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British Elections and Corrupt Practice Acts

J. E. Reeves

University of Kentucky

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In England during the nineteenth century the word "reform" connoted electoral reform which was much needed. Suffrage was rather narrowly restricted; vote buying and other election irregularities were common practice; the population of representative districts varied widely (industrial centers having far less than their fair share of the members of Parliament); and during the early part of the century rotten and nomination boroughs were not exceptions. In the middle of the twentieth century all of this is changed. No one is excluded from the franchise except for mental incapacity, criminality, and other causes that are generally recognized in the United States. Direct bribery in elections is a thing of the past, undue influence is rare or nonexistent. Representative districts are as nearly equal as could reasonably be expected, and election laws are generally obeyed. Because such happy conditions as now prevail in England do not always surround American elections, a short analysis of the development of elections and election laws in Britain might be interesting and worthwhile.

The Development of Bribery

The main streams of British electoral reform have related to: (1) expansion of the franchise, first to freeholders, then to tenants and lodgers, finally to the women; and (2) redistribution of House of Commons seats so as to provide for districts with equal or nearly equal population. A third stream of importance has related to the development of corrupt practice acts. The latter are the chief concern of this article. The main purposes of these acts have been the control of expenditures and the prevention of bribery which appears to have been very extensive for many decades.

*Associate Professor of Political Science, University of Kentucky, on leave, second semester 1958-59, studying political parties and elections in England.
“Rotten” boroughs and “nomination” boroughs were the basis for the development of bribery in British elections. Technically, a “rotten” borough was one with only a few voters; a “nomination” borough was one where a landowner could appoint the member. For 150 years after the Restoration, few if any changes in Parliamentary representation were made. Old towns disappeared and new ones grew up. Consequently, many members represented only the owners of the land. The Duke of Norfolk was represented by eleven members who sat for places forming parts of his estates. Other lords and dukes were represented by from one to nine members. It has been said that one constituency consisted of a green mound, another of a ruined wall, and another was submarine, and Bagehot has been quoted as saying, “Mr. Canning was an eloquent man, but even he couldn’t say that a decaying tree-stump was the people.” As a consequence of these conditions many members literally bought their seats.

In other districts only a few voters chose a member or members (districts with plural memberships were common), and until 1780 the members from the County of York, one of the largest and most influential of the counties, were elected in Lord Rockingham’s dining-room. Under such circumstances the development of bribery was to be expected. Furthermore, many members represented districts that were large in territory but sparse in population. In such constituencies a voter might have to travel as much as forty or fifty miles in order to exercise his right of suffrage. The payment of travel expenses by the candidate, including lodging, food, and drink, was considered proper. Out of this grew the practice of treating. This may still be a necessity in an American election campaign, but in English politics it is a great sin, usually avoided at election time.

When and how the purchase of seats and the bribery of voters got started is not known for certain. It is reliably reported that Lord Wharton’s steward offered a seat for sale at 400 pounds in 1698. The sale of parliamentary memberships became a matter of notoriety during the early part of the eighteenth century, with

1 Heaton, The Three Reforms of Parliament ch. I (1885).
3 Quoted in id. at 604.
4 Ward, Prothers & Leathers, op. cit. supra, note 2, at 603.
5 Heaton, op. cit. supra, note 1, at ch. I.
6 Barritt & Barritt, The Unreformed House of Commons 354 (1903).
the price ranging up to at least 2,000 pounds. In the "rotten" boroughs, where seats were not for sale by any one person or family, direct bribery of voters became common practice. It is related that, "The men of Grampound used brazenly to proclaim that their votes were worth 300 pounds each." It is also known that at every election the Treasury agents did a regular business in rotten boroughs, buying some for the government and selling others.

