LONDON ELECTORAL HISTORY – STEPS TOWARDS DEMOCRACY

3.4 THE ELECTORAL FRANCHISE IN THE CITY OF WESTMINSTER

In the case of Westminster, a case study of the pre-1832 constituency reveals the complexity of determining who was entitled to vote (and which electors therefore might subsequently appear in the LED). The situation in detail was complicated and provided much work for attorneys specialising in election law. Yet the broad principle was sustained by custom and later became clarified after a series of disputes. In summary, then, Westminster electors prior to 1832 were qualified by being householders liable to 'pay scot' (parish rates) and 'bear lot' (serving their turn in minor parochial offices under the houseman system).

3.4.1 Westminster franchise pre-1832

The complexities developed in part because, before 1795, the House of Commons had made no determination concerning Westminster's franchise. Until then, the franchise of the constituency was based on longstanding custom handed down from one high bailiff to his successor, and interpreted anew by each in response to changing circumstances.

At the scrutiny that followed the election of 1749, counsel for Sir George Vandeput argued that according to customary usage the right of election lay with 'the inhabitant householders within the … city and liberty paying scot and lot, and in the several of chambers in the Inns of Chancery'.[1] Counsel for Lord Trentham took a wider view, arguing that the right of election lay 'in the inhabitant householders within the city and liberties of Westminster'.[2] Peter Leigh, the high bailiff, then declared the right of voting in Westminster to lie:

> In the inhabitant householders within the said city and liberty paying or being liable to pay scot and lot, and in the occupiers of chambers in the several Inns in Chancery within the same liberty, and in the

> inhabitant householders in Whitehall, Scotland Yard, the Mews and Stable Yard St James's not being the king's menial servants, and in the several watermen belonging to the chest and living in the parishes of St Margaret Westminster or St John the Evangelist or either of them, but nothing in the above opinion is intended to extend to or affect the right of voting for the city and liberty of Westminster claimed by the inhabitants of St Martin-le-Grand, but such right is left open to future consideration.[3]

However, the attorneys representing Lord Hood in his petition to the Commons after his defeat in 1788 were unwilling to accept the high bailiff's declaration. Thomas Corbett, Leigh's successor as high bailiff, had accepted the votes of householders *liable* to pay scot and lot.[4] 'Paying scot and bearing lot' was itself not readily defined, but it seems to have been accepted that it comprised making a contribution towards the parish, most commonly by payment of rates for the maintenance of the poor. By contrast, Hood's lawyers contended that the franchise should be interpreted more restrictively, to include only those actually *paying* scot and lot. He further argued that the Duchy of Lancaster estate formed no part of the city and liberties of Westminster.[5] Eventually a compromise was reached: *paying* remained required but the Duchy was allowed to be included.

After further dispute, in March 1795 the House of Commons declared the Westminster franchise to lie:

> In the inhabitants, householders paying scot and lot, of the united parishes of St Margaret and St John, and of the several parishes of St Paul Covent Garden, St Anne, St James, St George Hanover Square, St Martin-in-the-Fields, St Clement Danes, and St-Mary-le-Strand (including so much and such parts of the said parishes of St Martin-in-the-Fields, St Clement Danes, and St Mary-le-Strand, as are within the liberties, districts, limits, or jurisdictions of the Duchy of Lancaster), and in the liberty or district of St Martin-le-Grand, in the county of Middlesex, and in the precinct of the Savoy.[6]

The rule of thumb, then, was that a voter should be a householder, and that 'no person can be deemed to be a householder, who does not possess an exclusive right to the use of the outward door of the building'.[7] Being a householder, whilst necessary, was insufficient to qualify a man to vote in

Westminster. As early as 1680 the House of Commons had resolved that 'the king's menial servants, not having proper houses of their own within the city of Westminster, have not right to give voices in the election of citizens to serve in parliament for the said city'.[8]

