral system which have been noticed, was that of bribery at elections. For the correction of this evil the reform acts made no direct provision. Having increased the number of electors, the legislature trusted to their independence and public spirit in the exercise of the franchise; and to the existing laws against bribery. But bribery is the scandal of free institutions in a rich country; and it was too soon evident, that as more votes had been created, more votes were to be sold. It was not in nomination boroughs, or in boroughs sold in gross, that bribery had flourished; but it had been the vice of places where a small [432] body of electors,—exercising the same privilege as proprietors,—sold the seats which, by their individual votes, they had the power of conferring.

The reform act had suppressed the very boroughs which had been free from bribery: it had preserved boroughs, and classes of voters, familiarised with corrupt practices; and had created new boroughs, exposed to the same temptations. Its tendency, therefore,—unless corrected by moral influences,—was to increase rather than diminish corruption, in the smaller boroughs. And this scandal,—which had first arisen out of the growing wealth of the country,—was now encouraged by accumulations of property, more vast than in any previous period in our history. If the riches of the nabobs had once proved a source of electoral corruption,—what temptations have since been offered to voters, by the giant fortunes of our age? Cotton, coal, and iron,—the steam-engine, and the railway,—have called into existence thousands of men, more wealthy than the merchant princes of the olden time. The riches of Australia alone, may now vie with the ancient wealth of the Indies. Men enriched from these sources have generally been active and public spirited,—engaged in enterprises which parliamentary influence could promote; ambitious of distinction,—and entitled to appeal to the interests and sympathies of electors. Such candidates as these, if they have failed to command votes by their public claims, have had the means of buying them; and their notorious wealth has excited the cupidity of electors. This great addition to the [433] opulent classes of society, has multiplied the means of bribery; and the extension of the franchise enlarged the field over which it has been spread. Nor was the operation of these causes sufficiently counteracted by such an enlargement of borough constituencies, as would have placed them beyond the reach of undue solicitation.

So far the moral and social evils of bribery may have been encouraged; but its political results have been less material. Formerly a large proportion of the members of the House of Commons owed their seats to corruption, in one form or another: since 1832, no more than an insignificant fraction of the entire body have been so tainted. Once the counterpoise of free representation was wanting: now it prevails over the baser elements of the constitution. Nor does the political conduct of members chosen by the aid of bribery, appear to have been gravely affected by the original vice of their election. Eighty years ago, their votes would have been secured by the king, or his ministers: now they belong indiscriminately to all parties. Too rich to seek office and emolument,—even were such prizes attainable,—and rarely aspiring to honours,—they are not found corruptly supporting the government of the day; but range themselves, on either side, according to their political views, and fairly enter upon the duties of public life.

Disfranchisement of Corrupt Boroughs

The exposure of corrupt practices since 1832, has been discreditably frequent; but the worst examples have been presented by boroughs of evil reputation, which the reform act had spared. [434] Sudbury had long been foremost in open and unblushing corruption;(1) which being continued after the reform act, was conclusively punished by the disfranchisement of the borough. St. Albans, not less corrupt, was, a few years later, wholly disfranchised. Corrupt practices were exposed at Warwick, at Stafford, and at Ipswich. In corporate towns, freemen had been the class of voters most tainted by bribery; and their electoral rights having been respected by the reform act, they continued to abuse them. At Yarmouth their demoralisation was so general, that they were disfranchised, as a body, by act of parliament. But bribery was by no means confined to freemen. The £10 householders, created by the reform act, were too often found unworthy of their new franchise. Misled by bad examples, and generally encouraged by the smallness of the electoral body, they yielded to the corrupt influences by which their political virtue was assailed. In numerous cases these constituencies,—when their offence was not sufficiently grave to justify a permanent disfranchisement,—were punished in a less degree, by the suspension of the writs.(2)

Meanwhile; Parliament was devising means for the more general exposure and correction of such disgraceful practices. It was not enough that writs had been suspended, and the worst constituencies disfranchised: it was necessary for the credit of the House of Commons, and [435] of the new electoral system, that gross abuses of the franchise should be more effectually restrained.

