PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ELECTIONS BILL

Twelfth Sitting

Tuesday 26 October 2021

(Afternoon)

CONTENTS

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not later than

Saturday 30 October 2021

The Committee consisted of the following Members:

Chairs: Rushanara Ali, Sir Edward Leigh, † Mark Pritchard, Christina Rees

† Anderson, Fleur *(Putney)* (Lab)
† Badenoch, Kemi *(Saffron Walden)* (Con)
† Bell, Aaron *(Newcastle-under-Lyme)* (Con)
† Bristow, Paul *(Peterborough)* (Con)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Furniss, Gill *(Sheffield, Brightside and Hillsborough)* (Lab)
Gibson, Peter *(Darlington)* (Con)
† Grady, Patrick *(Glasgow North)* (SNP)
† Harris, Rebecca *(Lord Commissioner of Her Majesty's Treasury)*
Hollern, Kate *(Blackburn)* (Lab)
† Kruger, Danny *(Devizes)* (Con)
† Mayhew, Jerome *(Broadland)* (Con)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Randall, Tom *(Gedling)* (Con)
Shelbrooke, Alec *(Elmet and Rothwell)* (Con)
† Smith, Cat *(Lancaster and Fleetwood)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)

Adam Mellows-Facer, Chris Stanton, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 26 October 2021

(Afternoon)

[Mark Pritchard *in the Chair*]

Elections Bill

2 pm

The Chair: Before we begin, I have a few preliminary reminders for the Committee. I remind colleagues, first, to wear masks when they are not speaking, secondly, to observe social distancing and, thirdly, to switch off electronic devices. Could they also note—this is slightly new—that Members and staff are asked by the House to take a covid lateral flow test twice a week if coming on to the parliamentary estate? That can be done either at the testing centre in the House, which is located in the Attlee Suite, or at home. These things can be booked on the intranet, as colleagues will know. Finally, *Hansard* would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk. Thank you for your attention.

We now resume line-by-line consideration of the Bill. Members wishing to press a grouped amendment to a Division should indicate that they wish to do so when speaking to it.

Clause 35

Definitions relating to electronic material and publication

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 36 stand part.

The Minister for Levelling Up Communities (Kemi Badenoch): The provisions pertain to the Government's proposed new digital imprint regime. The new regime will require promoters, and those promoting on their behalf, behind digital campaign material targeted at the UK electorate to declare themselves, providing greater levels of transparency to online campaigning. In clause 36, "the promoter" of electronic material is defined as

"the person causing the material to be published"

and to publish means to

"make available to the public at large or any section of the public."

The imprint rules will apply to all material in electronic forms that consist of or include speech, music, text, and moving or still images. It is important that the definition of electronic material is comprehensive to reflect the wide scope of the regime. At the same time, we must remain cognisant of the practicalities of imprint requirements for certain mediums. For that reason, telephone calls and SMS messages will not be in scope of the regime, due to the impracticalities of including an imprint in an SMS or a telephone call.

Clause 36 defines key pieces of terminology that are relevant to the digital imprints regime, specifically the political entities that will be required to adhere to the new regime and that are prominent actors in political campaigning in the UK. The definitions in the clause cross-reference other pieces of legislation to ensure that there is consistency with the terminology used throughout the Bill. Both clauses provide clarity to campaigners who will be subject to the regime and provide consistency to the enforcement authorities that will enforce the regime and wider electoral law. For these reasons, I urge that the clauses stand part of the Bill.

Cat Smith (Lancaster and Fleetwood) (Lab): We are pleased to see provisions in the Bill on the regulation of digital content. The Electoral Commission has advocated digital imprints since 2003. While digital technology and campaigning have proceeded at quite a pace, legislation to ensure that the ways electronic communications are used are transparently portrayed to the electorate has been somewhat slow by comparison. Extending the imprint rules will help voters to make more informed choices on the arguments presented and to assess the credibility of campaign messages in a digital space in the same way as with print material. When digital material is disseminated by a political party, voters who see that material will be aware of that fact and will be able to make their assessments accordingly.

It is right that political parties, candidates and campaigners should not be able to conceal their identity online, any more than they would if they printed out a leaflet and pushed it through doors. However, I want to flag a slight loophole in the legislation, which allows reshared content to disseminate without an imprint. I would be interested in working with the Government —I extend the hand of the Opposition here—to find a way of resolving this issue.

There do need to be requirements on online content to show who has made it, who is paying for it and how it is being promoted so that voters can make informed choices. Amendments to subsequent clauses may go some way to doing that, but broadly speaking it is a great relief to see this measure before the House in the Bill. It is something that we have called for for a considerable time, and it is great to see us moving slightly further forward, although there are still some loopholes left to be closed.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 36 ordered to stand part of the Bill.

Clause 37

Requirement to include information with electronic material

Cat Smith (Lancaster and Fleetwood) (Lab): I beg to move amendment 87, in clause 37, page 46, leave out lines 24 to 26

This amendment removes the ability for promoters of electronic material to avoid placing an imprint on the material itself if it is not "reasonably practicable" to do so.

The Chair: With this it will be convenient to discuss amendment 88, in clause 37, page 46, line 24, leave out "not reasonably practicable" and insert "impossible"

This amendment raises the threshold needed for promoters of electronic material to avoid placing an imprint on the material itself.

Cat Smith: In its current form, without the amendments, the Bill allows promoters of electronic material to avoid placing an imprint on the material if it is not "reasonably practicable" to do so. Instead, it allows the imprint to appear

"in a location that is directly accessible from the electronic material."

The amendment would make things clearer for voters so that material is more transparent, and allows voters to make more informed decisions.

As evidenced in Scotland's recent parliamentary elections, the clause will in practice lead to almost all imprints appearing on a promoter's website or home page rather than on the actual material. I do not feel that is strong enough. It cannot be classed as an imprint if the voter has to go and seek that information on the home page of a website. For most observers of the material, there will be no discernible change from the situation as we see it now—they will not be able to see a promoter's details. It should be a requirement that imprints appear on the material itself. It would bring digital material in line with the imprints on printed material, where political parties have to include an imprint on every single piece of content.

While it is positive that Scotland's recent parliamentary elections were the first in the UK to be conducted with a digital imprint rule in place, it was disappointing that a loophole was left in the legislation, which is now being carried forward into the Government's Elections Bill. All political parties in Scotland took advantage of the loophole in May, placing an imprint on their home page and not necessarily on the material that was being promoted. This provision does not provide any security against sharing, downloading and re-promoting, where many voters will see material second or third hand as organic content as it spreads over social media.

Numerous stakeholders wrote to the Minister to highlight their concerns. I have certainly seen concerns expressed by the Electoral Reform Society, Fair Vote UK and Transparency International, who have highlighted to elections offices in Scotland that there is a risk that the imprint may be lost or removed, deliberately or accidentally, when the material is shared. A significant amount of sharing happens off the platform, as users download videos before resharing them on messaging apps that are often encrypted. The imprint is then, of course, disconnected from the content. This is a huge loophole; it could be the equivalent of attaching an offline political ad's imprint using a paperclip. The first recipient would then clearly and inconspicuously remove it before showing anyone else. It is essential that the imprint be embedded so that it is always connected to the political advertisement. I urge the Government to close the loophole and make it clear that the video, image or online campaign materials must contain a clear imprint within the material, as is common practice with many political video advertisements in countries such as the United States.

These sensible and pragmatic amendments would close a loophole that we have seen in Scotland and stop the legislation being implemented for UK-wide elections with a glaring loophole in it.

Brendan O'Hara (Argyll and Bute) (SNP): Very briefly, we will support the amendments. There is no doubt that as a Parliament and a country we are behind the curve and are playing catch-up with those who are experts in digital campaigning. What we do have in our armoury is the demand for transparency. That is all we asking for here: transparency on who is funding and who is the source of these digital political advertisements. That is essential.

We have concerns about what the Government mean by "reasonably practicable". We need a higher threshold than that. I fear that it would be far too easy for people who are expert in such matters to get around that and to present a convincing argument to the laity on what is reasonable and practicable and what is not. The hon. Member for Lancaster and Fleetwood was right that we have an opportunity to get this right, or certainly to start to close that gap.

The Scottish Parliament elections showed that parties and campaigners largely understood the regulations and were able to comply with them. Anyone who followed those elections, particularly on Twitter, could not have failed to see every candidate changing their Twitter bio during the campaign to explain that. People understood it and people did it.

We have to be alive to the fact that there are people out there who are far more advanced in their technology and their understanding than we are. We should be closing every loophole available to them, to ensure that transparency is increased and that there is no way for them to come out. So we will support amendment 87 and 88.

Kemi Badenoch: The Government are opposed to amendments 87 and 88 because they seek to remove a much-needed element of flexibility in the digital imprint regime for campaigners. Under our proposals, an imprint must be included as part of the material being promoted. Only when it is not reasonably practicable to do so can the imprint be in an alternative location—one that must be directly accessible from the material.

We have looked at this issue closely. Clause 37 is not a loophole for campaigners to exploit, to avoid including an imprint in the material. Instead, it is a reasonable and practical provision that ensures that campaigners are able to comply with the requirement to include an imprint in digital material, regardless of the digital platform they are using. This is an essential provision that must be retained.

As Members will know from their own experience of campaigning online, there will be many instances where it is impractical to include an imprint within the material itself. For example, a text-based tweet on Twitter could constitute material that requires an imprint, but given the character limit, including an imprint would leave little room for anything else. That is why, under our provisions, where it is not reasonably practicable, a promoter could instead comply with the rules by including an imprint in a location directly accessible from the material. That could be done by including a hyperlink in the material or by placing the imprint in a user's Twitter biography.

The Government are mindful that the digital imprint regime must strike the right balance between increasing transparency in digital campaigning and having a regime that is proportionate and enforceable. The Opposition's amendments would undermine those efforts as they do not provide for any flexibility on the location of the imprint. That could have the unintended effect

[Kemi Badenoch]

of incentivising campaigners to avoid certain digital platforms or mediums for a campaign, due to the unreasonable burden of doing so.

The hon. Member for Lancaster and Fleetwood said that there was another loophole in terms of material being republished that would not include the imprint. That is not the case. Clause 37 does cover republished material—I am not sure whether she has a different interpretation—and I will come on to republished material when we debate clause 37, when I will explain more fully how the clause does that.

Digital campaigning has become an integral part of campaigners' efforts to communicate messages and ideas to voters. It must continue to be facilitated, while providing the electorate with increased transparency about who is promoting campaigning material online and on whose behalf. Our provisions do that. For all the reasons that I have outlined, the Government oppose the amendments

2.15 pm

Cat Smith: I am slightly concerned that the Minister has not learned all the lessons from the Scottish parliamentary election. By moving to import what we know has not quite worked in Scotland and applying it to the whole of the United Kingdom, we are missing an opportunity to learn from other Parliaments and make better legislation in this place, so I will push the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 7.

Division No. 26]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	
Clarkson, Chris	Mayhew, Jerome

Question accordingly negatived.

Question proposed, *That the clause stand part of the Bill.*

The Chair: With this it will be convenient to discuss the following:

Clauses 38 and 39 stand part.

Government amendment 2.

Clauses 40 to 43 stand part.

Government amendments 21 and 22.

That schedule 10 be the Tenth schedule to the Bill.

Clauses 44 to 46 stand part.

Government amendment 3.

Clauses 47 and 48 stand part.

That schedule 11 be the Eleventh schedule to the Bill.

Clauses 49 and 50 stand part.

Government amendments 4 to 6.

Clauses 51 to 56 stand part.

Kemi Badenoch: I will now continue to present the Government's proposed new digital imprint regime and the various requirements pertaining to it, which are outlined in clauses 37 to 56. I will also discuss the Government amendments to the clauses as and when relevant.

There are two types of electronic material in scope of the regime—paid-for and unpaid, or organic, material. I will define paid-for—that is, the electronic material—first. Following last year's public consultation, we have taken on board the consultation responses and expanded our initial proposals to go even further. To that end, clause 38 requires all paid-for electronic material in scope of the regime to include an imprint at all times and regardless of who has promoted it. This aims to capture the type of digital political advertising that currently poses the greatest risk due to its impact and reach: paid-for electronic material that allows individuals to spend significant amounts of money, without identifying themselves, to publish material with the aim of influencing voters.

