

# Electoral Registration and Administration Bill

[Electoral Registration and Administration Bill](#)  
[5th Report from the Constitution Committee](#)  
[6th Report from the Delegated Powers Committee](#)  
[8th Report from the Delegated Powers Committee](#)

## *Committee (2nd Day)*

3.09 pm

*Relevant documents:* 5th Report from the Constitution Committee, 6th and 8th Reports from the Delegated Powers Committee.

### *Amendment 25*

*Moved by Lord Lexden*

**25:** After Clause 5, insert the following new Clause-

"Representation of the People Act 1985 (Amendment)

- (1) The Representation of the People Act 1985 is amended as follows.
- (2) In section 1 (extension of parliamentary franchise) omit subsections (3)(c) and (4)(a).
- (3) In section 3 (extension of franchise for European Parliamentary elections) omit subsections (3)(c) and (4)(a)."

**Lord Lexden:** My Lords, in moving Amendment 25, I shall speak also to the other amendments in the group, which are all in my name. My principal purpose is to draw attention to a grave injustice that afflicts large numbers of our fellow countrymen and women living overseas and is keenly felt by many of them. Amendment 25 would sweep away entirely the existing severe restriction on their right to vote in our elections—a right that so many of them wish to exercise freely and without interruption while they reside in other countries—no matter how long their residence abroad may last. Surely Parliament should regard it as a duty to make full, principled provision to enable all our fellow countrymen and women living in other countries to take part in our elections if they wish, rather than just some of them, as is the case under the current, arbitrarily devised rules for British subjects overseas.

According to the Institute for Public Policy Research, some 5.6 million British citizens are now living in other countries, of whom around 4.4 million are of voting age. During their first 15 years after leaving Britain, they are eligible to register for, and vote in, our elections. Thereafter, these rights are confined to

**14 Jan 2013 : Column 476**

members of the Armed Forces, civil servants, employees of the British Council and employees of charities registered in the United Kingdom. For everyone else, the shutters come down firmly after 15 years. Those who have been registered under the 15-year rule can expect to receive a cold, terse letter from their registration officer in Britain, informing them that their rights to register and vote are at an end. Some of these letters may be better than others; perhaps I am little prejudiced, having recently seen a scrappy communication from the electoral registration officer of the Royal Borough of Kensington and Chelsea, which contained a number of mistakes and addressed the recipient by her first name, getting that wrong too.

The loss of the right to vote can cause not inconsiderable distress. I have a great deal of

correspondence on the matter. One lady in her late 70s wrote that, "Even though I expected it, when I received a letter from Corby Borough Council in November 2010 telling me I was no longer eligible to register as an overseas voter, I was devastated and still am. Since reaching voting age way back in the 1950s, I have never, ever not exercised my democratic right to vote. But now I have been disenfranchised". However, at the same time, the right to vote under the present restricted arrangements has not been widely claimed. The most recent figures, produced by the Office for National Statistics at the end of 2011, show that only 23,388 British citizens living overseas were registered to vote here. That extraordinarily low number should be prominently in our minds as we debate this important legislation, whose object is to produce a better, more accurate system of registration which gathers in those who are eligible to vote as fully as possible. It is undoubtedly true that the number of overseas voters under the current 15-year rule would be considerably higher if the process of registration and voting were simplified and streamlined. That is what the last three amendments in this group are designed to achieve.

The fundamental issue at stake here is the complete exclusion of so many British citizens living abroad for more than 15 years from the right to vote here. According to the Institute for Public Policy Research, 55% of those who moved abroad in 2008 did so for work-related reasons, 25% for study and 20% for life in retirement. With an ageing population, and increased opportunities for work and study abroad, people are likely to continue to leave the United Kingdom in substantial numbers. Many of them will reside abroad for more than 15 years. In the countries to which they move, voting rights rest overwhelmingly on nationality, not residence. Apart from some nine Commonwealth countries-mainly islands in the West Indies-I understand that no state permits British citizens to vote in its principal national elections. They therefore exist in an electoral limbo.

Our existing law, restricting to 15 years the right of British subjects abroad to vote in our elections, is open to serious objection on the grounds that it does not conform with the requirements of international law on human rights. A much publicised case is winding its way through the European Court of Human Rights, brought by the redoubtable 91 year-old Second World War veteran and, in his younger days, Labour Party activist, Harry Shindler. As a non-lawyer, I cannot help but feel that he deserves to succeed, simply for

#### **14 Jan 2013 : Column 477**

showing such guts and determination. It is Harry Shindler's contention that Britain's restriction on overseas voting violates his right to choose his place of residence without being disfranchised. He is invoking Article 3 of the first protocol and Article 14 of the convention itself. In a debate in this House on 2 March 2011, my noble friend Lord Lester of Herne Hill described the various periods of time that have been used since 1985 to restrict overseas voting-first to five years' absence, then 20 and now 15-as,

"entirely arbitrary and, I dare say, discriminatory in a way that violates Article 14 of the European convention read with Article 3 of the first protocol".- [*Official Report*, 2/3/11; col. 1124.]