The first measure introduced with this object, was that of Lord John Russell in 1841. Many members who had won their seats by bribery, escaped detection, under cover of the rules of evidence, then followed by election committees. These committees had,—not unnaturally,—required a preliminary proof that persons alleged to have committed bribery, were agents of the sitting member or candidate. Until such agency had been established, they declined to investigate general charges of bribery, which unless committed by authorised agents would not affect the election. When this evidence was wanting,—as it often was,—all the charges of bribery at once fell to the ground; the member retained his seat, and the corrupt electors escaped exposure. To obviate this cause of failure, the act of 1841,—inverting the order of proceeding,—required committees to receive evidence generally upon the charges of bribery, without prior investigation of agency; and thus proofs or implications of agency were elicited from the general evidence. And even where agency was not established, every act of bribery, by whomsoever committed, was disclosed by witnesses, and reported to the House.

While this measure facilitated the exposure of bribery, it often pressed with undue severity upon the sitting member. Inferences rather than proofs of agency having been accepted, members have [436] forfeited their seats for the acts of unauthorised agents, without any evidence of their own knowledge or consent. In the administration of this law, committees,—so far from desiring to screen delinquents,—erred rather on the side of severity. The investigation of corrupt practices was also, incidentally, facilitated by the amendment of the law of evidence, which permits the personal examination of sitting members and candidates.(3) The act of 1841 was followed by another, in the next year, which provided for the prosecution of investigations into bribery, after an election committee had closed its inquiries, or where charges of bribery had been withdrawn. But this measure not having proved effectual, another act was passed in 1852, providing for the most searching inquiries into corrupt practices, by commissioners appointed by the crown, on the address of the two Houses of Parliament. In the exposure of bribery,—and the punishment of its own members when concerned in it,—Parliament has shown no want of earnestness: but in the repression of the offence itself, and the punishment of corrupt electors, its measures were less felicitous. The disclosures of commissions were, too often, barren of results. At Canterbury one hundred

and fifty-five electors had been bribed at one election, and seventy-nine at another: at Maldon, seventy-six electors had received bribes: at Barnstaple, two hundred and fifty-five: at Cambridge, one hundred and eleven; [437] and at Kingston-upon-Hull no less than eight hundred and forty-seven. At the latter place, £26,606 had been spent in three elections. In 1854, bills were brought in for the prevention of bribery in those places, and the disfranchisement of the electors who had been proved to be corrupt. But under the act which authorised these inquiries, voters giving evidence were entitled to claim an indemnity; and it was now successfully contended that they were protected from disfranchisement, as one of the penalties of their offence. These bills were accordingly withdrawn. Again in 1858, a commission having reported that one hundred and eighty-three freemen of Galway had received bribes, a bill was introduced for the disfranchisement of the freemen of that borough; but for the same reasons, it also miscarried.

In 1860, there were strange disclosures affecting the ancient city of Gloucester. This place had been long familiar with corruption. In 1816, a single candidate had spent £27,600 at an election; in 1818, another candidate had spent £16,000; and now it appeared that at the last election in 1859, two hundred and fifty electors had been bribed, and eighty-one persons had been guilty of corrupting them.

Up to this time, the places which had been distinguished by such malpractices, had returned members to Parliament prior to 1832: but in 1860, the perplexing discovery was made, that [438] bribery had also extensively prevailed in the populous and thriving borough of Wakefield,—the creation of the reform act. Eighty-six electors had been bribed; and such was the zeal of the canvassers, that no less than ninety-eight persons had been concerned in bribing them.

The writs for Gloucester and Wakefield were suspended, as a modified punishment of these corrupt places: but the House of Commons was as much at fault as ever, in providing any permanent correction of the evils which had been discovered.

Corrupt Practices Acts

In 1854, a more general and comprehensive measure was devised, for the prevention of corrupt practices at elections.(4) It restrained candidates from paying any election expenses, except through their authorised agents, and the election auditor; and provided for the publication of accounts of all such expenses. It was hoped that these securities would encourage, and perhaps enforce, a more legal expenditure; but they failed to receive much credit for advancing the cause of purity.