Two conditions must be met for electronic material to be considered paid-for material in scope of the regime. The first is that material can reasonably be regarded as intended to achieve the purpose of influencing the public or any section of the public to give support to, or withhold support from, a registered party, a candidate or future candidate, an elected office holder, the holding of a referendum in the UK or any area in the UK, or a particular outcome of such a referendum. That is much wider in scope than the print regime, and rightly so. It reflects the realities of campaigning online, where content can be present all year round and is not restricted to specific electoral periods. The provisions have therefore been deliberately designed to capture a broader range of online campaigning material that is not solely linked to seeking to promote or procure electoral success at a particular election.

The second condition for paid-for material in scope of the regime is that the promoter of the material, or the person on behalf of whom the material is published, has paid for the material to be published. Payment does not solely comprise monetary payments, and includes a person providing any other form of payment in return for the publication of the material, including benefits in kind. Broadly speaking, our proposal for paid-for material is thus intended to capture all paid-for digital political advertising.

I turn now to defining "other electronic material"—organic or unpaid material—that is also part of our regime. Applying the regime only to paid-for material would leave significant transparency gaps, given the vast amount of electronic material that is unpaid or organic, which could include posts on a social media platform. Under our regime, therefore, certain political entities will also be required to include an imprint on their other electronic material. By contrast with paid-for material, that is material for which there has been no payment for its advertising.

Our provisions outline the two conditions that a piece of electronic material must fulfil to be considered other electronic material in scope of the regime. The first condition is that, broadly speaking, the material must reasonably be regarded as material that promotes or procures electoral success at certain UK elections, or

that promotes or procures the success or failure of a recall petition that wholly or mainly relates to referendums in the UK.

The second condition is that the promoter of the material, or the person on behalf of whom it is published, is one of the following political entities: a registered party, a recognised third party, a candidate or future candidate, an elected office holder, a referendum campaigner or a recall petition campaigner. I wish to emphasise that we have purposefully chosen to restrict the unpaid side of the digital imprint regime to the unpaid material of those specific political entities. That is to avoid stifling political debate and imposing on the general public a requirement to include an imprint where they are expressing their personal political opinion. Additionally, the proposal strikes the right balance between providing a high level of transparency to voters and not placing an undue burden on key political actors to include an imprint on every piece of material they promote.

As campaigners can also share negative campaigning material—for example, about other parties and candidates—material that prejudices the electoral prospects of other parties, candidates and future candidates will also require an imprint. That includes candidates or future candidates on a party list. The concept of future candidates is introduced in clause 28. Future candidates are individuals whose intention to stand as a candidate at a forthcoming election has been declared, but whose formal candidacy has not yet officially begun. That could be someone else declaring on an individual's behalf, such as an agent or party, or an individual self-declaring as intending to run for elected office on their social media channel.

As candidates become formally recognised at an advanced stage in the electoral cycle, they are able to campaign long before they officially become a candidate. An imprints regime that includes only candidates risks creating a gap in transparency for voters, which is why we are extending the new regime to future candidates. The provisions for the unpaid material of specific entities complement those applying to anyone paying to promote electronic material, thus creating a broad regime that goes further than the print regime and reflects the reality of modern digital campaigning.

Our provisions set out what information must be included in the new digital imprints. The requirements apply to both paid-for and unpaid electronic material that falls within the scope of the regime. As hon. Members will know, having an active online presence is crucial for political parties and campaigners in order to connect with the public and get their message heard. However, voters do not always know who is promoting material online and on whose behalf. Therefore, it is important that the provisions provide certain requirements that an imprint must meet, to ensure that all imprints provide the necessary level of transparency for the public. First, an imprint must be included as part of the material. Only when it is not reasonably practicable to do so can the imprint be in a location that is directly accessible from the material—for example, a hyperlink within the material or placed in a biography—when limited to a certain number of characters, such as in a tweet.

Secondly, the imprint must also be legible or audible and retained as part of the material when republished, if not altered by the person republishing, which I hope addresses the concerns expressed by the hon. Member for Lancaster and Fleetwood. That is required to accommodate the design of various digital platforms and ensure that an imprint is accessible to voters, regardless of the platform on which the material is accessed. To ensure maximum transparency and effective enforcement, our provisions state that the imprint must contain the name and address of the promoter of the material, and the name and address of any person on behalf of whom the material is being published but who is not the promoter.

We must ensure that the digital imprints regime is capable of adapting to the fast-moving world of digital campaigning and technological advances. Therefore, the measures also provide for the information that is required to be included in the imprint to be modified, if necessary, using a regulation-making power.

The regime aims to strike the right balance between providing a greater level of transparency to voters while ensuring that the imprint requirements are proportionate and enforceable. To that end, generally the republishing or sharing of electronic material by another person will not require a new imprint, because the original imprint should be retained in the material. A new imprint may be required, however, if the material has been materially altered since it was previously published.

I wish to emphasise that we are not in any way attempting to regulate the press and other media through this regime. The regime should not act as a practical barrier to journalists by requiring them to include an imprint when they publish material of a political nature. The provisions therefore provide an exemption for material published for journalistic purposes—which is to say, electronic material the primary purpose of which is the publication of journalism—unless the material consists of an advertisement. Party political broadcasts or referendum campaign broadcasts are also exempt as both are already subject to regulation outside of the regime.

Breaching the digital imprint rules will be a criminal offence. That means that if electronic material in scope of the regime is published without an imprint or with an incorrect imprint, the promoter of the material and any person on behalf of whom the material is being published becomes liable for a criminal offence.

The Bill outlines a number of defences, which includes the defence that the contravention arose from circumstances beyond the person's control. Furthermore, it is a defence that the person took all reasonable steps and exercised all due diligence to ensure that the contravention would not arise. It will also be a defence for anyone charged with an offence to prove that they acted in accordance with the statutory guidance, which I shall turn to in detail in a moment.

To ensure consistency with wider electoral law, we will maintain for the digital imprints regime the division of responsibilities between the police and the Electoral Commission that exists for the print regime. As a result, the clauses provide for the Electoral Commission's investigatory powers to apply to the digital imprints regime. That will enable the commission to investigate possible digital imprint offences effectively, as it does with the print regime. The police already have the necessary investigatory powers.

We will also give the Electoral Commission the ability to impose civil sanctions in respect of certain offences and only for material related to political parties and

[Kemi Badenoch]

referendums. The police will be responsible for material concerning candidates, future candidates and holders of elected office. As with the print regime, the Electoral Commission will be able to refer any criminal offences to the police, if required.

A person guilty of that offence will be liable to a potentially unlimited fine on summary conviction in England and Wales. On summary conviction in Scotland or Northern Ireland, the fine will not exceed level 5 on the standard scale and would therefore not be unlimited.

In specific circumstances outlined in schedule 10, a candidate or their election agent may be guilty of an illegal practice for breaching the requirements when promoting electronic material without an imprint. That is consistent with the existing approach for printed material. That being said, evidence from the print regime suggests that the police and Electoral Commission already enforce imprint offences proportionately and effectively and that campaigners overall demonstrate high levels of compliance with the rules. We believe the existing enforcement approach will work equally well for the digital regime.

Material in which the imprint is incorrect or missing should not be able to remain online and influence the views of voters without providing them with the required level of transparency. Therefore, it is imperative that as part of our regime infringing material can be taken down. The clauses provide for access to material that contains an incorrect imprint or no imprint at all to be disabled or to be taken down from the digital platforms hosting the material, such as social media companies.

Notices to take down—orders to take down, when issued by the courts—can be sent by electronic means, or by post, allowing platforms to address the requests quickly. To ensure that due process is followed, the notices or orders may only be issued by the Electoral Commission or the courts once they have determined that material is in breach of the rules. The take-down notice must include the grounds for serving the notice, the consequences of non-compliance and the rights of appeal. No such provisions are required for court orders. It will be a criminal offence for any person who receives a take-down notice or order, such as a digital platform, to fail to comply with the notice or order without a reasonable excuse. It is important that digital platforms are aware of the consequences if they fail to comply with a notice.

2.30 pm

To ensure that the measure is proportionate, there will be a period of not less than 14 days within which recipients of take-down notices from the commission may respond to such notices, providing sufficient time for representations to be made without significantly increasing the time that material is accessible to members of the public. The provisions are integral to ensuring that digital platforms play their part in supporting the goal of bringing to voters the transparency they rightly expect.

Turning to Government amendment 3 to clause 47 and Government amendments 4 to 6 to clause 51, it is important that the timings for sending and responding to notices such as take-down notices are clear to both the relevant authorities and the recipient. Since the introduction of the Bill, we have identified four small Government amendments that will be helpful in clarifying when notices issued by the commission or the police are legally considered to have been given to the recipient, which, in turn, may have implications for the start of the period for making representations to the commission. The amendments to clause 51 and the reference to notices in clause 47 will remove any ambiguity about when and how a recipient, such as a digital platform, has received a notice. I therefore urge the Committee to agree to the amendments.

Proportionate and effective enforcement of the rules will be crucial to ensuring the digital imprints regime delivers its aims. To assist with effective enforcement, we are empowering the relevant authorities to request the information they need from those holding it, including from social media companies, to determine whether material is in scope of the regime. To that end, our provisions will place a general duty on any person to comply with a notice from the Electoral Commission or the police to supply information as part of the enforcement of digital imprints. The authorities will therefore be able to contact organisations, such as social media companies, to obtain the information they require to effectively investigate potential digital imprint offences, which may include names and contact information about promoters or those who manage social media pages.

If material has subsequently been deleted, the clause allows the police or the commission to request a copy of the original material or advert from the digital platform. The information obtained will allow the enforcement authorities to determine whether material is in scope of the regime or not, and will help inform their decision making as to whether further investigation or action is required. The police and the commission will therefore be able to enforce the digital imprints regime both proportionately and effectively.

As this is a brand new regime for the digital sphere, we are keen to encourage the high levels of compliance we have observed for the existing print regime by supporting campaigners in understanding the new rules applying to them. We will therefore be introducing statutory guidance to assist campaigners and the authorities with the operation of the new regime. The Electoral Commission and the police will be required to give regard to it in the discharge of their functions related to the digital imprint regime, which will ensure that the authorities give regard to the need for the enforcement of the regime to be proportionate.

The Electoral Commission will draft the guidance, which must then be approved by the Government, with or without modification. Once the draft guidance has been approved, it must be laid before each House of Parliament. There will be a 40-day period during which Parliament may resolve to approve the guidance. Any revisions to the guidance—on the commission's initiative or as directed from time to time—must be approved by the Government and be subject to parliamentary approval. The guidance will be an invaluable resource for both campaigners and the authorities in understanding the practical application of the rules, which is particularly important as technology advances.

For the digital imprints regime to function effectively, it must remain responsive to changes in digital campaigning and rapidly evolving technology, which is why we have included provisions for regulation-making powers. The regulations will allow the regime to be updated when required, including modifying the details of the imprint

and updating key definitions. Regulations may be made on recommendation by the Electoral Commission or, alternatively, following consultation with the commission. The regulations will be subject to the affirmative procedure, meaning that both Houses of Parliament must approve them. The statutory guidance will be subject to the negative procedure, as previously explained.

Finally, the Government would like the Committee to consider three small amendments—amendments 2, 21 and 22—that we have tabled in order to clarify the relevant elections where an imprint on other electronic material in scope of the regime will be required. Since introduction of the Bill, we have identified that the reference to the Local Government Act 2000 in clause 40, and in schedule 10, applies only to part 2 of the 2000 Act when it should also include reference to part 1A of the 2000 Act. This is because the Government are clear that material that promotes or procures electoral success, or the election of a particular candidate or future candidate, should include elections for the return of local authority elected Mayors in both England and Wales. These amendments will ensure that this is indeed the case. I urge the Committee to support them.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Clauses 38 and 39 ordered to stand part of the Bill.

Clause 40

ELECTRONIC MATERIAL TO WHICH SECTION 37 APPLIES: OTHER ELECTRONIC MATERIAL

Amendment made: 2, in clause 40, page 49, line 23, after "Part" insert "1A or". *—(Kemi Badenoch.)*

This amendment expands the definition of "relevant election" in clause 40(8) to cover elections under Part 1A of the Local Government Act 2000 for the return of an elected mayor.

Clause 40, as amended, ordered to stand part of the Bill.

Clauses 41 to 43 ordered to stand part of the Bill.