The judgment of the European Court is eagerly awaited.

I come to the nub of the matter. It is this: where voting rights are concerned, our country today serves its citizens abroad less well than many others. Great democracies, such as the United States, Australia and France, confer on their citizens living in other countries a lifetime's right to vote, and take considerable pains to ensure that the processes of registration and voting are simple and straightforward.

#### **3.15 pm**

Within the European Union, Britain compares unfavourably with most of its partners. Of the 27 EU members, 22 countries allow their expatriate citizens the right to vote, without any restriction on the

period of residence outside the home country. That is apart from Germany, which restricts it to 25 years for expatriates living outside the EU. Just two countries, Denmark and the United Kingdom, restrict the period for voting rights: the UK to 15 years and Denmark to four. In three countries- Cyprus, the Republic of Ireland and Malta-expatriates have no right to vote.

Within the European Union, the United Kingdom comes 23rd out of 27 in terms of the voting rights it allows expatriates. Is that where we really wish to be, at a time when there is a marked international trend-not only confined to the developed world-towards wide, unrestricting voting rights for expatriates? Why, for example, should British expatriates living in Spain lose their right to vote here after 15 years, when Spanish citizens happily established in the United Kingdom retain the right to vote in perpetuity in Spanish elections? The Deputy Prime Minister's wife finds herself in that satisfactory position. Mr Clegg, however, seems strangely reluctant to champion the interest of his fellow citizens living in Spain.

The world has become much smaller. Britons overseas can listen to our radio via their computer, they can watch British television and read British newspapers just as rapidly as anyone living here, if they subscribe to them electronically. I make a confident prediction that this debate in our House today will attract one of the largest television online audiences abroad that your Lordships have had. I have met many British overseas residents who are as well, if not better, informed about British political affairs than the average voter here. So the old argument about expatriates' inability to make an informed judgment about the great issues in our political life no longer holds.

At the same time, the contribution that expatriates make to our economy becomes ever greater-for example, those working for overseas affiliates or for foreign

#### **14 Jan 2013 : Column 478**

companies with bases in the United Kingdom where profits are taxed. Is it right for us to say to these people: "Yes, please go and work overseas, but of course you will not be able to vote after 15 years"? Should we say this to our fellow countrymen and women who are studying in other countries or to those who have retired from a lifetime of working for, or service to, our nation, receiving pensions which are taxed in Britain and affected by laws made here?

We should acknowledge and rejoice in the pride and deep interest which so many of our fellow British subjects take in the nation to which they belong. I have heard from a vast number of people living abroad since I gave notice last July that I would table this amendment. All have stressed the strength of the ties that continue to unite them to their country. In this connection, I have been inundated with offers to inspect tax returns, pension payment slips, deeds of property and returns-not very high at the moment-on investment savings in Britain.

The essence of the matter was well expressed in 2009 by Jenny Watson, the head of the Electoral Commission. She said:

"British citizens living abroad come from a wide variety of backgrounds, but we know that most maintain strong links with the UK. It is easier than ever before for British citizens abroad to keep in touch with friends, family and colleagues back home and many will also want to have their say in elections".

Any time limit is inherently flawed because there is no definitive way of deciding what the limit should be. Any limit that may be set has to be arbitrary and so is inevitably unjust. That is why our 15-year limit should go, as Amendment 25 proposes.

Amendment 26 requires no more than a few words. It is designed to provide the Government with an alternative to the immediate abolition of the 15-year rule. In the various statements that members of the Government have made on this subject, there has been no hint that immediate reform is likely. Though sympathetic to the case for change, they say that the matter requires further consideration. I hope that my noble friend will be able to tell the House today that the Government

have now been persuaded by the arguments in favour of swift action, but I recognise that, sadly, he may not. Amendment 26 provides the acceptance of the need for change in principle and for the creation of a framework through which change could be introduced by secondary legislation in due course.

The remaining three amendments seek to improve the processes for registration and voting for our fellow countrymen and women overseas. At present, those who wish to remain on the electoral register must go through the protracted process of reregistering every year, after having to get their initial applications countersigned by another, unrelated British citizen not resident in the United Kingdom, even though a passport number provides positive identification of them. The requirements deter many from registering. The annual repetition of the whole process is widely felt to be unnecessary. It seems that the forms are rarely, if ever, checked. It must make sense to consider extending the period of validity of each registration of an overseas voter until the day following the date of the next general election. That is what Amendment 27 would

#### **14 Jan 2013 : Column 479**

do. There would be negligible risk of fraud because overseas electors are positively identifiable by means of their British passport number. Extending the period of registration should result in the more complete and accurate registration of overseas voters.

