

Strength in Numbers? Electoral Reform in Britain

British election law has been radically altered in the run-up to the widely expected Spring general election. Declining turnouts have been cited as the reason for a dramatic loosening of the registration rules for voters. Will British democracy benefit from new regulations which open up the possibility of multiple postal votes and do away with the need for fixed residence as a qualification for voting?

The Report

Introduction

By British standards the turnout at the last general election on 2nd May, 1997, was relatively low at 71.5%, but apart from suggesting that there was slightly less enthusiasm for New Labour than its massive majority of 179 suggested (which represented 43% of the vote), was there any substantial reason for being concerned about the electoral system? Declining turnouts might be indicative of public indifference to the message of politicians, but, even if it gratifies politicians to see high turnouts at elections after all their campaigning efforts, lower turnout need not undermine the legitimacy of those elected as long as people have the right to vote, and the freedom to exercise that right unhindered.

Extremely low turnouts such as those for the European Parliamentary elections clearly do have some implications for the democratic acceptance of new institutions, but turnouts of fewer than 30% are very different from 70% turnouts. Turnouts of around 70% may well indicate popular acceptance of a system which has largely consensual policies on offer from the competing parties.

Putting turnout at the top of the list of legitimising factors in elections has a negative history. The cult of large turnouts is more often associated with attempts to legitimise one-party regimes than proof of the solidity of a parliamentary democracy. In fact, in BHHRG's experience of observing more than 70 elections in the OSCE countries, flexible registration rules and high turnouts are commonest where voting is fraudulent. Consequently, the reforms introduced by the Representation of the People Act 2000 raise serious concerns for the safety of British democracy.

Redistributing the Vote

The intention of the Act is to increase the class of voters and the means by which people can vote. Superficially it is presented as a way of re-establishing and codifying already existing law and regulations, while removing certain anomalies and taking a more humane stance on, for example, the right to vote of those on remand awaiting trial (whom it enfranchises). However, the Act "...allows for experiments involving innovative electoral procedures" (Explanatory notes to the Representation of the People Act 2000). These experiments, in fact, resemble flawed procedures already in operation in some post-Communist pseudo-democracies. They will open the British electoral system to systematic abuse.

Humanitarian reasons are used to justify extending the franchise to those who conventionally have been considered unable to exercise it for themselves and possibly potential victims of pressure to vote as others prefer. The Act extends the franchise to inmates of mental hospitals even if they are being detained against their will there (as long as they are not detained as offenders) (s.4). It is certain that there will be people in these cases who have problems making a decision on their own, or they may need advice and assistance. But the more advice and assistance required, however objectively provided, the less likely it is that a vote will represent the true intention of the voter. The Act also makes amendments to allow a

“companion” to help in any way necessary - once a disabled person has made a “declaration” that he needs assistance, orally or in writing it will be up to the presiding officer to grant the application and then anything which is by these rules required to “be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion” (s13 (2)). It hardly needs to be pointed out that it is the weak and vulnerable such as these who provide particularly easy pickings for those intent on manipulating elections.

Enfranchising the Homeless

Relatively few extra votes may be at stake in the extension of the franchise to remand prisoners and mental patients, but much broader and more sinister is the scope for abuse in the new regulations and methods of permitting the homeless to vote. Through the devices of “notional residence” and “local connection” a person can now register to vote by making a declaration that he is “connected” to a place. By sleight of hand this does away with logical requirements that a person should have some property, tenancy or material connection with an area, as a resident or a taxpayer, in order to vote, and introduces votes for vagrants whose very identity may be in doubt.

The requirements for the qualifying declaration are extraordinarily lax: a person must provide an address where correspondence can be left for him, or, failing that, a declaration of his willingness “periodically” to collect correspondence concerning elections and registration (Section 6 (3) (i), (ii)). For your “required address”, which must be included in this declaration, it is perfectly reasonable to nominate a park bench or the arches under a bridge - if someone cannot provide an address he used to live at he can give “the address of, or which is nearest to, a place in the United Kingdom where he commonly spends a substantial part of his time (either during the day or at night)”! (Subsection (3)(d) defined in subsection (4)).