Schedule 10

ILLEGAL PRACTICES

Amendments made: 21, page 145, line 28, after "Part" insert "1A or".

This amendment and Amendment 22 expand the references in paragraph 1(1)(b)(iv) and (4)(b) to an election for the return of an elected mayor to cover elections under Part 1A of the Local Government Act 2000.

22, page 146, line 10, after "Part" insert "1A or". *—(Kemi Badenoch.)*

See the explanatory statement for Amendment 21.

Schedule 10, as amended, agreed to.

Clauses 44 to 46 ordered to stand part of the Bill.

Clause 47

NOTICE TO TAKE DOWN ELECTRONIC MATERIAL IN BREACH OF SECTION 37

Amendment made: 3, in clause 47, page 54, line 12, leave out "sent" and insert "given".*—(Kemi Badenoch.)*

This amendment means that the period for representations in response to a notice under clause 47(1) must be at least 14 days beginning with the day the notice is given rather than the day it is sent.

Clauses 47, as amended, ordered to stand part of the Bill.

Clause 48 ordered to stand part of the Bill.

Schedule 11 agreed to.

Clauses 49 and 50 ordered to stand part of the Bill.

Clause 51

INFORMATION IN COMMISSION'S ANNUAL REPORT

Amendments made: 4, in clause 51, page 56, line 34, at end insert—

"(za) by delivering it to the person,

(zb) by leaving it at the person's proper address,".

This amendment and Amendments 5 and 6 make further provision about the giving of notices under Part 6 by the Electoral Commission or the police.

5, in clause 51, page 56, line 35, leave out—

"to the person by post"

and insert

"by post to the person at that address".

See the explanatory statement for Amendment 4.

6, in clause 51, page 56, line 36, at end insert—

"(2) A notice to a body corporate may be given to an officer of that body.

(3) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(4) A notice to an unincorporated association (other than a partnership) may be given to a member of the governing body of the association.

(5) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person's last known address (whether of the person's residence or of a place where the person carries on business or is employed) and also—

(a) in the case of a body corporate or an officer of the body, the address of the body's registered or principal office in the United Kingdom;

(b) in the case of a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership in the United Kingdom;

(c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, the principal office of the association in the United Kingdom.

(6) If a person has specified an address in the United Kingdom, other than the person's proper address within the meaning of subsection (5), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under this Part, that address is also treated for the purposes of this section and section 7 of the Interpretation Act 1978 as the person's proper address.

(7) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given on the working day immediately following the day on which it was sent.

(8) In this section—

"officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;

"working day" means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.". *—(Kemi Badenoch.)*

See the explanatory statement for Amendment 4.

Clauses 51, as amended, ordered to stand part of the Bill.

Clauses 52 to 56 ordered to stand part of the Bill.

Clause 57

POWER TO AMEND REFERENCES TO SUBORDINATE LEGISLATION ETC

Patrick Grady (Glasgow North) (SNP): I beg to move amendment 93, in clause 57, page 60, line 8, at end insert—

"(1A) Before making regulations under subsection (1) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.".

This amendment ensures that the Secretary of State must consult with the Devolved Administrations before making regulations under clause 57.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

Clauses 58 to 62 stand part.

Patrick Grady: This is another technical amendment based on proposals that were submitted by the Law Society of Scotland in its written evidence to the Committee, which I know that Government Members have paid deep attention to.

The clause is relatively technical, providing the Government with powers to make amendments to references to subordinate legislation—it goes right down the rabbit hole of the sweeping powers of secondary legislation that the Government are increasingly taking for themselves. Even though this is a relatively technical part of that process, it speaks to the broader principle, particularly as it includes power to amend certain legislation made by the devolved Assemblies.

As Ministers take those powers, it is not unreasonable for us to ask that they be given a duty to consult the relevant Ministers in the relevant devolved institutions, which is what the amendment seeks to do. We requested consent in a previous amendment, which was rebuffed, but surely, in the spirit of co-operation and consensus, the Minister will agree to a formal consultation process. Everybody recognises there is a certain role for statutory instruments and secondary legislation—they are used by the devolved Governments in Scotland, Wales and Northern Ireland—but we have spoken several times in the Committee of the need to enhance scrutiny procedures and to improve the ability of Members of legislatures of all kinds to interact with them.

I hope the Minister will accept the amendment, but if she rejects it, as I suspect she will, I hope she will at least give some reassurances about the ongoing commitment to non-statutory consultation with Scottish Government Ministers and reflect on what these measures mean overall for the devolution settlement. The Government increasingly, at will, just take powers through this kind of clause—powers that until recently had been a more formal part of the devolution settlement and had been subject to more formal or informal consents.

Kemi Badenoch: The clauses in part 7 make general and miscellaneous provisions. Clause 57 provides for a power to allow amendments to the Bill, or any provisions amended by the Bill in other Acts, where references to secondary legislation become out of date in future. This is a necessary power that would allow, for example, a reference to a statutory instrument that is replaced to be updated to refer instead to the new statutory instrument, to ensure the provisions of the Bill remain workable when such changes occur.

The amendment proposed by the hon. Members for Glasgow North, and for Argyll and Bute, would require the Secretary of State to consult with the devolved Administrations before making regulations under clause 57. The hon. Member for Glasgow North asked for reassurance. This Government are committed to working constructively with the devolved Administrations to ensure that elections work well in the best interests of voters. He will have heard the Secretary of State, who is also Minister for intergovernmental relations, speaking at oral questions yesterday. He works very well with his counterparts in the devolved Administrations, and we should not pretend that things are otherwise in the House of Commons. We will of course liaise with the relevant devolved Administrations over any updating needed due to changes in their secondary legislation, which I think will satisfy the hon. Gentleman's requirements.

The amendment is overly prescriptive. Some of the updating will relate only to reserved legislation, and some might relate to the secondary legislation of only one of the devolved Administrations, yet the amendment would require a statutory consultation with all of the devolved Administrations each time the power is exercised. That would not be proportionate. I invite the hon. Members to withdraw the amendment.

Clause 58 contains standard financial provisions. It explains that Parliament will pay for any costs that a Minister of the Crown incurs as a result of this Bill, and for any increased costs incurred under existing Acts of Parliament if they arise as a result of the Bill. It also provides that where the Bill increases sums already payable out of the Consolidated Fund under existing legislation, the increases will also be paid out of that fund, and then does the same for increases of sums payable into the fund.

Clause 59 defines a small number of terms used throughout the Bill. It also ensures that where the Bill creates or amends functions of the Secretary of State by amending other electoral legislation, those functions of the Secretary of State will be exercisable concurrently with the Minister for the Cabinet Office.

Clause 60 sets out the territorial extent of the Bill, namely the jurisdictions in which each provision of the Bill forms part of the law. Clause 61 sets out, as is common, that the provisions of the Bill will be brought into force using one or more statutory instruments. Those statutory instruments may bring different parts of the Bill into force on different days. Finally, Clause 62 cites the short title of the Bill—the Elections Bill 2021. These are all technical and necessary provisions and therefore I urge the Committee to allow the clauses to stand part of the Bill.

Patrick Grady: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 57 ordered to stand part of the Bill.

Clauses 58 and 59 ordered to stand part of the Bill.

Clause 60

EXTENT

Amendment made: 7, in clause 60, page 61, line 36, leave out paragraphs (a) and (b) and insert—

"(a) the amendments made by paragraph 1(1) and (5) extend to England and Wales only;

(b) the amendments made by paragraph 1(2) to (4) and (7) to (12) extend to England and Wales and Northern Ireland only;" —*(Kemi Badenoch.)*

This amendment is consequential on Amendment 8.

Clause 60, as amended, ordered to stand part of the Bill.

Clauses 61 and 62 ordered to stand part of the Bill.

New Clause 1

SIMPLE MAJORITY SYSTEM TO BE USED IN ELECTIONS FOR CERTAIN OFFICES

'*Elections for Mayor of London*

(1) The Greater London Authority Act 1999 is amended in accordance with subsections (2) to (5).

(2) In section 4 (voting at ordinary elections)—

(a) in subsection (1)(a), omit "(referred to in this Part as a mayoral vote)";

(b) in subsection (2), omit ", unless there are three or more candidates";

(c) omit subsection (3).

(3) In section 16 (filling a vacancy)—

(a) in subsection (3), for "a mayoral vote" substitute "one vote which may be given for a candidate to be the Mayor";

(b) for subsection (4) substitute—

"(4) Section 4(2) (simple majority system) applies in relation to the election as it applies in relation to the election of the Mayor at an ordinary election."

(4) In section 29 (interpretation of Part 1), omit the definition of "mayoral vote".

(5) In Schedule 2 (voting at elections), omit Part 1.

(6) In section 165 of RPA 1983 (avoidance of election for employing corrupt agent), omit subsection (4).

Elections for elected mayors of local authorities in England

(7) The Local Government Act 2000 is amended as follows.

(8) In section 9HC (voting at elections of elected mayors)—

(a) for subsection (1) substitute—

"(1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have one vote which may be given for a candidate to be the elected mayor.";

(b) in subsection (2), omit ", unless there are three or more candidates";

(c) omit subsection (3).

(9) In section 9HD (entitlement to vote), in subsection (2), for "first preference vote, or more than one second preference vote," substitute "vote".

(10) In section 9R (interpretation of Part 1A), in subsection (1), omit the definitions of "first preference vote" and "second preference vote".

(11) In Schedule 2 (election of elected mayor), in paragraph 1, after "authority" insert "in Wales".

Elections for mayors of combined authority areas

(12) Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 (mayors for combined authority areas: further provision about elections) is amended as follows.

(13) In paragraph 4 (voting at elections of mayors)—

(a) for sub-paragraph (1) substitute—

"(1) Each person entitled to vote as an elector at an election for the return of a mayor is to have one vote which may be given for a candidate to be the mayor.";

(b) in sub-paragraph (2), omit ", unless there are three or more candidates";

(c) omit sub-paragraph (3).

(14) Omit paragraph 5.

(15) In paragraph 6 (entitlement to vote), in sub-paragraph (2), for "first preference vote, or more than one second preference vote," substitute "vote".

Elections for police and crime commissioners

(16) The Police Reform and Social Responsibility Act 2011 is amended as follows.

(17) In section 57 (voting at elections of police and crime commissioners)—

(a) in subsection (2), omit ", unless there are three or more candidates";

(b) omit subsections (3) to (5).

(18) Omit Schedule 9.' —*(Kemi Badenoch.)*

This new clause makes provision for the simple majority system to be used in elections for the Mayor of London, mayors of local authorities in England, mayors of combined authority areas and police and crime commissioners.

Brought up, and read the First time.

Kemi Badenoch: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendment 59.

Kemi Badenoch: These amendments move elections for police and crime commissioners in England and Wales, the Mayor of London, combined authority Mayors and local authority Mayors to the simple majority voting system, more commonly known as first past the post. The new clause amends legislation that provides for the supplementary vote system to apply when there are three or more candidates in an election or by-election for each of these posts. Under the new provision, each voter has one vote and the candidate with the most votes will be elected. Amendment 59 is consequential on that provision and modifies the long title of the Bill to include provision about the use of the first-past-the-post system in elections for certain offices.

The Government's manifesto committed to supporting the first-past-the-post system. That reflects the will of the British people in the nationwide 2011 referendum, which saw two thirds of voters in favour of retaining first past the post for parliamentary elections.

Cat Smith: I thank the Minister for giving way so early in her speech. Can she help the Committee by explaining why this has been tabled as a Government new clause and was not in the Bill when it was first published?

Kemi Badenoch: All I can say is that that would have been a question for my predecessor. These discussions happened before I came into post. I know that this was a Government manifesto commitment, and I see no

[Kemi Badenoch]

reason why, if there is a convenient Bill to allow us to fulfil a manifesto commitment, we cannot use it as a vehicle for doing so.

The Government's manifesto committed to supporting the first-past-the-post system, as I have said, and my right hon. Friend the Home Secretary announced in March the initial recommendations of the review of police and crime commissioners. It recommended that the Government introduce legislation to change the voting system for all combined authority Mayors, the Mayor of London and police and crime commissioners to first past the post when parliamentary time allowed. The Home Secretary's review of police and crime commissioners also extended to Mayors who can exercise PCC powers, to metro Mayors and to the Mayor of London. Changing the voting system for local authority Mayors, too, to first past the post will ensure consistency in voting method for all directly elected Mayors in England. This undertaking aligns with our belief that the first-past-the-post system is robust and secure and provides strong local accountability.

