



The Electoral Administration Bill 2005-06 – a note on the Bill's progress

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The *Electoral Administration Bill 2005-06* was introduced into the House of Commons on 11 October 2005, and was the subject of a Library Research Paper (RP 05/65). The Bill received Royal Assent on 11 July 2006. The Department for Constitutional Affairs published a summary of the provisions in the Act on 12 July 2006.¹

This Note summarises the Standing Committee debates and changes made to the Bill in the House of Commons and the House of Lords.

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¹ http://www.dca.gov.uk/legist/electroadmin_factsheet.pdf

A. Progress of the Bill

1. Second Reading

The second reading was on 25 October 2005. The Minister for Constitutional Affairs, Harriet Harman, introduced the debate by commenting that ‘the legitimacy of our democracy depends on three things – everyone having the right to vote, everyone wanting to vote and no one fiddling the vote. However we have problems with each of those three legs of the stool.’² The Minister highlighted the problem of low registration amongst poorer communities especially in London which in turn contributed to low turnout at elections; the Bill aimed to improve registration rates in these ‘democracy deserts’. On the question of electoral fraud Ms Harman said:

...every person in this country – no matter what ward or constituency they live in, and no matter what their ethnic background is – is entitled to be sure that they can cast their vote and that the votes will be fairly counted. No one’s vote should be stolen and no result should be perverted by fraud – that is a basic right for all. To protect that individual right and to ensure that the public are confident that that is the case, we have a comprehensive plan for electoral security that will tackle the concerns that were graphically identified in Richard Mawrey’s judgment on the Birmingham fraud cases.³

Oliver Heald, for the Conservatives, criticised the Bill for failing to introduce individual registration and drew attention to its successful introduction in Northern Ireland where the use of national insurance numbers to verify registrations has been used. The Conservatives also criticised the lack of Parliamentary scrutiny of election pilot schemes and Mr Heald suggested that they should at least be announced to the House of Commons. Concerns were also expressed about the reduction of the percentage of votes a candidate must poll before losing their deposit from 5% to 2%.

Simon Hughes for the Liberal Democrats drew attention to the problems of under-registration and suggested holding an annual registration day on the same day each year. He also suggested that the last day for registration before a general election should be seven days before polling day. Ms Harman responded that the idea of a ‘democracy day’ was one she had sympathy with and thought it could be tried out in London but that the Bill would allow registration up to 11 days before polling day.

Several Members drew attention to the low registration rates among service voters and there were calls for a return to the old system of service registration. Andrew Tyrie (Conservative) criticised the Bill for not addressing the issue:

It is a scandal that we have been sending troops to Iraq to help to build a democracy while making it so difficult for them to vote in the last general election. A very large proportion of them almost certainly did not vote. It is disgraceful that when I warned the Government about that in late 2004, on the basis of evidence that I had gleaned from my constituency, they did virtually nothing about it. Equally disgraceful has been

² HC Deb 25 October Vol 438 c193

³ *ibid*, c199

the Government's response since then. I can find nothing in the Bill to suggest that they will tackle the problem.⁴

David Cairns, the Parliamentary Under-Secretary for Scotland, responded in his concluding speech:

I want to extend an olive branch to the hon. Gentleman in relation to the service voters whom he mentioned. That theme emerged time and again. I do not have time to go into the details, but Members in all parts of the House feel that we still have not got it right in terms of registration and postal votes for service personnel. I give the hon. Gentleman an undertaking that we will work with the Ministry of Defence, the Electoral Commission and Members in all parties to get it right. It is too important not to get right, and we will get it right. I thank the hon. Gentleman for raising it.⁵

David Heath for the Liberal Democrats suggested that there were omissions in the Bill:

The big one is the issue of personal identifiers and individual registration—in fact, two issues which, although not identical, are related. Here we come to the question of balance. What personal identifiers are appropriate to deter fraudsters, while not tipping the balance by reducing the incidence of registration or voting? That is the crucial equilibrium that we must achieve.

I believe that the Government have fallen on one side of that balance. We will seek to persuade them in Committee, but they have not yet been prepared to accept the wider palette of personal identifiers to reduce fraud. I believe that the hon. Member for North-East Hertfordshire has fallen on the other side, because I do not believe that national insurance numbers constitute a good personal identifier. I think that such an arrangement would deter many people. I frankly admit that I do not know my national insurance number. If I were asked to give it, I would not be able to, and I think that many others are in the same position. I know of no bank or financial institution that uses national insurance numbers as a personal identifier.⁶

Anne Begg (Labour) welcomed many of the Bill's provisions and hoped that it would make access to voting easier:

When I talk about access, I am not just talking about physical access. We tend to think of people in wheelchairs requiring physical access, which is, of course, important. I want to be able to get into all the polling stations in my constituency. This time, when my constituency had expanded by three wards, I discovered a polling station that I could not get into on polling day. I turned up to be faced with six steps. As a candidate, I wanted to go in and visit the polling station, but I found that in order to do so, the polling clerk would have to leave their position to go to open the back door to let me in—but how did I get to him to tell him to do that in the first place? That problem is not uncommon. There is often a big sign outside, saying "to gain access, please alert the polling clerk inside".

Disabled people want to vote on their own as well. Gaining physical access is, and it is not just about sticking in a one-in-10 ramp over six steps. It can be quite daunting to see something that looks like the north face of the Eiger. There must be a proper

⁴ *ibid.*, c229

⁵ *ibid.*, c272

⁶ *ibid.*, c214

ramp, which is not just a temporary expedient, but permanent and stable. Access for people with visual impairment may require a Braille template or large print to be in place.⁷

Sir Patrick Cormack raised the issue of the existing provisions concerning the death of a candidate and the ensuing delay in re-running the election:

I do not speak in any sense selfishly, as I would not want any hon. Member, of any party, to have to go through what I went through. Tragically, my Liberal Democrat opponent in my constituency died on the Saturday before polling day. Friends in the Liberal Democrat party, both locally and nationally, wondered whether they could help, but there was nothing that anybody could do to accelerate the process.

As a result, we had to wait seven weeks to hold the election. My constituents were disenfranchised for all that time. For South Staffordshire, that was something of an inconvenience, and for me it was a frustration. However, if the delay had affected Mr. Speaker, for instance, he could not have been elected to the Chair. If it had affected the Prime Minister, he could not have addressed the House on the day of the Queen's Speech. Indeed, given that the Labour party constitution states that the leader of the party must be a Member of Parliament, it is arguable whether he could have remained Prime Minister... Therefore, I shall introduce amendments to the Bill that will attempt to address the question of delay.

I shall also table an amendment that would prevent a delay if an independent candidate in an election were to die. After all, the Prime Minister had many independent candidates standing against him. Independent candidates are *sui generis*, by definition, and there is no replacement if one dies. I am delighted to say that the Government have accepted the force of that argument.⁸

Chris Ruane (Labour) and Andrew Love (Labour) both raised the issue of under registration and suggested that tackling this problem should be a priority for the Bill.