There is a feigned attempt to put some strictures on the otherwise sprawling effect of this legislation by making any applicant state that he has been spending a substantial part of his time at, or near, this required address for three months before he made the declaration. This is a meaningless rule since under this Act someone with no address can easily invent a place that they have been “commonly” living near, just as it suits them (Section 6(6)), or perhaps, just as it suits someone else. Not only will the person not be required to corroborate his claims, no one else will even be allowed, let alone obliged, to do so.

If one felt that the homeless constituted a stratum of society which had any concern for civil process, there would still be severe worries that people who live their lives on the streets for whatever reason would be more vulnerable to pressures, from a variety of sources, to use their votes in a certain way. Financial inducements - at the very least - will hardly have less effect amongst those ‘living rough’ than they might anywhere else. And it is now feasible that ‘Travellers’ for instance, could be persuaded to register in a certain area in order to swing a vote. There are no restrictions or checks on large numbers of people registering at the same place as homeless as long as they make the requisite unprovable declarations. This provision of the Act which makes the possibility of moving voters around for electoral purposes a real one constitutes an outrageous breach of public trust.

The Postal Vote

The most significant loophole, however, concerns postal votes. Anyone entitled to vote can get one (Schedule 4, section 2(3)). All that is required is for the presiding officer to be “satisfied” that the applicant will be registered as a parliamentary elector (Schedule 4, section 3). While proxy voting is also covered here, it is more or less obsolete except for those who will be overseas at election time. There is a test for entitlement to a proxy vote – only a person who could not reasonably be expected to get to a polling station or to vote unaided there will be entitled to one – and so it is hard to see why anyone would go to the trouble (unless they had been persuaded that this would be in their best interests) since in most cases they will be entitled to a postal vote without having to justify themselves.

There is also the option of having your postal vote ballot paper sent somewhere other than to your registered address (Section 4(3) of the Schedule). Students commonly receive two polling cards, one at university and one at home. Until now, however, you would have had to be energetic, as well as dishonest, to have made use of the second vote. In the forthcoming election there will be absolutely no practical check on people who have been registered in two different areas. It will be simple to establish illegally either or both votes as postal ballots for an indefinite period.

Recently, advertisements have begun to appear on Channel 4, aimed specifically at young people who do not vote, and at a particular kind of person who does not vote, at that, suggesting that they apply for one of these postal votes. These are 'leading' advertisements which feature a nightclub full of trendy youths, with a hip-hop music background. A silly young man leans against the bar and conjures up a vision of the good, old days when you could hear yourself talk. He is clearly supposed to sound like a Young Conservative. The punchline is to the effect that he is going to use his vote (to wind the clock back) so now you must use yours to stop this from happening. After all, it only takes a 'phone call'... It is not difficult to divine the thinking – a youth turnout, especially of the kind who will be inspired by 'rock the vote' adverts, will help Labour. For anyone familiar with the practices promoted by the British government along with its NATO allies to influence turnout and results in strategic countries like Slovakia (1998), Croatia (January, 2000), or the December 2000 Parliamentary elections in Serbia, such tactics will have a familiar ring to them. At the end of this advertisement evoking contemporary youth culture, a call-centre phone number is advertised.

The administration of applications for postal ballots is not reassuring. There are no checks or questions as to the relationship between where you live and where you wish to be registered, no limit to the number of forms you can ask for (inevitably, since it is possible to print them from the internet) and no comprehension of potential problems. The operator spoken to by BHRG was unaware of the opportunities provided by the new system for multiple voting, and did not know if it was possible for one person to register to vote in several places at once, asking - "so do you want three forms?" When it is so easy to break the law deliberately, the least that could be expected is checks to help avoid inadvertent abuse of the system.