Cat Smith: I just wonder why it was a Conservative Government who introduced the supplementary vote system for police and crime commissioners if the simple majority voting system is so desirable.

Kemi Badenoch: I believe it was a coalition Government who introduced PCCs, not a purely Conservative Government. We have had PCCs for 10 years now and there has been plenty of time to review the system and decide whether improvements can be made. There are many things that previous Labour and Conservative Governments have done that future Governments will change, and this is one of them.

Changing the voting system will ensure consistency, and this undertaking aligns with our belief that first past the post is robust and secure and provides strong local accountability. Moving to first past the post will make it easier for the public to express a clear preference. Additionally, as a simple, well-understood and trusted system, it will reduce complexity for voters and administrators alike.

On Monday 20 September, the House approved a motion to instruct this Committee to make provision in the Bill for the use of the simple majority voting system in elections for the return of the Mayor of London; an elected Mayor of a local authority in England; a Mayor of a combined authority area; or a police and crime commissioner. The House's approval has enabled the Government to bring forward this new clause, and I therefore commend it to the Committee.

Cat Smith: I must say that I was very surprised when we received an instruction motion. To be honest, I had not seen one before during my time in this House, and I did not realise that the Government had been so disorganised that they had forgotten to put one of their manifesto commitments in the Bill, but by all accounts, that is exactly what has happened. It is not only chaotic, but deeply disrespectful to the House.

Our colleagues who do not have the privilege and joy of serving on this Committee got to debate the Bill on Second Reading, when we had no idea that this new clause would be included. Although we are able to debate this new clause, our colleagues were not able to raise concerns about it on Second Reading. It is disrespectful to our colleagues that they have not yet had the opportunity to raise concerns about this clause, but it is also disrespectful to this Committee. When, through the usual channels, we decided which witnesses should give evidence to the Committee, we did not know that a new clause was going to be tabled that would massively shake up the way in which many elections take place in England and Wales. We were not able to get witnesses who were experts in voting systems before the Committee, so that we had the opportunity to quiz them—to ask questions and explore whether the first-past-the-post system is as desirable as the Minister seems to think. We did not have the opportunity to explore how successful, or perhaps otherwise, the supplementary vote system has been in mayoral elections in England, or in police and crime commissioner elections in England and Wales. None of that was allowed for, which is disrespectful to this House, this Committee, and our colleagues who did not have the opportunity on Second Reading to ask questions and scrutinise the Government.

Moving beyond the incredibly disrespectful way in which new clause 1 has been tabled and turning to its specifics, I ask the Minister what consultation she or her predecessor have had with Mayors about whether this was a change they were seeking. Having spoken to many elected Mayors over the past few weeks, it strikes me that they did not know that this was coming, and it has come as something of a surprise. There was no clamour for it from their offices, and they are deeply hurt that the Minister has not reached out to them to consult with them on this new clause.

Specifically looking at London—I admit that I have had to swot up a fair bit on this issue, because I am not a London MP—in 1998, in the Greater London Authority referendum, Londoners were asked whether they wanted to have a Mayor and an assembly, and it was clear that that Mayor would be elected using a supplementary vote system. Londoners agreed, by a majority of 72.01%, that this was something that they wanted. Is this Committee going to overturn a democratic referendum—the democratic will of the people, we might say; in this case, the people of London—to change the voting system?

Last time we had a debate about changing the voting system in this country, the alternative vote referendum that everyone has clearly long since forgotten about, that question was put to the people, because this is a really major change. For us to be changing the voting system used in elections in this country not by referendum, not even by putting it in the Bill and debating it on Second Reading, but by slipping it in in Committee, is absolutely shocking and appalling. It is one of the lowest points of this Bill; as I have said at earlier stages, there are plenty of other things in this Bill that I disagree with, but I am deeply offended by the way in which the Government have gone about this. It is disrespectful, and it is riding roughshod over democracy.

Specifically in the case of the London referendum, every single London borough voted to elect their Mayor using a supplementary vote system. Who is this Committee—many of us are not even London MPs—to say to those people, "You voted in that referendum for that, but we are taking it away from you"? I had a little look at the breakdowns for different boroughs, because I was surprised when I saw that every London borough

had voted for it—this is a diverse city—but in the lowest supporting areas, Havering and Bromley, it was still 60% and 57% voting in favour of that system, with the highest support being in Lambeth and Haringey, which had 81% and 83% respectively.

Aaron Bell (Newcastle-under-Lyme) (Con): Will the hon. Lady give way?

Cat Smith: I will give way—I would like to hear the hon. Member's defence of this.

Aaron Bell: Of course, the voters in all those boroughs were voting in favour of the principle of a Mayor and an assembly and not specifically the voting system employed. But may I put a question to the hon. Lady? At the last London Mayor election, almost 5% of voters in London saw their votes essentially not count, because of the confusion that the system engendered. That is why the Government are proposing the change.

Cat Smith: I have completely forgotten the hon. Gentleman's first point, but on the second, there were a lot of spoilt ballots in London this time and that was because the ballot paper was designed with two columns, rather than one column, for the first time. I have to be honest: I have seen the ballot paper, which was shared on social media, and it was shocking. It should never have been allowed to go to print. *[Interruption.]* It is amazing that it got past any level of scrutiny. There is probably a lesson to be learned about how we legislate and how we make sure that checks and safeguards are in place to ensure that voters are not disenfranchised, because I do not think—

The Chair: Order. Hon. Members should know by now that if they want to contribute, they can intervene or speak in the main part of the debate.

Cat Smith: Thank you, Mr Pritchard.

For more than 20 years, Londoners have been using the supplementary vote system to elect their Mayor without major incident. There were some issues with spoilt ballot papers at the last election—I concede that—but I think that it was very clearly because of the design of the ballot paper, as we did not see that in previous elections. Clearly, the ballot paper needs to be better designed.

I will raise again with the Minister the point about police and crime commissioner elections, which take place in England and Wales. It was a Conservative-led Government—she wishes to push her Liberal Democrat colleagues under the bus for the coalition, which is a pattern of behaviour that we have seen a fair bit—who chose the supplementary vote system for those elections, because there was a consensus, which new clause 1 is shattering, on a supplementary vote system. It is not proportional representation. It is not a radical change to the electoral system. But it is a fairer way of voters casting their vote, and I think there was a general consensus about that, which is why we saw it introduced for regional Mayors in England and police and crime commissioner elections—many of these under a Conservative Government, of course. It is why, since the year 2000, that system has been used pretty much consistently when bringing in new elections. I have counted them up: there have been 212 elections using the supplementary vote system in England and Wales since the turn of the millennium, and I think that voters are confident in using it now.

The only election that is not first past the post in my constituency in Lancashire is the election for police and crime commissioner, which uses the supplementary vote. The feedback I always get from my constituents is about how nice it is, in their words, "to be able to vote for the person who is my favourite candidate really, but then to have my vote count in relation to the people that we know the contest is actually between." That is because the electorate are of course an intelligent electorate. People know whether their preferred candidate is likely to be in the final run-off of two, and they vote accordingly.

Aaron Bell: I thank the shadow Minister for giving way again. I am listening to what she is saying, and she may be interested to learn—in fact, both Opposition parties may be interested to learn—that in 2011 I actually voted for the alternative vote system, which makes me rather unusual on the Conservative side. In 2011, however, the country quite firmly did not vote for AV, and did not believe in the principle that people's second votes should essentially count the same as their first votes. That is what the supplementary vote system means. SV is, in my opinion, far worse than AV, but I, on this side of the House, respect referendum results. I think both Opposition parties should do the same thing.

Cat Smith: I agree with the hon. Gentleman: we absolutely should respect a referendum result. That is why I am surprised to see those on the Government Benches riding roughshod over the 1998 Greater London Authority referendum, in which it was very clear that the supplementary vote system for Mayor of London was what people wanted—by a huge majority. I do believe in respecting referendum results, and I respect the referendum results that he referred to. I voted against AV, so we were on different sides in that argument. I personally think that there are far better voting systems than AV, but this is not a debate about different voting systems. I think it is about riding roughshod over the democratic will of Londoners in 1998 by pushing through in Committee something that has not had the scrutiny of the full House. The way in which the Government have gone about this, whereby we have not been able to take evidence as a Committee and truly scrutinise the measure, is shocking. I know fine well that Government Members will just all vote for this anyway, but I ask them to look at their consciences on this new clause, because it is overturning the democratic will of the people of London.

The voting system has been working fine. I have to question why it is a Government priority suddenly to change it. The cynical part of me, and I am not normally a cynical person, would suggest that the Government feel that they cannot win an election under a supplementary vote system and perhaps think they have a better chance under first past the post. Perhaps it is a case of "If you can't win the game, move the goalposts," because it looks an awful lot like that.

3 pm

Patrick Grady: I am unsure why Government Back Benchers are not rising in defence of their Minister on the implementation of this crucial manifesto promise.

[Patrick Grady]

The Minister could not quite explain why it was not in the Bill when it was presented on Second Reading. Trying to blame a predecessor is an interesting approach, not least because the other Minister who spoke on the Bill in the House when the instruction motion was moved, the right hon. Member for Tamworth (Christopher Pincher), said that the Government "speak with one voice", so we would expect them all to understand exactly what the lines are.

Some of the earlier clauses related to local elections that are devolved, so it is not necessarily the place of the Scottish National party to get desperately involved in this debate, or to tell Members of Parliament in England what decisions they should or should not make, but it might be useful to offer at least some reflection on the effect of the clause, not least on the devolution settlement across the United Kingdom. The Prime Minister said that he is a champion of the devolution settlement, and when he forced through the United Kingdom Internal Market Act 2020 and other aspects of Brexit legislation without the consent of the devolved legislatures much of that was on the grounds of his experience as Mayor of London, and that being Mayor of London was somehow equivalent to the entire institutional structure of the individual devolved legislatures.

What those institutions have in common is that they are elected on a proportional basis. At the moment, the Mayor of London has to win a supplementary ballot. Every Mayor has had to go into a second round to be chosen. The First Minister of Scotland, Wales or Northern Ireland, has to command a majority across the legislature. That normally adds up to something very close to a majority of the votes that were cast in the election. I think I am right in saying that almost every First Minister in Scotland, except obviously in the majority Government, has required support from another party, or at the very least abstentions, in order to get elected.

In Scotland, our local authorities for several elections have been elected by single transferable vote. The effect of that is that the voices of all voters are heard. There is a ward in my constituency of Glasgow North, Partick East/Kelvindale, which was represented by four different parties—the Scottish National party, a Labour party councillor, a Conservative councillor and a Green party councillor. That meant that voters had a very wide choice of who they wanted to speak to. The distribution of votes was reflected proportionally, and people had someone they could go to whom they could trust—but voters in England, it seems, will not.

Cat Smith: How well does the hon. Gentleman feel the Scottish Conservatives might do in, say, first-past-the-post council elections in his Glasgow North constituency?

Patrick Grady: We have only to look at the results of the elections to this place—this is perhaps not the clause specifically to debate that—to see how well the Conservatives fare. When we SNP MPs were elected in large numbers in 2015, our parliamentary group leader at the time made the point that it did not reflect the result proportionally, but perhaps we are straying slightly. I want to come back to the election of the Mayor of London, and the results of first-past-the-post elections.

Perhaps Conservative Members—I look forward to hearing from them when they rise to speak in support of the Government—are quite comfortable with the idea that Ken Livingstone was elected on the first ballot with 39% of the vote in 2000, and with 36.8% of the vote in 2004. That is the mandate for someone to be the Mayor of a major European metropolitan city, which the Prime Minister himself has claimed is a kind of equivalent to the entire Scottish Parliament and the devolved Scottish Government. That is the equivalence that he has made between his role as Mayor of London and the entire devolution settlement in Scotland. It seems that Government Members are quite content with the possibility of someone being elected to that position on about 35% of the vote.

Aaron Bell *rose—*

Patrick Grady: I look forward to the hon. Gentleman telling me why that is.

Aaron Bell: I was about to say that I was happy to see the hon. Gentleman returned to Parliament for Glasgow North in 2017 on 37.6% of the vote.

Patrick Grady: To be fair, I have already made that point. I am very happy to submit myself to the electorate under any proportional system that the Government want to introduce. The hon. Gentleman can be sure of the SNP's support for a Bill introducing such a system; we have said that many times in this House.