Early efforts at reform seem to have been confined to broadening the franchise and equalizing districts. It is reasonable to suppose, however, that the proposers of reform believed that if each constituency contained large numbers of voters, bribery and treating would become impractical because of the excessive costs. Perhaps it was thought that a third type of undue influence would also become impracticable because of the numbers involved. This type was exemplified by the action of the Duke of Newcastle, who, on the defeat of his nominee for Newark, ascertained the names of hostile voters (there being no secret ballot) who held land or property from him and expelled them all from his tenancy. Instances of this sort could be multiplied and incidentally may have contributed to the persistence of the Liberal party after 1931. One hears stories in England of non-socialist voters, who on being asked to support Conservative candidates as the "only realistic alternative to Socialism," have angrily refused to do so. Often as not the reason given is mistreatment of a father or grandfather by a Tory landlord.

**Agitation for Reform**

Conditions such as those noted above naturally bred disgust and demands for reform. As early as 1745, Sir Francis Dashwood (afterwards Lord Spencer) introduced a reform amendment in the House of Commons. In 1780 the Duke of Richmond introduced a bill into the House of Lords which would have given manhood suffrage and annual Parliaments. In 1783 and 1785, William Pitt (the Younger) proposed resolutions in favor of reform. In 1792, Mr. Grey (afterwards Earl Grey) introduced a reform petition from the Society of the Friends of the

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7 *Id.* at 854-55. See also Albeny, A Parliamentary History of Hersham.
8 *Ward, Frothers & Leathers, op. cit. supra,* note 4, at 605.
9 *Id.* at 603-04.
People. Early in the nineteenth century leaders such as William Cobbett, John Wilkes, Major John Cartwright and Henry Flood took up the fight. Public meetings were held and petitions were sent to Parliament. Many of the public meetings were disbanded by the military; leaders were jailed; and innocent bystanders were injured and sometimes killed, but the reformers kept up the fight. Finally public meetings in unrepresented towns took up the practice of sending petitions in the form of "living men," or "legislative attorneys," who were to plead the cause of unrepresented towns before Parliament and in fact claim seats in Parliament. At last the Whig party took up the cry for reform and made it the political issue of the day.11

**1832-1868**

The Whigs won the election of 1830 and in 1832 passed the law which British liberals have called "The Great Reform" and Americans generally known as the "British Reform Act of 1832."12 This Act approximately doubled the number of voters13 by enfranchising freeholders and tenants of property worth ten pounds per acre or more. It also abolished the nomination boroughs and the worst of the rotten boroughs and gave their seats to the cities. Its sponsors, as noted above, and its framers evidently believed that large numbers of voters would make securing a seat through bribery or purchase impossible, and that these and other corrupt practices would, consequently, disappear. Thirty-five years later, William E. Gladstone came much closer to the truth when he said that any bill which enfranchises downward "must provide some means of preventing the traffic in votes that would infallibly arise. . . ."14

Charles Dickens in *Eatanswill*15 described British electoral conditions at their worst, in the late 1830's. Bribery and treating were rampant, the "independent voters" after being plied with food and drink until they could partake of no more, slept all night on the coachhouse floor and were voted the next morning before they sobered up. Workers hired out to both sides and the opposition voters were prevented from exercising their

11 Heaton, *op. cit. supra* note 1.
12 Reform Act, 1832, 2 Will. 4, c. 45.
14 *The Times (London)*, March 26, 1867, p. 3.
15 Dickens, *Pickwick Papers*, ch. XIII.
franchise by any means, fair or foul. This is the way Dickens saw the politics of his time. It is an interesting commentary that Mr. John Greaves of London, Hon. Secretary of The Dickens Fellowship, read *Eatanswill* to a San Francisco audience on the evening before the 1958 Congressional election and was told by members of the audience that many of the conditions described by Dickens still persisted in California.\(^\text{16}\)

The framers of the Reform Act of 1832 thought it was the final and permanent reform, but every school child knows it was not. The Chartists, the embryonic trade unions, public meetings, and prominent leaders continued to agitate for further reform.\(^\text{17}\) Public interest seems to have been concerned primarily with further expansion of the franchise and more equalization of districts. Members of Parliament and candidates, however, began to be interested in bribery and its prevention. In 1852, in the Election Commissions Act,\(^\text{18}\) it was provided that if a joint address of both houses of Parliament requested it, a commission should be appointed to inquire into the existence of corrupt practices in an election. The commission was to consist of barristers, each of whom must have practiced law for at least seven years and held no public office.\(^\text{19}\) The commission was to go to the constituency involved and could summon witnesses and compel testimony. Reports were to be made to Parliament and Her Majesty’s Government. Trial of election cases was left to parliamentary committees. Final decisions as to whether an election was valid remained the prerogative of Parliament itself.