On the contrary, this Act actually contemplates fraud as a direct consequence of some of its "innovations". Section 10 allows for pilot schemes (electronic voting etc.). Such programmes have to be monitored and an assessment must state whether, "the procedures provided for by the scheme led to any increase in personation or other electoral offences or in any other malpractice in connection with elections" (S10 (8)(c)). This demonstrates a distinctly blasé attitude to serious criminal offences. There does not need to be innovation for there to be fraud - councils across Britain now say it is an inevitable result of RoPA's changes to previous practice. Whereas old legislation demanded proof of residence, the new, rolling register system does not. In London Boroughs, for instance, the issue of registration is often connected to such valuable benefits as parking permit rights and credit agreements – as a result of RoPA, these are now being blatantly abused and by extension, votes will be too. Concerted lobbying by councils to have those parts of the Act they knew would lead to serious violations removed was unsuccessful because the timeframe for amendments was too short.

Immediate Consequences

The Guardian newspaper has recently carried several items which serve to demonstrate the likely widespread application of the new rules on postal voting. A recent editorial (*The Guardian* 2/3/2001) explained why there was no need to postpone the forthcoming general election in the UK despite the fact that a widespread outbreak of foot and mouth disease in the British countryside might make it difficult for rural voters to attend polling stations. According to *The Guardian*, such people will not be disenfranchised since: "postal balloting [is] available for those reluctant to head outdoors on polling day". When one considers the unreliability of the British postal system (over 800, 000 items of post lost every week last year), *The Guardian's* faith in the new system seems somewhat misplaced.

However, the newspaper is not to be deflected from its enthusiasm. On the 6th March, 2001 it reported a claim made by Britain's Trade Unions that they will "deliver" 500,000 votes for the Labour Party at the next election: "The plan to exploit (sic) new laws on postal voting was reached at a recent meeting of senior union and party figures on the Labour party's trade unions liaison committee, after a private presentation from No 10's private pollster, Philip Gould." Apparently: "the party hierarchy is completely relaxed about union involvement because scare stories will carry little or no weight." (see the rest of *The Guardian's* report [here](#)).

Conclusion

In the light of serious allegations of corruption made by some Labour Party members over the late counting of votes from Caerphilly during the Welsh referendum in 1997, alarm bells should now be ringing over the possibility that these new rules will also lead to improper or even fraudulent electoral practices. Under previous legislation, there was ample provision for proxy and postal voting where the circumstances demanded it and, in general, those who could reasonably be expected to want to vote were entitled and able to do so. The current reforms serve no purpose except to expose a well-established system to the possibilities of abuse. Someone can now easily gather postal voting forms from all over the country by persuading people to have them sent to his or her address. If such a ploy was to be successful that person would have several 'votes'. Such corrupt practices would be very difficult to trace, particularly as people in the UK do not carry identity cards.

Formerly, the check on voting irregularity was that, as a general rule, people were obliged to present themselves in person at a polling station if they wished to vote. At the same time such active participation instilled a basic respect for democracy, which no amount of classes on civic responsibility can do, and which filling in a form at the kitchen table certainly will not do. There should be no room in any electoral system for such vague concepts as 'notional residence' or 'innovative' pilot schemes. The new mechanisms for registering voters and allowing them to vote in the UK are, at best, irresponsible and, at worst, dishonest. The institutionalisation of such flawed rules should be a source of concern.

However, when the new legislation was debated in the House of Commons the opposition Conservative Party failed to engage with many of the issues raised in this report. Over the past ten years, politicians from the Conservative Party have, along with their colleagues from other British political parties, participated in numerous missions to monitor elections in the Third World and former Communist bloc countries. These groups have regularly praised the conduct of blatantly fraudulent electoral practices. It is no wonder, therefore, that they have complacently let through legislation that could undermine the United Kingdom's claim to have had an exemplary electoral system over the past 150 years. The present government may well be right to anticipate another landslide general election victory which will swamp fraudulent votes on all sides, but the long term implications of the new RoPA for the health and honesty of British democracy are grim.

Notes:

1. The **Representation of the People Act 2000** is available here: <http://www.legislation.hms.gov.uk/acts/acts2000/20000002.htm>

2. The **Explanatory Notes** to the Act are available here: <http://www.legislation.hms.gov.uk/acts/en/2000en02.htm>

3. An application form for the postal vote is reproduced in the [Appendix](#)