The right of election was further restricted when the Commons declared in 1698 that 'no alien, not being a denizen or naturalised, hath any right to vote in the election of members to serve in parliament'.[9] However, foreign-born men who were naturalised by private Act of Parliament were eligible to vote. For example, the Saxon-born Otto Bichner, a tailor of Soho Square, was naturalised in 1796. He subsequently polled in the Middlesex election of 1802, and in numerous Westminster contests, in 1802, 1806, 1818, 1819, and 1820.[10]

Meanwhile, the tendering of the oath of allegiance at the hustings was designed to exclude 'papists' from the privilege of voting.[11] If, however, Catholics were willing to take the oaths, then there was nothing to prevent them from polling.[12]

Moreover, the right of voting could change in other ways. In 1789 the deputy high bailiff testified before the Commons committee investigating the right of voting in Westminster that 'if the person who claimed the vote had come to reside previous to the *teste* of the writ, I admitted him to vote'.[13] But even as he spoke the deputy high bailiff's testimony was out of date, for in 1786 legislation had been enacted requiring that voters in borough constituencies should be resident for six months prior to the election.[14]

Not even the old chestnut of payment of rates was immune from change. In 1820, the case of Cullen *v.* Morris was tried in the court of King's Bench before Lord Chief Justice Abbott. John Cullen had been in arrears with his rates when he sought to vote in 1819, and was rejected by Arthur Morris, the high bailiff. So Cullen left and paid off his arrears, and on returning he was again rejected. The Lord Chief Justice gave his opinion that, as no demand for rates had been made of Cullen in person, then he did indeed have the right to vote. So in 1820 householders were rejected only if they had refused to pay their rates.[15] In the course of the dispute, the counsel on behalf of the high bailiff Arthur Morris expressed horror that '[if] every person who is rated in the poor book for six months is entitled to vote … the opulent and respectable inhabitants will be outvoted … and the return of the Member for Westminster would depend on the will of the rabble'.[16] It was a significant comment, as it indicated that the contestants in such disputes were aware of the wider social

implications of technical decisions over the franchise.

In fact, since the collection of rates might be made as infrequently as once a year, and the residence requirement even after 1786 was only six months' residence, the rate-payer status gave considerable scope for voting even by those who had not paid actually the levy. Moreover, those who had moved within the constituency during the six months prior to an election (having previously paid their rates elsewhere in Westminster and remaining liable to pay rates) were entitled to vote, although their names would not be found in the rate books at the address that they gave to the poll clerk.

Furthermore, some anomalous groups of non-householders or non-ratepayers were specifically mentioned in the high bailiff's declaration of the franchise in 1749 as having the right to vote. These included first, 'the occupiers of chambers in the several Inns in Chancery', who were not householders and whose rates were paid collectively by their Inn. Secondly were included 'the inhabitant householders in Whitehall, Scotland Yard, the Mews and Stable Yard St James's' who occupied parts of the royal palaces. Thirdly were included 'the several watermen belonging to the chest', who were beneficiaries of a charity for aged and infirm watermen supported by tolls on the Sunday ferry (made after the building of Westminster Bridge), and who made no claims upon the parish rates. In practice, none of these groups was numerous. One anomalous area was the liberty of St Martin-le-Grand, which lay within the City of London.[17] In addition, the disputed estates of the Duchy of Lancaster and the liberty of the Savoy lay in the eastern part of the parish of St Clement Danes, predominantly between the Strand and the river Thames.

One final complexity, not reported by the high bailiff in 1749, also deserves mention. Thomas Corbett testified in 1789 that he permitted partners in trade to vote if they were residents, although they did not have to be resident householders.[18] In 1749 John Scott was a brewer in St Margaret's parish, where he lived and where he shared a brewery. His partner was John Searancke, who was a householder, but voted by virtue of the rates he paid on the brewery.[19] According to Henry Bickersteth:

> If a house occupied by a firm be rated in the names of A.B. and C.D., both A.B. and C.D. are entitled to vote; if it be rated in the names of A.B. and sons, then A.B. and his sons are all of them entitled to vote; but if it be rated in the names of A.B. and Co., A.B. only is entitled to vote.[20]