Amendment 28 seeks to ensure that overseas voters benefit as fully as possible from the development of online registration as envisaged by the Bill. Online registration can be expected to become the procedure of choice for British citizens overseas. Here, too, they have the advantage of being positively identifiable by means of a single, uniform identity document, the British passport. All British passports are now issued by the Identity and Passport Service of the Home Office, and from a date due to be announced this year, all applications from British citizens overseas will have to be made via the internet. It should not be unduly difficult to make effective arrangements through the Identity and Passport Service so that online application forms for passports from British citizens overseas include a question asking applicants whether they wish their passport applications to be treated simultaneously as an application for overseas voter registration, and if so, provide their most recent address.

During the 10-year period that passports are valid, their holders may of course move from one place to another. To ensure that they continue to be included on the electoral register, they could be asked to register their change of address on the Foreign Office's LOCATE database, which is freely available via the internet. Therefore, it should be possible to devise an efficient system for online registration using existing online facilities at minimal extra cost and with the security of the passport.

Finally, Amendment 54 relates to online voting. Extending the electoral timetable for our parliamentary elections from 17 to 25 working days should make it much easier for British citizens overseas to be able to vote by post. However, the use of online methods could improve voter turnout further, as last year's French elections indicated so clearly. In the French elections, there were just over 1 million registered overseas voters out of a total French population resident abroad of some 2.2 million. Around 700,000 of France's overseas electors chose to vote via the internet; 300,000 voted in person or by proxy, using 800 polling stations outside France; some 70,000 voted by post. Clearly, online voting, which was offered for the first time in those elections, would seem to be the way of the future. Surely a similar system could be devised for British citizens overseas or, alternatively, a simpler e-mail-out/post-back system akin to that used by American citizens overseas, which was seen in action successfully last autumn.

I am very grateful to my noble friend Lord Norton of Louth for adding his name to Amendment 25. I beg to move.

**Lord Lipsey:** My Lords, we are all grateful for the opportunity given to us by the noble Lord, Lord

Lexden, to address this subject this afternoon. I am also grateful to the clerks, because the letter from Simon Burton about the next set of amendments to come before us said:

#### **14 Jan 2013 : Column 480**

"The bill has only two purposes-individual electoral voter registration and the administration and conduct of elections".

I find it difficult to see how either rubric fits the amendment of the noble Lord, Lord Lexden. However, the clerks have assured me that it is in order. I look forward to studying their explanation of why this is so this evening, and I am glad that we are debating this amendment this afternoon. I also hope we shall debate the next amendment. I shall be relatively brief, but some of the arguments that have been put should be answered.

At the moment, expats keep the vote for 15 years and then, except for the military and those enumerated, lose it. The aim of this amendment is to extend that period.

Who are these people? There is a huge range of them: some are abroad because they are working abroad long term; others moved abroad to be with their friends and relations; others for the warm climate, or perhaps in a few cases for the cheap gin and tonics; and a few are tax exiles. However, of those who speak to us, I do not doubt their sincerity in wanting to keep voting. I remember in particular the firm lobbying of members of the Brussels Labour group, who wanted the vote to express their Labour and pro-European sympathies.

There is, however, one less obviously desirable reason why they are lobbying for the vote. There is a very well organised lobby which objects to the fact that, broadly, outside Europe British pensions are frozen. Expats in receipt of pensions reasonably think that, if they had representation in Parliament-if they had a vote for MPs-they would be more likely to get this changed. This is entirely understandable. However, we must understand that conceding this would not be favourable to the British taxpayer. My noble friend Lord Hunt of Kings Heath, when he was the Minister responsible in 2005, estimated the cost at £3 billion, which is more than enough to pay for the total cost of the recommendations of the Dilnot report, which would do so much for elderly people living here.

How much do they want the vote? As I said, there is a very strong lobby, but a fact that the noble Lord, Lord Lexden, mentioned makes me a little sceptical. There are estimated to be some 5.5 million Britons of voting age living abroad but in 2011 only 23,388 of those registered to vote-under 0.5%. If the people who have left only quite recently are not bothering to register, how many of the people who have been gone for 15 years or more are clamouring at the door for us to concede it?

This debate is not the first time that Parliament has examined this matter; there was a Question for Short Debate in this House. However, the main document referring to it is a 1998 report from the Commons Home Affairs Committee. That was some time ago, but the argument has not changed much since. Far from recommending an increase, that committee recommended that the period should be reduced to five years. It has not been put into effect but that was its recommendation.