Peter Viggers (Conservative), who answers questions on behalf of the Speaker's Committee on the Electoral Commission, expressed the Commission's views on the Bill:

The Electoral Commission welcomes the Bill, 80 per cent. of which derives from its proposals. Similarly, 80 per cent. of the commission's recommendations were accepted by the Government and are included in the Bill. The Electoral Commission welcomes the provisions to allow independent observers at elections and referendums for the first time; to reduce the minimum age of candidacy at all elections from 21 to 18; to enable people to register after an election has been called, up to 11 days before polling day; to enable electoral registration officers and returning officers actively to encourage participation in elections and referendums; to improve assistance for disabled voters and voters whose first language is not English; and to improve the nomination process with measures that include the standardisation of deposits and the lowering of the forfeiture threshold from 5 to 2 per cent. It welcomes provisions to reintroduce descriptions of independent candidates; to reduce the administrative burdens on political parties, candidates and others; to provide stronger deterrents against electoral fraud by introducing two new electoral offences; to

⁷ *ibid*, c219

⁸ *ibid*, c220

increase the length of time available for the police to carry out investigations into electoral fraud; and to introduce performance standards for local authority electoral services.⁹

However, the Electoral Commission believed that a system of individual registration should be introduced: 'Individual registration would help to encourage a sense of personal involvement in the democratic process, and it would produce a more accurate electoral register while improving the security of the system, allowing people to participate with confidence.'¹⁰

Diana Johnson (Labour) welcomed the provision to change the age of candidacy from 21 to 18 but called for a reduction in the voting age:

I am very disappointed that the Government have not decided to lower the voting age to 16. As I said, the average turnout nationwide at the last general election was 61 per cent., but the average among 18 to 34-year-olds was 37 per cent. That is a real problem. For almost two decades, groups and organisations such as the British Youth Council, the Children's Rights Alliance for England and, more recently, the Youth Parliament, have sought to reduce the voting age to 16. There is cross-party support for such a provision, and I hope that the Government will consider introducing it. We should consider the participation rights set out in article 12 of the United Nations convention on the rights of the child, which the UK ratified in 1991.¹¹

The Opposition's reasoned amendment to the Bill was defeated by 374 to 166 on a division and the Bill received its second reading.

2. Committee stage

A Keeling Schedule to the Bill is available on the DCA website at <http://www.dca.gov.uk/legist/keeling.htm> this indicates amendments to the *Representation of the People Act 1983* which will be made by the Bill.

Clauses 9 to 18 and three new clauses were considered in a Committee of the whole House on 8 November 2005.

Clause 9

Registration Officers: duty to take necessary steps

The Conservatives proposed an amendment to the clause which would ensure that registration officers had a clear duty to remove individuals from the register who should not be on it. Jonathan Djanogly said

People who are no longer resident should be removed from the register, particularly in urban areas with a high population turnover. Keeping electors on the electoral roll who are no longer resident opens the door to election fraud. The amendment is designed to tackle the current problem of over-registration by creating this new duty

⁹ *ibid*, c232

¹⁰ *ibid*, c234

¹¹ *ibid*, c251

for electoral registration officers to remove individuals from the register who are no longer eligible to be on it.¹²

Mr Djanogly acknowledged the concerns about under-registration and called for this to be addressed by targeting those parts of the population where it is particularly prevalent. He also called for the introduction of individual registration with 'vigorous data swapping between electoral registration officers and utilities, the Post Office, the Driver and Vehicle Licensing Agency and others.'¹³ Clive Betts proposed two amendments to the clause which would allow for such data sharing:

The amendments are not intended to be too prescriptive about precisely which information should be used; I am merely saying that we should broaden it beyond the information available to councils. I want to make it clear that registration officers should have the ability to use information from such individuals and organizations as the Secretary of State designates for that purpose.¹⁴

The Minister, Harriet Harman, agreed that data sharing was important but commented that operational practice amongst registration officers varied because of different interpretation of the rules. Ms Harman said that the Government would ensure that

Electoral registration officers use the information that is already available to them for cross-referencing. They can already examine council tax records, housing benefit registers, council rent records and the records of the planning, education and social services departments. No primary or secondary legislation is needed for that. They can also examine Royal Mail records, because they are allowed to do that by custom and practice. We will consider the records that existing powers do not cover but which could be covered by secondary legislation, and whether such legislation is a good idea. That is, therefore, already on our agenda. Such information includes records held by other authorities, the Driver and Vehicle Licensing Agency, TV licensing, the Inland Revenue, the Department for Work and Pensions and the Land Registry.¹⁵

Ms Harman said there was a large measure of agreement on the provisions of Clause 9 and that she agreed with the spirit of the amendments but did not see them as necessary.

Clause 9 was not amended.

Clause 10

Anonymous registration

The Conservatives proposed an amendment which would require an elector seeking an anonymous entry on the register because of a risk to his safety or that of his child to provide written evidence from a government or local authority body or the police to illustrate the nature of the risk. Jonathan Djanogly said there was widespread support for Clause 10 which would establish a system of anonymous registration but that the amendment would

¹² HC Deb 8 November 2005 Vol 439 c187

¹³ *ibid*, c190

¹⁴ *ibid*, c193

¹⁵ *ibid*, c209

prevent overuse and abuse of the protection of anonymity. Harriet Harman said the Government could not accept the amendment:

Amendment no.15 would set out in the Bill the evidence required from a person wishing to register anonymously. While we agree that evidence must be required, and that a simple desire for privacy must not be grounds for anonymity, we cannot accept the amendment because, in our view, the appropriate place for a list of evidence is in regulations made by affirmative order. That allows for parliamentary scrutiny and a degree of flexibility. Setting out a definitive list of evidence in the Bill would risk excluding groups of people that perhaps ought properly to be covered...From consultation so far, we envisage that the evidence needed to show a threat to safety will include injunctions and court orders...as well as restraining orders, participation in a witness protection scheme or a letter from a police officer confirming a specific threat.¹⁶

Clause 10 was not amended.

Clause 11

Alterations of registers: pending elections

Andrew Turner moved an amendment objecting to Clause 11 which in effect moves the deadline for registration to 11 days before polling day. There is a five day period for public objections to new entries on the register that has to be taken into account before registration takes effect so the Bill will allow a person to vote in an election if their registration has taken effect by the fifth day before polling day. Mr Turner objected to changing the list of electors in the middle of an election and feared that wrongful registration would become a means of vote rigging. Jonathan Djanogly, the Conservatives' front bench spokesman, did not support the amendment saying that he believed that moving the last day for registration to 11 days before polling day would benefit registration rates:

Moving the last registration day closer to polling day will allow people to register when they hear that the general election is called and is a valid way of encouraging greater registration, as interest and awareness among the electorate tends to peak closer to polling day.¹⁷

However, Mr Djanogly questioned the proposal to move back the last date for registering a postal vote from 6 days to the same day i.e. 11 days before polling day, suggesting that this would increase the administrative burden on electoral administrators. The Minister said that in setting the closing date for registration the right balance had to be struck between making the system accessible to electors whilst not over-burdening those administering the system. The change in closing date for applying for a postal vote would be introduced by secondary legislation and the change was intended to give administrators more time to check applications and thus reduce the possibility of fraud. Ms Harman also addressed Members' concerns over the administrative burden of moving the deadline for registration before an election:

¹⁶ *ibid*, c215

¹⁷ *ibid*, c219

I am happy to be able to reassure those Members who have expressed concern that the requirement to alter registers five days before the day of poll might create a burden on administrators over the weekend, as polling day is traditionally a Thursday. Sections 13B and 119 of the Representation of the People Act 1983 provide that, when we refer to a period of days less than seven in this part of the Bill, we refer to working days. There is no possibility, therefore, of anything happening on a Saturday night.¹⁸

Clauses 11 and 12 were not amended.

