

4) The parliamentary franchise before 1918

The franchise, or right to vote, was not straightforward until the reforms of the twentieth century. Even when it appeared simple, such as the 'forty-shilling freeholder' franchise in counties, interpretation of inclusion and exclusion gave rise to many lawsuits and judicial decisions. The following notes can give only a highly simplified outline. It should be remembered that, although some of the legislation was ambiguously expressed, the right of women to be registered as parliamentary electors was not accepted until they received the right to vote under the Representation of the People Act, 1918.

Counties before 1832

The right to vote for the county probably originally belonged to the freeholders at large although in practice mediaeval elections were usually decided by agreement among the county magnates. There was no formal voting, let alone registration of electors, the election taking place by acclamation in the county town. When elections were contested, weight of voices, force of arms or the deviousness of the sheriff carried the day. An Act of 1429 (8 Henry VI c7), reciting that elections 'have now of late been made by very great, outrageous, and excessive Number of People ... of the which most Part was of People of small Substance, and of no Value ... whereby Manslaughters, Riots, Batteries, and Divisions among the Gentlemen, and other People of the same Counties, shall very likely rise and be,' provided that knights of the shire were to be elected by persons 'dwelling and resident in the same Counties, whereof every one of them shall have free Land or Tenement to the Value of Forty Shillings by the Year at least, above all Charges.' A clarifying Act of 1432 (10 Henry VI c2) stated that the qualifying land must be 'within the same county where such chooser [elector] will meddle of any such election.'

Until the eighteenth century elections, if they were contested at all, continued normally to be by voice and defeated candidates rarely asked for a poll. The increasing number of contested elections in the late seventeenth and eighteenth centuries led to a greater need to clarify the franchise. An Act of 1696 (7 and 8 William III c25) restricted it to persons over twenty-one years old. Previously the exclusion of minors had been a matter of common acceptance (as was the exclusion of women until the 1832 Reform Act which specifically restricted the franchise to 'male persons'). The County Elections Act, 1745 (18 George II c18) made assessment to the Land Tax, and not the land itself, a qualification to vote and required possession of the freehold for twelve calendar months before the right to vote could be exercised in respect of it. It also laid down that the value of 40s was to be the clear yearly value over and above all rents and charges payable out of or in respect of the freehold. An Act of 1758 (31 George II c14) confirmed that copyhold land did not confer the franchise, and other Acts excluded, as far as possible, fraudulent grants of land made solely to qualify the holder to vote and clarified the definition of the land value. The definition of '40s per annum freeholder' included persons who had freehold tenure of an office whose income was charged on land. Hence most rectors and vicars were eligible (after 1664, when they lost the privilege of taxing themselves in Convocation) and some parish clerks and schoolmasters and a variety of other office-holders might also be eligible. They were eligible if (a) they had freehold tenure of their office; (b) freehold land was either attached to the office (the rector's or vicar's glebe) or was the source of the emolument; and (c) this was worth not less than 40s per year.

Boroughs before 1832

The borough franchise was not regulated by statute but depended on charters, local usage, special Acts of Parliament or determinations of the House of Commons. Where none of these was decisive it was held to belong to 'inhabitant householders'.

The franchise in Surrey belonged:

(a) in Bletchingley, Haslemere and Reigate, to the owners of specific plots of land in the borough ('burgage plots'). These might be in the hands of or controlled by a great landlord such as the Somers and Hardwick families in eighteenth-century Reigate and the Claytons in eighteenth-century Bletchingley. Elections in such boroughs were rare, except when the leading families came into conflict.

(b) in Gatton, to the freeholders of the borough occupying their own freeholds and not receiving alms. These were so few that the borough was rarely contested.

(c) in Southwark and Guildford, to freemen and freeholders paying scot and lot (a local tax). This gave a wide franchise and in Southwark elections were 'always lively and often turbulent'.

Counties 1832-1867

The Representation of the People Act, 1832 (the 'Great Reform Act') retained the 40s freeholder franchise, although where the freehold estate was for life or lives (and not of inheritance), if it were under £10 per annum the franchise was restricted to those who (i) actually occupied the premises; or (ii) held the estate before 7 June 1832; or (iii) had acquired it after that date by marriage, marriage settlement, demise or promotion to benefice or office.

The Act extended the franchise to:

(a) persons with an estate for life or lives of any tenure whatever worth £10 per annum.

(b) copyholders of property worth £10 per annum

(c) leaseholders of property let for sixty years or more and worth £10 per annum; or tenant occupiers of property let for twenty years or more and worth £50 per annum (including sub-lessees where the sub-lease was for that period, if they actually occupied the premises)

(d) tenants occupying land worth £50 per annum

The Act removed the county franchise from persons in respect of property which conferred the right to vote in a borough. A person might, however, own property in a borough which he occupied, which conferred the right to vote in the borough, and also property in the same borough which he did not occupy which conferred the right to vote in the county. The Act also removed assessment to Land Tax as the qualification and replaced it by a system of electoral registration.

