



Select Committee on the Electoral Registration and Administration Act 2013

Corrected oral evidence: Electoral Registration and Administration Act 2013

Tuesday 25 February 2020

3.25 pm

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Members present: Lord Shutt of Greetland (The Chair); Lord Campbell-Savours;
Lord Dykes; Baroness Eaton; Lord Hayward; Lord Janvrin; Lord Lexden;
Baroness Mallalieu; Lord Mawson; Baroness Pidding; Baroness Suttie.

Evidence Session No. 10

Heard in Public

Questions 111 - 117

Witness

[I](#): Richard Mawrey QC.

Examination of witness

Richard Mawrey QC.

Q111 **The Chair:** Welcome to this evidence session of the Select Committee on the Electoral Registration and Administration Act 2013. You have in front of you a list of interests that have been declared by members of the Committee. The meeting is being broadcast live via the parliamentary website. A transcript of the meeting will be taken and published on the Committee website. You will have the opportunity to make corrections to that transcript where necessary. Having got that formal bit over, we can start with our questions.

Based on your experiences, how vulnerable do you think the electoral registration and voting systems are in the United Kingdom? Where do you see the key vulnerabilities in the registration and the voting systems?

Richard Mawrey: The key vulnerability, and I accept that I have been banging on about this for about 15 years, is postal voting on demand. This undoubtedly opened the door to serious voter fraud. There has always been a small amount of voter fraud in the form of personation, but personation when you have personal voting at polling stations is difficult, it is risky and it requires a lot of people to make a difference. You have to find people who are prepared to come along and cast bogus votes, and take the risk that if somebody spots them they may be arrested and charged. Personation tends, although not invariably, to attract a prison sentence. It is therefore high-risk.

The moment you have postal voting on demand, the postal vote can be carried out anywhere. So long as it reaches the returning officer by close of poll on polling day, the actual paper can be filled in anywhere from next door to the polling station basically to Timbuktu. There are virtually no controls over who is exercising the postal vote.

This has led to postal votes being falsified, stolen or altered. One of the problems I highlighted in the Birmingham election case in 2005 was completed voting papers being intercepted and opened, and if the crosses were in the wrong place they were scrubbed out and crosses inserted in the right place. In that case, that had happened in probably no more than 150 to 200 votes. None the less, bearing in mind that the actual tally of bogus votes in the Birmingham election—we never quite got to the bottom of it—was something like half the votes cast for the “winning candidates”, and we are talking about candidates who were elected by between 3,000 and 3,500 votes, 1,500 to 2,000 were forgeries. That would not be so easily possible today, because various changes have been made that make it a lot more difficult. It is still possible, but it would require a lot more organisation than is probably worth while.

I see the supplementary question, and will add that answer, if I may. I have discussed this on a number of occasions with Sir Eric Pickles, and we agree that the real vulnerability is local authority elections. There are two reasons for this. The first is the obvious one: local authority wards are small and voter turnout in local authority elections is modest—if 40%

turn out, it is a good year, and sometimes it is not much more than 30%—so number of votes needed to elect a candidate is relatively small.

In a parliamentary constituency, one knows that in every election there are Members who are voted by one vote or 10 and they become the famous marginals. But the volatility of parliamentary constituencies is such that you would have to indulge in very substantial fraud to get yourself or your candidate elected to Parliament. In wards, particularly inner-city or inner-town wards, there may be a very small geographical area and a relatively small electorate, so the amount of votes you need to forge or steal—however you want to put it—is relatively small.

In Slough, for example, the number of bogus votes for the winning candidate was probably no more than 300. It was not a lot, but it was enough to get this candidate elected. As it happened, the election of that candidate gave one party control of the council rather than another party. When I set the election aside and it was rerun, the party that had been petitioner before me won, so the council changed hands. In that case, the fraud, had it gone undetected, would have created a false majority for one party in the council at Slough. The first reason, therefore, is that, where there is a small turnout, a relatively small amount of fraud is needed.

The second reason is this—and, again, I agree with Sir Eric on this. Curiously enough, being a councillor is seen by very many people as a much more powerful and desirable job than being an MP. As an MP you may be a Back-Bencher in an opposition party for the whole of your political career. But a councillor, even an opposition councillor, has power, has clout, and can fix things. It is perceived—one finds this time and time again, particularly in urban areas—that getting yourself or your friends made councillors is putting them into a position of power. So the incentive and the opportunity are greater with local authorities than with parliamentary elections or referendums.