New Clause 1 Registration of service personnel

Andrew Tyrie introduced the new clause:

The purpose of the clause is simple to explain. It is to restore the armed services personnel scheme that used to exist and to take the armed services back to the position they enjoyed prior to the 2000 Act. It will mean that at the next election all service personnel will be registered to vote.¹⁹

Ms Harman said that the Government accepted many of the criticisms of the current scheme but added

As far as I can see, we have yet to find the right formula to solve the problem. We need a fail-safe system to back up the efforts already being made by the MOD, the armed forces and the Electoral Commission, but I do not think that returning to the status quo ante is good enough. We are trying to find solutions and we will consider, in consultation with the MOD and the armed services, whether we need to include powers in the Bill that we could use if what is being done by the Electoral Commission and the MOD does not work.²⁰

Despite support for the new clause from the Liberal Democrats its second reading was **negatived** on a division.

Clauses 13 and 14 Registration: personal identifiers

Oliver Heald proposed an amendment to Clause 13 which would require national insurance numbers to be included in the list of identifiers listed in the clause which requires each person registering to vote to provide 'personal identifiers'. This would mirror the arrangements in Northern Ireland introduced by the *Electoral Fraud (Northern Ireland) Act 2002*. The amendment also proposed to make the piloting of the use of such personal identifiers, with the national insurance numbers included, permanent. Mr Heald argued for individual registration:

¹⁸ *ibid*, c219

¹⁹ *ibid*, c222

²⁰ *ibid*, c223

The concept of a head of household is an old-fashioned and, I believe, inappropriate way of dealing with the problem. Many houses in multiple occupation simply do not have a head of household to whom one could point. It also reinforces a stereotype, saying to young people that this is someone else's business, not theirs. If the form is completed and personal identifiers are adduces for a whole household in multiple occupation, there is a risk of electoral fraud.²¹

Clive Betts suggested that additional personal identifiers such as the need to provide a national insurance number might be a barrier to those groups that were already known to be less likely to register to vote, in particular the unemployed and ethnic minority communities. Ultimately he thought it likely that a system of individual registration would be introduced but that it would be difficult to make the final step towards this at the moment because of the number of practical problems surrounding the issuing of forms to houses in multiple occupation.

The Parliamentary Under-Secretary of State for Scotland, David Cairns, drew attention to the differences amongst the supporters of individual registration:

The Liberal Democrats want individual registration to be rolled out across the country in one go, but they do not want national insurance numbers to be used. The Conservatives want individual registration but they insist on the use of national insurance numbers. In the absence of consensus the Government approach is pragmatic and practical.²²

The Minister said that the infrastructure was not in place for the same use of national insurance numbers as personal identifiers in Great Britain as in Northern Ireland. There was a centrally held register of electors in Northern Ireland and 1.1 million electors compared to more than 400 locally held registers in Great Britain and around 43 million electors.²³

Clauses 13 and 14 were not amended.

Clause 15

Personal identifiers: piloting

David Heath, for the Liberal Democrats, proposed that the Government should not pilot personal identifiers but added:

If the Government are insistent about going ahead with pilots, the very least that we can expect is that they identify a region and run the registration experiment across it. That would mean, first, that they have a suitable size of response in order to get meaningful results; secondly, that they can compare one region with a similar region, thereby providing the control that I suggest; and thirdly, that they have sufficient data to recommend changes in the future. None of that is accomplished by the Government's proposed pilot scheme.²⁴

²¹ *ibid*, c231

²² *ibid*, c244

²³ *ibid*, c245

²⁴ *ibid*, c247

The Minister, David Cairns, commented that the debate on the amendments to Clause 15 was further evidence of the lack of consensus on individual registration and personal identifiers.²⁵ The benefit of using personal identifiers was a potential increase in the security of the electoral process but there was also a risk of a significant drop in the number of people registered to vote; the Government did not intend to exacerbate this problem. The pilots would enable the impact of personal identifiers to be measured and a voluntary and local scheme would be sufficient to do this effectively. A compulsory regional scheme would attract an unacceptable level of risk.²⁶ A prospectus seeking volunteer local authorities to pilot personal identifiers would be published shortly.

Amendment 4 to Clause 15 was defeated, by 283 to 201, on a division.

Oliver Heald proposed a further amendment to Clause 15 which would ensure that there should be no pilot schemes for personal identifiers held by all-postal voting. The Minister, David Cairns, confirmed that the prospectus issued by the DCA for the local elections in 2006 will specifically state that the Government is not seeking applications for all-postal pilots at these elections:

...no immediate plans exist for any further all-postal pilots, which are not included in the prospectus for the local elections in 2006. We want anti-fraud measures in place before we consider any further such pilots.²⁷

Clauses 15, 16 and 17 were not amended.

Clause 18

Offences as to false registration information

Oliver Heald supported the creation of the new offence of providing false information when registering or applying for a postal or proxy vote. His amendment would add the word 'knowingly' to the Clause and was tabled 'to find out whether householders who act in error but in good faith would be able to mount a defence in the courts.'²⁸ The Minister responded that the amendment was unnecessary as Clause 18 amends section 13D of the RPA 1983 and will be read with subsection (4) of that section which provides that a person does not commit an offence of providing false information if he did not know, and had no reason to suspect, that the information was false.²⁹

Clause 18 was not amended.

New Clauses 2 and 3

Candidate not to stand in more than one constituency and death of a candidate

New Clause 3 was introduced by Sir Patrick Cormack:

²⁵ *ibid*, c255

²⁶ *ibid*, c256

²⁷ *ibid*, c267

²⁸ *ibid*, c268

²⁹ *ibid*, c268

The new clauses would incorporate in the Bill most of the provisions of the measure that I sought to introduce after my delayed return to the House of Commons because of the tragic death of one of my opponents, the Liberal Democrat candidate. I am grateful to colleagues in all parties for their support.³⁰

The background to the new clauses is set out in the Library Research Paper on the Bill; see Section X E of RP 05/65.³¹ Sir Patrick explained briefly the effect of the new clauses:

...[these] appear to be rather more complicated than the measure that I tried to introduce because the Minister's officials and the parliamentary draftsmen have taken a belt-and-braces approach to the matter, for which I am grateful.

Delay was one of the principal causes of concern. Under the new clause, had my opponent died between 20 and 27 April, the election would have been postponed by three weeks at the most. My opponent died on 30 April and I would have faced either a three-week or a four-week delay. I say "either/or" because it depends on the time of year. My opponent died before a period that included the bank holiday. The problem of delay is therefore tackled fairly effectively.

The new clause provides that the death of an independent candidate would not delay an election. I have previously argued that an independent candidate is by definition and *sui generis* a unique individual. If, sadly, that individual dies, he or she cannot be replaced. The draftsmen wanted to cover every eventuality and the new clause therefore makes one exception. If the Speaker dies in his constituency, he would not be treated as an independent candidate and the election would be rerun. We all know that the Speaker stands as Mr. Speaker seeking re-election. He is not a member of any political party but is in a unique position and the new clause recognises that.

The new clause also covers what would happen if the deceased independent candidate won. There would be no contest unless it was simply a two-horse race, in which case the one who did not die is declared elected. I hope that that will not put too many ideas into people's heads. The days of the straight fight appear, perhaps sadly, to be over.