In 1854 Parliament passed “An Act to Consolidate the Laws Relating to Bribery, Treating, and Undue Influence at Elections of Members of Parliament.” This law prohibited bribery in all of its forms, including the offer of a job in return for a vote or influence in an election, and prohibited treating by a candidate for the purpose of corruptly influencing a vote.\(^\text{20}\)

The Acts of 1852 and 1854 were aimed at the prevention of bribery. They failed to do so and before very long Parliament (particularly those members of Parliament who belonged to the

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16 Interview with John Greaves, Hon. Secretary of The Dickens Fellowship, in London, England, May 80, 1959. Mr. Greaves said that the members of the San Francisco audience may have been speaking in a “pickwickian sense.”
17 Heaton, op. cit. supra note 1.
18 15 & 16 Victoria (1852), c. 59.
19 They could be attorneys for a borough or county clerk.
20 17 & 18 Victoria, c. 97 (1854).
young and growing Liberal party) became quite concerned about it. There appears to have been a great deal of direct bribery and of indirect bribery disguised as legitimate payment for services. A member of Parliament speaking in 1867, referred to an election in the city of Oxford, held in 1857, in which he said a candidate’s campaign committee had employed 198 persons as poll clerks and messengers, 152 of whom voted for the candidate, who won by only 41 votes. For their labors (or votes) the poll clerks and messengers received 1 pound, 2 shillings, and six pence each.\footnote{The Times (London), July 2, 1867, p. 7.} Apparently, however, direct bribery was often on a much grander scale. A commission investigating an election at Yarmouth in 1865 reported that the sum of 2,267 pounds was paid as bribes to 144 voters named in the report.\footnote{The Times (London), Feb. 25, 1865, p. 5.} This was an average of more than fifteen pounds per vote. At the same time, a commission investigating an election in the Reigate constituency reported certain sums paid to voters and promises of other sums to be paid after the election, some of which promises were not kept.\footnote{Ibid.} In 1867, the standard price for a vote seems to have become ten pounds. Both Liberals and Conservatives were reported as bribing voters. Among those reported as selling their votes were two inn-keepers and several well-to-do farmers.\footnote{The Times (London), Jan. 10, 1867, p. 12.}

Sir Stafford Northcote, speaking in the House of Commons, May 6, 1867, said that it had been suggested that severe penalties should be imposed for bribery and that members should be required to take an oath that they had not committed the offense. He said that such provisions might merely harass tender consciences and “be only laughed at by guilty persons.” The government, he said, “Thought it desirable to institute a more searching inquiry in order to discover, punish, and put down an offense which was one of our greatest blots in our election system. . . .” He went on to say, “If the government were able to enact at this session a measure which should effectually repress bribery at future Parliamentary elections, it would be the proudest chapter in the history of any administration.”\footnote{187 Parl. Deb. (May 6, 1867).}
stringent one passed in 1867, had two very significant provisions. In the first place, the trial of election petitions was transferred from Parliament to the courts, with the judges chosen on a national basis and in no way beholden to local political organizations. In the second place, it was made possible to institute commission investigations by an affidavit sworn to by two electors (rather than by a joint address of both houses of Parliament), affirming that there was reason to believe that corrupt practices had extensively existed in an election.26 The commissions were to be appointed in the same way and conduct their investigations in the same manner as provided in the Election Commission Act of 1852. This provision remains on the books today and was extensively used in the latter part of the nineteenth century. The Act of 1868 removed the impediments to the prosecution of election frauds that exists in America where prosecuting officers and judges are often elective officials and may be associated with the political organization accused of fraud.