As you are dealing with the registration of voting, I will just add that the use of electoral malpractice generally, very much for the reasons I have indicated, is much more common at a local level than at a parliamentary level. That is what I would say about the vulnerabilities of the system.

On the registration side of it, it is very difficult to prevent two forms of registration malpractice. The first is registering bogus people. Even after the 2013 Act, it is a lot easier than you might think. The Tower Hamlets election was after the 2013 Act. None the less, we had bogus, non-existent, people. Provided you control the addresses to which the voting papers are to be sent, you are controlling the votes. The changes that were made in 2005, whereby you had to give a signature and a date of birth, were fine, but if you are creating a bogus person it is not very difficult to create a bogus date of birth and a bogus signature. It is very easy to do.

One of the ways in which this came to light in Slough was that the other side, the petitioners, carried out checks. What blew it was that they found

there were four houses in which 18 voters were registered, all of whom had voted for the winning party. When they observed these four houses, they found that they were derelict and nobody had lived there for years. The people who had been registered were simply non-existent.

There is another and much more subtle kind of fraud, which is more difficult to guard against. Local elections do not take place every year in the same area. One year, it may be London and one year in the counties and so on. If, for example, you do not have an election in London but you have an election in Slough, as happened in 2008, you round up a lot of your friends who live in London and you get them to register in Slough. They are real people, they would pass any ID checks, they have real dates of birth and real signatures. The only thing that is bogus is their address. Provided you can control an address for their papers to arrive, you register these people and it is very difficult to prevent that sort of fraud. There were quite a large number of people there—and in Tower Hamlets; in Tower Hamlets, rather bizarrely, some of the councillors who did not live in the borough had registered themselves in particular wards. It was a clear but detectable case of fraud. That happens. Those are what I see as the vulnerabilities.

The Chair: Can you put any weight to this in terms of numbers? What you are describing is quite horrific. You have been involved in various cases, but I cannot get any feel of the scale. You have described the Birmingham case, and Tower Hamlets and so on, but overall, with the intelligence that you have, how much of this is going on? What is the weight?

Richard Mawrey: I would love to know. One of the reasons why we do not know is because it is not policed in any real sense. The only time this comes to light is if a petition is brought. Very, very occasionally, people get the evidence together and go to the police and, if they are lucky, interest the police in taking a part. But the police take the view, not unreasonably, that unless they are presented with what might be described as an oven-ready case, they do not act.

The only prosecution that has resulted from any of the decisions that I have made was Slough, where the local force, at Thames Valley, sent a detective sergeant who sat in court throughout the entire proceedings. When it was over and I had decided that there had been fraud and disqualified the candidate, the officer then arrested the candidate and his chief henchman. My recollection is that they got lengthy jail sentences at Reading Crown Court, but that is very rare. So it is policed, in so far as it is policed at all, by the other politicians in the borough. Bringing a petition is extremely expensive.

Lord Campbell-Savours: Can I ask you a simple question? What would you like us to recommend? I have listened very closely to what you are saying. What would you like?

Richard Mawrey: I will give you a simple answer. I would like to see the end of postal voting on demand. I know that sounds radical, but it has all

these dangers and no serious evidence has been produced of it creating any benefits. There is no evidence to show that people are exercising their votes because they have a postal vote rather than going to a polling station in order to cast their votes. There is no evidence that it has empowered the marginalised, which is what I heard a lot of when I was being debriefed by government after the Birmingham case. There is no evidence for that.

One of the strange things, although it is purely fortuitous, is that the first election when there were postal votes on demand saw a drop of something like 15% in turnout from the election before. Obviously, the two are not connected, but it does show that postal voting on demand to boost participation in the electoral system has not worked. It has not increased turnout and there is no evidence that it has caused people to vote who would not otherwise vote.

Lord Campbell-Savours: In your evidence, you gave us the statistics following Birmingham, and then I think I heard you say that things had improved. What had improved?

Richard Mawrey: What improved slightly was that, following Birmingham—I cannot off the top of my head remember the year—there was an electoral Act passed in, I think, 2005, which introduced the signature and the date of birth. That was all very fine and dandy and that made it a little more difficult. It was a sticking plaster but not a very big one.