That gave further scope for argument, since the public names of firms were liable to appear in many variant forms, especially because the legal status and definition of firms were far from clear.[21]

In 1827, the election procedures in Westminster were summarised by Francis Place, when giving evidence to the Select Committee on election polls. Details were complicated in practice by the variants that have been discussed above. The basic procedure, however, was clear enough and was compatible with custom:

> When a man comes to poll, he gives his name in, and as soon as he gives his name, the person who holds the rate books looks to see if the name of that person is in the book, if he does not know him personally, which is very likely to be the case; and the man that holds the collecting book then looks to see if the rate is paid up; and if the name appears, and the last collection is paid, he is permitted to vote.[22]

3.4.2 Westminster franchise post-1832

After 1832, Westminster, like all other places, was regulated by the 1832 Reform Act. Henceforth its franchise lay in those adult males whose names were to be found on the annual *Register of electors* by virtue of occupying property worth £10 a year.

The established scot and lot electors, who lived within seven miles of Westminster, could additionally stay on the register after 1832,[23] but the proportion of scot and lot householders found on the register declined steadily over the years. Nonetheless, the Westminster electorate continued to grow in the third and fourth decades of the nineteenth century, as the disappearance of the scot and lot electors was more than outmatched by the incoming new men, the £10 householders.

Notes

1 BL Lansdowne MS 509a, fo 3.

2 BL Lansdowne MS 509a, fo 106.

3 BL Lansdowne MS 509a, fo 270.

[4] TNA PRO 30/8/237, fos 790-6.

[5] TNA PRO 30/8/237, fo 811.

[6] *CJ*, l, p. 339. This was cited in 51 George III, *c*. 126 (1811). See Green, 'thesis' for further details of Westminster's fluid franchise in the period.

[7] Anon., *Disqualifications for voting*, p. 3, in Anon., 'A collection of addresses, pamphlets, posters, squibs, etc. relating to the Westminster election, 1818' (a BL nonce volume of electoral ephemera).

[8] *CJ*, ix, p. 654.

[9] *CJ*, xii, p. 367.

[10] He was naturalised by 36 George III, no. 237: see W.A. Shaw (ed.), *Letters of denization and acts of naturalization for aliens in England and Wales, 1701-1800* (Manchester, 1923), p. 205.

[11] The right of Catholics to vote in parliamentary elections was officially granted by the Catholic Relief Act, known as Catholic Emancipation, 10 George IV *c*. 7 (1829).

[12] For example, after the Westminster election of 1708, the Commons found that the high bailiff had 'arbitrarily and illegally refused to tender [the] oath of Abjuration' to many Roman Catholic voters, thus allowing them to vote. The Commons committed the high bailiff to Newgate: *CJ*, 16, pp. 49-50.

[13] TNA PRO 30/8/237, fo 926.

[14] 26 George III, *c*. 100 (1786).

[15] This outline of the case is taken from Anon., *Report of the trial of the cause between John Cullen, plaintiff, and Arthur Morris, defendant, for refusing to receive the plaintiff's vote at the election for a Member of Parliament for the city of Westminster* (1820).

[16] Ibid., pp. 21-3.

[17] The Liberty of St Martin le Grand had been granted to the Abbot of Westminster in the sixteenth century. Devolving afterwards to the Crown, it was granted by Elizabeth to the Dean and Chapter of Westminster.

[18] TNA PRO 30/8/237, fo 794.

[19] TNA PRO 30/8/237, fo 800.

[20] BL Add. Ms. 27,843, fo 64.

[21] For the legal framework, see A.B. DuBois, *The English Business Company after the Bubble Act 1720-1800* (New York, 1938). See also M. Dietrich, 'The nature of the firm revisited', in idem (ed.), *Economics of the firm: analysis, evolution, history* (2007), pp. 19-42.

[22] *BPP* (1826-7), IV, p. 1123.

[23] 2 William IV, *c*. 45, s. 33 (1832).