I was anxious to tackle the problem—I know that that applies to the Minister, too—of small and eccentric parties. We have not yet cracked that one; perhaps it might be possible to do so in another place. I am sure that if an ingenious Lord devised an amendment, the Minister and her colleagues would probably view it sympathetically. As the new clause stands, every registered political party, regardless of its size or nature, is treated the same. The new clause does not, therefore, deal with that.

Rule 65, entitled "Abandoned poll", deals with keeping documentation in the event of a candidate's death. As we all know, the documentation following an election has to be kept for a prescribed period. That would remain the case if an election were abandoned...

...There is one provision in the new clause that was not in my original Bill, and I am grateful to the Minister for its inclusion. It states that a party is not allowed to substitute its candidates. In my case, for instance, the Liberal Democrat candidate

³⁰ *ibid*, c271

³¹ Available at <http://www.parliament.uk/commons/lib/research/rp2005/rp05-065.pdf>

died, and there had to be an opportunity for the Liberal Democrat party to field another candidate. However, the Labour party changed its candidate, too. I want to stress that I am not making any criticism of the two people in question, with whom I was on extremely good terms. I understood the reasons why that had happened. What they did was also entirely legal, as the law stands. However, the Minister feels, and I agree with her, that the death of one candidate should not provide an opportunity for other parties to substitute candidates.

The new clause would also not allow new candidates to enter the field. In my election on 5 May, I had three opponents, but I subsequently finished up with seven. That would not be allowed. If the general election is being replicated—I was elected legally at the general election—there should not be the opportunity for new candidates to enter the field. New clause 3 deals with all those points.

New clause 2 addresses a specific and remaining problem—not one that arose in my case, but one that I was able to highlight when I talked to the lady who stood in the four Cardiff seats. As Members on both sides of the House probably know, there is nothing to prevent any one of us, provided we can provide the requisite number of signatures and the requisite deposits, from standing in as many constituencies as we wish. The Minister and I believe that the days of that being permissible are long gone. It is up to an individual to decide which seat he or she wishes to contest, without being able to stand in a range of others.

My case showed what might happen—this picks up on a point made by the hon. Member for Belfast, East in his intervention—so one can envisage an individual standing against every member of the Cabinet or shadow Cabinet, or against the Speaker and all the Deputy Speakers. If that person died, committed suicide or was assassinated, all those seats would be without Members for a period.³²

New Clauses 2 and 3 were added to the Bill.

The remainder of the Bill was considered by Standing Committee B on 15, 17 and 22 November 2005 when amendments were made to Clauses 23 and 26 to take account of the new clause which prevents a candidate from standing in more than one constituency at the same election.

3. Report stage

Report stage and third reading took place on 11 January 2006.

New clause 14 – Repeal of Personal Identifier Provisions

A new Clause 14 (now Clause 18 of HL Bill 58) was added to the Bill at report stage. Harriet Harman explained the purpose of the new clause which would allow for the repeal of the personal identifier provisions:

The new clause and amendments that I have tabled fill a gap in the Bill as originally drafted. As we said, it is our intention to hold pilots of the collection and use of personal identifiers in registration. If the pilots are successful, the Bill includes the

³² *ibid*, c271-4

power to roll out identifiers on a permanent and nationwide basis by order. As drafted, however, the Bill includes no provision for circumstances in which pilots are not successful. At present, if that were to occur, clauses 13 to 17 would remain in limbo—approved by Parliament, but not commenced. We do not believe that that would be desirable.

The new clause and amendments provide for an order-making power to allow the personal identifier provisions to be repealed if pilots show that they should not be rolled out. The order will be subject to the affirmative procedure and could not be made until the Electoral Commission had reported on a pilot scheme. In that way, the commission will have the opportunity to contribute its views and Parliament will be able to make a decision.³³

Ms Harman emphasised that the pilots for personal identifiers were not ‘a way of kicking them into the long grass’ but a means of testing how the new system would work before it was rolled out nationally.³⁴ It was intended to commence the pilots at the 2006 canvass:

We intend that the pilots will last for no more than two years and will be evaluated by the Electoral Commission. We are discussing evaluation criteria and methodology with the commission and will do so with Opposition Front Bench spokesmen as well. However, we expect the two key issues that will need to be assessed during the course of the pilot to be the impact of personal identifiers on the completeness and accuracy of the register and the impact of the pilots on the security of the process.³⁵

The pilots would require making an elector’s signature and date of birth conditions of registration. Although the Bill allowed for the piloting of the provision of national insurance numbers as personal identifiers the Government did not intend to proceed with such pilots although Ms Harman did not rule out the piloting of NI numbers in the future.³⁶

Following the pilots it was hoped that a decision would be taken by Parliament in the early summer of 2008 to go ahead with a national roll-out of the requirements for personal identifiers when registering.

The new clause was added to the Bill.

New Clause 15 – Reporting Donations to Members of the House of Commons

The Standards and Privileges Committee published its report on the simplification of donation reporting requirements on 11 January 2006.³⁷ The Committee expressed its support for a new clause in the *Electoral Administration Bill* which would remove the current duplication in the arrangements for MPs to report donations to both the Registrar of Members’ Interests and to the Electoral Commission. New Clause 15 (now Clause 59 of HL Bill 58) removes the requirement for MPs to report donations to the Electoral Commission, whether those donations were received in their role as an MP or in their role as a member of a registered political party. The Parliamentary Under-Secretary of State for Scotland, David

³³ HC Deb Vol 441c311

³⁴ *ibid*, c312

³⁵ *ibid*, c313

³⁶ *ibid*, c316

³⁷ HC 807, 2005-06. Available at <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmstnprv/807/80702.htm>

Cairns, explained that for technical reasons the Electoral Commission would still be required to record details of such donations on its register:

The commission will also continue to monitor compliance with the regulatory system, as set out in the 2000 Act. However, it will have no role to play on the non-reporting of donations, and the Register of Members' Interests will retain its functions on that issue. The provision will commence only when the Electoral Commission is content that the House authorities have sufficient arrangements in place to ensure that the commission can still maintain an accurate register, but we do not think that that will be a problem.

We are working on a solution that would remove the requirement for all holders of elected office, which includes MEPs, Members of the devolved Administrations and local councillors throughout the UK, to report donations to the Electoral Commission. The Electoral Commission and the relevant bodies, including the Scottish Executive and the Standards Board for England, support the proposals, but some technical issues remain to be resolved, and we will continue to explore them with the intention of tabling an amendment, which will be introduced later in the Bill's parliamentary passage, covering all holders of relevant elective office.³⁸

The new clause was welcomed and supported by both the Conservatives and the Liberal Democrats. Oliver Heald commented that the clause would 'make life simpler and less confusing for all concerned without reducing sensible control over the transparency and accountability of Members of Parliament.'³⁹

The new clause was added to the Bill.

Other new clauses and amendments

A number of Government amendments were passed, details of which are given in the next section on changes made to the Bill in the House of Commons.

An amendment to the Bill to reduce the voting age from 18 to 16 was not reached.

A new clause proposing that all postal voters should provide their dates of birth as personal identifiers was proposed by David Heath for the Liberal Democrats and supported by the Conservatives but was defeated on a division. Also defeated on a division was a new clause proposed by David Heath for the Liberal Democrats which would ensure that local authorities gave electoral registration officers sufficient resources to enable them to carry out their duties.

