

Diogenes on law

English courts cannot disregard a duly enacted law. They cannot test its validity against the precepts of a written constitution or bill of rights, still less against those of some moral or natural law. Chief Justice Coke said in *Dr Bonham's case* (1610) that the court could declare an act of parliament void if it was "against common right and reason;" but his successors must bow to the dictates of parliamentary sovereignty. Bad English laws are still laws.

There is less inhibition, however, where a foreign law comes to be considered. Here English courts can pick and choose. There is no general equity; but by well-established precedents English courts are not bound to give force to a foreign law that disregarded fundamental conceptions of English justice; or infringed English conceptions of morality; or the English conceptions of humanity and freedom of action (for example, disqualifications arising from slavery, excommunication or nonconformity). In the words of a great American jurist, these laws are intra-territorial only for "to stretch international law further would be no engraft on free countries the paralysing restrictions of despotisms."

The extent of these principles was what exercised the courts in the case of *Oppenheimer v Cattermole*. The issue in part turned on whether or not the English courts would recognise a decree of 1941 whereby the Nazis purported to deprive of their German citizenship and property Jews who were ordinarily resident abroad at the time of the decree. Mr Justice Goulding had thought that English courts could ignore so oppressive and discriminatory a law. The court of appeal, however, held that a country is in sole charge of nationality.

The House of Lords, although they found against Oppenheimer on another point, said the same thing. Lord Cross of Chelsea, emphasising that the decree discriminated between Jews and other Germans, stated: "to my mind a law of this sort constitutes a grave infringement of human rights at the courts of this country ought to refuse to recognise it as a law at all." Lord Simon pointed out that "the barbarity of much of the Nazi legislation is happily unique"; English courts should "on grounds of public policy refuse" to recognise it. Lord Hudson stated, "The courts of this country are not in my opinion obliged to look at their eyes to the shocking nature of the legislation as the 1941 degree."

It is a consolation that the Law Lords do not retreat into an arid positivism on occasion; but little consolation to know that, if the Nazis or their spiritual successors came to power in England, they would do nothing to strike down legislation in an equivalent kind unless by virtue of the European Convention of Human Rights. It is not *Oppenheimer v Cattermole* that revives again the question of a need for a bill of rights?



Findings Winning in the rain

Robert M. Worcester and Douglas E. Schoen

Conventional wisdom has it that the Labour Party is at a disadvantage in general elections if there is rain on polling day because its supporters are less committed than those of the Tory Party. It is also assumed that overall turnout at a general election falls when the weather is bad. Our study of turnout in the October 1974 election suggests that neither of these assumptions was justifiable in that contest.

With reports from the Meteorological Office, we mapped the weather in 156 constituencies on 10 October. Only those constituencies within a five-mile radius of the 37 major weather stations were included. These "weather constituencies" were divided into two categories: those which had some rain on polling day (75 in all, including 41 which had rain all day and 34 which had rain only in the morning or afternoon) and those which had no rain (81).

The geographical distribution of our 156 constituencies matched closely the national distribution of the 623 British constituencies: ten were in Wales, 18 in Scotland and 128 in England. In political terms, however, our sample had a strong Tory bias. Whereas Labour won 51 per cent of all seats in the election to the Tories' 44 per cent, in the "weather constituencies" the Tories won 59 per cent of seats to Labour's 36 per cent. Labour captured only a third of constituencies in which there was some rain, and only 38 per cent of those which had none. The reason for this bias was the location of 19 of the 37 weather stations in the Tory strongholds of East Anglia, the south west and south east, rather than any influence of the weather.

In general, rain did not keep people away from the polls: turnout in fact increased the more rain a constituency had. For example, turnout was above 75 per cent in only 38 per cent of the 81 "no

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rain" constituencies whereas it topped the 75 per cent mark in 50 per cent of the "some rain" constituencies and 56 per cent of the "rain all day" constituencies (see table 1). We would not argue from this that rain actually increases turnout, but the relationship between rain and levels of voting is clearly not as simple as is sometimes assumed.

