

## Erskine May, Chapter VI, pp. 327-340

### Nomination Boroughs—Bribery and Sale of Boroughs

[327] IN preceding chapters, the various sources of political influence enjoyed by the crown, and by the House of Lords, have been traced out. Their united powers long maintained an ascendancy in the councils and government of the state. But great as were their own inherent powers, the main support of that ascendancy was found among the representatives of the people, in the House of Commons. If that body had truly represented the people, and had been faithful to its trust, it would have enjoyed an authority equal at least, if not superior, to that of the crown and the House of Lords combined.

The theory of an equipoise in our legislature, however, had been distorted in practice; and the House of Commons was at once [328] dependent and corrupt. The crown, and the dominant political families who wielded its power, readily commanded a majority of that assembly. A large proportion of the borough members were the nominees of peers and great landowners; or were mainly returned through the political interest of those magnates. Many were the nominees of the crown; or owed their seats to government influence. Rich adventurers,—having purchased their seats of the proprietors, or acquired them by bribery,—supported the ministry of the day, for the sake of honours, patronage, or court favour. The county members were generally identified with the territorial aristocracy. The adherence of a further class was secured by places and pensions; by shares in loans, lotteries, and contracts; and even by pecuniary bribes.

The extent to which these various influences prevailed, and their effect upon the constitution of the legislature, are among the most instructive inquiries of the historian.

#### Anomalies in representation

The representative system had never aimed at theoretical perfection; but its general design was to assemble representatives from the places best able to contribute aids and subsidies for the service of the crown. This design would naturally have allotted members to counties, cities, and boroughs, in proportion to their population, wealth, and prosperity; and though rudely carried into effect, it formed the basis of representation in early times. But there were few large towns: the population was widely scattered: [329] industry was struggling with unequal success in different places; and oppressed burgesses,—so far from pressing their fair claims to representation,—were reluctant to augment their burthens, by returning members to Parliament. Places were capriciously selected for that honour by the crown,—and sometimes even by the sheriff,—and were, from time to time, omitted from the writs. Some small towns failed to keep pace with the growing prosperity of the country, and some fell into decay; and in the meantime, unrepresented villages grew into places of importance. Hence inequalities in the representation were continually increasing. They might have been redressed by a wise exercise of the ancient prerogative of creating and disfranchising boroughs; but the greater part of those created between the reigns of Henry VIII. and Charles II. were inconsiderable places, which afterwards became notorious as nomination boroughs.(1) From the reign of Charles II.,—when this prerogative was superseded,—the growing inequalities in the representation were left wholly without correction.(2)

From these causes an electoral, system had become established,—wholly inconsistent with any rational theory of representation. Its defects,—[330] originally great, and aggravated by

time and change,—had attained monstrous proportions in the middle of the last century.

## Nomination Boroughs

The first and most flagrant anomaly was that of nomination boroughs. Some of these boroughs had been, from their first creation, too inconsiderable to aspire to independence; and being without any importance of their own, looked up for patronage and protection to the crown, and to their territorial neighbours. The influence of the great nobles over such places as these was acknowledged and exerted so far back as the fifteenth century. It was freely discussed, in the reign of Elizabeth; when the House of Commons was warned, with a wise foresight, lest 'Lords' letters shall from henceforth bear all the sway.' As the system of parliamentary government developed itself, such interest became more and more important to the nobles and great landowners, who accordingly spared no pains to extend it; and the insignificance of many of the boroughs, and a limited and capricious franchise, gave them too easy a conquest. Places like Old Sarum, with fewer inhabitants than an ordinary hamlet, avowedly returned the nominees of their proprietors. In other boroughs of more pretensions in respect of population and property, the number of inhabitants enjoying the franchise was so limited, as to bring the [331] representation under the patronage of one or more persons of local or municipal influence.

Not only were the electors few in number: but partial and uncertain rights of election prevailed in different boroughs. The common law right of election was in the inhabitant householders resident within the borough: but, in a large proportion of the boroughs, peculiar customs prevailed, by which this liberal franchise was restrained. In some, indeed, popular rights were enjoyed by custom; and all inhabitants paying 'scot and lot,'—or parish rates,—or all 'potwallers,'—being persons furnishing their own diet, whether householders or lodgers,—were entitled to vote. In others, none but those holding lands by burgage tenure had the right of voting: in several, none but those enjoying corporate rights by royal charter. In many, these different rights were combined, or qualified by exceptional conditions.