New Clause 5, proposed by the Conservatives, reasserted the current legal position that convicted prisoners cannot vote. This was in response to the recent European Court of Human Rights ruling that there had been a violation of Article 3 of Protocol No 1 (right to free elections) to the European Convention on human rights by the United Kingdom because convicted prisoners were barred from voting. (For further information about prisoners' voting rights see Library Standard Note SN/PC/1764.⁴⁰) The Conservatives pressed the new clause

³⁸ HC Deb 11 January 2006 Vol 441c348

³⁹ *ibid*, c354

⁴⁰ <http://www.parliament.uk/commons/lib/research/notes/snpc-01764.pdf>

to a vote although the Minister of State said that the government was considering how to respond to the ECHR's judgment and that the debate on the issue during the Report stage of the Bill was not adequate for satisfying the Court that there had been a full discussion of all the issues involved. David Heath, for the Liberal Democrats, said there was 'a legitimate and sensible argument for prisoners' rights to vote.'⁴¹ The new clause was negated on a division.

B. Changes to the Bill in the House of Commons

Four new clauses were added to the Bill during its passage through the House of Commons. The two new clauses relating to the death of a candidate and a candidate not to stand in more than one constituency were added to the Bill at Committee stage on the floor of the House on 8 November 2005. The two new clauses relating to the repeal of personal identifier provisions and reporting donations to Members of the House of Commons were added at Report stage on 11 January 2006. The following changes were also made at Report stage. **Clause 10**, anonymous registration, was **amended** to extend the possibility of anonymous registration to those living at the same address as someone who is anonymously registered. **Subsection (9) of Clause 22** was **deleted** thus retaining the threshold for forfeiture of a candidate's deposit at Parliamentary election at 5%. **Clause 23** which would have enabled independent candidates to use a description of up to six words on the ballot paper was **deleted**. **Clause 37** was **amended** to protect in primary legislation the provision of freepost return envelopes for postal ballots. **Clause 62** was **amended** to simplify the imprint requirements for election literature where a number of candidates are promoted in a single piece of material.

C. Progress of the Bill in the House of Lords

1. Second Reading

The Bill's Second Reading in the House of Lords took place on 13 February 2006.

2. House of Lords Grand Committee

First day – 28 February 2006

The Committee considered Part 1 of the Bill, the provisions relating to the Co-ordinated Online Record of Electors. **Clauses 1, 2, 3, 4, 5, 6, 7 and 8** agreed to without amendment.

Second day – 16 March 2006

Clause 9, registration officers: duty to take necessary steps debated and amended. The amendment clarifies the responsibility of the ERO to make house-to-house enquiries on more than one occasion only when he has not received the necessary information.

Lord Garden (Liberal Democrat) moved an amendment to insert a new clause following Clause 9 which would specifically address the problem of **service voting**. The Minister,

⁴¹ HC Deb 11 January 2006 Vol 441c369

Baroness Ashton of Upholland, acknowledged the pressure to resolve this issue and said that the Government would address the problem by the next stage of the Bill. The findings of the survey of armed forces voting currently being undertaken would be available later in March. The amendment was withdrawn.

Clause 10, anonymous registration, was debated and agreed to without amendment.

Clause 11, alterations of registers: pending elections, was debated and agreed to without amendment. **Clause 12**, determinations by registration officers and objections, was agreed to without debate.

Lord Norton of Louth (Conservative) moved an amendment to 'do away with the edited version of the electoral register and to ensure that the register is not made available for commercial purposes.'⁴² The Minister, Baroness Ashton of Upholland, responded by saying that the Government did not think that there was sufficient strength of feeling about the issue that action should be taken but she was prepared to consider it further. The amendment was withdrawn.

Lord Rennard (Liberal Democrat) proposed a new clause providing for the manner of voting of patients detained in mental hospitals. The new clause would remove the blanket ban on people detained in psychiatric hospitals from voting in person; the *Representation of the People Act 2000* allowed such patients to vote only by post or by proxy. Lord Rennard suggested that failure to recognize the democratic rights of detained mental patients might be untenable according to the European Convention on Human Rights. Baroness Ashton of Upholland was sympathetic to the amendment but said that the Government could not accept it at present. The amendment was withdrawn.

Baroness Hanham (Conservative) introduced a group of amendments to **Clause 13** in Part 3 of the Bill which makes provision for anti-fraud measures. The amendments included a new clause which would make provision for those wishing to vote by post to provide three personal identifiers when registering to do so; this would test a system of personal identifiers on part of the voting system across the country.

Third day – 21 March 2006

Consideration of Part 3 of the Bill continued. Lord Greaves (Liberal Democrat) introduced an amendment to allow an elector to make an individual registration even at the time of the annual canvass of households and to allow an elector not to give details of his personal identifiers to a person sending in a common registration form from a household, especially those in multiple occupation. The Minister, Baroness Ashton of Upholland, said that the Government proposed to trial this by incorporating it into the pilot schemes for the provision of personal identifiers at registration and there was no need to amend the Bill. Clause 13 was agreed to.

Lord Greaves also proposed an amendment which would introduce a system of provisional registration under which electors who have failed to provide one or more personal identifiers

⁴² HL Deb 16 March 2006 Vol 679 GCc573

would be placed on a provisional register until they have supplied the required information. Baroness Ashton of Upholland was sympathetic to the proposal and said that this too would be incorporated into the pilot schemes.

Clause 14, personal identifiers, was considered. Lord Campbell-Savours (Labour), opposing the pilot schemes for personal identifiers, moved amendments to the clause proposing that a local authority could introduce a system of personal identifiers if it had evidence of electoral abuse in a particular area, arguing that a national scheme was unnecessary. Baroness Ashton of Upholland disagreed saying that any scheme for personal identifiers should eventually be applied nationally after the initial pilot schemes had taken place. Clause 14 was agreed to.

Clause 15, personal identifiers: piloting, was considered. The Committee agreed to a Government amendment correcting a drafting error in the clause. Baroness Hanham (Conservative) proposed an amendment to ensure that there would be no compulsory all-postal voting in a pilot scheme area. Baroness Ashton of Upholland confirmed that the Government had no intention of holding all-postal elections for these pilots but did not want to rule out all-postal elections for future pilots. Clause 15, as amended, was agreed to.

Clauses 16, 17, 18 and 19 were considered and agreed to.

Baroness Ashton of Upholland moved a technical amendment to **Clause 20**, review of polling places, relating to the division of electoral wards in Scotland into polling districts. The amendment was agreed to.

There was some debate on an amendment moved by Baroness Hanham (Conservative) to place a duty on the Boundary Commissions to ensure an equal number of electors in each constituency when reviewing the boundaries. Baroness Ashton of Upholland acknowledged the issues raised but expressed concern that strict adherence to the electoral quota would mean that the Commissions would have to depart from the building blocks of local boundaries to create Parliamentary constituencies.

Lord Goodhart proposed a new clause to reduce the voting age from 18 to 16, drawing attention to the recommendations of the recent Power inquiry. Baroness Ashton of Upholland said that the Government would keep the issue under review but at present there was not enough evidence to suggest 'that we have reached a conclusion which is so overwhelming that we should take advantage of it.'⁴³

Lord Norton of Louth moved an amendment to Clause 21 which makes provision for the minimum age for candidacy i.e. the candidate must have attained the age of 18 on the day on which the candidate is nominated. Lord Norton proposed that this should be changed so that the candidate must have attained the age of 18 on the day on which the election is held. Even though this was unlikely to affect many people there was always the possibility that a party might want to nominate someone whose 18th birthday fell between the close of nominations and polling day. Baroness Ashton of Upholland had sympathy with the amendment but said that the Government wanted 'the same nomination procedures in

⁴³ HL Deb 21 March 2006 Vol 680 GC 132

respect of age and other ways in which someone might be disqualified. Therefore, we have chosen to put everything on the same day.¹⁴⁴

Clauses 21 and 22 agreed to without amendment.

