

# Business of the House

## Electoral Registration and Administration Bill

[Electoral Registration and Administration Bill](#)

### *Report*

3.38 pm

#### *Schedule 2: Sharing and checking information etc*

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#### *Amendment 2*

*Moved by Lord Lexden*

**2:** After Clause 6, insert the following new Clause-

"Representation of the People Act 1985 (Amendment)

(1) The Secretary of State may by order made by statutory instrument amend the Representation of the People Act 1985 either-

(a) in section 1 (extension of parliamentary franchise), to omit subsections (3)(c) and 4(a) and in section 3 (extension of franchise for European Parliamentary elections), to omit subsections (3)(c) and (4)(a); or

(b) to substitute for the period of 15 years provided for in each of those sections a longer period ("the relevant period").

(2) If the Secretary of State makes an order under subsection (1)(b) he may subsequently make further orders under subsection (1)(b) provided that any such subsequent order may only provide for a further increase in the relevant period.

(3) An instrument containing an order under subsection (1) shall be subject to approval by resolution of both Houses of Parliament."

**Lord Lexden:** My Lords, I have tabled Amendment 2 in order to return to an issue that I raised in Committee last week. I return to it, and underline some of the points that I made last week, because the issue is one of great importance: the complete disenfranchisement at the parliamentary level-I stress at parliamentary level only-of the vast majority of our fellow countrymen and women who have lived outside the United Kingdom for more than 15 years, retaining their British citizenship, in which so many of them take the deepest pride. Apart from a very limited number living in nine small Commonwealth nations, they cannot vote in the national parliamentary elections that take place in the countries where they reside. The world over, the parliamentary franchise rests on nationality, not on residence and not, it should be emphasised, on the payment of taxes. As the noble Lord, Lord Wills, stated in Committee last week,

"taxation has never been a criterion for voting in this country and it is not now".-[*Official Report*, 14/1/13; col. 484.]

Under our current legislation, the overwhelming majority of British subjects living overseas cannot vote in our parliamentary or European elections after 15 years' absence. They are therefore deprived of the most fundamental of all democratic rights, which so many great British men and women of all parties strove so hard over long years to secure for all British adults.

Their disenfranchisement is thrown into sharp relief by the superior wisdom shown by so many other countries, which extend to their citizens living abroad a lifetime's right to vote in their parliamentary elections. The overwhelming majority of our EU partners make such provision and so do other countries elsewhere in the world, including, in particular, the United States. We have failed to keep abreast of a prominent and continuing international trend. It is high time that we caught up.

Our disenfranchised fellow British subjects living overseas are large in number. Perhaps I may remind the House of the key figures. Some 5.6 million British subjects are estimated to reside beyond our shores, of whom some 4.4 million are of voting age. A not

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inconsiderable proportion have of course been abroad for less than 15 years and so are eligible to vote here, although there is no way of establishing the total number of those who fall into this category. Even estimates of the number by the Electoral Commission or other authoritative bodies are, as far as I know, lacking.

However, there is no doubt that at the moment many of them are not taking up their democratic right. No more than 23,388 people living overseas are on our electoral rolls today. It is important to be clear. That does not mean that only a mere 0.5% of those eligible to register have done so, as the noble Lord, Lord Lipsey, suggested last week. No one can tell what the percentage is since we do not know the number of people who have been abroad for less than 15 years. Even so, it is true that many who could register have not done so.

There are some who say that this shows the indifference with which many British subjects overseas regard the democratic right that they possess, and use this as an argument against removing or extending the existing 15-year limit. I believe that that is a profoundly mistaken conclusion. Many who have been abroad for less than 15 years are deterred by the complex and time-consuming registration procedures to which they are now subject. That problem should be tackled by simplifying the procedures through the introduction, as rapidly as possible and in line with developments in Britain itself, of online arrangements, as I suggested in Committee, using a British passport as the key means of establishing identity.