Rights of election, so uncertain and confused, were founded upon the last determinations of the House of Commons, which,—however capricious, and devoid of settled principles,—had a general tendency to restrict the ancient franchise, and to vest it in a more limited number of persons. In some of the corporate towns the inhabitants paying scot and lot, and freemen, were admitted to [332] vote: in some, the freemen only: and in many, none but the governing body of the corporation. At Buckingham, and at Bewdley, the right of election was confined to the bailiff and twelve burgesses: at Bath, to the mayor, ten aldermen, and twenty-four common-councilmen: at Salisbury, to the mayor and corporation, consisting of fifty-six persons. And where more popular rights of election were acknowledged, there were often very few inhabitants to exercise them. Gatton enjoyed a liberal franchise: all freeholders and inhabitants paying scot and lot were entitled to vote, but they only amounted to seven. At Tavistock, all freeholders rejoiced in the franchise, but there were only ten. At St. Michael, all inhabitants paying scot and lot were electors, but there were only seven.

In 1793, the Society of the Friends of the People were prepared to prove that in England and Wales seventy members were returned by thirty-five places, in which there were scarcely any electors at all; that ninety members were returned by forty-six places with less than fifty electors; and thirty-seven members by nineteen places, having not more than one hundred electors. Such places were returning members, while Leeds, Birmingham, and Manchester were unrepresented; and their pretended representatives were the nominees of peers and other wealthy patrons, and voted at their bidding.(3) No abuse was more flagrant [333] than the direct control of peers, over the constitution of the Lower House. The Duke of Norfolk was represented by eleven members; Lord Lonsdale by nine; Lord Darlington by seven; the Duke of Rutland, the Marquess of Buckingham, and Lord Carrington, each by six. Seats were held,

in both Houses alike, by hereditary right.

## **Bribery**

Where the number of electors in a borough was sufficient to ensure their independence, in the exercise of the franchise, they were soon taught that their votes would command a price: and thus, where nomination ceased, the influence of bribery commenced.

Bribery at elections has long been acknowledged as one of the most shameful evils of our constitutional government. Though not wholly unknown in earlier times, it appears,—like too many other forms of corruption,—to have first become a systematic abuse in the reign of Charles II. The Revolution, by increasing the power of the House of Commons, served to enlarge the field of bribery at elections. As an example of the extent to which this practice prevailed, it was alleged that at the Westminster election, in 1695, Sir Walter Clarges, an unsuccessful candidate, expended £2,000 in bribery in the course of a few hours. These notorious scandals led to the passing of the Act 7 William III. c. 4. Bribery had already been [334] recognised as an offence, by the common law; and had been condemned by resolutions of the House of Commons: but this was the first statute to restrain and punish it. This necessary measure, however, was designed rather to discourage the intrusion of rich strangers into the political preserves of the landowners, than for the general repression of bribery. It seems to have had little effect; for Davenant, writing soon afterwards, spoke of 'utter strangers making a progress through England, endeavouring by very large sums of money to get themselves elected. It is said there were known brokers who have tried to stock-job elections upon the exchange. and that for many boroughs there was a stated price.' An act of parliament was not likely to touch the causes of such corruption. The increasing commerce of the country had brought forward new classes of men, who supplied their want of local connections by the unscrupulous use of riches. Political morality may be elevated by extended liberties: but bribery has everywhere been the vice of growing wealth.(4)

[335] The prizes to be secured through seats in Parliament, during the corrupt administrations of Walpole and Pelham, further encouraged the system of bribery; and early in the reign of George III. its notoriety became a public scandal.

## **The 'Nabobs'**

The very first election of this reign, in 1761, was signalised by unusual excesses. Never perhaps had bribery been resorted to with so much profusion.(5) One class of candidates, now rapidly increasing, consisted of men who had amassed fortunes in the East and West Indies, and were commonly distinguished as 'nabobs.' Their ambition led them to aspire to a place in the legislature:—their great wealth gave them the means of bribery; and the scenes in which they had studied politics, made them unscrupulous in corruption. A seat in Parliament was for sale, like an estate; and they bought it, without hesitation or misgiving. Speaking of this class, Lord Chatham said: 'without connections, without any natural interest in the soil, the importers of foreign gold have forced their way into Parliament, by such a torrent of corruption as no private hereditary fortune could resist.'

To the landed gentry they have long since been obnoxious. A country squire, whatever his local influence, was overborne by the profusion of wealthy strangers. Even a powerful noble was no match for [336] men, who brought to the contest the 'wealth of the Indies.' Nor were they regarded with much favour by the leaders of parties: for men who had bought their seats, —and paid dearly for them,—owed no allegiance to political patrons. Free from party connections, they sought admission into Parliament, not so much with a view to a political career, as to serve mere personal ends,—to forward commercial speculations, to extend their connections, and to gratify their social aspirations. But their independence and ambition well

fitted them for the service of the court. The king was struggling to disengage himself from the domination of party leaders; and here were the very men he needed,—without party ties or political prepossessions,—daily increasing in numbers and influence,—and easily attracted to his interests by the hope of those rewards which are most coveted by the wealthy. They soon ranged themselves among the king's friends; and thus the court policy,—which was otherwise subversive of freedom,—became associated with parliamentary corruption.

The scandals of the election of 1761 led to the passing of an act in the following year, by which pecuniary penalties were first imposed for the offence of bribery.(6) But the evil which it sought to correct, still continued without a check.