The experience of preferential voting in Scotland is that results can change, and that has not always been to the SNP's advantage. In fact, owing to the nature of Scottish politics at the moment, there is a clear trend with transfers. Where the SNP is a voter's first preference, they cast their vote for that party. That is the very clear trend. In fact, in the ward that I mentioned, the SNP won the vote in the recent by-election, under first past the post; we got the most votes. We had an excellent candidate in Abdul Bostani. He got the most first preferences, but because of transfers, he lost out, so that ward is now represented by two Labour councillors, one Green councillor and one SNP councillor. It was a Conservative vacancy, incidentally; I say that for anyone who has not turned up to enough of the Committee sittings. That proves my point on the issue on which the hon. Member for Newcastle-under-Lyme was trying to catch me out. It proves the value of preferential voting systems.

Ultimately, it is for England's Members to make a determination about what electoral system is used by their local authorities, but Government Members have to think very carefully about the consequences of this.

Brendan O'Hara: Does my hon. Friend agree that any lingering doubt that any of us may have had about the Government's motivation in introducing the Bill is done away with by the parachuting in of this new clause? It is utterly self-serving, completely politically partisan and fundamentally undemocratic. Furthermore, does he agree that we and our colleagues should get out of here as quickly as possible, because Scotland needs to escape this nonsense?

Patrick Grady: If by "here", my hon. Friend means the Union, yes, I entirely agree; if he means this Committee Room, I am afraid I do not agree, because I know how

desperate Sir Edward is to chair our final sittings next Wednesday, so it is important that the Committee takes as long as it can to consider every one of these new clauses in great detail. I therefore look forward to all the speeches from the Conservative Back-Bench members of the Committee, who will now rise in defence of this major constitutional change that the Government want to bring forward. When they do, I urge them to reflect on the growing divergence that we have spoken about. This is not a levelling up or a coming together, but a growing apart of the constituent parts of the country, which have pretty fundamentally different perspectives on how democracy is, and should be, done. Although it is not for SNP Members to tell Members from England how their local elections should be determined and run, they ought to think about the issue carefully before they cast their vote.

Kemi Badenoch: I want to respond to a few points made by Opposition Members. On engagement, the policy was announced back in March. It is just that it was not a Cabinet Office policy; it was a policy from the Home Office and the Ministry for Housing, Communities and Local Government, as it was known then. I am informed by officials that there was engagement with Mayors, but the hon. Member for Lancaster and Fleetwood may not have been aware of it.

The point about the procedure being disrespectful to the House is nonsense. The House voted for the procedure. It is also wrong to say that people have not had a chance to debate it if they are not on the Committee. I am sure that the Chair will correct me if I am wrong, but anyone not on the Committee who wants to take part in its debates can do so; they just do not have voting powers. No one not on the Committee has turned up today. That means that they did not want to debate this. If they did, they could have done so, just as we all have.

The hon. Lady made multiple references to the London mayoral and London Assembly elections. She is probably not aware that I was elected to the London Assembly in 2012, when I was a list candidate, and in 2016. She says that this is not something that people want. People repeatedly complained about how frustrating the system was. Going back to 1998, when a 2011 referendum occurred, is to ignore more recent evidence. Going back to 1998, when a 2011 referendum occurred, is to ignore more recent evidence. To say that 23 years after the 1998 referendum, which was not specifically on the voting style but really about whether or not to have a Mayor, is a very specious argument. I do not accept it at all.

I also found it mildly amusing to hear the hon. Lady say that the Committee needs experts to explain how first past the post works in relation to other voting systems. All of us here know how first past the post works, and also how the other systems work. I am not sure we can reasonably say we need so much expert advice on the way we are all elected.

Finally, the hon. Lady says that this is undemocratic, and I believe one of the SNP Members said that this was for political reasons. The fact is that in London mayoral elections, to which they are referring, no election would have had a different result, irrespective of whether it was first past the post or transferable voting. This is making things simpler and easier to understand for people who have complained.

Brendan O'Hara: To correct the record, I said that it is utterly self-serving, and completely politically partisan, and fundamentally undemocratic.

Kemi Badenoch: And I still reject the hon. Gentleman's point. The fact is that we have a Labour Mayor at the moment; we have had more Labour Mayors than Conservative Mayors; and first past the post gives accountability and strength to the people who are elected.

Cat Smith: The Minister is absolutely correct about the London Mayors, and that first past the post would not have changed the results of any London mayoral elections. Is she aware of any mayoral posts currently held in England where the result would have been different using first past the post? Could she perhaps give an example of some of those?

Kemi Badenoch: No. I do not have a list of the mayoral elections that would be different, because the point is that we are not doing this for political reasons; we are doing it to simplify the system.

Cat Smith: Will the Minister give way?

Kemi Badenoch: I will finish this point, because I know we want to finish this this afternoon. This was a manifesto commitment; people voted in the 2019 election knowing that this was in our manifesto. What would be undemocratic would be if we did not do this. That is why I urge Members to support the new clause.

Cat Smith: I will just let the Minister know the answer to my question, which is, of course, that there are some mayoral elections in England that would have been different if they had been held under first past the post. From the ones that I have seen, that would be because the Conservatives would have won under first past the post, while under the supplementary vote, they did not. I just thought I would help the Minister by pointing out that her amendment does very much help the Conservative party.

The Chair: Before I put the question, on a procedural point just for information, Members not on the Committee can attend this Bill Committee, but must sit in the Gallery. They cannot sit with Committee members, or indeed speak or vote. On delegated legislation, they can contribute from the floor, but not vote. Just to ensure that Members do not think I have come out as some sort of procedural genius like the right hon. Member for North East Somerset (Mr Rees-Mogg), that was on advice from the Clerk. It is always good to take advice. It would not be credible if it was from me, I know.

Question put and agreed to.

New clause 1 accordingly read a Second time, and added to the Bill.

New Clause 2

CITIZENS' ASSEMBLY ON ELECTORAL SYSTEMS

"(1) The Secretary of State must establish a citizens' assembly representative of the population aged 16 and over to consider electoral systems in the United Kingdom.

(2) The Secretary of State must, for each category of election reformed by section (Simple majority system to be used in elections for certain offices), provide to the assembly a report assessing the effects of the reforms on the matters in subsection (3).

(3) The matters are—

(a) voter engagement and understanding,

(b) electoral integrity,

(c) fairness and proportionality.

(4) A report under subsection (2) must be provided to the assembly no later than three months after the first election in each category of election after this section comes into force.

(5) The assembly must—

(a) consider the reports under subsection (2),

(b) consider other evidence relating to the matters in subsection (3).

(6) The assembly may make recommendations for legislative or policy change, including for parliamentary elections."—*(Patrick Grady.)*

Brought up, and read the First time.

Patrick Grady: I beg to move, That the clause be read a Second time.

The introduction of new clause 1, and indeed amendment 59, fundamentally changed the scope and nature of this Bill. We made that point at the debate on the instruction given to this Committee. It is no longer just an Elections Bill tidying up vague aspects of electoral law; it is starting to make fundamental changes to the constitution of the United Kingdom. This is an elections Bill in the wider sense, so it is right that we should consider the various new clauses that flow from that as a consequence.

New clause 2 is quite appropriately placed because, throughout this process, we have heard about the kind of piecemeal and incremental changes that have been made to electoral law and election systems. This Bill is yet another example of that, with all the different little bits and pieces that it is doing. The new clause provides a chance to step back and to look at the effects of those changes, in particular those to the electoral system that have just been agreed by the Committee, with consequences across the United Kingdom—therefore, in the context of elections to this place.

3.15 pm

The mechanism we propose to use is a citizens assembly, which has increasingly been proving its worth in democracies around the world. The most high-profile example in recent years was in connection with the major reforms that have taken place in Ireland, in particular on abortion law. In Scotland, a number of citizens assembly exercises have been carried out on social justice and on climate change.

Using that mechanism to consider the merits of reform of elections to this House is an obvious next step. In years gone by, this kind of issue might have been sent off to a royal commission—I think David Cameron repeated that they

"take minutes and waste years".

The last time there were substantial proposals on changing the electoral processes for this House—other than the alternative vote referendum—was with the commission chaired by Lord Jenkins, one of my predecessors in the Hillhead area of my Glasgow North constituency.

We might also argue, if anyone was even paying attention, that the question of electoral reform of the House was tested in 2011. Incidentally, a good chunk of Glasgow North is formerly Roy Jenkins's seat of Hillhead and was one of the few areas in Scotland that voted in favour of the alternative vote, so I have a particular mandate to take this forward. The legacy of Roy Jenkins lives on, on the streets of Hillhead.

We might argue that the issue was tested in 2011 but, as we heard in a previous debate, the 2011 proposal was not really a proportional system; it was an alternative vote. Also, we could easily argue now that a generation has passed since that referendum. If referendums are to be once-in-a-generation events, the time for reviewing electoral reform is surely upon us. In fact, we are probably coming up to close to two sets of the seven-year generation outlined in the Good Friday agreement—the required gap between constitutional referendums. It is important to consider those points.

One of the key points to make with regard to the new clause is that it does not include any prejudging. The citizens assembly might well decide, as the population as a whole did in 2011, that first past the post serves this House very well and that it is the best system to retain. That would be a helpful contribution to the debate, possibly settling the matter for another generation. By putting the issue into the hands of a representative citizens assembly, however, we might find alternative recommendations—that is all they would be. They would be recommendations and it would be for this House, or this legislature, to determine and decide.

For that reason, I encourage colleagues on the Labour Front Bench to support the new clause as well, because it is not prescribing a system of reform to the electoral system for the House of Commons. It simply says that the context of the Bill provides an opportunity for the whole matter to be reconsidered.

Cat Smith: I thank the hon. Gentleman for tabling the new clause and for his contribution so far. I read the new clause with interest. From the direction of his speech, I think he is arguing that a citizens assembly would be a far more consensual way of coming to a resolution on a binary choice. I wondered whether it was something that his colleagues in the Scottish Government are considering for another issue that polarises the population—rather than a referendum, perhaps a citizens assembly.

Patrick Grady: The hon. Lady was one of the few people in Committee who was paying attention to what I was saying earlier: the Scottish Government have used citizens assemblies not specifically on the matter of the constitution, but to test the views of the population and to help determine opinion and come to conclusions about policy development on both social justice and climate change.

Someone might want to argue that 2014 was polarising because it was a binary choice, yes or no, but I do not think that anyone could argue that it was anything other than a massive exercise in popular democracy. That referendum had the highest turnout until possibly the Scottish Parliament election we have just had—massive participation. That legacy continues to this day with political engagement. I encourage the hon. Lady to think about supporting my new clause.

As I said in one of the previous debates, the SNP supports the introduction of a far more proportionate system for this House. I referred to Angus Robertson, whose first contribution after the 2015 election was to recognise that the result was very disproportionate to what the result should have been. Incidentally, the 2017 result was probably more proportionate than that of 2015 in terms of how people had voted, and we would have been quite happy to have had 35 seats and been the third party in the House of Commons at that time, just as we have been happy with the results in both 2017 and 2019, which have represented overwhelming endorsements for the SNP manifesto and our commitment to allow people the right to choose Scotland's future, but that is to stray from the point slightly.

The reality is that there is now a proliferation of electoral systems across the United Kingdom. People voting in mayoral elections and choosing police and crime commissioners are just about to experience yet another change—not to the status quo or something that existed before, because they never voted for them using FPP, but they will do so under the new clause. It is therefore appropriate to implement what is suggested in the new clause, and to take a step back in order to look at the implications of the Bill as a whole, particularly in the context of elections to this House. There is growing demand for that—it is not just an idea that we have had. There are a number of campaign groups, and a number of constituents have contacted me, my hon. Friend the Member for Argyll and Bute, and probably other members of the Committee, as well as Members across the House, to say that the time is upon us to revisit this question. A citizens assembly provides the most effective mechanism for doing that in a modern democracy. I look forward to the Minister opposing all this.

Cat Smith: I had not planned to speak, but I think this is a good new clause. I do not know what electoral systems a citizens' assembly would decide on, but I do know that we in this House do not have a monopoly on wisdom. We are 650 Members legislating in the House of Commons, and our unelected colleagues down the corridor in the House of Lords also legislate. There is also a broader case to be made about how our democracy works, given how fragmented and disparate it is increasingly becoming. A citizens' assembly could actually give the Government even more of what they do not know they want yet, because the public do have wisdom. Bringing together a group of citizens who are representative of the country and allowing them to explore ideas and make decisions would add value to our deliberations in this place.