I looked at the evidence put forward to that committee. I want to put the case as it was put to the committee by Professor Robin Blackburn, one of our foremost

#### **14 Jan 2013 : Column 481**

constitutional experts. He spoke of the absurdity of extending the franchise so that,

"an expatriate living hundreds or thousands of miles away, for the duration of a period exceeding a whole generation, carrying memories of British politics in the past and with

little or no personal knowledge of contemporary issues in the constituency where he or she used to live, can influence the election of the government of a country to which he is not subject and to whom he or she may be paying no taxes".

In a nutshell, you cannot have representation without taxation. I rest my case.

**3.30 pm**

**Lord Tyler:** My Lords, I listened carefully to the eloquent case made by my noble friend Lord Lexden, but I want to speak briefly as a former Member of the House of Commons and one who was devoted to his Cornish constituents.

One of the benefits of the single-Member constituency system that we have is that it provides a very special local link between each area and one Member of Parliament. I have heard the noble Lord, Lord Lorton of Louth, speak eloquently in support of that principle, so I am surprised to see him endorse this amendment in its current form. It is true that the countries in the European Union that my noble friend Lord Lexden cited all have different electoral systems; they do not have the same direct link with the individual constituency as we have. I want to put the debate about overseas electors in that context.

If an MP's primary role is to represent his or her area, and the constituents within it at that time, how does that square with a proposal which would see him or her representing people who live perhaps thousands of miles away in a very different economic and social context? And should we really equate in value the vote of someone who has departed—some would say deserted—this country for 15 years or more in favour of the Spanish sunshine with that of a British soldier currently serving his country in Afghanistan? That would be the effect of the amendment.

In 2020, it will be 15 years since I retired from the other place—in that respect, I sort of left North Cornwall then. It is surely beyond the limit of what is reasonable to ask my excellent successor in North Cornwall to represent after 2020 people who left that constituency as long ago as I did.

I accept, as my noble friend said, that there is some validity in the notional principle here about taxation without representation. In that connection, perhaps we should look at the system used for French national elections, to which reference was made, where representatives of a number of special "overseas" constituencies are elected in national elections by French voters who live abroad but who still somehow have a stake in French society. If more than 76,000 electors registered for such a constituency, it would justify under the previous legislation that we passed in your Lordships' House having that separate constituency, but we are not in that position. However, that would be much less arbitrary than marrying people in perpetuity to an area with which they have had no direct connection for more than 15 years.

It has been asked whether there should be taxation without representation. Well, perhaps we should also think about representation without taxation. Why should

**14 Jan 2013 : Column 482**

someone who has lived on the Costa del Sol for the past 15 years still vote by post in local elections and therefore influence the local level of council tax in Cornwall for residents of Coads Green or Crantock in my former constituency?

Those of my overseas friends who have urged this change may come to regret raising this issue; they should be careful what they wish for. If all those overseas who have retained the right to vote in the United Kingdom in recent years now find themselves having to pay council tax, higher VAT or fuel tax, or even additional taxes imposed by the devolved Assemblies, the proposers of these amendments may not be as popular as they apparently are with overseas voters at the moment.

Meanwhile, I am particularly alarmed by the proposal under Amendment 54 in the name of my

noble friend Lord Lexden for overseas citizens to be able to vote online. While that same convenience is not afforded to our own fellow citizens in this country at the moment, it would seem extraordinary to extend it to those people. As we know from previous experiments, there are real problems about that proposal anyway, quite apart from its unfairness, because it could raise a major risk of fraud.

For those practical reasons, we on these Benches ask my noble friend the Leader of the House and other Ministers to take the problem of taxation without representation seriously, of course, but also to find a solution which is less invidious and which properly recognises that our current system of single-Member constituencies makes it extremely unfair to introduce this particular proposal in this form.

**Lord Anderson of Swansea:** My Lords, as one would expect, the noble Lord, Lord Lexden, made a cogent and well researched point in favour of effectively extending the timeframe not only beyond 15 years but perhaps indefinitely, so long as one can still claim British citizenship. Therein lie various practical problems, which I will come to in a moment.

My noble friend Lord Lipsey said that of the 5.6 million overseas voters only 23,000 currently take advantage of that, which suggests that the demand is not very great. The noble Lord, Lord Tyler, made the point about the key principle in our country of representing a constituency and those who live within it. We await with interest the result of the determination of the European Court of Human Rights, but I recall discussing this problem with a representative from the country in the European Union which is probably the closest to us-that is, the Republic of Ireland. A friend who was a Senator from Ireland said, "Well, think of all the Irish people who are overseas, the Irish diaspora. If we were to give a vote to them all, there would probably be a Sinn Fein Government in Ireland". That is the point he was making.