1868-1883

The Act of 1868 did not end bribery, but for a while the attention of reformers turned to matters other than direct attacks on the purchase of votes. In 1872 Parliament passed the Ballot Act,27 which provided for a secret paper ballot of the general type that is still used in many parts of American and in all elections in England. This act, by providing for secrecy, obviously reduced the opportunity for bribing voters with a sure knowledge that they would deliver the votes. But it also raised new problems related to bribery and honesty in elections. Some of these were anticipated in the act. Penalties were provided for fraudulently destroying or defacing any ballot, putting into a ballot box any paper other than the authorized ballot (apparently aimed at preventing the start of a chain ballot), or fraudulently taking a ballot out of the polling place. The act also made schools and other public buildings available for holding elections. Most of these provisions have long been a part of the law of most American states, including Kentucky, but they are sometimes ineffective. In regard to the use of school buildings and other

27 Ballot Act, 1872, 35 & 36 Vict., 1. 32.
An act of the British Parliament passed in 1879 provided for the trial of election cases by two judges instead of one and made it the duty of prosecuting officials to prosecute all election petition cases.\(^2\) It is clear from the above that by 1883, the year in which another great reform act was passed, England had enacted most of the protections for an honest ballot which the American states usually have, and some in addition, but still there was bribery and corruption.

### The Act of 1883

In 1883, after long and arduous debate, Parliament enacted a law which consolidated and recodified the existing election laws and added some new features.\(^2\) Notable among the new features was a provision that all campaign expenditures should be made by or through an election agent and that such agent should be fully responsible for all campaign financing, that every payment should be vouched for by a bill stating particulars, and that all campaign debts should be paid within fourteen days after an election.\(^3\) The mandatory agent, while not a completely new departure in British politics, was opposed on the floor of Parliament on the grounds: (1) that able men would not run for Parliament if the agent system were made mandatory; (2) that it would flood the country with "smart young men" who could commit fraudulent acts for which candidates would not be responsible; and (3) that instead of improving the situation it would make corruption inevitable.\(^4\) Nonetheless the act passed, incorporating the mandatory agent provision. The present day result is a full-time paid employee or agent in each constituency for each party that has any chance of winning an election in the constituency. The agent conducts the party’s affairs, manages its campaigns, and is responsible for its finances. He is supervised in a general way by an area agent, who is responsible to a national agent. But the constituency agent is appointed by,

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\(^2\) 42 & 43 Vict., c. 74 (1879).
\(^2\) Reform Act, 1883, 46 & 47 Vict., c. 49.
\(^3\) An exception was contained in a provision permitting a candidate to pay his own personal expenses up to one hundred pounds and pay personal election debts within thirty-five days after the election.
\(^4\) 280 Parl. Deb. 1275 (1883). A candidate may, under the law, be his own agent, but in practice seldom is.
and is primarily responsible to, the executive committee of his party in the constituency. Nevertheless, agents may move from constituency to constituency as they demonstrate their ability to handle party affairs in more crucial areas, and may move up to positions as area agents or into the national office. Consequently the position of party agent is professionalized in the truest sense and placed upon a career basis. The agent appears to be responsible, at least in some measure, for the fact that there is a continuous round of social activities at a party headquarters, and that party affairs are conducted in a business-like manner. These last-named facts, as well as the agent's financial responsibility, may have a bearing on the relative honesty of British politics. It should be mentioned that a few American states (notably Florida) are now experimenting with one-man responsibility for campaign finances.

Another feature of the Act of 1883, of some current interest in America, required that all bills, posters, and campaign literature should bear the name of the publisher and printer. Similar laws have been enacted in California, Tennessee and other states. It has been suggested that Kentucky needs such a provision. It is claimed that false or misleading advertisements are sometimes published under the name of fictitious organizations, and no one can be held accountable for them.