The reason—this is the key with registration—is that registration is essentially unpoliced. It is unpoliced, because registration officers do not have the resources to carry out policing of voter applications. If you get an application at the town hall to register somebody as a vote and it has on the face of it a perfectly good address which you can find in the directory, it has what look to be like plausible people and you have signatures and all the details, it may be genuine or it may be false, but there is nobody checking because there is no mechanism to check. That is the problem with registration. That is how you can register non-existent people and that is how you can register people from out of town.

Q112 **Baroness Pidding:** I think you have partly answered this question, but I will ask it anyway in case there is anything you would like to add. One of the reasons given for the introduction of the ERA Act 2013 was to tackle fraud. Do you think the Act has achieved its ambition in tackling fraud?

Richard Mawrey: Again, up to a point, but it is dealing at the margins with a problem that is not very soluble. The difficulty is establishing the identity of people who are registering to vote. If we had a system, for example, where everybody in the country had an identity card, as they do on the continent, there would be no problem—I appreciate that that is a very hot topic.

On the continent you have an identity card and, in order to register, you go to your local town hall, produce your identity card and you are put on

the list. When you vote, you go along to the town hall or polling station—whatever it is—you produce your identity card, they check you off on the list, and you put your paper in the ballot box. Electoral fraud of the kind we have had here is almost unknown in continental countries. That may or not be a good reason for having an ID card, but that is one of the pluses.

With us, there are objections even to asking for your national insurance number, because some people do not have national insurance numbers. Photo ID is difficult, there is no doubt. Those of us who have driving licences and passports have photo ID, but there are plenty of people who want to vote who may not have either. That is the difficulty; you must draw a balance between checking ID and not disenfranchising people who may not be able to produce the necessary documents. Frankly, polling at polling stations is a minor problem, because personation at polling stations is a minor problem. It is the postal votes that give the fraudster his opportunity.

Q113 **Baroness Mallalieu:** Can I ask you about the current election petitions and the election court system, of which there has been major criticism, as you are well aware? In particular, Sir Eric Pickles told us that present systems were antiquated and useless. Is that your view and, if so, what changes would you like to see made? At the present time, it appears that they are pretty well discouraging people because of the likely cost involved to individuals who want to bring them forward.

Richard Mawrey: Here again I agree with Sir Eric Pickles, although I would probably not be quite as mealy-mouthed about it as he is. I sat as an election judge from the mid-1990s to 2015 when I hit the retirement age. I have been saying all along that this is a crazy way to deal with contested elections. It was perfectly reasonable when it was introduced in 1868, but is no longer viable. It requires, as you know, a petition either by a defeated candidate or by four electors who are registered to vote in the election. It is exceedingly expensive and you have to do all the work. You have to get all the evidence and present it. You nearly always have to instruct counsel. They take a long time to fight and you risk a huge bill of costs.

The unfortunate petitioners in Tower Hamlets won virtually every round, and it ended up with the former mayor, Lutfur Rahman, being turned out of office and disqualified for five years. It was a total victory. I ordered that the costs be paid by the respondent. What happened? He did not have the money, declared himself bankrupt, and the four petitioners have faced an enormous bill. I gather that Francis Hoar will give evidence before you later today. He was, as you know, counsel for the petitioners in Tower Hamlets. He will probably tell you, but I imagine he is unpaid to this day.

Here we had someone who was, on my decision, which was not successfully appealed, guilty of the most appalling malpractice. You name it, he did it. Bribery, falsification of votes, using undue religious influence, badmouthing candidates to the extent of being an electoral offence. He

was turned out of office at the behest not of the state or the police or the prosecution but four citizens who are now themselves facing bankruptcy. Not a good idea.

There is also the policing of it. Imagine: four ordinary citizens, or even one ordinary citizen in the case of a candidate who has been defeated, have to find the evidence. The key thing is that most of the evidence will exist only before the election, so you must suspect that is going to happen so you can keep tabs on it before it does happen.

In Slough, the Labour Party, who were represented incidentally by Gavin Millar, who is also giving evidence before you, suspected in 2006 that the Conservatives were working voter frauds, but they were not able to prove it. Come the next year's election, they got a team together before the election, in a sense put the dogs on the trail of the candidate and his henchman, and spotted what they were up to. That is how they found the derelict houses and so on. That was all private enterprise by members of the Slough Central Labour Party. They did that unaided and they managed to get the evidence together, which was fine. That is not a very good idea, however.