Clearly the intention is obvious-to extend the vote to as many overseas British citizens as possible. I shall be brief because there is an important debate to follow, but there are clearly technical problems and grounds of principle that make one feel very cautious about this proposal. The potential numbers have been mentioned, particularly as more people travel and work overseas. There may be British citizens in Australia, Pakistan,

#### **14 Jan 2013 : Column 483**

Canada, Bangladesh and of course in all the European Union countries. There is a great range of countries and it will be very difficult to check adequately the bona fides of those who claim citizenship and claim to be eligible to vote. How do we prevent fraud? Those problems will be formidable and there will be also be a great problem in checking whether people are still alive after their last declaration.

On the grounds of principle, I recall the debate in the other place in 1985 when there was a package of proposals. I concede that the length of time is arbitrary but there was a consensus result at that time. Now of course the numbers are very much greater and we have, as has been cited, the reverse of the Boston Tea Party-that is, representation without taxation. We cannot extend that totally because many of the British citizens living overseas will be eligible for British pensions and therefore they have some stake in this country. Perhaps it would be better to say "representation without a substantial stake in this country"? Everyone who is resident in the UK has that substantial stake and those who live for perhaps a very extended period overseas increasingly lose sight of this country and lose sight of any stake they may have in it. Therefore, their stakeholding in this country becomes less and less serious. I will not go any further save to say that in my judgment there are considerable technical problems in the proposal and there are also major obstacles of principle.

**Lord Deben:** My Lords, I intervene having heard the three previous speeches. First, to listen to a strong advocate of almost any electoral system except the first-past-the-post, single constituency arrangement, fight for this proposal was a surprise, particularly as the noble Lord will go on to

support a misuse of the electoral system to ensure that we have an unfair electoral system for even longer. That is a peculiar case to put forward.

Then we heard the internationalist party explain how people who lived abroad might not understand what was happening in Britain. Sometimes I think that a number of people living abroad understand rather more clearly what is happening in Britain than some of those here who do not appear to follow the newspapers or the media very closely.

Then we heard the definition of how people voted. I must say to the noble Lord, Lord Lipsey, that those of us who have been elected to the Houses of Parliament know that the reasons why people in this country vote and the logic on which they make their decisions, people who have never travelled abroad, certainly would not meet the conditions which he put forward as reasonable conditions for anyone who is voting.

Then there was the argument that because we might find that people who are at the moment, in their view, penalised because pensions for which they have paid out of taxation and national insurance are, because of their particular place of residence, refused, that they might vote in a different way than that which the Government might like, that evidently is a reason to deny them the vote. That is the argument of totalitarian regimes down history. That is why people did not want the extension of the franchise in Britain. People said,

#### **14 Jan 2013 : Column 484**

"My goodness, if those who are at the moment misused are given the vote, they might object to that". I find that an odd argument to come from any part of the House, but to hear it from the party opposite, which is about to say that some voters in this country are to have a bigger vote and more say for a longer time than would otherwise have been the case, seems to me to be an affront.

Although I have no particular view on this-I think that roughly speaking, what we have is perfectly reasonable-I hope that this House will take seriously the fact that we have now heard three speeches designed to say that people should not vote if by their voting they might do something which was inconvenient for noble Lords on either side and should therefore be refused the vote. That is precisely the debate that noble Lords are about to have, which is to say that because a particular reform proposed in this House today would give people a fairer vote but thereby might give a different result, we should not change the voting system to accommodate them. That is an attitude to democracy about which we should be ashamed. Our decision should be on what is fair, what is equal and what is reasonable. I happen to think that the present rules about 15 years more or less meet that, but the three speeches that we have heard show that some people are prepared to use the system to get a particular result rather than seeking to have a system in which the result is the decision of the public.

**Lord Wills:** I address myself briefly to the remarks of the noble Lord, Lord Deben, with which I largely agree. I think that the criterion should be that it is fair and reasonable. Incidentally, I do not think that taxation is an issue here; taxation has never been a criterion for voting in this country and it is not now. It seems to me that what is, to use the noble Lord's phrase, fair and reasonable, is that those who have chosen in a significant way to sever their relationship with this country should, after a certain period, lose their right to have a say in the affairs of this country. What that period of time should be is a matter for judgment. Like the noble Lord, Lord Deben, I think that 15 years is about right.