Boroughs 1832-1867

The Act of 1832 retained the franchise of freemen in boroughs where this franchise existed. It retained most other existing qualifications only in respect of persons already holding them. It extended the franchise to occupiers, whether owners or tenants, of houses, shops, etc. worth over £10 per annum (provided that, if a

tenant, the occupier held his premises from the same landlord). The Act also required twelve months' residence within the borough or within seven miles of it. The elector must be rateable for the poor rate and have paid his poor rate.

Counties 1867-1885

The Representation of the People Act, 1867, left existing franchises untouched. It extended the franchise to:

- (a) holders of life interests, copyholds and leases of sixty years and more worth £5 per annum.
- (b) tenants occupying land worth £12 per annum

It introduced for these franchises the twelve months qualifying period and provisions as to rateability and payment of rates required from 1832 for the borough occupation franchise.

Boroughs 1867-1885

The Act of 1867 left existing franchises untouched. The Act extended the franchise to:

- (a) inhabitant occupiers, whether as owners or tenants, of any dwelling-house within the borough
- (b) lodgers occupying separately and as sole tenants and residing in the same lodgings worth £10 a year unfurnished being part of the same dwelling-house.

It provided that occupiers, and not owners, should be rated for the poor rate, which extended the franchise to many more occupiers than before.

The Parliamentary and Municipal Registration Act, 1878, defined dwelling-house as including part of a house separately occupied as a dwelling (ie although part of the house was an office, shop or workshop). It also provided that occupation of additional lodgings or different lodgings in the same house in immediate succession should not disqualify lodgers and allowed two joint lodgers to vote if the value of the lodgings divided by the number of lodgers gave £10 for each lodger.

Counties 1885

The Representation of the People Act, 1884, preserved existing franchises. It extended the existing household and lodger franchises as enjoyed in boroughs to householders and lodgers in counties (ie inhabitant occupiers as owners or tenants of any dwelling-house; lodgers occupying rooms worth £10 a year unfurnished).

It also extended the franchise to:

- (a) tenants occupying land or tenements worth £10 per annum
- (b) those inhabiting by virtue of office, service or employment dwelling-houses in which their master did not reside (the 'service franchise')

The £50 rental qualification introduced in 1832 was abolished, but those qualified in that way were now qualified as occupiers and by the Registration Act 1885 were to be registered as such.

Boroughs 1885

The 1884 Act extended the definition of the £10 occupation franchise to refer to 'land or tenement' instead of only buildings. It granted the 'service franchise' as in counties.

The county and borough household, lodger and occupation qualifications were now assimilated, with minor exceptions. The county electorate still included those who held the various 'ownership' franchises. The borough electorate included those who held the 'freeman' franchise or any other franchises reserved by the Act of 1832, although in practice only the 'freeman' franchise was probably significant: boroughs still created freemen whereas the other pre-1832 reserved franchises applied only to those individuals who had held them before 1832.

Problems of the Franchise

The qualifications to vote were, as has been seen, various, and almost all of them involved some matters for dispute. There is no point in going into detail in this brief publication but in general the issues were:

(a) value. The definition of the 40s freeholder was (1429) 'above all charges' and (1882) 'above all rents and charges payable out of the same'. These 'charges' were legal rent-charges, etc. and did not (18 George IIc28; 1746) include taxes and rates. Legislation might refer to rateable value (eg the county £12 occupation franchise of 1867) or 'clear yearly value', (eg the borough £10 occupation franchise of 1832 and the county £10 occupation franchise of 1884). Mortgages and dowry might temporarily reduce the value of the property.

(b) definition of tenure and interest in land. The definition of freehold tenure, especially in relation to an office, and of leases, sub-leases and assignments of leases, was a source of many legal cases.

(c) character of occupation. 'Occupation' normally implied that the occupier had no tenant or sub-tenant below him. It did not necessarily imply residence and included, for example, land and also business premises. Occupation, as qualifying for the suffrage, was defined, except under the (post-1867) lodger and (post-1884) service franchises, as occupation 'as owner or tenant'. This excluded those who occupied premises as an aspect of official duty or service. The 1884 service franchise excluded those who lived in with their master and led to cases involving, eg soldiers' quarters in barracks, cubicles in police barracks, clergy in a Roman Catholic college, shop assistants and workhouse officials. The precise details determining individual cases do not matter, but these and other cases could govern exclusions and inclusions on the Surrey registers.

(d) definition of residence and inhabitancy. In general, this was defined as being where the voter slept. Under the 1832 Act a borough elector must have resided for six calendar months within the city or borough for which he claimed to vote or within seven statute miles thereof or any part thereof. Other acts made residence or inhabitancy a qualification in itself.