I draw the Minister's attention to a citizens' assembly or convention currently being co-ordinated by University College London, which is looking at many of these issues. Certainly since I was elected to the House, politics has increasingly felt quite divided. Are people leavers or remainers? Do people in Scotland want to remain part of the Union or do they want an independent country? All these things are dividing our population and create a lot of tension. We see it in the language used in political dialogue—I implore colleagues to be more thoughtful and kind in the language they use, and I hold myself to that standard as well. Surely a citizens' assembly would be a new way to look at things and an opportunity to discover that we have more in common than what perhaps divides us.

Jerome Mayhew (Broadland) (Con): I have to say that I have become a bit of a convert to citizens' assemblies on complex issues such as climate change. We sit in the greatest citizens' assembly, but is there not a difference between a set of complex issues around climate change and the effect of policy responses to that, where bringing the populace on the journey is as important as the policies themselves, and something such as electoral reform, where the policies are well known and quite discrete and it is a matter for this House to decide which one is the best to apply?

Cat Smith: It will always be a matter for this House to decide. A citizens' assembly cannot change the law; only we parliamentarians can do that. A citizens' assembly could put interesting proposals to the House, and it might throw up proposals that it had not even crossed our minds that the public might want.

I am glad the hon. Gentleman raised the example of climate change. Lancaster City Council has pulled together a citizens' assembly on climate change and finding ways in which we, as a city, can be greener. The assembly has come up with proposals that were not in any party's manifesto at local elections. Those things came forward from the public, who were given that space and opportunity to speak to experts and develop their own ideas. If we take that one small example of looking at climate change in a city in north Lancashire and apply it to a UK-wide citizens' assembly looking at electoral systems and integrity, as it says in the new clause, the opportunities are far greater. In my time in this Front Bench role, which I have held since 2016, it has struck me that there is an awful lot of talk about electoral systems and democracy in this place, but we do not hear enough from the public. A citizens' assembly would be a fantastic way of ensuring that the decisions we make can be inspired and influenced by people in this country—our electors.

Parliament is not a citizens' assembly. We choose to put ourselves forward for elected office. I dare say that the kind of people who put themselves forward for electoral office are not all totally like the rest of the country. Many of the people who elect us look at the job we do and question why we do it. I can say, hand on heart, that both my younger sisters have said to me, "Cat, I have no idea why you do that job." Being a full-time elected parliamentarian is a completely different experience from being a citizen on a citizens' assembly, and I do not think we should equate the two.

We can learn lessons from the Republic of Ireland, which uses citizens' assemblies to debate really complex ideas. That gives me confidence that UK citizens would, like Irish citizens, be able to come to policy solutions on very complex issues, including electoral systems and democratic accountability. We have a lot to learn from them. There is absolutely no obligation on us as parliamentarians to implement the outcome of the citizens' assembly. We can take those recommendations and do what we do with many parliamentary reports—put them on the shelf and let them get dusty—although I would like to think we would not. However, there is no harm, and only opportunities for good, to come from supporting this new clause.

Kemi Badenoch: I have listened to the arguments carefully, and I am not persuaded that there is a need for a citizens' assembly on this issue and for a statutory requirement, so I Members to oppose the new clause.

Patrick Grady: I am encouraged by the warm words of those on the Labour Front Bench. On that basis, we will test the will of the Committee.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 7.

Division No. 27]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	
Clarkson, Chris	Mayhew, Jerome

Question accordingly negatived.

New Clause 3

AUTOMATIC VOTER REGISTRATION

"(1) It is a duty of—

(a) the Secretary of State; and

(b) registration officers

to take all reasonable steps to ensure that persons eligible to register to vote in elections in the United Kingdom are so registered.

(2) The Secretary of State must by regulations require public bodies to provide information to registration officers in accordance with the duty under subsection (1).

(3) Regulations under subsection (2) must apply to public bodies including but not limited to—

(a) HM Revenue and Customs;

(b) the Driver and Vehicle Licensing Agency;

(c) the National Health Service;

(d) NHS Scotland;

(e) all types of state funded schools;

(f) local authorities;

(g) the Department for Work and Pensions;

(h) HM Passport Office;

(i) police forces;

(j) the TV Licensing Authority.

(4) Registration officers must—

(a) use the information provided under regulations under subsection (2) to register otherwise unregistered persons on the appropriate electoral register or registers, or

(b) if the information provided does not contain all information necessary to register a person who may be eligible, contact that person for the purpose of obtaining the required information to establish whether they are eligible to register and, if so, register them on the appropriate electoral register or registers.

(5) If a registration officer has registered a person under subsection (4), the officer must notify that person within 30 days and give that person an opportunity to correct any mistaken information.

(6) The Secretary of State may issue guidance to registration officers on fulfilling their duties under this section.

(7) Where a person is registered under subsection (4), that person shall be omitted from the edited register unless that person notifies the registration officer to the contrary.

(8) Nothing in this section affects entitlement to register to vote anonymously."—*(Brendan O'Hara.)*

Brought up, and read the First time.

Brendan O'Hara: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 11—*Automatic Voter Registration*—

"(1) Registration officers must take all reasonable steps to ensure that all persons eligible to register to vote in elections in the United Kingdom are so registered.

(2) The Secretary of State must by regulations require public bodies to provide information to registration officers to enable them to fulfil their duty under subsection (1).

(3) Regulations under subsection (2) must apply to the following public bodies—

(a) HM Revenue and Customs;

(b) the Department for Work and Pensions;

(c) the Driver and Vehicle Licensing Agency;

(d) the National Health Service, NHS Wales and NHS Scotland;

(e) schools and further and higher education institutions;

(f) local authorities;

(g) HM Passport Office;

(h) police forces;

(i) the TV Licensing Authority;

(j) Job Centre Plus;

(k) the Department for Levelling Up, Housing and Local Communities;

(l) the Department for Transport;

(m) the Department for Health and Social Care;

(n) the Home Office; and

(o) the Ministry of Justice.

(4) Regulations under subsection (2) may also apply to other public bodies.

(5) Registration officers must—

(a) use the information provided by the public bodies listed in regulations under subsection (3) to register otherwise unregistered persons on the appropriate electoral register or registers, or

(b) if the information provided does not contain all information necessary to register a person who may be eligible, contact that person for the purpose of obtaining the required information to establish whether they are eligible to register and, if so, register them on the appropriate electoral register or registers.

(6) If a registration officer has registered a person under subsection (5), the officer must notify that person within 30 days and give that person an opportunity to correct any incorrect information.

(7) Where a person is registered under subsection (5), that person shall be omitted from the edited register unless that person notifies the registration officer to the contrary.

(8) Nothing in this section affects entitlement to register to vote anonymously.

(9) The Secretary of State may issue guidance to registration officers on fulfilling their duties under this section."

This new clause would require registration officers to enter eligible voters on the register, and provide for them to receive the necessary information from a number of public bodies.

New clause 13—*Voter registration at universities and colleges*—

"(1) The Secretary of State must by regulations require universities and colleges to provide to registration officers the information they hold that is required for the officers to register their students to vote.

(2) Universities and colleges must share with each student the information relating to the student that the university or college proposes to provide to the relevant registration officer, and must give students the opportunity to withhold consent to the provision of the information.

(3) If a student withholds consent under subsection (2), the university or college must not send their information to the registration officer.

(4) Nothing in this section affects entitlement to register to vote anonymously.

(5) The Secretary of State may issue guidance to registration officers, universities and colleges on fulfilling their functions under this section."

This new clause would require universities and colleges to submit to registration officers the information necessary to register their students to vote.

Brendan O'Hara: For all the rancour and argument that there has been in this Committee over the last few weeks, I think we all agree that voting is a fundamental democratic right that has to be protected. As it is a fundamental democratic right, surely it is incumbent on those in power to seek to maximise participation right across our society and to encourage everyone in society to have their say and make their voice heard. It is our job in this House to ensure that the citizens we represent can exercise that democratic right.

3.30 pm

Sadly, far too many people in this country are being excluded from the democratic process. The current system of electoral registration sees fewer and fewer people on the register and the number of those missing from the register increasing. Having a healthy electoral register is a prerequisite of a healthy democracy. We cannot have one without the other. Therefore the primary responsibility of any democratic Government should be to ensure that they do all they can to enable participation in our democracy. That is why automatic electoral registration is important, because we have a responsibility to those who are missing or who find it difficult to register to do everything we can to ensure that the electoral database is as full and complete as it possibly can be.

Government and public bodies working together and using secure data and trusted datasets to collect information at every point at which a citizen interacts with the state—whether that is when they are paying tax, receiving a benefit, using their national health service, claiming a pension or applying for a driving licence—gives the state an opportunity to move towards putting those citizens on the electoral register. I think it was my hon. Friend the Member for Glasgow North who gave the example of what he called motor voting in the state of Oregon: when someone applies for a driving licence, they are immediately put on the voter register.

Such ideas could vastly improve registration and participation. They have been tried and tested elsewhere. I understand that a similar model exists in Australia, where the state of Victoria has 95% accuracy in its registration. It does that at extremely low cost, with minimal numbers of staff updating and maintaining the rolling register. Countries all over the world have systems whereby citizens are automatically registered and able to vote: France, Sweden, Australia, Greece, Austria, Brazil, Uruguay. The list goes on and on of countries that ensure as a priority that their citizens can exercise their free and democratic right to vote without barriers.

All too often, in the UK, people assume that they are on the register because they pay council tax. They expect to be automatically on the register only to find on polling day that they are turned away when they turn up to vote. People assume, perhaps understandably, that because they have a passport, are registered for council tax or have a national insurance number or a driving licence that there is enough information about them to mean that they will be automatically put on a voter database. As someone much wiser than me once said, "We don't have to register to pay tax, so why should we register to vote?"

Millions of our fellow citizens are currently missing from the register. They do not have to be. It does not have to be this way. The Government choose that it is this way and they can choose for it not to be this way. One has to ask oneself why in this incredibly wide-ranging Bill they have deliberately chosen not to introduce automatic voter registration. The answer is simple and depressing. It is because, as with so much of this awful Bill, it is not in the short-term party political interest of the Government to do it. Not only do they not have any interest in registering the missing millions, but they are going out of their way with the passing of the voter ID legislation to add to the numbers who are missing.

This is the Minister's opportunity to make good on what he has said a number of times: that she is listening to the arguments and is somehow open to persuasion—it is just that no Opposition Member has ever managed to be that persuasive. On behalf of the missing millions, please, please look at automatic voter registration. Without it, as I said earlier, we cannot have a functioning, healthy democracy, because there are millions of people missing from our register.

Kemi Badenoch: New clauses 3 and 11 would impose a legal duty on public bodies, requiring them to provide information to electoral registration officers for the purposes of automatic electoral registration of identified electors. I am open to being persuaded, but the arguments need to be very good and, clearly, should not contradict the principles on which we stand for election or that can be found in previous legislation. We cannot agree to the new clauses as they contradict the principle that underpins electoral registration: that individuals are responsible for registering themselves. For those reasons, we cannot support new clauses 3 and 11.

In addition, new clause 13 broadly replicates existing legislation and is therefore unnecessary. The Higher Education and Research Act 2017 ensures that the facilitation of electoral registration is a condition of the higher education framework, so I urge Members to oppose the new clause.

Cat Smith: I rise to speak to new clauses 11 and 13, which are tabled in my name. Throughout the passage of the Bill, we have had discussions about the security of elections, and there has been much talk about whether

[Cat Smith]

individuals can fiddle results and how elections can be stolen. I tabled the new clauses with the hope of making our elections more secure, because we know that when the electoral register is more accurate and more complete, it is harder for malign actors to fiddle it round with just a few votes. At the moment, having 9 million voters either missing entirely or registered incorrectly is a weakness in our democratic system. It is a move to improve the security of our elections to have a more accurate electoral register.