## **Sale of Boroughs**

Where the return of members was left to a small, but independent body of electors, their individual votes were secured by bribery; [337] and when it rested with proprietors or corporations, the seat was purchased outright. The sale of boroughs,—an abuse of some antiquity,(7)—and often practised since the time of Charles II.,—became, at the commencement of this reign, a general and notorious system. The right of property in boroughs was acknowledged, and capable of sale or transfer, like any other property. In 1766, Lord Hertford prevailed upon Lord Chatham's ministry to transfer to him the borough of Orford, which belonged to the crown. And Sudbury, infamous for its corruption until its ultimate disfranchisement,(8) publicly advertised itself for sale.

If a seat occupied by any member happened to be required by the government, for some other candidate, he was bought out, at a price agreed upon between them. Thus in 1764, we find Lord Chesterfield advising his son upon the best means of securing £1,000 for the surrender of his seat, which had cost him £2,000 at the beginning of the Parliament.

The general election of 1768 was at least as corrupt as that of 1761, and the sale of seats more open and undisguised. They were bought by the Treasury, by great nobles for their clients, by speculators, and by gentlemen for whom there [338] was no other way into Parliament. Some of the cases were so flagrant as to shock even the moral sentiments of that time. The corporation of Oxford being heavily embarrassed, offered again to return their members, Sir Thomas Stapylton and Mr. Lee, on payment of their bond debts, amounting to £5,670. These gentlemen refused the offer, saying that as they did not intend to sell the corporation, they could not afford to buy them; and brought the matter before the House of Commons. The mayor and ten of the aldermen were committed to Newgate; but after a short imprisonment, were discharged with a reprimand from the Speaker. Not discouraged, however, by their imprisonment, they completed, in Newgate, a bargain which they had already commenced; and sold the representation of their city to the Duke of Marlborough and the Earl of Abingdon. Meanwhile the town clerk carried off the books of the corporation which contained evidence of the bargain; and the business was laughed at and forgotten.

For the borough of Poole there were three candidates. Mager, the successful candidate, promised the corporation £1,000, to be applied to public purposes, if he should be elected; Gulston made them a present of £750, as a mark of gratitude for the election of his father on a former occasion; and Calcraft appears to have vainly tempted them with the more liberal offer of £1,600. The election was declared void.(9)

[339] The representation of the borough of Ludgershall was sold for £9,000 by its owner, the celebrated George Selwyn; and the general price of boroughs was said to be raised at that time, from £2,500 to £4,000, or £5,000, by the competition of the East and West Indians. It was notorious at the time, that agents or 'borough-brokers' were commissioned by some of the smaller boroughs to offer them to the highest bidder. Two of these, Reynolds and Hickey, were taken into custody, by order of the House; and some others were sent to Newgate. While

some boroughs were thus sold in the gross, the electors were purchased elsewhere by the most lavish bribery. The contest for the borough of Northampton was stated to have cost the candidates 'at least £30,000 a side.' Nay, Lord Spencer is said to have spent the incredible sum of £70,000 in contesting this borough, and in the proceedings upon an election petition which ensued.

#### **Footnotes.**

1. One hundred and eighty members were added to the House of Commons, by royal charter, between the reigns of Henry VIII. and Charles II. Glanville's Reports, cii.
2. In 1653, Cromwell disfranchised many small boroughs, increased the number of county members, and enfranchised Manchester, Leeds, and Halifax,—a testimony at once to his statesmanship, and to the anomalies of a representation which were not corrected for nearly 200 years,—Act for the Settlement of the Government of the Commonwealth, 16th Dec., 1653.
3. The relations of patrons and nominees were often creditable to both parties; but the right of the patron to direct the political conduct of his members was unquestioned. Lord Campbell's Lives, vi. 216. Lord Colchester's Diary, i. 13, 17, 124-131. Lord Stanhope's Life, i. 47
4. 'The effect produced by the rapid increase in wealth upon political morality [in Rome] is proved by the frequent laws against bribery at elections, which may be dated from the year 181 B.C. In that year it was enacted that anyone found guilty of using bribery to gain votes should be declared incapable of becoming a candidate for the next ten years.'—Dr. Liddell's Hist. of Rome. These laws are enumerated in Colquhoun's Roman Civil Law, §2402. In France and America, bribery has been practised upon representatives rather than electors.—De Tocqueville, i. 264, etc.
5. 'Both the court and particulars went greater lengths than in any preceding times. In truth, the corruption of electors met, if not exceeded, that of candidates.'—Walp. Mem., i. 42.
6. 2 Geo. III. c. 24.
7. In 1571, the borough of Westbury was fined by the House of Commons for receiving a bribe of £4; and the mayor was ordered to refund the money.—Com. Journ., i. 88.
8. 7 and 8 Vict., c. 53.
9. Feb. 10th. 1768; Com. Journ., xxxii. 199.

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