Moreover, many expatriates see little point in claiming for a season a right that will be summarily withdrawn at the end of it. There is a natural human tendency to place less value on what is provisional than on what is permanent and assured. Others feel that the sense of affection and attachment with which they regard their country is insufficiently reciprocated by Parliament and by some politicians. That impression tends to be reinforced by speeches that are sometimes made attributing to British subjects rather ignoble motives, such as a delight in cheap alcohol, for leaving our shores. It is sad that the benefits that our country derives from our expatriates are not always properly celebrated.

There also seems to be a reluctance to accept that, in today's world, distance is no longer a barrier to an expatriate's participation in their country's affairs. However, as my noble friend Lord Lester of Herne Hill said,

"if there was any rationale in the pre-internet age for the 15-year cut-off, to do with knowledge of what is going on in the United Kingdom, it has long since disappeared".-  
[*Official Report*, 2/3/11; col. 1123.]

The day after our Committee debate last week, French state television featured a group of French citizens who had lived in Australia for more than 30 years. The tenor of the broadcast reflected France's longstanding view that those who live abroad long-term should be thought of as great informal ambassadors for France in a wider world. That is a tradition that we should emulate. It can be no coincidence that half of all French citizens living overseas are registered to vote in their country.

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I believe that we need to breathe new life and warmth into the relationship between our country and its expatriates. They should be made to feel truly welcome as participants in our affairs. The best way to do that would be by placing them all on the same basis with regard to parliamentary voting rights, which provide such a profound affirmation of national identity. Principle points to no other conclusion.

My noble friend Lord McNally has said that,

"early in this Parliament we should have a really radical look at voting for our overseas residents".-[*Official Report*, 2/3/11; col. 1133.]

Since then, it has been stated from time to time that the Government have the issue under review, a formula that I trust is not a euphemism for evading action. Indeed, I hope that it is the not inconsiderable practical and administrative implications of change that are under review, in preparation for action.

If we are to reach out successfully to our valued expatriates, the process of dismantling the 15-year rule needs at the very least to begin. My amendment would give the Government flexibility in determining the pace of change by enabling them to extend the time limit beyond 15 years in stages through secondary legislation. My noble friend Lord Norton said last week that this would provide time to reflect and build a consensus in order to extend the period.

The proposal does not involve the creation of a new right but the extension of an existing one. For that, secondary legislation would not be inappropriate. However, if such a route to change were followed, it would be important to keep the final aim firmly in view—the complete removal of all discrimination against our fellow British subjects living overseas. I beg to move.

4 pm

**Lord Tyler:** My Lords, I will not detain the House long as I made our position clear in Committee and it has not changed. As I said then, we believe that my noble friend Lord Lexden has hit on a very interesting and important issue about nationality and representation. There is clearly a strong case for some rationalisation and, indeed, for a careful look at the way in which our EU partners handle this issue, as was again said today. At the same time, we must note that the majority of them have a very different electoral system from our own. Here in the UK, we have a system of single-Member constituencies with a special link between an MP and his or her constituents. It is irrational to have people who used to live in my old constituency in north Cornwall, for example, still on the electoral roll 15 years or more after they have left for possibly sunnier climes.

Let me clear up any misunderstanding: every UK election, with the notable exception of European parliamentary elections, is in a sense a local election. Voters in a particular locality decide which local representative would in their judgment best represent their interests and those of that specific locality. It is also true that many local issues, from development threats in that locality to the level of council tax more generally, can be major factors even in a UK parliamentary election. For those who have left that locality 15 or more years ago to have a potentially decisive voice in such an election is illogical. I still remember the occasion when I was elected with a majority of nine. For all I

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know, that majority of nine came from many thousands of miles away and had no direct interest in that locality and that local parliamentary election.

Last week my noble friend Lord Deben, who is not in his usual place this afternoon, attacked me on this issue in a splendidly enjoyable diatribe. I make it clear: I do not defend or, indeed, reject the single-Member constituency that we have at present in the UK, but it is a fact of political life. Therefore, anything we do on this issue has to take that into the reckoning. If he or anybody else is now expecting a change to a multi-Member or list electoral system for the House of Commons, I am as surprised as I am delighted. However, I do not think that he is.