How can we deal with that? The first thing that I suggested—I gave a small conference on it in 2006 in which I gave the keynote speech—was bringing electoral courts within the basic court system. It seems silly that you should send two High Court judges in the case of a parliamentary election, or an election commissioner, nearly always a senior QC, out to sit in a town hall or a library to try these cases. They should be as much part of the High Court and county court system as any other action.

The next thing that would be a very good idea is this. On the present system, if you bring a petition, the petition is issued in the Queen's Bench Division of the High Court. As you probably know, a small panel of Queen's Bench judges is nominated every year to be the election rota judges. A petition comes before two of those, and essentially you must show that it is not frivolous nonsense. If it is not frivolous nonsense, and the test is very low, the judges order that there is the trial of an election petition, as I say by High Court judges for parliamentary and by a commissioner for local, and in the case of local elections a commissioner is nominated and is asked to try it. At that stage, therefore, there is a minimal vetting process.

When I discussed this with Sir Eric Pickles, we thought it would be a good idea to have a halfway house between purely official prosecutions from day one, because there are not the resources and it would not happen, but you have a case where, if a petition is clearly well founded in that there is cogent evidence for it so it is not frivolous, at that stage, it having come before the judges of the Queen's Bench Division, it goes forward but on the basis that the prosecution, so to speak, of the petition is carried out by some emanation of the state and not by the individuals. That means that, rather like a private prosecution being taken over by the CPS or the DPP, it would work on that basis.

This would obviate, first, the petitioners putting everything on the line; secondly, the amateurishness of petitions and getting evidence in; and, thirdly, if it were done on that sort of basis, any suggestion that it was politicised—obviously, you do not want a state prosecutor at elections, because then the suggestion would be that you can prosecute the opposition parties and turn a blind eye to the government parties. It would probably be false, but that perception could easily be created. If it started in what might be termed the old way but then, if it has legs, it is taken over by an equivalent of the CPS, that would work.

The Chair: I take it that you are clear about this. Have you written all this up as an alternative? It seems to me that if there is an alternative, and particularly if it costs less, that ought to be attractive to government. It would be helpful if you have written up all that about the alternative scheme. This could be a recommendation.

Richard Mawrey: I am happy to put a paper into the Committee. That is no problem.

The Chair: That would be very helpful.

Lord Campbell-Savours: Could we know why it was rejected in your conversation with the Minister?

Richard Mawrey: I think there was a feeling, back in 2005, that this was all a one-off or it was all to do with the Muslim Asian community; that it was almost a cultural thing. It was not. There was a very simple reason why it was the Muslim Asian community in Birmingham, as I said in my judgment. Birmingham's Muslim Asians, up to 2003, were pretty solid Labour. Then we invaded Iraq. In the first partial election they had after that, the Labour Party did badly. When it came to the next election, which was a full council election, there was, I regret to say, a concerted effort to win back the Muslim Asian wards by massive fraud. Curiously enough, the people who brought it to light were other Muslim Asians living in the same ward. This was by no means, therefore, one culture against another. The reason why it was Muslim Asians was entirely linked to the need to win back Labour wards after the Iraq war.

Lord Campbell-Savours: I am sorry to press this, but you said you had a conversation with Mr Pickles. I thought the conversation with Mr Pickles came much later. Why is he still rejecting it?

Richard Mawrey: I am sorry, I misunderstood. I thought you meant my debriefing after Birmingham. When I discussed this with Sir Eric Pickles, he agreed with the idea that you should have these two stages. I am so sorry; this was about two years ago.

Lord Campbell-Savours: That is all we need to know. That is fine.

Lord Hayward: Just to clarify, when Sir Eric gave evidence he said, if I recall correctly, that he had applied through government to get the costs paid by government and it was other parts of government that turned it down.

The Chair: From memory, that is right. I wonder if we might crack on and move to Lord Dykes's question.

Q114 **Lord Dykes:** The Committee has so far heard arguments in favour of some reform to address how electoral offences and instances of maladministration are dealt with. Should there be a central complaints mechanism for voters? What would be the pros and cons of such a system?

Richard Mawrey: I see the idea, but I am not sure that it is workable. The key thing with elections is that if you are going to challenge them you have to challenge them quickly. One of the downsides of petitions is that you have to bring a petition within three weeks. That is a big downside. Another downside is that once you have framed your petition, for arcane legal reasons that I have never understood, you cannot amend it so you cannot add new charges. So you have to add quickly a complaints mechanism. I think complaints would run into the sand. People complain to the police, but even the police, who now have dedicated officers for electoral fraud, as I said do not have the resources to carry out the investigations and to prosecute. A complaints mechanism sounds good, but I suspect it would be no more than a sounding board—a grumble forum, if I can put it that way. It is a nice idea, but I do not think it would work.