Other new features of the 1883 act: (1) prohibited a political party from establishing committee rooms on premises where liquor or food was for sale—aimed at stopping the practice of treating; (2) made it a corrupt practice for any person to provide food, drink or entertainment for the purpose of corruptly influencing a vote (previously this prohibition had applied to candidates only); (3) prohibited payments for bands or music of any kind, and to this day British political rallies lack this colorful feature that accompanies American campaigns; and (4) prohibited the hiring or borrowing of any means of conveyance for the purpose of transporting voters to or from the polls. This latter feature was the subject of much debate. Some mem-

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34 Ibid.
bers argued that to limit the use of vehicles in an election would work undue hardship and prevent many honest votes being cast. Others argued that all hauling of voters to the polls should be abolished since it was, in itself, a form of bribery and contributed to other forms of direct and indirect bribery. It is interesting to note that several American states prohibit the transporting of voters to or from the polls.

In the long run, the most effective provision of the Act of 1883 seems to have been that it required an election agent with full financial responsibility.

1883-1918

Between 1883 and 1918 no very important election laws were passed by Parliament, with the possible exception of the Corrupt and Illegal Practices Prevention Act of 1895. An important feature of this act was the provision that the publication of any false statement about a candidate would constitute a corrupt practice. On this point the act was very drastic by American standards, and by virtue of its uniqueness merits some discussion. It provided, among other things, that an election could be voided because the successful candidate or his agent made or published "any false statement in relation to the personal character or conduct of such [other] candidate," or authorized or consented to the publication of such false statement, or paid for the circulation of the false statement. The only defense allowed was that the candidate or his election agent "had reasonable grounds for believing, and did believe, the statement made by him to be true." At least one parliamentary election was voided under this act. It is undoubtedly responsible, to some degree, for the fact that election campaigns in England are based more on issues and less on personalities than are American campaigns. This is not to say that all British campaigning consists of a high minded appeal to the elector's conscience and issue orientation—far from it. Such charges as, "Labour, if elected, will nationalize Watney's [a leading brewer]," or, "Tories are the enemies of the people," are common in British campaigns. While they often make little if any sense, they are based on issues and not

36 For discussion of the features of the Act outlined above see 280 Parl. Deb. 1874-95 (1883).
37 58 & 59 Vict., c. 40.
on personalities. This feature of the 1895 act was not incorporated in the revision of 1948, but there is no evidence of a return to personality campaigning.

All of the important features of the Corrupt Practices Act of 1883 are still part of the British law, either in their original or modified form, and if one asks an informed Englishman the reason for their honest elections, full credit usually will be given to the 1883 Act. Complete eradication of all corruption did not result immediately. Apparently this had to wait until 1918 when responsibility for routine election duties was placed in the hands of impartial civil servants. However, in the years immediately following 1883, great activity on the part of election commissions in ferreting out violations of the law, and of election courts in unseating members on whose behalf law violations had been perpetrated, indicated that progress was being made.

In 1886 a parliamentary election in Ipswich was voided because an unreasonably large number of persons were hired to keep order at a meeting. This was held to be indirect bribery. In the same year, a Norwich parliamentary election was voided when it was proven that an active party worker bribed one voter with two shillings. In 1892, the successful candidate in a Rochester election was denied his seat in Parliament because at a party given in his honor during the election campaign, only three shillings were charged, while food and drink worth more than that were provided. This was held to be corrupt treating. A successful candidate in Litchfield was denied his seat in 1895 because his agent's report of expenditures did not include all of the actual expenses. In 1901 a member of Parliament was unseated because during the campaign he had written a letter to a newspaper in which he made false charges against his opponent.