It has been noted that if the national swing to Labour in the October election had been matched in the marginal constituencies, Labour would have won with a more handsome majority. The highest swings to Labour were recorded in the non-marginal constituencies (see table 2). In our sample of 156 "weather constituencies," about a quarter were marginal; but (see table 3) a higher proportion (32 per cent) of those which had rain all day were marginal than of those which had no rain (25 per cent). If there were no relationship, therefore, between rainfall and voting behaviour we would expect Labour to have done better in the "no rain" constituencies simply because fewer of them were marginal.

In fact the largest swings to Labour were recorded in those constituencies which had rain all day. The swing to Labour was more

Table 1: Turnout by weather

	any rain		no rain	
	%	%	%	%
under 70%	16	20	12	27
70-74%	31	24	38	35
75% and over	53	56	50	38
total No.	75	41	34	81

Table 2: Swing by marginality

	all constituencies, 10 October 1974		non-marginal	
	%	%	%	%
swing to Tories	3	3	3	3
0-2% swing to Labour	52	44	52	44
2-3% swing to Labour	22	24	22	24
over 3% swing to Labour	23	29	23	29
total No.	134	489	134	489

Table 3: Marginals by weather

	any rain		no rain	
	%	%	%	%
marginal	23	32	12	25
non-marginal	77	68	88	75
total No.	75	41	34	81

Table 4: Swing by weather

	any rain		no rain	
	%	%	%	%
swing to Tories	4	0	9	4
0-2% to Labour	41	37	47	58
over 2% to Labour	55	63	44	38
total No.	75	41	34	81

than 2 per cent in 63 per cent of constituencies which had rain all day, but topped 2 per cent in only 38 per cent of constituencies which had no rain (see table 4).

Rain therefore seems to have helped rather than hindered Labour on 10 October. But the evidence of this study is too tentative for the notion of the more determined Tory voter to be dismissed out of hand. It may be that a number of Tory voters in some of our 156 "weather constituencies" stayed at home rather than brave the rain to cast a vote in a "safe" Tory seat. A disproportionate number of our constituencies were Tory held, and this might have introduced a significant bias into our findings. It is also possible that Labour voters had greater motivation on 10 October, although pre-election surveys show a 5-10 per cent greater inclination of Tory supporters to vote.

An assessment of the influence of rain on the voting of Liberals is made especially difficult by the fact that so many Liberal candidates stood where none had stood before. But our findings suggest that the Liberal vote was depressed by a full day of rain, while a half day of bad weather did not keep them from the polls. In only 27 per cent of seats which had rain all day did the Liberal vote rise above 20 per cent. In contrast, the Liberal vote was above 20 per cent in 47 per cent of seats which had no rain.

It would appear therefore that the weather can influence the turnout of voters, but it does not do so in any simple way. Rainfall can be just one factor amongst many which affect the motivation of the supporters of different parties. The assumption that rain always favours the Tories is apparently unjustified for the October 1974 election: in fact it seems to have tipped the balance of turnout in favour of Labour.

Riot welfare

What is the relationship between violent action for social reform and actual improvements in social conditions? In America it has been argued that those cities which have experienced the most severe rioting have spent more money on welfare relief. Michael Betz has looked at this contention in a study of 43 of the largest American cities in the 1960s (*Social Problems*, vol 1, No. 3, page 345).

Betz grouped his cities into 23 which had "severe rioting" and 20 which had had only minor rioting or no trouble at all. He used the criteria of the 1968 "Riot Commission" which defined a "serious disorder" as one which included violence that lasted for more than a day, looting, some fires and rock throwing, at least one sizeable crowd, and the use of at least the state police as well as local police. Local welfare provision was measured in terms of the amount spent on relief by a city and by the state in that city.

Over the period 1960 to 1969 the average increase in welfare expenditure was consistently greater in the "severe riot" cities

than in the minor or non-riot cities. Whereas the average annual increase in welfare expenditure in riot cities rose 6.2 per cent over the nine year period, it rose only 3.3 per cent in the more peaceful cities. In the year 1967-68, welfare expenditure in severe riot cities went up no less than 38.5 per cent, while it actually fell in the more peaceful cities.