The Chair: Do you think that returning officers and electoral registration officers should be subject to Freedom of Information Act requirements to help evidence gathering in the case of complaints being made?

Richard Mawrey: I do not think there is much information that is not available as it is. Electoral registration officers have the registers, which are certainly open to the political parties. One of the principal tools that petitioners have used before me is that they have the electoral register. They are disclosed and you can get hold of electoral registration documents. The only thing that you cannot get hold of without a court order is the ballot papers, the obvious reason being the secrecy of the ballot. You have a court order, and when they are looked at by the court they are looked at in terms of secrecy, so that you only reveal who voted for whom if it is absolutely necessary as a part of the process and almost invariably with the consent of the person concerned.

For example, in Birmingham we had witnesses who came along and said, "I've been shown my ballot paper. As you see on the ballot paper I originally voted for A, B and C, and someone has crossed it out and put D, E and F". They were willing to do that, but secrecy of the ballot paper is fundamental and can only be subject to court processes. All the other information is largely available.

One of the key things is that when people register—one of the great indications of fraud is lots of registrations at the very last moment, because they think that people will not check—all that information can be and is got by the political parties. The answer to your question is that it

would not reveal much more information than those officers have already and make available.

Lord Hayward: In relation to that process, should there be some formal requirement for each polling station, polling station officer, or whatever it might be, to record information, including for example how many people are unable to vote and other what one might describe as relevant pieces of information or events?

Richard Mawrey: I am not totally certain. Because I have had so little concern with polling at polling stations, I am not sure what they record now. I suspect, but I am not sure and someone else would know, that they may have to record the occasions where a voter has to be assisted to vote because the voter is, for example, not very literate or does not speak English very well. I know that the polling station officers sometimes have a lot of trouble stopping perhaps overbearing husbands accompanying their wives into the polling booth and that sort of thing or, indeed, someone who expresses himself to be an elder and a person of great repute in the community assisting his friends to vote. That is fairly routine, but most polling station officers are very polite but say only one person in the booth at a time.

Lord Hayward: Can I put words into your mouth and interpret what you have said—that events at polling stations per se and recording of them have not been issues generally in relation to the cases that you have handled?

Richard Mawrey: Yes, with one exception. At Tower Hamlets, one of the issues was intimidation of voters outside the polling station. It is grey area as to whose baby it is. Is it the polling officers', whose remit is just within the polling station, or is it that of the police, and where is the boundary to be drawn? In that case, there was a lot of what I suspect many people would call intimidation. I concluded very reluctantly, as you can see from my judgment, that it did not quite hit the levels of intimidation required by the decided cases; I have to say that most of the cases were decided in the 19th century when intimidation meant chaps with cudgels.

One of the things I discussed with Sir Eric Pickles was whether the criteria for intimidation ought to be lowered somewhat, because there was a fair amount of what you or I might call intimidation. Whether that is the responsibility of the polling officers or the police is not easy to say and, unless you commit an obvious public order offence, the police have more to do on polling day than running you in, particularly if there is a crowd of you. That is a problem, and I am not sure what the answer is.

Lord Hayward: Before I ask my other question, I should identify that I have been sad enough to go and watch elections in Tower Hamlets and turned up at your case and listened to evidence being given and the cross-examination, et cetera. Following on from that, should the Electoral Commission be given more enforcement powers, or does that fall under the category that you identified that it would be so far after the event

that it would not work?

Richard Mawrey: I discussed this with a number of people. Should the Electoral Commission have more powers? It depends on the nature of the Electoral Commission. As you probably know, in Australia there is an electoral commission, but that is the commission that runs the elections. It is responsible for running them itself and policing them as opposed to simply being a body to regulate it. At present, they have relatively few enforcement procedures. They can of course proceed when candidates spend too much money and that sort of thing. Again, they do not have the resources. They would have to have the resources. They would have to have, in effect, an investigative arm, and they might operate as the complaints bureau, in a sense.

If they had an investigating arm and possibly even a prosecuting arm, they might be the agency that would carry forward petitions once they had got beyond the first stage. That would work. They would work rather like the prosecutions department of HMRC, or something like that, or possibly the FCA. That is a possibility. As presently constituted, though, it probably could not do that. You would have to reconstitute the Electoral Commission to give it more teeth and to give it a specific enforcement branch such as HMRC.