However, I want briefly to raise one significant issue that I would be grateful if the Minister would address in his response to the amendments. There is one important group of expatriates who deserve special consideration-those British citizens who have chosen to dedicate their lives to the service of large and small international organisations, such as the United Nations. There seems to be an anomaly there. These are people who have chosen to give their lives to public service which takes them all over the world, doing a job which serves this country and the rest of the world very well

for the most part. It seems to me that there is a case for making a special exemption for those groups of people. There are lots of practical problems with that. Defining the kinds of international organisations which can be brought within the scope of such an exemption is difficult and problematic. In the past the noble Lord, Lord Hannay, has championed the cause of such expatriates. However, there is a case for that group of British citizens to be considered separately, and I would be grateful if the Minister could address that in his response.

**14 Jan 2013 : Column 485**

**3.45 pm**

**Lord Norton of Louth:** My Lords, I will assume it is a case of leaving the best till last. I very much agree with the point that the noble Lord, Lord Wills, has just made. I have raised the issue before about people in that very situation.

On the point made by the noble Lord, Lord Lipsey, about the Long Title, the Long Title is that this is a Bill,

"to make provision about the registration of electors and the administration and conduct of elections".

I would have thought that amendments about the registration of electors fall quite clearly within the subject matter of the Bill—unlike, I think, what is to follow.

I have added my name to Amendment 25, as my noble friend Lord Lexden mentioned, but I also support the amendments that he has brought forward. My noble friend's amendments raise an important issue of principle. The noble Lord, Lord Anderson, was raising matters of practice, but there is a fundamental principle. It is perfectly clear that some British citizens live abroad because they wish to do so. Some live abroad because they consider that they have to do so. Most emigrants from these shores move abroad, as my noble friend said, for work-related purposes. Some will be working for British firms; some will be teaching English; some will be paying taxes in the UK.

The important point is that they are and remain British citizens. So long as they remain British citizens, I see no reason why they should be disenfranchised. If they no longer feel any connection with the United Kingdom then it is open to them to seek the citizenship of the nation in which they reside. The fact that they chose to remain British citizens should not be dismissed but rather regarded as an asset for this country. British citizens are often important ambassadors for the United Kingdom. Just as overseas students in this country return home with British degrees and serve arguably as the most important source of British influence abroad, British expatriates are a notable source of British influence around the globe. Rather than discouraging our own citizens, and indeed overseas students, we should be treating them as an important resource in maintaining our influence on a global scale.

The principle is one that appears to be accepted by other EU member states. We are, as my noble friend has said, in a somewhat anomalous position. The largest number of British citizens who live in a non-English-speaking state reside in Spain, with the second largest number in France. Neither of those states disenfranchises its citizens who live abroad in the way that we disenfranchise ours. The link with constituencies is not particularly relevant in terms of the fundamental principle involved. Other nations, such as the United States, do not disenfranchise their citizens either and I see no reason why we should disenfranchise ours.

Like my noble friend, I have been struck by the number of British citizens presently living abroad who have been in contact to make the case for ending this anomaly. The fact that they feel intensely about the subject reflects their commitment to this country. They are not seeking any material benefit through this route—they are clearly proud to be British citizens and wish

## 14 Jan 2013 : Column 486

to retain the intrinsic feature of citizenship in the form of the franchise. At a time when we are having difficulty persuading many of our citizens at home to vote, it seems inappropriate to prevent citizens who do wish to vote from doing so.

My noble friend's amendments therefore address an important issue, but they do so in a modest and ingenious manner. They are modest in relation to the principle and ingenious in relation to the practical problems involved. The Minister may claim that we need more time to reflect on the principle and that we should not rush to abolish the 15-year limit. My noble friend's amendments would not abolish the limit but would rather allow the Secretary of State to introduce an order to extend the time period. There is thus time to reflect and build a consensus in order to extend the period.

There are practical problems, as no doubt the Minister will emphasise, in the process of registering British nationals who live abroad. My noble friend's amendments seek to address those problems. The Minister may argue that they are not adequate, in which case, if the principle is conceded, the onus rests on the Government to come forward with proposals of their own. It is thus incumbent on the Minister to address the principle and explain why British nationals living abroad are treated less favourably than the citizens of other EU nations living abroad, and why we seem unwilling to acknowledge what constitutes a great British resource. We should not be encouraging EU nationals to desert their commitment to the United Kingdom but should rather be acknowledging that commitment. I hope therefore that the House will support my noble friend's amendments.

**Lord Flight:** My Lords, I support my noble friend's amendments. I have lived as an expatriate and, unless you happen to have parents resident where you want to register to vote, it is extremely difficult to get registered, particularly if people are busy with whatever their careers are.

My particular point is this: in most places, you are not entitled to vote in national elections wherever it is that you are living abroad. If such individuals cannot vote in the country of their nationality or in the country where they live, which is indeed the case with this country, then effectively you are denying them any major political vote whatever. No one seems to be concerned about that, but it is an unreasonable thing to do.