I liked the point made by the hon. Member for Argyll and Bute: we do not register to pay tax, so why do we register to vote? I believe that it is very important to vote, and I tell anybody who will listen how important it is to take part in our elections, but I am aware that many people do not have figures like me in their lives—they are probably grateful for it. Given that we know we can have automatic voter registration and a more accurate electoral register, it strikes me as utterly bizarre that we would not want that—that we would not want a more accurate electoral register and not want to know that when we go to the country everyone who should be registered to vote can vote and hopefully does vote. I would like to see increased voter turnout, but at the moment people are falling at the first hurdle when they find that they are not on the electoral register.

New clause 13 is specifically about colleges and universities, because we know that younger voters are far less likely to be registered than older voters. There is a real gap.

Brendan O'Hara: The hon. Lady has reminded me of our very first evidence session and what she said to Richard Mawrey QC, which was that increasing turnout and participation makes fraud harder. Much of the Government's case in this whole debate has been about stopping fraud and cheating, and in response to her question, Richard Mawrey said,

"that is absolutely right, because fraud is obviously a relatively risky occupation, and the more bogus votes you have to put in, the more difficult it is."—[*Official Report, Elections Public Bill Committee,* 15 September 2021; c. 11, Q9.]

He agreed entirely with the hon. Lady that to widen participation and to increase the franchise is to diminish fraud. Does she agree that automatic voter registration would do exactly that and exactly what the Government have been calling for?

Cat Smith: I thank the hon. Member for reminding us of the evidence that we heard at the beginning of the Committee, or that at least some of us heard—those of us who were listening or who were members of the Committee at that point.

The new clauses—I agree with that tabled by the SNP, too—are all about improving the security of our elections. We did not spend so many hours of our lives debating clause 1, on voter ID, with the Government arguing consistently about the security of elections, only for them to look at these new clauses, which deal with just that, and say, "Well, not those ones." One could say that it is starting to look a little partisan.

I implore the Minister to look carefully at the new clauses. I appreciate that she is new to the role, and I would be very willing to open a dialogue with her to find ways to get those missing millions on to the electoral roll, because I believe that cross-party consensus can be found. I do not think any member of the Committee would argue that people should be missing from the electoral roll. Our electoral roll should be accurate in reflecting where this country's voters are and whether they are registered, giving them the opportunity to go and vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 28]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 4

VOTING AGE FOR PARLIAMENTARY ELECTIONS TO BE 16

"In section 1(1)(d) (definition of voting age for parliamentary elections) of the Representation of the People Act 1983, for "18" substitute "16"."—*(Brendan O'Hara.)*

Brought up, and read the First time.

Brendan O'Hara: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 8—*Voting from age 16 in parliamentary elections*—

"In section 1(1)(d) of the Representation of the People Act 1983 (definition of voting age for parliamentary elections), for "18" substitute "16"."

This new clause would lower the voting age to 16 in UK parliamentary elections.

Brendan O'Hara: It gives me enormous pleasure to move new clause 4, which stands in my name and that of my hon. Friend the Member for Glasgow North. The SNP believes passionately in this and has supported lowering the voting age for all UK elections since the 1960s.

Winnie Ewing, our first Member of Parliament, spoke about the franchise for 16 and 17-year-olds in her maiden speech way back in 1967, so we come at this as early adopters of the idea. It was with enormous pride that the SNP Government introduced the franchise for 16 and 17-year-olds in the Scottish independence referendum in 2014. That gave us all an enormous sense of pride.

To give 16 and 17-year-olds the vote is to say that they have an equal say and as much of a stake in the future of the country as any other age group—*[Interruption.]* Sorry, was there an intervention or was that just a general murmur? That Scottish independence referendum set a precedent: it said that 16 and 17-year-olds

should have a say on all constitutional issues that affect them. Subsequently, their voting record in Scottish parliamentary and local elections has proven that they are no more or less capable than any other age group in society of making an informed decision. We are absolutely delighted that the Scottish example was followed very quickly by the Welsh Senedd. Now, Welsh 16 and 17-year-olds can vote in elections for their own national Parliament.

The same young people, however, alongside their peers in England and Northern Ireland, cannot have a say on which Government is elected to this place. It is striking that the issue has become so divisive and partisan, particularly given that the last UK-wide lowering of the voting age—from 21 to 18 years old back in 1967—attracted little or no attention or controversy. It is even more remarkable not only because the UK was one of the first democracies to lower the voting age to 18, but because there is now overwhelming proof that lowering the voting age to 16 and 17 years old works. Scotland has shown that it works, so this is not a step into the darkness or a wander into the unknown, but unlike the lowering of the voting age from 21 to 18 years old, it has become hugely controversial, divisive and partisan.

3.45 pm

Even though it has demonstrably worked in Scotland and Wales, for some unfathomable reason, this Government are implacably opposed to extending the franchise to young people. Why would a healthy, confident, robust and functioning democracy fear more people having the vote? The point of a democracy is that we all bring different things to it. We all have different perspectives and opinions and different things to say. If someone is allowed the responsibilities that come with citizenship, they should have the same rights.

The Government's position is indefensible. Decisions are made daily in this House that directly affect and have an impact on young people's lives. I almost crave an intervention from Government Members. Why is there such opposition to lowering the voting age to include 16 and 17-year olds? I wrote my notes as a challenge in the hope that somebody would explain and put on the record why they are so distrustful of 16 and 17-year-olds.

Patrick Grady: Will my hon. Friend give way?

Brendan O'Hara: Unfortunately, my hon. Friend is not on the side I was looking for interventions from, but I will absolutely give way.

Patrick Grady: Indeed, but we have been arguing throughout the Bill that the Government are trying to suppress democracy, and this just goes to show that they are not even willing to allow their Back Benchers to engage with such a fundamentally important proposition. Is it not even more ironic that the Conservatives in the Scottish Parliament supported votes at 16? Perhaps what that demonstrates is that the Government view the devolved Assemblies as lesser places, so they can have strange experiments and expand the franchise if they want to because they do not have the supremacy that this place enjoys.

Brendan O'Hara: I admire my hon. Friend's powers of provocation, and still the Government Members slumber. Still nobody gets to their feet—*[Interruption.]* I will take that intervention. No, it was not an intervention. It was just a chuntering from a sedentary position. Perhaps the Minister could speak for them all. Can she explain to us why this is okay for Scotland and Wales? Why, when it has been so demonstrably successful in both of those devolved Administrations, are the Government so absolutely opposed to extending the franchise to 16 and 17-year-olds? The Conservative party in Scotland is okay with it. Someone will tell me if the Conservative party in Wales is not, but, as far as I am aware, it did not oppose it. Why is it okay for Scotland and Wales, and not okay for young people in England and Northern Ireland?

Cat Smith: I rise to speak to new clause 8, tabled by me and my hon. Friends. It was good timing for the SNP spokesperson to open the debate on the age of enfranchisement. The Labour party would extend the franchise to 16 and 17-year-olds. The Welsh Labour Government have done it, and we have seen it work well for a number of years in Scotland. We know that the record of voting in the Scottish parliamentary and local elections proved that 16 and 17-year-olds are more than capable of casting their votes and making informed decisions.

Since this year's Senedd elections, Welsh 16 and 17-year-olds can now vote for their Members of the Senedd. The experience of the Scottish referendum showed that, when given a chance, 16 and 17-year-olds have a higher rate of turnout than 18 to 24-year-olds, with 75% voting, and 97% say that they would vote in future elections. Only 3% said that they did not know. That flies in the face of some of the arguments that I have occasionally heard in opposition to this idea, although we have not heard any yet today, that say that young people would not be well informed. We know from analysis of the referendum in Scotland that 16 and 17-year-old voters accessed more information from a wider variety of sources than any other age group, so, arguably, they are incredibly well informed and not necessarily biased towards one political persuasion.

A lowering of the voting age has been called for many times over the years. I have called for it many times since I was elected. It would enable young people to have their first experience of voting, often when they are still in full-time education. I know from studies that I have read over the years that if an elector votes the first time that they are eligible to vote in an election, they are far more likely to go on to develop a lifetime habit of voting and engaging in democracy. Again, it comes back to security in elections. One of the best ways we can make our elections safer and more secure is by increasing turnout. A good way of increasing turnout in the long term is to maximise the number of people whose first opportunities to vote come when they are still in full-time education, when they are still very much supported to vote.

At the moment, with the voting age for England and Northern Ireland coming in at 18—it has been 18 for UK general elections, and in Scotland and Wales as well—for many young people their first vote comes at a time of great change in their lives. They might be starting out in the world of work, might have gone off to university to study, or might have recently moved out of the family home. It is far better that we give young people an opportunity to vote and give the franchise to

[Cat Smith]

16 and 17-year-olds so that we can increase the chances of an electorate that is engaged in the process and that votes. That is better for the security of elections.

Kemi Badenoch: I was amazed to hear the hon. Member for Argyll and Bute, who is clearly suffering from significant amnesia if he claims not to have heard the arguments on votes at 16. As the hon. Member for Lancaster and Fleetwood said, the subject has been debated time and again, certainly every single year since 2010. There is no need for me to rehash the arguments. I ask him to ask his parliamentary researcher to research *Hansard*. Given our manifesto commitment to maintain the current franchise at 18, and having been elected on that principle, the Government have no plans to lower the voting age. We will not support the new clause.

Brendan O'Hara: Yet again the Minister is outrageously dismissive. A part of her job is to answer questions in Committee. This is an important Committee. To say, "Go and ask an SNP researcher" is an absolute outrage. Minister, you have a responsibility to this House to answer direct questions and I am afraid you have been sadly lacking in doing that. We will not push the clause to a vote this afternoon, but we will test the will of the House on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 5

VOTING BY CONVICTED PERSONS SENTENCED TO TERMS OF 12 MONTHS OR LESS

'In section 3(1A) (exceptions to the disenfranchisement of prisoners) of the Representation of the People Act 1983, after "Scotland" insert "or a parliamentary election".'—*(Patrick Grady.)*

This new clause would allow prisoners serving a sentence of 12 months or less to vote in UK parliamentary elections.

Brought up, and read the First time.

Patrick Grady: I beg to move, That the clause be read a Second time.

As with the other new clauses we are debating in this sequence, new clause 5 is about levelling up the franchise for election to the House of Commons with that of the Scottish Parliament. The Scottish Elections (Franchise and Representation) Act 2020 is a genuinely historic piece of legislation. It introduced the widest franchise that has ever existed in these islands, possibly in western Europe. In May this year more people were eligible to vote in the Scottish Parliament elections—indeed, more people did vote—than in any other election ever held. That is even more remarkable given the context of the global pandemic and the severe restrictions on the practicalities of voting and the challenges that people faced in terms of social distancing. More people also voted for the SNP than had ever voted for the SNP before.

The 2020 Act was remarkable. It included, as we have just discussed, votes at 16, and the extension that we will come on to. It also included a small number of prisoners serving sentences of 12 months or less. The Electoral Commission reckoned from electoral returning officers' data that about 38 eligible prisoners had registered to vote in the election. It is a small number—probably it could be larger—but it is nevertheless significant. In 2005, the European Court of Human Rights found that the blanket ban on prisoner voting in the United Kingdom meant that the country was in breach of article 3, protocol 1, of the European convention on human rights. The Scottish Government therefore see the introduction of this provision as an important step towards compliance with that judgment and respecting the fundamental rights that exist even for people who have been incarcerated.

The legal system in Scotland also now exercises a presumption against short sentences, but that approach and the right to vote if serving a sentence of 12 months or less are both rooted in the principles of inclusion and a desire for rehabilitation. There is therefore not only a human rights imperative to the new clause—to bring the United Kingdom further into line with the judgment handed down by the European Court of Human Rights—but the importance of aligning the franchise across the different legislatures of these islands. That is something that the Government ought to consider and support, although I suspect we will hear the opposite.

Kemi Badenoch: The Government believe that when citizens commit a crime that is sufficiently serious to detain them in prison, they have broken their contract with society to such an extent that they should not have the right to vote in prison. We were elected on a manifesto that makes it clear that we will maintain the ban on prisoners voting in jail. Prison means the loss of a number of rights and freedoms, not least the right to freedom of association and liberty. The Government believe that the loss of voting rights while in prison is a proportionate curtailment of such rights. As such, we cannot support the new clause.

Patrick Grady: I thank the Minister for that brief response. Nevertheless, it is important that we test the will of the Committee, because the new clause is about ensuring that the franchise is aligned and that we are compliant with the decision of the European Court of Human Rights.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 8.