In almost every case, any increase in welfare expenditure in any particular city came in the year immediately following the riots. For those cities which had riots in 1965, the average annual increase in welfare expenditure had been 6.2 per cent in the years preceding the riots. In the year following the riots, expenditure rose 20.3 per cent on average, and then fell back to an average increase of 11.2 per cent in the year after that. The 1966 and 1967 riot cities had even greater increases in welfare expenditure: it jumped 56.6 per cent in 1967 in those cities which had had riots in 1967.

Betz concludes that there is a clear relationship between the severity of riots and increases in welfare payments. He suggests that doling out more welfare is preferred as a palliative by city authorities, to more fundamental reforms in employment, housing or education, because local politicians rely for their support on traditional white constituencies. As the rioters are black, it is easiest to offer more money than greater equality.

Air awareness

A striking example of the way in which reaction to environmental nuisance is not necessarily related to objectively measured levels of irritation is provided by a study of air pollution, and complaints about it, in Sheffield. Geoffrey Wall has compared the numbers of complaints about air pollution made to the local authority between 1949 and 1971 with pollution readings in the city (*Area*, vol 6, No. 1, page 3).

Since 1949, pollution readings in Sheffield have declined progressively, while the number of complaints has continually increased. Wall also found that most complaints were made during the summer, although the highest levels of pollution were recorded in the winter. And Monday was the peak day for complaints although Sheffield's pollution reached a regular weekly minimum on Saturday and Sunday.

The causes of complaint have altered over the years. In 1949 there were only 99 official complaints, 69 of which related to industrial pollution and 13 to domestic premises. Since then, there has been less criticism of industrial polluters (27.4 per cent of the 265 complaints in 1971) and greater concern about domestic sources of pollution (29.4 per cent in 1971).

Seven out of ten complaints are now about smoke and grit in the air. Wall found that pollution at the workplace was more easily accepted as part of a job than pollution in the home area. There was a tendency for protests to increase from the

north and east of Sheffield (where most of the industry is) although these areas had had a considerable decline in pollution levels. As these industrial areas are populated mostly by the lower income groups, Wall argues that working class people may be more willing now to complain about what they regard as poor environmental standards.

Glasgow Asians

In Glasgow, as in other large cities, there is a general movement of population to the outer suburbs. But there, as elsewhere, the aspiration for suburban settlement is not shared by the Asian community. This is demonstrated in a study of the settlement patterns of Asians by G. W. Kearsley and S. R. Strivastava (*Scottish Geographical Magazine* vol 90, No. 2, page 110).

The settlement of Asians was mapped from the census returns for 1951, 1961 and 1971. The concentration of Asians established in tenement areas of Glasgow, such as the Gorbals and Pollockshields, had expanded at the margins over the 20 year period, indicating a movement away from the city centre.

To look at this more closely, Kearsley and Strivastava carried out a questionnaire survey on Asians' housing preferences using a 10 per cent sample of households in areas of Asian concentration. They found that 40 per cent of those who had moved, had done so primarily to get away from rented accommodation and to buy their own home. Amongst other reasons for moving were: lack of amenities, such as a bath (mentioned by 18 per cent); the need for more space (25 per cent); to move closer to work (12 per cent); their original homes had been slums (11 per cent); and overcrowded conditions (7 per cent).

In deciding where to move to, the single most important factor, apart from the availability of cheap housing for sale rather than rent, was the wish to be near other Asians. This reason was mentioned by a third of respondents, and a smaller number said they specifically wanted to be near relatives. About a quarter of respondents said they wanted to be near Asian shops, and a small number wanted to be near schools with a high proportion of Asian students.

Maps of the actual movements of Asians showed that they tended to move initially onto the fringe of concentrations of Asian population, and then to move back nearer the centre of the community as the opportunity arose. Overall, in fact, the Asians were moving back towards the centre of the city into cheap tenement housing earmarked for demolition as part of urban redevelopment. This raises a serious problem for Glasgow's planners, as the Asians have an aversion to rented accommodation and are anxious to retain their corner shops. Unless they move into the suburbs, or rented council accommodation, the Asian community will be confined to an increasingly small stock of older tenements.