I was rather proud that in the most recent French elections London was, I think, the seventh largest-voting French city of the French electorate, as a result of so many French citizens living in London. Clearly there would have to be changes in the way that representation deals with expatriates if we were to adopt permanent voting by passport-retaining British expatriates, and the concept of the local constituency where they might have lived 10 or 20 years before does not work particularly well, but I suggest that for once it is worth while looking at how France runs its affairs because it deals rather more fairly with its expatriates than we do.

**Lord Brooke of Sutton Mandeville:** My Lords, my noble friend who moved this amendment is a historian, and I wish to add a historical footnote as well as to pay tribute to the chivalry of others involved in the

## 14 Jan 2013 : Column 487

exercise. In the late 1980s there was considerable embarrassment and concern that the amount of money being spent on parliamentary by-elections greatly exceeded the amount that agents, in signing for those expenses at the end of the election, were themselves putting down. It was a risk being run entirely by the agents, and all parties were involved in the problem.

I suggested to my noble friend Lord Hurd, who by coincidence I am sitting next to at the moment although I have not mentioned this to him, that it would be sensible if we managed to pass

legislation briskly to correct this problem. He sensibly advised me that the only way in which that could be done would be if I could reach agreement with other parties, and it was sensible that that should occur. He referred me to the shadow Home Secretary, now the noble Lord, Lord Hattersley, who referred the matter to the noble Baroness, Lady Gould of Potternewton, who had some responsibility within the Labour Party for these matters. She and I had a meeting; we agreed that it was a problem and that, were we to recommend legislation to our respective Home Office Ministers and if there would not be a problem in getting it through the House promptly, then it was worth doing. We also determined that the same legislation should in fact increase the number of years from five to 20, and that was agreed between the noble Baroness and me.

I say that this is a matter of chivalry because she and I reached in private extremely rapid decisions on the matter that then went through the House of Commons in less than a month. I simply say that everyone has been involved in this story quite deeply in the past.

**Baroness Hayter of Kentish Town:** My Lords, this has been an interesting debate. I realise that a lot of people here are actually waiting for the main event; we are perhaps just the warm-up for that. As has been said, these amendments would, in effect, extend representation without taxation. They would allow people who do not, on the whole, pay council tax, income tax, value added tax or, presumably, any death duties here to continue nevertheless to elect people who decide on the level of those taxes. We also have to remember that this is not just about taxation; it is also about expenditure and these non-residents do not school their children here, use our health service, drive on our motorways or live day-to-day under our laws. Nevertheless, the amendments would give them the right to continue to elect the politicians who run our health and education services and who decide on our drink-driving laws, speeding laws and a myriad of other laws under which the rest of us live.

We supported a period of 15 years, by which people-basically those who tended to move away to study or work for quite long periods-were likely to return. We agreed that they should retain their democratic links here by retaining their votes. However, these amendments are largely about those who have left these shores for ever and do not participate in our civil life; they simply keep a UK passport. It is difficult to understand why they should continue to elect a Government under whom the rest of us pay our taxes and live with the consequences of our votes. Those people do not live with the consequences of theirs.

#### **14 Jan 2013 : Column 488**

There is another major issue that needs to be considered. Should these amendments be agreed, these people would also be able to make donations to our political parties-a form of overseas subsidy that I thought we had outlawed. Section 54 of the Political Parties, Elections and Referendums Act 2000 allows UK nationals who permanently live abroad to remain on the electoral register for 15 years. By being on the electoral register, they are also categorised as permissible donors to a political party.

Following the controversy in 2007-08 around donations-in that case to the Conservative Party-the Political Parties and Elections Act 2009 was passed. Section 10 prohibits a registered party accepting a donation from UK nationals living abroad and on the electoral register if it is more than £7,500 in any 12-month period unless they become resident in the UK and pay UK income tax. That Act also requires such donors to make a written declaration to the Electoral Commission as to whether they satisfy the rules. However, this section of the Act has yet to be commenced; it comes into force on a date to be decided by the Secretary of State under a statutory instrument. The Government have indicated that they do not intend to commence this part of the 2009 Act, which means that those living abroad can continue to give any sum that they like as permitted donors.

These amendments would therefore permit all UK nationals permanently living abroad to give

unlimited donations to our political parties. I cannot believe that this House would support that. The Electoral Commission has confirmed to me that the test of whether individuals are permissible donors is whether they are on the electoral register, and that includes overseas electors. Therefore, if overseas electors were to be able to stay on the register for longer than 15 years, they would remain permissible donors for as long as they lived and as long as their money held out.

There are practical issues. The Bill that the Committee is discussing will, if we fail to change it, mean that quite a few people who live in this country are going to fall off the electoral register. It seems extraordinary that we should not be turning our attention to those people, rather than adding to the register those who have long since ceased to live here.