The Chair: Lord Campbell-Savours believes that his questions have been dealt with, so I turn to Lord Janvrin.

Q115 **Lord Janvrin:** You mentioned briefly that the registration officers do not have the resources to police applications. Can I return to the question of registration officers and their powers? Do you think that registration officers and returning officers are equipped with adequate powers for dealing with instances of suspected fraud?

Richard Mawrey: No, they are not. They have virtually no powers. A registration officer can remove someone from the register if they are satisfied that they should not be on it. That is to say that they do not exist, they do not live there, they are dead or whatever. That power is exercised in practice almost entirely by people who have, so to speak, an interest in the matter, normally local politicians who feel that there may be registration offences going on, coming to the registration officer and saying, "I challenge the registration of Joe Bloggs at 1 Station Road, because I don't think that he lives there" or "I don't think there has ever been a Joe Bloggs at that address". If you present some sort of evidence, the registration officer will remove the name from the register. That is a very cumbersome procedure and the registration officer is reactive and not proactive, because there are simply no means for the registration officer to be proactive. He does not have the staff, the time or the money.

Q116 **Baroness Suttie:** I declare an interest as a trustee of IPPR and as an associate of Global Partners Governance.

Turning to electoral law, do you think electoral law is up to the task of dealing with fraud and voting offences? What changes would you like to

see to provide a suitable framework for protecting the integrity of elections in the 21st century?

Richard Mawrey: I am not alone in thinking what needs to be done. The current legislation, as you know, is the Representation of the People Act 1983. That contains almost an archive of electoral offences back to the old common-law offences in the 18th century and before. They are dotted here and there in the Act and some are considered to be corrupt practices, some are illegal practices and some have been added by the various bits and bobs of legislation. We need a proper code, either as part of a representation of the people Act or as a freestanding code of legislation that sets out the parameters for fair elections, the electoral offences, what they consist of and the penalties for them, both penalties if they are criminal offences and penalties for being disqualified from being a candidate in an election. That would be a very useful tool.

For example, the undue religious influence that was so controversial, as I suspected it might be, at Tower Hamlets, is in the middle of one of those compendious 19th century clauses which contains almost everything including the kitchen sink, including undue religious influence, intimidation, and this that and the other. They are not defined, so you must rely entirely on decided cases. In the case of undue religious influence, it is cases last decided in the Meath election of 1892 in the south of Ireland.

This is unsatisfactory. We need an actual code. We have codes for criminal offences, such as the Theft Act, and that would be either a discrete part of a representation of the people act or a discrete code. Then people would know what you could or could not do. That would eliminate the large number of grey areas of electoral malpractice about which there is so much argument before judges like me.

Lord Lexden: Who should construct the code?

Richard Mawrey: My preferred choice would be the Law Commission, because they are very good at that and they are also very good at taking slightly antiquated legislation, filleting it and bringing it up to modern standards. My second choice would be the Electoral Commission, because they do not have the legislative experience of the Law Commission.

Q117 **Baroness Eaton:** How would you rate the Government's efforts to tackle fraud since Eric Pickles' report was published in 2016?

Richard Mawrey: Out of how many? I do not think I would give it five, as they used to say in the old television programme. The answer is that they have had more important things to do. On a more serious note, because this is largely a problem of local elections, it is fair to say that national politicians have not always given electoral malpractice quite the prominence that they should.

It is electoral malpractice at a local level that makes a difference. The Mayor of Tower Hamlets handles a budget of, what, £9 million¹? That is

big potatoes. Being an MP for a Tower Hamlets constituency, for example, is a considerable honour, but you ain't handling large sums of money. There is a perception at national level that this is a problem that we need not worry about. But I think it is one that we should worry about.

The Chair: Lord Mawson indicated to me some time ago that he had an insight into matters in Tower Hamlets. I invited him to come along today and, if he has any questions, perhaps now would be the time to put them.

Lord Mawson: I am not sure I have an insight, but it is very interesting to listen to what you have to say. I have worked in Tower Hamlets for many years and I should declare an interest as I have known Lutfur Rahman since he was a teenager. It was interesting to hear what you were saying about that. How endemic do you think it was? Maybe you did not dig into that in relation to Lutfur Rahman. I can hear worries in Tower Hamlets about the present MP and his personal assistant. There are a set of things going on there which I hear colleagues worry about.

