

The electoral system

Introduction

'Democratic' governance; 'consent of governed'

Dicey

'political sovereignty' rests with the electorate ?

Butler's 6 tests

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

1. Strengths of the system

1.1. Extent of franchise — from property (and maleness) to residence

Great Reform Act 1832

few middle class

Disraeli's Reform Act 1867

more middle class

Representation of People Act 1918

women

Chorlton v Lings (1868)

Nairn v St. Andrews (1908)

Representation of People Act 1948

residence

'Residence' the essential criteria

Fox v Stirk (1970)

Hipperson v Newberry (1985)

Representation of People Act 2000

Expand residence to include homeless

Still excluded

royal family; mentally ill; prisoners

1.2. Periods between elections

USA as comparator
6 years Senate too long? incumbency
2 years House too short? always campaigning
4 years President just right?

Parliament Act 1911 5 years; Lords veto

1.3. Candidates

Minimal barriers **Nomination/deposit** debar fringe/spoiling candidates
Proscribed parties debar terrorist groups

Precision of identification

Representation of People Act 1968

Name compulsory; party optional

Saunders v Chichester (1995) - 'literal Democrat'

Registration of Political Parties Act 1998

PPERA 2000 much tighter control of identity

1.4 Conduct of campaign/votes

No significant bribery/intimidation etc; public count of vote

2005 query re probity of increased postal voting

2007 elections – failure of new computer technology

No regulation of 'truth' of content of political advertising

1.5 Constituency design

Great Reform Act 1832

rotten boroughs; pocket boroughs; begins respond to demographic change

House of Commons (Redistrib of Seats Act) 1949

Boundary Commission to control

Rules to structure BC's discretion

- a. Local government boundaries
- b. number of voters
- c. geographical size

R v Boundary Commission, ex parte Foot (1983)

Courts reluctant to intervene

Large divergence in constituency size

examples

Contrast USA

Baker v Carr (1964)

Represent people not trees or acres

Wade (1980) Constitutional fundamentals

One man one vote one value

Electoral Commission

will take over apportionment (eventually). But apply same rules ??

2. Weaknesses of system

2.1 Electoral finance

Corrupt Practices Act 1883

first initiative in this area

Local spending only

Tronoh Mines (1953)

Very obscure provisions

R v Fiona Jones (1999)

Strict rationing access to broadcast media; though no 'legal' basis

Political Parties, Election and Referendums Act 2000

Limits on national spending;
donors must be UK national;
overseen by Electoral Commission

large donors must identify selves;
strict recording and reporting requirements

Ewing (2000) Public Law

generally welcomes as modernising reform

'Cash for Honours' scandals

1920s Lloyd George

Honours (Prevention of Abuses) Act 1925

2000s Tony Blair

'loans' to evade spirit of **PPERA 2000**

2.2 Translating votes into seats

first past the post/'relative majority'

constituencies often won
with minoritarian support

examples from recent elections

Governments always formed
with minoritarian support

statistics for recent elections

Alternatives – other countries

Israel - pure proportionality

Germany - constituencies + lists

Alternatives – within the UK

Scotland; EP elections

Proposals for reform

Jenkins Commission

Benefits of current system ?

Simple to understand
Single party government

Conclusion and links

House of Lords unelected

Sovereign power = Parliament = Commons = Government = Minority ????????

'Consent of the governed' ?

Reform electoral system or curb power of Parliament ?