Fourth day – 23 March 2006

Clauses 23, 24, 25 and 26 were agreed to.

The Government moved a technical amendment to **Clause 27** and this was agreed to. **Clause 27**, as amended, and **Clause 28** were agreed to.

Baroness Hanham moved an amendment to **Clause 29**, amount of expenses which may be incurred by third party, proposing that the provisions should not be retrospective. Baroness Ashton of Upholland replied that the section 75 of the *Political Parties, Elections and Referendums Act 2000* was ambiguous as to exactly what third parties could spend money on. Clause 29 clarifies this and 'specifies that expenditure by unauthorized third parties up to £500 – the level already set in the 1983 Act – will be allowed on holding public meetings or organizing any public display and issuing advertisements, circulars or publications.'¹⁴⁵ The clause will be applied retrospectively so that any third parties that may have contravened the legislation will be deemed not to have committed an offence. The amendment was withdrawn.

Clauses 29 and 30 were agreed to.

Baroness Hanham moved an amendment to **Clause 31**, meaning of election expenses for purposes of the 1983 Act. The amendment sought to remove the requirement for candidates' election expenses to be incurred from four months before an election. Lord Rennard agreed with the principle behind what the Government were trying to do but suggested that the measure was impractical because¹⁴⁶ 'you cannot expect political parties, largely staffed by voluntary rather than professional agents, to operate as though at any time they might be within four months of an election.' Baroness Ashton of Upholland explained that the Government were seeking consensus on this issue and were aware of the problems in enforcing the provision. Baroness Hanham withdrew the amendment after the Government's assurances that this would need further consideration at Report stage.

Clause 31 agreed to.

Baroness Hanham proposed a new clause on the funding of referendum campaigns. The new clause sought to keep the rules for funding of campaigns the same as for candidates' election expenses; there was the same problem of knowing when a referendum was to be held. Baroness Ashton of Upholland proposed that this issue should be further considered with the provisions of clause 31.

¹⁴⁴ *ibid*, c135

¹⁴⁵ HL Deb 22 March 2006 Vol 680 GC 184

¹⁴⁶ *ibid* GC 185

Clauses 32 and 33 agreed to.

Baroness Hanham moved an amendment to **Clause 34**, ballot paper design, seeking an assurance that any change to the ballot paper would have to be agreed by all political parties. Baroness Ashton of Upholland said that the Government did not accept the need to consult everyone but that regulations to change the form of the ballot paper would be subject to the affirmative resolution procedure and would therefore need to be debated and approved by both Houses of Parliament before coming into force. Clause 34 was required because at present changes to the ballot paper can only be made by amending the *Representation of the People Act 2003*. Clause 34 will allow the Secretary of State to make changes by regulations in future.

Clauses 34 and 35 agreed to.

Lord Goodhart moved amendments to **Clauses 36 and 37** to strengthen the provisions to make voting easier for people with disabilities. Baroness Ashton of Upholland was sympathetic to the amendments but said that they raised some technical difficulties; the best way of improving accessibility was through the performance standards set out in clause 64 which will include measurements of the provision of access to the electoral process for different groups within the local electorate.

Clauses 36 and 37 agreed to.

Lord Hanningfield proposed a new clause on the simplification of voting systems. The amendment aimed to ensure that the system of voting should be as easy and simple as possible so that the electorate was not discouraged from participating. Lord Hanningfield said 'the amendment will ensure that while some differences to the voting system may be used, no more than two systems of voting will be employed in any polling district on the same day or in the same election...the amendment addresses the system of voting and not the method.'⁴⁷ Lord Rennard suggested that problems arose not from having different electoral systems but from different elections taking place simultaneously. Baroness Ashton of Upholland disagreed with the amendment but agreed with the principle of ensuring that the electorate understood the different systems that were being used.

Clause 38 agreed to.

Baroness Hanham sought to amend the Bill by including a new clause which would ensure that those detained under custodial sentences in prison would not be entitled to vote; the amendment was intended to discover the Government's position on the rights of prisoners to vote. Baroness Ashton of Upholland replied that the Government would be publishing a consultation paper on this in due course.

Clause 39, 40 and 41 agreed to.

Baroness Hanham moved an amendment to **Clause 42**, access to other election documents. Baroness Ashton of Upholland responded to concerns about privacy and said

⁴⁷ *ibid*, GC 195

that the clause was about the marked register and that this was only available in certain circumstances. Those involved in political campaigning and candidates found the marked register an invaluable campaigning tool. The Minister added that the Joint Committee on Human Rights, in its report on the Bill, had found that ‘the disclosure of the marked register to political parties and candidates is in principle capable of justification under the convention. Clause 42 makes specific provision for them to be supplied at non-parliamentary elections, including the newly created marked postal voters list.’⁴⁸

Clauses 42, 43 and 44 agreed to.

Lord Hanningfield moved an amendment to **Clause 45**, marked postal voters list. The amendment would ensure that those electors who register to vote, and to do so by post, during an election campaign should be added to the marked list of postal voters. Baroness Ashton of Upholland said that the Government intended to allow, through secondary legislation, greater access to the postal and proxy records for the political parties. Regulations will also provide for the marked list of postal votes to be available in both printed and electronic form.

Clauses 45, 46, 47 and 48 agreed to.

Lord Rennard moved an amendment to **Clause 49**, political party descriptions. The clause provides for up to five descriptions for each party but the Liberal Democrats considered this to be inadequate as many Liberal Democrat candidates add place names to their descriptions. Baroness Ashton of Upholland agreed to consider an alternative number although the Government did not want an unlimited number.

An amendment by Lord Beaumont of Whitley (Green Party) proposed that the eligibility criteria for the policy development grant scheme should be altered so that parties with at least two members elected to either the House of Commons, European Parliament, Scottish Parliament, National Assembly for Wales or the Northern Ireland Assembly would be eligible to receive a grant. Lord Rennard (Liberal Democrat) commented that the Green Party was unfairly treated in the distribution of policy development grants. Baroness Ashton of Upholland suggested that this was an area that should be considered by Sir Hayden Phillips in his review of political party funding.

There was further debate on loans to political parties and Lord Goodhart moved amendments to require all loans to be treated as donations except those made by banks lending on commercial terms and to require the guarantees of the debts of political parties to be treated as donations. Baroness Ashton of Upholland responded that the Government would be bringing forward amendments to the Bill after consultation and were hoping there would be a consensus between the parties on this issue.

Lord Hanningfield (Conservative) moved an amendment to Clause 66, encouraging electoral participation, to strengthen the provisions to ensure that EROs had a positive duty to encourage electoral participation. Lord Norton of Louth (Conservative) also moved two amendments to ensure that electoral administrators took steps to encourage participation.

⁴⁸ *ibid*, GC 204

Baroness Ashton of Upholland said that the Government did not accept that EROs should be compelled to carry out activities designed to encourage electoral participation but that this should be left as a discretionary power.