In the absence of any such reform, we urge my noble friend Lord Lexden to think again about his strategy. If he is to address the anomalies that he has rightly identified, he must take up the issue of an additional constituency for overseas voters. Several contributors to last week's debate in Committee, including my noble friend Lord Lexden, referred to the French arrangement for overseas voters. Indeed, again, he made very important reference to the experience of French overseas voters. However, the significant point is that they have a separate constituency; they do not interfere with the individual constituencies in mainland France. In those circumstances, we believe that this amendment puts the cart before the horse. We believe that the creation of a separate constituency on the French model-or, indeed, constituencies, if the numbers justify something beyond one constituency-would be a much more appropriate way to make this injustice less of a problem in future. Surely that is the right and only way for the interests of former UK residents to be represented without diluting those of the people who still live in this country.

**Lord Norton of Louth:** My Lords, I support the amendment moved so ably by my noble friend Lord Lexden. It is a novel amendment but a modest one. In Committee, there were essentially two objections to the proposal to extend the 15-year limit on British nationals who live abroad having the vote. A third objection was to the mechanism proposed by my noble friend, which is again before us today.

One objection to extending the 15-year limit was that citizens who have retired to live abroad and enjoy the sunshine of foreign climes had effectively fled the United Kingdom and therefore should not be able to vote-certainly not for any great length of time. My noble friend Lord Tyler referred in Committee to the fact that some people may deem them to have deserted these shores. That is to misunderstand the situation of British nationals living abroad. Most emigrants from this country live abroad for work-related purposes. Some will be moving around the globe for their companies, which may well be UK companies. The fact of living abroad for some years is no proof of leaving the UK on a permanent basis.

My noble friend Lord Tyler raised a second objection, to which he referred again today. He argued that citizens living abroad do not have a clear constituency link, and he queried how an MP could represent,

"people who live perhaps thousands of miles away in a very different economic and social context".-[*Official Report*, 14/1/13; col. 481.]

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Well, I presume that they can do it in the same way in which they currently represent those who live abroad but have not yet done so for 15 years and are registered to vote. It is perhaps also worth reminding ourselves that the MEPs for the south-west of England also represent Gibraltar, where people live some way away in a different economic and social context.

The other objection was raised by my noble friend Lord Gardiner of Kimble in respect of this particular amendment, on the grounds that it would be unusual to make such a change in secondary legislation. I note that he said "unusual" and not "unique". In any event, what is involved here is not a new right but an extension of an existing right. Far greater changes affecting individuals are made through secondary legislation than is being envisaged here. What the amendment does is provide some flexibility. In Committee, my noble friend Lord Gardiner said that the question of extending

the time limit,

"remains under consideration within government".

The amendment provides the means to move forward, should that consideration result in recognition that the time limit should be extended.

The grounds for extending the time limit were made in Committee by my noble friend Lord Lexden. As I stressed in that debate, we need to recognise the contribution made to the United Kingdom by citizens living abroad. They are a major source of soft power for the United Kingdom. My noble friend Lord Gardiner acknowledged,

"the continuing loyalty to the United Kingdom of so many who have lived and worked overseas for many years".-[*Official Report*, 14/1/13; col. 489.]

We should look upon our citizens around the globe as a continuing asset and not as a body of people to be cast aside and treated as having deserted these shores. If they wish to demonstrate a continuing commitment to the United Kingdom, they should be enabled to do so.

My noble friend's amendment provides the means for doing so but, at this stage, without commitment. It enables the Government to complete their consideration of the issue. I therefore commend the amendment to the House.

**Lord Campbell-Savours:** My Lords, I intervene only briefly to ask a question, because the noble Lord, Lord Tyler, quite rightly drew the House's attention to the sensitivity in very marginal seats to votes coming in from abroad. I want to know what happens in conditions of fraud. We have an individual registration system and the suggestion is that we should extend the right to vote to those who have been overseas for more than 15 years. What happens if a fraud takes place? Where are those involved to be prosecuted? Can they be prosecuted? Are they to be extradited? Does this not raise all kinds of problems in terms of prosecution? Perhaps the Minister can give the answer.