The above are only a few of the many instances of voided parliamentary elections between 1883 and 1918. The most fre-

39 11 & 12 Geo. 6, c. 65.
40 See Representation of the People Act, 1949, 12 & 13 Geo. 6, c. 68 and amendments thereto.
41 As reported by Oldham & Woodings, Conduct and Management of Parliamentary Elections 206 (1933).
42 Id. at 208.
43 Id. at 220-21.
44 Id. at 229-30.
45 Id. at 242-43. This was under the Act of 1895 referred to above.
quently proven charge was bribery, direct or indirect, but practically all other possible charges resulted in the winning candidate losing his seat at some time or other.

1918-1959

The year 1918 is important in British electoral history. It was the year in which women were first granted the franchise. It was also the year in which the last really important change affecting corrupt practices was made. From the point of view of this article, the most important change made in 1918, and one of the most important in British electoral history, was the transference of responsibility for the registration of voters from the overseers of the poor to the clerks of the borough and county councils. These clerks, who were and are civil servants chosen on the basis of merit, were also required by the 1918 act to perform all routine tasks relating to the holding of elections and the counting of votes.

One well known British political writer has said that after 1918, because of the transference of election functions to borough and county clerks, “Elections became calmer; petitions [for voiding elections] became much rarer; registration procedures became much more efficient, party machines became stronger, and the administrative machinery worked more smoothly.” Close observation of two elections by the author and conversations with British politicians, newspaper, radio, and television commentators, and ordinary citizens failed to reveal any trace of corruption. None believed that elections in England are anything but honest.

A Summary of Reasons

If one searches for the reasons for honesty and strict compliance with the law in British elections, he must, while recognizing the importance of the corrupt practice and election laws, look

46 Representation of the People Act, 1918, 7 & 8 Geo. 5, c. 64.
47 Representation of the People Act, 1918, 7 & 8 Geo. 5, c. 64, §§ 12-18. Aldermen remain the nominal returning officers for their wards, but since 1918 the clerks have assumed the real responsibility.
48 Butler, op. cit. supra note 13, at 12.
49 There are some who think that party agents sometimes make cash expenditures of relatively small amounts that are not reported, which, if reported, might run the total amount expended above the rather low level of expenditure allowed by the law.
beyond those laws. Here, only two other factors—closely related to each other—will be mentioned. The first of these is the British Civil Service Law which leaves virtually no patronage for political parties or candidates. This means that few if any can be coerced into working or voting for a party or its candidates or supplying them with campaign finances. With less money to spend, there is naturally less dependence on corrupt practices. But the civil service system is one of the causes of another factor which may be of far greater importance. With no patronage and little money, parties and candidates must depend on voluntary workers. As a consequence places of importance, such as committee memberships and chairmanships at the grass-roots level, must be provided for many men and women who want nothing for their efforts except a chance to help enact policies that they believe in and the excitement of political activity. Such people are not just close to a political campaign in Britain, they are the campaign organization and know what goes on. They may think that Socialists or Tories, as the case may be, are very benighted people, but they would not brook stealing an election or any serious violations of the law in order to win.

It cannot be assumed that the civil service system and voluntary political workers have done away with the need for workable and enforced corrupt practice and election laws. Historically, the development of these laws has paralleled the development of the civil service system. But even without patronage, there have been and probably are still persons willing and able to pay for the corruption of elections in order to send to Parliament those who would do their bidding. Consequently, while civil service and voluntary workers were a necessary part of the transition from the corrupt elections of the nineteenth century to honest elections in the twentieth, so were good and enforceable corrupt practice and election laws.

The chief features of the British corrupt practice acts and election laws which are lacking in most American states and which seem to have contributed most to honest elections in England are, in the order of their historical development, as follows: (1) an easy method of securing an impartial investigation of any alleged election frauds by non-partisan (as distin-

Some claim that the trade union members' support of the Labour party is an exception.
guished from bi-partisan) investigators; (2) the trial of election cases by judges who are in no way beholden to any political organization; (3) the responsibility of one person (the candidate's agent) for all campaign expenditures, the candidate to be ineligible for the office if his agent violates the law; and (4) the conduct of registration, election, and vote-counting functions by impartial civil servants.