This temporary act was continued from time to time, and in 1858 was amended. The legality of travelling expenses to voters had long been a matter of doubt,—having received discordant constructions from different committees. The payment of such expenses might be a covert form of bribery; or it might be a reasonable accommodation to voters, in the proper exercise of their franchise. This doubt had not been settled by [439] the act of 1854; but it had been adjudged in a court of law,(5) that the payment of travelling expenses was not bribery, if paid bona fide to indemnify a voter for the expenses he had incurred in travelling to the poll,—and not as a corrupt inducement to vote. The act of 1858, following the principle of this judgment, —but adding a further security for its observance,—permitted the candidate, or his agent appointed in writing, to provide conveyance for voters to the poll; but prohibited the payment of any money to voters themselves, for that purpose.(6) But it was objected at the time,—and the same objection has since been repeated,—that the legalising of travelling expenses, even in this guarded manner, tends to increase the expenses of elections; and this debatable question will probably receive further consideration from the legislature.

It was the policy of these acts to define clearly the expenses which a candidate may lawfully

incur, and to ensure publicity to his accounts. So far their provisions afforded a security to the candidate who was resolved to resist the payment of illegal expenses; and an embarrassment, at least, to those who were prepared to violate the law. That they were not effectual in the restraint of bribery, the subsequent disclosures of election committees, and commissions sufficiently attest. Though large constituencies, in some instances, proved themselves accessible to corruption, bribery prevailed most extensively in the smaller [440] boroughs. Hence it appeared that some remedy might be sought in the enlargement of electoral bodies, and the extension of the area of voting. To repress so grave an evil, more effectual measures were again devised:(7) but they may still be expected to fail, until bribery shall be unmistakably condemned by public opinion. The law had treated duelling as murder, yet the penalty of death was unable to repress it; but when society discountenanced that time-honoured custom, it was suddenly abandoned. Voters may always be found to receive bribes, if offered: but candidates belong to a class whom the influence of society may restrain from committing an offence, condemned alike by the law, and by public opinion.

Duration of Parliaments

Other questions affecting the constitution of Parliament, and the exercise of the elective franchise, have been discussed at various times, as well before as since the reform act, of 1832, and here demand a passing notice.

To shorten the duration of Parliaments, has been one of the changes most frequently urged. Prior to 1694, a Parliament once elected, unless dissolved by the crown, continued in being until the demise of the reigning king. One of the Parliaments of Charles II. had sat for eighteen years. By the Triennial Act(8) every Parliament, unless sooner dissolved, came to a natural end in three years. On the accession of George I. this period was extended to seven years, by [441] the well-known Septennial Act.(9) This act, though supported on the ground of general expediency, was passed at a time of political danger;—when the country had scarcely recovered from the rebellion of 1715, and the Jacobite adherents of the Pretender were still an object of apprehension to the government.

In the reign of George II. attempts were made to repeal the septennial act;(10) and early in the next reign, Alderman Sawbridge submitted motions, year after year, until his death, for shortening the duration of Parliaments. In 1771 Lord Chatham 'with the most deliberate and solemn conviction declared himself a convert to triennial Parliaments.' The question afterwards became associated with plans of parliamentary reform. It formed part of the scheme proposed by the 'Friends of the People' in 1792. At that period, and again in 1797, it was advocated by Mr. Grey, in connection with an improved representation, as one of the means of increasing the responsibility of Parliament to the people. The advocates of a measure for shortening the duration of Parliaments, were not then agreed as to the proper limit to be substituted: whether one, three, or five years. But annual Parliaments have generally been embraced in schemes of radical reform.