**Lord Bates:** I am toying with supporting my noble friend's amendment but I just wish to seek clarification on a couple of things. The areas that I find totally persuasive are those raised by my noble friend in

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moving the amendment and those referred to by my noble friend Lord Norton of Louth, particularly when he talked about soft power. That soft power extends in a network world increasingly to include economic power. These people are overseas on business—they are economically active. There is a global network of 4.4 million or more people who can speak up for and promote Britain, as well as provide information on and connections to the commercial arms of the respective embassies and consulates overseas.

My only difficulty is this. My noble friend Lord Lexden pointed out that currently 4.4 million people are of voting age but only 23,500 or thereabouts are registered to vote, although I do not know what proportion actually voted at the last election. First, does my noble friend agree that it would be useful for the Electoral Commission to undertake extensive research into the reasons why people do not register overseas for this right to vote, which is extremely important to them? Secondly—perhaps this is better addressed to my noble friend on the Front Bench—does he agree that the time has come for the Government to appoint someone to champion the voice of overseas residents who have the vote here? In that regard, I cannot think of a better person to head that up than my noble friend Lord Lexden.

**Lord Kerr of Kinlochard:** I support the amendment. I got a very dusty answer in Committee, and I do not really agree with most of the arguments against the amendment. If you start from first principles and the idea of the greatest happiness for the greatest number, in my view this does no harm. Moreover, it is only an enabling measure; it does not change anything. It creates a power to

change things, which, to me, makes it seem rather modest. Having a single constituency or two constituencies for expatriates is an extremely good idea in my view, but I suspect that it might be found to be not relevant to this Bill, which would be shocking.

I feel that I have not yet heard a compelling argument against this power. I am encouraged that it is supported not only by the noble Lord, Lord Lexden, but by the noble Lord, Lord Norton, who is a great expert in these matters.

On the question of electoral fraud, where it would be prosecuted and how the miscreant would be brought to justice, I agree that that might be quite difficult to do if we were rash enough to opt out from justice and home affairs and the European arrest warrant.

**Baroness Hayter of Kentish Town:** I hope that the noble Lord did not hear what I just said to my noble friend, which was, "He's wicked".

I thank the noble Lord, Lord Lexden, for bringing the amendment to the House. His commitment to this is clear. Having worked abroad, I can say that it is always very nice to have someone speaking for us, as it were.

As we made clear in Committee, the Opposition do not support the amendment. We remain unconvinced that those who left these shores 20, 30 or more years ago should continue to vote for a Government under whom the rest of us pay our taxes and live with the consequences of our vote. Those people will not live with the consequence of theirs.

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However, I want to stress another consideration which I raised in Committee. Should this extension go forward, such non-residents would then also be able to continue to make unlimited donations to UK political parties. By being on the electoral register, they are also categorised as permissible donors to a political party. The previous Government, in the light of ongoing concerns about overseas funding of our politics, passed the Political Parties and Elections Act 2009. Section 10 of the Act prohibits a registered party from accepting a donation of more than £7,500 in any year from a UK national living abroad and on the electoral register, unless they become resident in the UK and pay UK income tax. Sadly, however-and I think wrongly-this section of the Act has not yet come into force and the coalition Government have indicated that they have no intention of bringing it into force. Perhaps the Government would like to take a moment to announce a change in their view on this, in which case we would be up and ready to welcome it immediately.

However, as that provision has not been brought in, it means that all those UK nationals permanently living abroad would be allowed to give donations to our political parties, because the test of whether an individual is a permissible donor is whether they are on the electoral register. Therefore, if overseas electors were able to stay on the register for longer than 15 years, they would remain permissible donors for as long as their wealth held out. For this reason-if for no other-we could not support the amendment.