Richard Mawrey: The answer is that it started bad but got worse, because everyone was scared to deal with it. It is no secret, and it was in my judgment, that one of the reasons why Lutfur Rahman was as successful as he was in avoiding trouble for as long as he did was that he was a past master at playing, to put it crudely, the race card. You criticise him, you are an Islamophobe.

Lord Mawson: He is a lawyer, of course.

Richard Mawrey: He was a lawyer. I say "was", because one of the weird consequences of adverse findings is that if you are a barrister or solicitor you are automatically referred to your professional body. If you are a doctor, accountant, or clergyman even, that does not happen. For those two professions, however, largely because in the 19th century they dominated politics, you are automatically reported. So he was, I believe, put off the tracks by the Solicitors Regulation Authority.

That said, he was a past master at silencing his critics by accusations, putting it bluntly, of racism and Islamophobia. This is why, and again I commented on this in my judgment so it is no secret, the local emanations of the Met ran very scared of him and nothing was done about it for a long time.

Funnily enough, it was Eric Pickles who had the courage to put in PriceWaterhouse to examine the financial affairs of the borough. At that point, the balloon went up, because all the financial malpractice that I later commented on in my judgment came to light. That was an external force, in this case Sir Eric, deciding to intervene in the borough by putting in accountants to see exactly what had been going on. Had it been left to the borough itself, he would still be there.

¹ The witness subsequently corrected this figure to £9 billion.

Lord Mawson: Did you get a feel for how endemic it was in the team around Lutfur Rahman, or maybe that was not your brief?

Richard Mawrey: As you know, he created his own political party, Tower Hamlets First, which consisted very largely of his own associates. It was a wonderful political party that had no bank account and no headquarters. I do not know how the Electoral Commission passed it, but they were intimidated as well; they just nodded it through—a political party that does not have a bank account, but there we are. His coterie were undoubtedly, as I found, as corrupt as he was. They manipulated this thing as what used to be called a rotten borough. Through the committees and gross misuse of public funds to subsidise this here and subsidise that there they built up a considerable empire within the borough, and anybody who disagreed was in real trouble.

I have to say there was a climate of fear among those who might be minded to oppose him, particularly in his own Bangladeshi community. There were lots of Bangladeshi-heritage people who were Labour, Lib Dem or Conservative and who felt that the whole weight of the community and of its religion were being targeted on them; not on non-Bangladeshi people but on them. That was what was so bad about it. It was the non-Rahman Bangladeshis, some of them, who were going in fear. Around the edges of it there were problems of witness intimidation. That is your answer.

Lord Hayward: You said earlier that Lutfur Rahman had been banned for five years. That means that his time is almost up and therefore he is in a position to come back into politics in Tower Hamlets imminently, by my calculation. Does that worry you and, if so, what actions should be taken to ensure that either he—I do not want you to get into legal difficulties—or people who are intending to follow the same route should be stopped? Is it longer bans or what?

Richard Mawrey: You are quite right that I gave my judgment on 23 April 2015, so on 23 April of this year he will be back, so to speak, licensed to stand as a candidate. Fortunately, there is not a mayoral election until 2022.

The key here is that if you follow my suggestion that you rejig electoral offences, as with driving offences there should be a discretion in the tribunal to lengthen or shorten the period of disqualification. If you are found guilty of corrupt practices by an election court, you are automatically disqualified for five years, and it does not matter whether that was one forged vote, which would be sufficient if you were a candidate and responsible for it. One forged vote, even if you won by 20,000, would disqualify you. The same would apply if you had massive fraud and malpractice. It is five years, dead. If it is merely an illegal practice, the distinction between the two is almost worse than the distinction between a felony and a misdemeanour. It is nothing to do with seriousness; it is just categorisation. For an illegal practice, you are disqualified for three years. Again, it may be too much or it may be too little.

The election judge should have the power to decide the length of disqualification. They may take the view that, although it is enough to get the election set aside, it is so trivial that you need not disqualify them at all. On the other hand, you might say that this person ought not to be allowed near a polling booth again and disqualify them for much longer periods. At the moment, however, your hands are tied. It is entirely automatic. For corrupt practices, it is five years.

The Chair: Thank you very much indeed for coming along and sharing your thoughts with us. We look forward to the Richard Mawrey QC election court plan.

Richard Mawrey: It will not be soon, but I will do it as soon as I can. I will let your secretariat have it.

The Chairman: Thank you for coming.