In times more recent, the repeal of the Septennial [442] Act—as a distinct question of public policy—has often been fairly and temperately discussed in Parliament. In 1817, Mr. Brougham gave notice of a motion on the subject. but did not bring it forward. In 1818, Sir Robert Heron moved for leave to bring in a bill, and was supported by Sir Samuel Romilly and Mr. Brougham; but the proposal met with little favour or attention. The subject was not revived until after the passing of the reform act. It was then argued with much ability by Mr. Tennyson, in 1833, 1834, and 1837; and on each occasion met with the support of considerable minorities. On the last occasion, the motion was defeated by a majority of nine only. It did not, however, receive the support of any of the leading statesmen, who had recently carried parliamentary reform. That measure had greatly increased the responsibility of the House of Commons to the people; and its authors were satisfied that no further change

was then required in the constitution of Parliament. In 1843, Mr. Sharman Crawfurd revived the question; but met with scant encouragement. Lastly, in 1849, Mr. Tennyson D'Eyncourt obtained leave to bring in a bill, by a majority of five. But notwithstanding this unexpected success, the question, if discussed elsewhere as a matter of theoretical speculation, has since ceased to occupy the attention of Parliament.

[443] The repeal of the septennial act has been repeatedly advocated on the ground that the Parliament of George I. had abused its trust, in prolonging its own existence; and that, even admitting the overruling necessity of the occasion,—the measure should at least have been temporary. To this it has been answered, that if any wrong was done, it was committed against the people of that day, to whom no reparation can now be made. But to contend that there was any breach of trust, is to limit the authority of Parliament, within bounds not recognised by the constitution. Parliament has not a limited authority,—expressly delegated to it: but has absolute power to make or repeal any law; and every one of its acts is again open to revision. Without a prior dissolution of Parliament, the Unions of Scotland and Ireland were effected, at an interval of nearly a century,—measures involving the extinction of the Parliaments of those countries, and a fundamental change in that of England, much greater than the septennial act had made. That act could have been repealed at any time, if Parliament had deemed it advisable; and no other ground than that of expediency, can now be reasonably urged, for shortening the duration of Parliaments.

The main ground, however, on which this change has been rested, is the propriety of rendering the representatives of the people more frequently accountable to their constituents. The shorter the period for which authority is entrusted to them, the more guarded would they be in its exercise, and [444] the more amenable to public opinion. It is said that a Parliament cannot be trusted, if independent of the people, and exposed to the influence of ministers, for seven years. And again, the circumstances of the country are likely to be changed during so prolonged a period; and the conduct of members, approved at first, may afterwards be condemned.

On the other side it has been argued, that in practice no Parliament is permitted to continue longer than six years; and that frequent dissolutions have reduced Parliaments, at several periods, to an average duration of three, or four years.(11) If Parliaments were elected for three years only, they would often be reduced by various contingencies, to annual Parliaments. They are already elected often enough to make them responsible to their constituents; and more frequent elections would unduly foment political excitement, and increase the expenses of elections, which are already a just ground of complaint.

Of late years, the popularity of this question has declined,—not so much on account of any theoretical preference for septennial Parliaments, as from a conviction that the House of Commons has become accountable to the people, and prompt in responding to their reasonable desires.

Vote by Ballot

[445] The 'ballot' was another question repeatedly debated in Parliament, and a popular topic at the hustings, at public meetings, and in the newspaper press. No sooner had the reform act passed, than complaints were made that the elective franchise, so recently enlarged, could not be freely exercised. It was said that the landlords in counties, and wealthy customers in towns, coerced the free will of the electors, and forced them to vote against their opinions and consciences. As a protection against such practices, the necessity of secret voting was contended for. To give the franchise, without the means of exercising it, was declared to be a mockery.

It was not for the first time that the influence now complained of, had been exerted over

electors. It had formerly been recognised as one of the natural rights of property. It was known that a few landowners could nominate the county members. They conducted the freeholders to the poll, as naturally as a Highland chieftain led forth his clan to the foray. But now a new electoral policy had been commenced. The people at large had been enfranchised ; and new classes of electors called into existence. The political ties which had bound the electors to the landlords were loosened; and the latter, being deprived of their absolute ascendency, endeavoured to sustain it by other means. The leaseholders enfranchised by the reform act, being the most dependent, were the very class peculiarly needing protection. The ballot had been called by Cicero the silent assertor of freedom,—*tabella, vindex tacita libertatis*; and it was now proposed, in order to ensure freedom of election.