**4.15 pm**

**Lord Wallace of Saltaire:** My Lords, I start by declaring an interest: I have two sisters, two nephews and one son who are British citizens living abroad at the moment. At least three of them, I think, are dual nationals; this is, of course, one of the many complications in addressing this. I said at an earlier stage that I knew a British civil servant who had gone to visit his cousins in Vermont so that he could vote in the US presidential election-on the right side, I am happy to say. This is one of the many complications in addressing this large area. I thank the noble Lord, Lord Lexden, for ensuring that the Government will take a more active approach to this consideration from now on. I should criticise my noble friend Lord Tyler for suggesting that there could be, possibly, sunnier

climes than Cornwall. I thought, when I was a boy and saw the Cornish Riviera Express go by, that it was called that because Cornwall was very warm. Among the messages that I, and probably others, have received from voters abroad—in particular from a group in the Var, Provence—have been some rather abusive messages suggesting that any attempt to take away the winter fuel allowance from people living in Provence would encourage them all to register en masse.

This is a complex area, and the short debate we have had suggests the many complexities that exist. The Government's view remains that the franchise for UK elections is set out in primary legislation, and that it should be changed by primary legislation and not by regulation. It was pointed out earlier that, of our 4.5 million potential overseas voters, only 30,000 were registered at the peak in 2010. That is weak evidence that there is a pent-up demand that we are failing to satisfy.

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The French have a great many more overseas residents registered, but the French approach to registration of citizens abroad is very different from the British one. Certainly, the Foreign Office would have to consider the consular resources available for much more active registration of British citizens abroad. I think the right figure at the moment is that some 50,000 British citizens abroad are currently registered with consulates, which suggests that if we were to follow the French model, we would be going through a whole sea-change in our relations with our overseas citizens. We do not know how many of our estimated 5.6 million overseas citizens are dual citizens; we do not know how many of them were born in Britain or born abroad. We have some interesting questions about how this would work: for example, in which constituency would British citizens born overseas be registered when they wished to vote? There are a very large number of questions even before we get to the question of special constituencies for them, and I would suggest that the noble Lord, Lord Lexden, should pursue the question of an all-party inquiry into this rather neglected area, not leaving everything to the Government here.

The choice of constituency, after all, is a contentious one. I recall many arguments in the past between the two coalition parties about the way in which people who have second homes in Devon and Cornwall might be registered, and about the constituency in which they should vote. In marginal seats, the addition of a very substantial number of overseas voters could alter the whole political balance. I will criticise the noble Lord, Lord Kerr of Kinlochard, for pinching my joke, and say that of course, if we are prosecuting someone for fraud, the European Arrest Warrant is appropriate for use against people in Spain and Cyprus.

Having said that, I encourage the noble Lord, Lord Lexden, to withdraw his amendment. We recognise that he has made his mark on the Government. There is a delicate issue here. I note that the Irish simply do not give the right to vote to their overseas citizens. I suspect they think that there are simply too many of them and that they would outweigh the domestic constituency. There are large questions here about what rights we might grant, for how long and for how many people we might grant them, and whether we should grant them for people who were born abroad. We might appropriately consider these questions, but, I suggest, not in the context of the Bill. Now that the noble Lord has registered his point with considerable vigour, I encourage him to withdraw his amendment.

**Lord Lexden:** My Lords, I am extremely grateful to my noble friend for suggesting that I undertake the considerable duty of giving consideration to the establishment of an all-party inquiry. I am extremely interested in that suggestion. If I may, I will seek a meeting with him about how that might proceed. On the face of it, an all-party inquiry is extremely attractive.

The Bill has now provided the House with two major opportunities to consider the current seriously flawed and inadequate electoral arrangements for our fellow British subjects living overseas. I hope that our discussions have created a better understanding in Parliament of the issues, and at least

challenged some of the misconceptions that have long been rife. I hope,

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too, that they have given at least a measure of encouragement to British expatriates. Large numbers of them will have watched our proceedings today and last week with keen interest. Many in this House will share my strong hope that many more expatriates eligible to register under the existing 15-year rule will exercise their right, as consideration continues to be given to the removal of that rule.

As my noble friend the Minister emphasised, the issues are firmly on the political agenda. They need to be pursued, in detail, with vigour and care. In these circumstances, it would be inappropriate to divide the House. In the knowledge that efforts to secure progress will continue, I beg leave to withdraw the amendment.

*Amendment 2 withdrawn.*