This Bill is important; it is about moving to individual registration, but the only registration for those abroad at the moment is, as has been said, that they have a passport and get someone to certify that they are still alive. Here, those who do not have to go through all this may not realise that there will be all sorts of data matching and checks on their NI, and such issues. It would seem extraordinary if those living abroad could get on the electoral register easier than others.

It is hard to see why those who have left these shores for ever and do not pay tax but simply remember their old address and maintain a passport should continue to elect our Government. As of this moment, we have heard no compelling arguments to support these amendments.

4 pm

**Lord Gardiner of Kimble:** My Lords, I thank all noble Lords for this wide-ranging debate. The amendments in this group seek to remove the 15-year qualifying

**14 Jan 2013 : Column 489**

period for overseas electors and enable the Secretary of State to remove or extend the qualifying period via secondary legislation. Amendments in this group also seek to extend the 12-month registration period for overseas electors and to enable overseas electors to register and vote online.

I know that my noble friend Lord Lexden feels strongly about these matters, and I am well aware of the continuing loyalty to the United Kingdom of so many who have lived and worked overseas for many years. Indeed, this was echoed by my noble friend Lord Norton.

The current 15-year time limit on overseas voting rights, which Amendment 25 seeks to remove, was approved by an earlier Parliament. Whether the time limit remains appropriate is a wider question, which remains under consideration within government. I refer to what the noble Lord, Lord Wills, said about overseas employees. British Council employees, for instance, already have that continuing right, as well as other sectors. Therefore, his point will be part of that continuing consideration. There are valid arguments on both sides which need to be carefully considered alongside any practical issues before any informed decisions can be taken.

In the mean time, we have already taken steps in this Bill to improve the overseas voting process. The proposals we are introducing to extend the electoral timetable for UK parliamentary elections will facilitate greater voter participation. As part of the move to individual electoral registration, I am happy to announce that we also plan to remove the requirement for a person's initial application as an overseas elector to be attested by another British citizen who is resident abroad. This change will simplify the registration process for electors living overseas.

Moving to Amendment 26, we believe that the franchise for UK elections should remain set out in primary legislation. It would be very unusual to provide for a change to the franchise in secondary legislation. Proposals regarding the franchise are important matters which should always be considered by Parliament before they become law.

Regarding Amendment 27, it is important that overseas electors update their registration and verify

their details each year along the same lines as UK electors. This helps to ensure that postal ballots are despatched to the correct address whenever an election is held and enables the electoral registration officer to verify that an overseas elector's 15-year qualifying period has not elapsed. Allowing overseas electors to remain registered until after the next general election would lead to inaccuracies in the register and open up avenues for others potentially to use fraudulently another person's registration or to vote despite being ineligible.

Amendment 28 would compel local authorities to provide an online facility for overseas electors to make the declarations necessary to register to vote. Providing a full online facility for applications to be made that is similar to the domestic system that we are creating could prove to be very expensive relative to the number of people who are registered overseas, largely due to the necessary security against fraud that would need to be built in. We have, however, not ruled this out in

### **14 Jan 2013 : Column 490**

the medium term and intend to see how much uptake there is of the domestic online system before making a decision.

While I support the sentiment behind Amendment 54 -that steps should be taken to enable those based overseas to participate effectively in elections-I do not think a provision to vote online is the best way to facilitate participation for this group. As noble Lords are aware, electronic voting is not in use at any statutory elections or referendums in the UK. It was piloted and considered by the previous Government and in some other countries but it has not been pursued in the absence of evidence of improved turnout and because of concerns about security.

The Government are assisting overseas voters to receive and return postal ballot packs. The extension to the electoral timetable from 17 to 25 working days will benefit overseas voters. Given the measures already undertaken to assist postal voting, the proposals to simplify registration and the ongoing consideration of the 15-year limit on overseas registration, I ask my noble friend to withdraw his amendment.

**Lord Lexden:** My Lords, we have had a useful and productive debate on an issue of international as well as national importance. I am grateful to all those who have taken part and illuminated various aspects of the issue. At the centre stands the principle, so clearly stated by my noble friend Lord Norton of Louth, that British overseas citizens who want to take part in our elections, reflecting their enduring commitment to our country, should be entitled to do so, particularly since they are disenfranchised in the countries where they live. Voting should rest on nationality not on residence or anything else.

I listened with particular care to the Minister's speech and noted one or two encouraging points. Overall, however, I listened with some disappointment. I shall read his comments in full and reflect on them further. For now, my Lords, I beg leave to withdraw the amendment.

*Amendment 25 withdrawn.*

*Amendments 26 to 28 not moved.*