[446] The ballot has been sought mainly for the protection of voters from intimidation and undue influence; but it has also been recommended as a safeguard against bribery. It has been resisted by arguments too various to be briefly reviewed. The strongest, perhaps, is that every political function being publicly and responsibly exercised, and every debate and vote in Parliament published for the information of the people,—electors can scarcely claim an exemption from that law of publicity, to which their rulers and representatives are subject. Why are they alone, to be irresponsible? Apart from theory, its practical efficacy has also been denied. It has been said that if intimidation were intended, means would be taken to discover the votes of electors, in spite of all the machinery of the ballot. Nor would bribery be prevented, as a candidate would secure fulfilment of corrupt promises, by making his payment for votes contingent upon his success at the poll.

The advocates of the ballot, perhaps, exaggerated the advantages of their favoured scheme, while its opponents magnified its evils and its dangers. It was a measure upon which sincere reformers were honestly divided. At times, it made progress in the number and influence of its supporters. Yet such were its vicissitudes, that it was long difficult for a political observer to divine, whether it would be suddenly adopted,—in the crisis of some party struggle,—or be laid aside as a theory for the disputation of pamphleteers, and debating societies.

In 1833, Mr. Grote took possession of the [447] question of the ballot;(12) and from that time until 1839, he continued to advocate the cause, in a series of temperate and philosophical speeches,—as creditable to his political wisdom, as to his learning and ability. He argued in the calm and earnest spirit of the theoretical statesman; not with the fierce temper of the democrat. His honest labours greatly advanced the popularity of the cause, and improved its parliamentary position. In 1833, he found but one hundred and six supporters;(13) in 1839, he had two hundred and sixteen.(14) Mr. Grote having retired from Parliament, the question was not allowed to be forgotten. In 1842, Mr. Ward adopted it; and from 1848, Mr. Henry Berkeley made it his own. With ample stores of fact and anecdote, and with varied resources of humour, he continued to urge on the question, year after year; but with failing support.

In 1848, his motion was carried by a majority of five.(15) In 1849, it was defeated by a majority of fifty-one: in 1862, by a majority of one hundred and two; and in 1860, by a majority of one hundred and seven. Such reaction of opinion, upon a popular measure, appeared to be more significant of ultimate failure, than a steady position, without progress indeed, yet without reverses. The revival [448] of the question, under more favourable auspices, was reserved for a later period, and new political conditions.

Footnotes.

1. See supra, p. 337.
2. Warwick, Carrickfergus, Hertford, Stafford, Ipswich, etc.
3. Lord Denman's Act; 14 and 15 Vict. c. 99.
4. Corrupt Practices Act 1854, 17 and 18 Vict, c. 102.
5. Cooper v. Slade; 6 E. and B., 447: Rogers on Elections, 334.

6. 21 and 22 Vict. c. 87; further amended in 1863.
7. In 1867-8, after the period comprised in this history, a wide extension of the suffrage was conceded, and another act was passed for repressing corrupt practices at elections. [See Supplementary Chapter]
8. 6 Will. and Mary, c. 2.
9. 1 Geo. I, c. 38.
10. In 1734 and 1741.
11. Sir Samuel Romilly stated, in 1818, that out of eleven Parliaments of Geo. III. eight had lasted six years. Hans. Deb., 1st Ser., xxxviii. 802. But later periods present a different result. From the accession of Will. IV., in 1830, to 1860—a period of thirty years—there were no less than ten Parliaments, showing an average duration of three years only.
12. The Radicals first advocated vote by ballot, about 1817, as part of their scheme of reform; Edinb. Rev., June 1818, p. 199.
13. Hans. Deb., 3rd Ser., xvii. 608—Ayes, 106; Noes, 211.
14. Ibid., xlviii. 442—Ayes, 216; Noes, 333.
15. Ayes, 86; Noes, 81.

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