Clauses 66 – 74 agreed to. **Schedules 1 and 2** agreed to. Bill reported with amendments.

Committee on Recommitment – 8 May 2006

Lord Falconer moved amendments to the Bill including a new clause on the regulation of loans and related transactions. Lord Falconer said that the amendments to the Bill fulfilled the commitment he made on 20 March 2006 that he would table amendments that deal with loans that political parties receive:

There are issues related to the funding of political parties that go beyond the treatment of loans, and the review set up by my right honourable friend the Prime Minister and chaired by Sir Hayden Phillips will deal with these. We are tabling these amendments now because there is broad agreement between the political parties and the Electoral Commission as to what should be done. The legislative vehicle, the Electoral Administration Bill, which falls within my responsibilities, gives us the opportunity to make the necessary changes. Moreover, amendments that deal with these issues had already been tabled for discussion in Grand Committee.⁴⁹

Lord Falconer continued:

The amendments we now propose take the form of a new Part 4A of, and Schedule 6A to, the Political Parties, Elections and Referendums Act 2000, to which I shall refer from now on as the 2000 Act. As I am sure noble Lords will know, the existing Part 4 of, and Schedule 6 to, the 2000 Act provide a system for the regulation of donations to political parties. That regime requires all donations over £5,000 to a political party to be reported to the Electoral Commission, and ensures that donations can be made only by individuals or organisations with a sufficient connection to the United Kingdom.

These requirements have been widely acknowledged to have brought transparency and openness to the making of donations to parties. That is why we have chosen the same regime as a template for the current amendments dealing with loans. Indeed, the new provisions deviate from the requirements for donations only where it has been necessary to reflect the different nature of a loan from a donation. I am sure that noble Lords will agree that it makes sense to build on the success of the existing donations regime in trying to achieve the same level of openness in loans to parties.⁵⁰

The amendments were agreed to and the Bill was reported with amendments.

3. Report Stage

Report stage took place on 15 May 2006. The Department for Constitutional Affairs published a note on the amendments to the Bill:

⁴⁹ HL Deb 8 May 2006 Vol 681 c748

⁵⁰ *ibid*, c749

At Report, all three main parties voted in favour of amendments to the Bill moved by Lord Elder, establishing a system of personal identifiers for postal votes only. Peers also voted in favour of removing the clauses in the Bill establishing pilots of personal identifiers at registration...

The new personal identifier provisions for postal and proxy voters are now included under Part 3 of the Bill (Anti-fraud measures). The key elements of the scheme established under the new provisions are that absent voters will need to provide both their signature and date of birth on their postal or proxy vote application and, in the case of postal and proxy postal voters, also on the postal voting statement. This will enable the identifiers on the statement to be checked against those supplied on the application. Ballot papers accompanied by a postal voting statement where the identifiers do not match those provided in the original application will be rejected from the count. The amendment thereby implements one of the key elements of the Electoral Commission's recommendation for individual registration, but focuses on the absent vote process rather than registration.

The DCA also listed the other amendments to the Bill made at Report Stage:

- **CORE:** Drafting amendments to clarify the regulation making powers and anti-fraud checking powers included under the CORE clauses.
- **Candidates' expenses:** An amendment to remove the current provision in the Bill establishing a 4-month regulated period for recording expenses. This is now to form part of the Review of party funding being led by Sir Hayden Phillips.
- **Election observers:** Amendments to bring the regime for election observers more closely into line with international observation arrangements.
- **Pilots of photographs on ballot papers:** Amendments to enable pilots of photographs on ballot papers to take place, following a full policy consultation.
- **Voting for detained mental health patients:** Amendments to provide that detained mental health patients (other than those detained under criminal powers) who have been given permission to leave hospital on a temporary basis may vote in person, as well as by post or proxy.
- **Guidance for voters:** Amendments changing 'may' to 'must' in respect of the steps that the RO must take in considering what guidance to provide in alternative formats and/or languages other than English and Welsh. The RO will still have ultimate discretion in taking the actions that he or she considers appropriate.
- **Mental capacity:** Amendments to abolish the common law rule which prevented certain people with mental impairments from voting, in order to ensure that they are not prevented from participating in the electoral process.
- **Pre-consolidation amendments:** Amendments to enable pre-consolidation changes to be made to existing electoral law, to facilitate any possible future consolidation of electoral law.

- **Access to the election proceedings:** Amendments to reinstate the RO's discretion to admit non-prescribed persons to the count, and enabling candidates to nominate a person of their choice (rather than just a spouse or civil partner) to accompany them to the count and nominations.

4. Third Reading

The Third Reading stage took place on 7 June 2006.

Baroness Hanham (Conservative) moved an amendment to include a new clause which would require the Ministry of Defence to maintain a register of **service voters** although there would be an opt-out for service personnel who preferred to be registered as a civilian or not at all. Lady Hanham cited the survey of service voting conducted by the Defence Analytical Services agency which showed that only 60% of service personnel were registered to vote at the last elections and said that it was clear that registration was the keystone of improving voting among the armed services. Baroness Ashton of Upholland said that the Government disagreed that the onus for ensuring the registration of service personnel should rest with a Government department:

The way our electoral law has worked and the way we have always seen the issue of registration is that the duty and responsibility lies with the individual...We do not believe it is right to put the onus on the employer, but rather to work with the employer in these particular circumstances to help enable the individual to accept and respond to his duty and responsibility.⁵¹

Baroness Hanham's amendment was disagreed to on a division (contents, 116; not-contents, 203).

The Government moved an amendment to include a new clause on the registration of service voters. Baroness Ashton of Upholland explained the provisions:

The purpose of the amendment is to make the registration process more convenient for service personnel. As noble Lords will see, the amendments to Section 59 of the 1983 Act require the Ministry of Defence to keep a record of the registration arrangements of service personnel, where those personnel wish it to do so and have volunteered the relevant information. The earlier part of the amendment, which amends Section 15 of the 1983 Act, creates a power that will enable the Government to extend the duration of the electoral registration of a member of the Armed Forces resulting from a service declaration...

...The second half of the amendment places a duty on the MoD to keep a record of the electoral registration details of service personnel, to maintain and update that information provided by service personnel about their registration as electors and by what method they are registered to vote. That will then act as a prompt to the individual to update registration details with the local registration officer—most particularly updating the address to which postal votes should be redirected—and enable efforts to be focused on encouraging them to register. It will provide the kind of statistical information that will allow monitoring on a continuous basis, which I know

⁵¹ HL Deb 7 June 2006 Vol 682 c1279

will be very important as noble Lords seek to see that this works in fact. It will also facilitate communication between the unit registration officers and the local ERO regarding the numbers registered and assist in future registration campaigns.⁵²

The amendment was agreed to.

Baroness Hanham moved an amendment to insert a new clause which would require **personal identifiers** of a signature and date of birth to be included in all voters' registration and not only in that of postal voters which is already provided for in the Bill. Lady Hanham reminded the House of the recent allegations of electoral fraud in Coventry and suggested that 'the use of personal identifiers across the board would go a long way towards protecting individuals from this kind of fraud.'⁵³ Lord Campbell-Savours opposed the amendment repeating his view that he did not believe it was right 'that we should require a system that is onerous to be applied nationally to every citizen that votes in the United Kingdom because of what has happened in certain parts of the United Kingdom, in very small areas.'⁵⁴

Baroness Ashton of Upholland explained that the Government would not accept moving to a system of personal identifiers without testing such a system before applying it to the whole country. There was concern that the requirement for electors to provide additional information would lead to a decrease in the number of people on the electoral register. The new provisions added to the Bill at Report stage which require personal identifiers for those registering for a postal vote will enable the impact of a national system of personal identifiers to be tested.

Baroness Hanham's amendment was agreed to on a division (contents, 167; not-contents, 144).

Lord Goodhart (Liberal Democrat) moved an amendment to Clause 48 which amends the *Political Parties, Elections and Referendums Act 2000* to limit the number of descriptions that can be used by a party at any time to five. Lord Goodhart proposed that this figure should be increased to twelve, 'because it is the number that one obtains by adding Scotland, Wales, Northern Ireland and the nine English regions, and so that parties can describe themselves by a regional title as well as by a national one.'⁵⁵ The Government accepted the amendment which was agreed to.

A number of Government amendments were agreed to including the following:

- An amendment to remove the requirement of dual **reporting of donations** for MPs, MEPs, Welsh Assembly Members, Welsh and English local councillors, Members of the Scottish Parliament and Scottish local councillors who are members of a political party. The Bill previously only removed this requirement for MPs.
- An amendment on the status of **loans that contain capitalisation provisions** which provides that the activation of the capitalisation provision is not to be treated as a new regulated transaction.

⁵² *ibid*, c1277-8

⁵³ *ibid*, c1287

⁵⁴ *ibid*, c1289

⁵⁵ *ibid*, c1296

- Amendments to extend the provisions regulating the giving of **loans** to political parties to **Northern Ireland** and conferring an order making power on the Secretary of State.
- Amendments which further extend the principles of the **loans** regime to apply to individual members of political parties, holders of relevant elective office and members associations.
- A new clause relating to the regulation of **loans** which extends the provisions to third parties at national election campaigns; permitted participants at national and regional referendums and candidates in election campaigns.
- An amendment to exclude those people who have made loans to political parties from being eligible to be electoral commissioners.
- Amendments to extend the regulated transactions regime to **Gibraltar** for the European Parliament elections.

The Bill was passed and returned to the House of Commons with amendments.

D. Lords amendments

Lords amendments were considered by the House of Commons on 13 June 2006. These were all agreed to except for amendment no 8 which made provision for personal identifiers to be required of all voters not just of those voting by post or proxy. This amendment was disagreed to following a division. A Conservative amendment to Lords amendment no 6 (registration of armed forces personnel) was also defeated after a division.

A Committee was appointed to draw up reasons to be assigned to the Lords for disagreeing to their amendment no 8 and the reasons were reported, agreed to and communicated to the House of Lords. The House of Lords considered the Commons reasons for rejecting the amendment on Tuesday 20 June 2006 and agreed not to insist on its amendment no 8 but Baroness Hanham's new amendment, no 8B, was agreed after a division. The Bill now returns to the Commons. The new amendment is the same as amendment 8 except for the correction of a technical error i.e. references in the clause to 'the Chief Electoral Officer' have been changed to 'the registration officer'.

The Bill returned to the Commons on 28 June 2006 when the new amendment was disagreed to after a division. During the debate the Under-Secretary of State for Constitutional Affairs, Bridget Prentice, warned that the Bill needed to be passed soon for the new security measures to be in place and for the postal vote identifier to be implemented by the time of the elections in 2007.⁵⁶

The House of Lords considered the Commons reason for rejecting amendment 8B on 10 July 2006. The Parliamentary Under-Secretary of State, Baroness Ashton of Upholland, urged the House not to insist on its amendment 8B, saying that the Government accepted the principle behind the amendment for individual registration but it believed that changes which affected democracy should only be made with great care. Baroness Hanham (Conservative) did not press the matter to a vote although she commented that 'much more could have been done to secure the integrity of the vote if we had been able to secure this

⁵⁶ HC Deb 28 June 2006 Vol 448 c296

final aspect of obtaining individual registration and individual identifiers.⁵⁷ The Bill was passed.

E. Royal Assent

The Bill received Royal Assent on 11 July 2006.⁵⁸ The Department for Constitutional Affairs subsequently announced that the new provisions in Section 9, duties of Electoral Registration Officers and in Section 15, the new offence of supplying false information in connection with registration, would come into force on 11 September 2006 and would therefore be in place for the 2006 annual canvass. The Electoral Commission will be issuing guidance on these provisions. The DCA also announced that the Government aimed to implement all the measures in the Act in time for the elections in 2007.

F. Secondary legislation for May 2006

The package of secondary legislation announced by Harriet Harman on second reading was laid in Parliament on 19 December. A summary of the regulations is available at <http://www.dca.gov.uk/legist/secleg0506.pdf>

The DCA note stated that the package included amendments to:

- *Representation of the People Act (England and Wales) Regulations 2001*
- *Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002*
- *Local Authorities (Conduct of Referendums) (England) Regulations 2001*

On 27 February 2006 the draft *Representation of the People (England and Wales) (Amendment) Regulations 2006* were reprinted in substitution for the draft laid on 19 December 2005. On the same day a press notice from the Department for Constitutional Affairs announced that the Government would introduce into the House of Commons ‘tough new laws to tackle election fraud’.⁵⁹ The press notice identified fourteen new measures to prevent postal vote fraud. Four of these measures were included in the draft regulations which are made under the *Representation of the People Act 1983* and the *Local Government Act 2000* and these were summarised in the press notice as follows:

- Electoral administrators will write to everyone who has applied for a postal vote acknowledging receipt of their application and confirming the outcome - thus alerting people to false applications for postal votes on their behalf;
- Postal vote applicants will have to say why, if they want their postal vote to be redirected to an address at which they are registered;
- Administrators will get more time to check postal vote applications because people will have to apply for a postal vote 11 working days before the close of poll, (rather than six days at present);

⁵⁷ HL Deb 11 July 2006 Vol 684 c482

⁵⁸ HL Deb 11 July 2006 Vol 684 c659. The text of the Act is available at http://www.opsi.gov.uk/acts/acts2006/ukpga_20060022_en.pdf

⁵⁹ Department for Constitutional Affairs press notice, 27 February 2006. Available at <http://www.gnn.gov.uk/environment/detail.asp?ReleaseID=188827&NewsAreaID=2&NavigatedFromDepartment=True>

- Electoral administrators will have a clear new power to check the signatures on postal vote applications against any other signatures the council holds.⁶⁰

The regulations were approved by Parliament and made on 9 March 2006.⁶¹ The regulations were therefore in place in time for the local elections in England on 4 May 2006. The other ten measures to combat electoral fraud listed in the press notice are contained within the *Electoral Administration Bill* and will not come into force until after the Bill has received Royal Assent. These measures include the new offences of falsely applying for a postal or proxy vote; the strengthened offence of undue influence and the new offence of supplying false information to an electoral registration officer.

Further amendments were also necessary to the Local Elections (Principal Areas) Rules and the Parishes and Communities Rules to make changes to polling hours. The *Local Elections (Principal Areas and Parishes and Communities) (Amendment) (England and Wales) Rules 2006* were subject to the negative procedure and came into force on 24 March 2006.⁶²

⁶⁰ ibid

⁶¹ SI 752, 2006 Available at <http://www.opsi.gov.uk/si/si2006/20060752.htm>

⁶² SI 390, 2006 Available at <http://www.opsi.gov.uk/si/si2006/20060390.htm>