Division No. 29]

AYES

Grady, Patrick	O'Hara, Brendan

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 6

VOTING BY QUALIFYING FOREIGN NATIONALS

"In section 1(1) (entitlement to vote in parliamentary elections) of the Representation of the People Act 1983, for paragraph (c) substitute—

'(c) is a Commonwealth citizen, a citizen of the Republic of Ireland or a qualifying foreign national; and.'"—*(Patrick Grady.)*

This new clause would allow foreign nationals who either do not need leave to remain in the UK or have been granted such leave to vote in UK parliamentary elections.

Brought up, and read the First time.

Patrick Grady: I beg to move, That the clause be read a Second time.

This is the last in the sequence of new clauses that reflect the similar provisions in the Scottish Elections (Franchise and Representation) Act 2020. The new clause extends the right to vote to all those with settled status in the United Kingdom—in essence, refugees with a right to remain.

What better way is there to send a message that refugees are welcome here, people who have often fled regimes where universal suffrage and free and fair elections are unheard of? That is why people come to the United Kingdom—they are escaping persecution, because they were living under oppressive regimes. Extending the franchise to such people is an extremely important message to send, but it is also important to the decision-making process, because those voices ought to be heard. Important decisions are made affecting their wellbeing and, frankly, if people in such situations had the right to vote, the way in which they are treated—in particular by this Conservative Government—would be very different.

Most of us have constituents who are refugees or asylum seekers who have not only fled atrocious situations but find themselves living in atrocious situations when they experience the hostile environment that the Government force upon them, whether through the poor condition of their housing or being denied the human right to work. Everybody is born with an innate right to earn their own living, but that right is denied to them by the Government. That is not a right that the Scottish Government are able to extend, which is one reason why they have extended the franchise, because that is within their gift and they want to send that signal that we value the experiences, horrific though some are, and skills that refugees bring to this society and the contribution that they can make.

4 pm

Brendan O'Hara: On the contribution that refugee communities can and do bring to Scottish society, will my hon. Friend join me in acknowledging and congratulating the contribution made by the Syrian community on Bute? They fled an atrocious, most awful situation in their homeland to come to Bute and are now business owners. Their children have grown, come through the school system and are now at university. These people work and contribute to Scottish society in every single respect, as every other Scot does. The difference is that they cannot vote when it comes to choosing a Government in this place.

Patrick Grady: I absolutely echo everything my hon. Friend says about the incredible contribution of Syrian refugees, particularly in his constituency but in others as well. Refugees from other parts of the world were delighted at the opportunity to take part in the Scottish Parliament elections in May and would dearly love the opportunity to make their voices heard in elections to this place, and indeed to stand as candidates. We spoke about a by-election held in a ward within my constituency boundary, Partick East/Kelvindale. Abdul Bostani, the SNP candidate who achieved a plurality of votes but was unsuccessful because of the preferential voting system, is a refugee from Afghanistan. Our proportional representation list in Glasgow was headed by Roza Salih, one of the "Glasgow Girls", originally from Kurdistan, who has fought for the rights of refugees. What greater message of tolerance and inclusion can we send than by welcoming people in that situation right into the heart of our democratic system? Equally, what opposite message do we send when such people are excluded, denied the opportunity to vote and denied other fundamental rights that we should have as human beings—rights that cannot really be taken away from them but that are simply denied to them? The right to vote ought to be such a right.

Again, there are two principles behind the new clause. First, the right to vote—that innate right to participation and freedom of speech. In modern democracies, it is understood that the right to vote is part of that fundamental right to freedom of speech. Secondly, levelling up the franchise. I do not think the Minister properly addressed this point in her response to previous new clauses; maybe she can attempt to do so in her response to this new clause. Why are the Government content with, and why do they welcome, the diverging franchise? More people than ever before are able to vote in elections to the Scottish Parliament, and indeed to the Senedd Cymru, whereas the overall effect of the Bill, as we said right back on Second Reading, will be fewer people having the opportunity to vote, because the Government are going out of their way to make it more difficult. Why do they see that diverging franchise as a good thing or something that they do not need to take an opinion on? I look forward to the Minister explaining why the Government want to continue the hostile environment for refugees in regard to their right to vote and responding to those other points on the divergence of the franchise.

The Chair: Apart from the exception that we agreed this morning, if hon. Members want to speak, they should rise a little bit out of their chairs.

Kemi Badenoch: The right to vote in parliamentary elections and choose the next UK Government is rightly restricted to British citizens and those with the closest historical links to our country. European citizens, for example, have never been entitled to vote in parliamentary elections. This new clause would extend the parliamentary franchise to all foreign nationals resident in the UK. The Government have no plans to extend the parliamentary franchise and cannot support the new clause.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 8.

Division No. 30]

AYES

Grady, Patrick	O'Hara, Brendan

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 7

VOTING BY EU NATIONALS

"In section 1(1) (entitlement to vote in parliamentary elections) of the Representation of the People Act 1983, for paragraph (c) substitute—

'(c) is a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and'."—*(Brendan O'Hara.)*

This new clause would allow EU citizens to vote in UK parliamentary elections.

Brought up, and read the First time.

Brendan O'Hara: I beg to move, That the clause be read a Second time.

It is a pleasure to follow my hon. Friend the Member for Glasgow North, who laid out a compelling and detailed case as to why extending the voting right to foreign nationals and widening the franchise is so important. What we have seen is a widening of the franchise in Scotland at exactly the same time as this place seeks to narrow the franchise.

In February 2020, the Scottish Parliament passed legislation extending the vote beyond EU nationals and Commonwealth citizens to include foreign nationals with leave to remain and refugees, adding 55,000 people to the register altogether. That is in stark contrast to what is taking place down here at Westminster. The Scottish Parliament did so because Scotland wants to be that open, welcoming country and that place that is home to anyone who wants to call it home, and it wants to recognise the enormous contribution that EU nationals have made to our country, our society and our general wellbeing. We want to welcome those EU nationals who want to be part of Scotland and we want to give them a stake in, and a responsibility for, the future of the country. The Scottish Parliament has made the decision that anyone who is legally resident in Scotland will have a say in our future, and that is only right.

However, while the Scottish Parliament and Scotland in general seek to reassure EU nationals that they are valued and welcome and we view them as an integral part of our future, the UK Government, at best, use them as a bargaining chip and, at worst, see them as an inconvenience. They may be allowed to pick fruit, or to drive lorries in an emergency, but they most certainly will not be treated as equal or valued citizens. We have got used to having a wide, diverse and growing franchise in Scotland, because that is good for our country and for our democracy. I strongly advise the UK Government to look to Scotland for a lead and to make the status of EU nationals equal across the various Administrations of these islands, because that is ultimately the right thing to do and it is only fair that they do it.

Fleur Anderson (Putney) (Lab): We have been talking so far about making the Bill less confusing and more streamlined to enable more people to vote—that being the aim—as well as about ensuring that voting has integrity. It will be very confusing to be on the doorstep telling people to vote, depending on whichever agreement we have at the time with different former colleagues in the EU. It would really simplify voting if the new clause were agreed or could at least be considered as the Bill goes forward. It will be very difficult for people to work out whether they possess these voting rights at the time each election happens. To ensure that more people vote and that it is as easy as possible to do so, voting should be as simple as possible, and allowing all EU nationals to vote is the simplest way.

Kemi Badenoch: Our position has always been that after our exit from the EU existing voting and candidacy rights should be maintained where possible. The new clause would extend the parliamentary franchise to EU citizens where no such rights previously existed, as I said during our debate on the previous amendments. Those who are nationals of a member state have never been able to vote in UK parliamentary elections by virtue of their EU citizenship. If an EU citizen becomes a British citizen, they will be eligible for the parliamentary franchise from that point. The right to vote in parliamentary elections and choose the next UK Government is rightly restricted to British citizens and those with the closest historical links to our country.

Brendan O'Hara: I thank the Minister for that pre-prepared paragraph. We will push this new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 8.

Division No. 31]

AYES

Grady, Patrick	O'Hara, Brendan

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 9

ONLINE APPLICATIONS FOR ABSENT VOTES

"(1) Schedule 4 to the Representation of the People Act 2000 (absent voting in Great Britain) is amended as follows.

(2) After sub-paragraph 3(2)(c) insert—

'(2A) An application to the registration officer under sub-paragraphs 3(1)(b) or 3(2)(c) may be made online using an electronic signature.'

(3) After sub-paragraph 3(3A) insert—

'(3B) A registration officer shall verify the authenticity of applications made online using an electronic signature by virtue of sub-paragraph (2A) in accordance with any regulations which may from time to time be made by the Secretary of State.'

(4) After sub-paragraph 4(2)(c) insert—

'(2ZA) An application to the registration officer under sub-paragraphs 4(1)(b) or 4(2)(c) may be made online using an electronic signature.'

(5) After sub-paragraph 4(4)(b) insert—

'(4A) A registration officer shall verify the authenticity of applications made online using an electronic signature by virtue of sub-paragraph 4(2ZA) in accordance with any regulations which may from time to time be made by the Secretary of State.'"—*(Cat Smith.)*

While currently absent vote applications need to be printed out, this new clause would allow applications to be fully digital.

Brought up, and read the First time.

Cat Smith: I beg to move, That the clause be read a Second time.

This new clause would increase the accessibility of postal voting. As we have seen, the Government have reduced voters' flexibility to use postal votes through the earlier clauses of the Bill. Their changes will make the process of voting more complex and bureaucratic and, I fear, turn voters off bothering to vote at all. Ministers should be directing their energy towards changes that will make voting easier, not putting up more barriers. Since we are considering all things elections, I also wonder why on earth postal voters need to print off and submit a form via the post when it is possible to register to vote online. That an additional administrative burden could be quickly removed through online postal vote applications. The Opposition are trying to make postal voting more accessible, and that requirement is an additional administrative burden that could be removed by allowing online applications.

There is no good reason why the policy intention of this new clause should be voted down by the Government. I would be interested to know whether, if the Minister is not happy with the wording of our new clause, she would be interested in taking it away and exploring ways in which we can embrace digital technology to make our democracy more accessible. She is certainly not afraid of technology: I admire the fact that she is one of the few Ministers who is often at the Dispatch Box with an iPad, rather than a sheet of paper. Given her enthusiasm for all things digital, I wonder whether there is scope for the Government and Opposition to work together and come forward with a solution to digitalise this process, making processes quicker and more accessible for electoral administrators and delivering more of what voters now expect when engaging with any aspect of applying to do things through the state.

Finally, given that COP26 is about to start, moving to online applications would of course reduce the use of paper and would therefore be a greener policy as well.

Kemi Badenoch: Committee members may want to get out their smelling salts, because the Government agree in principle with the introduction of online absent voting applications. The Government developed the basis for a potential online absent voting application earlier this year, and further work is under way to determine whether it can be rolled out safely. The Government are committed to increasing participation in our democracy and empowering all those eligible to vote to do so in a safe, efficient and effective way.

As the hon. Lady mentioned, an important part of the legislation is to provide electors with a choice on how to cast their vote. Now more than ever, people may wish to make use of absent vote and postal vote methods, which are essential tools in supporting voters to exercise their right to vote. As she said, in a digital world, it is right that we spread the use of technology, when that can be done safely, to further increase accessibility and the efficient running of our elections.

4.15 pm

We are not quite there yet, however. It is essential that further work be undertaken to better understand the potential burden on electoral administrators and how online applications can be introduced without compromising the security of our elections. We will work with the Opposition on that proposal. For those reasons, I request that the new clause be withdrawn.

The Chair: With that possible outbreak of harmony, I call the shadow Minister.

Cat Smith: After five and a half years of campaigning for digital postal vote applications, I am very pleased with the Minister's response. I have always thought her a reasonable woman, and I look forward to further conversations in which we can find consensus. In that spirit, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 10

EMERGENCY APPOINTMENT OF PROXY

"(1) The Secretary of State must make regulations enabling voters on a relevant electoral register to apply to appoint a proxy on grounds of a personal emergency.

(2) Such applications shall be granted by the relevant registration officer provided that the officer—

(a) is satisfied that the reason for the application is such that it would be unreasonable for the applicant to vote in person,

(b) has no reasonable grounds to believe that the stated basis for the application is untrue, and

(c) has received the application not later than 5 pm on the day of the poll at that election.

(3) The Secretary of State may issue guidance to registration officers on fulfilling their duties under this section."—*(Fleur Anderson.)*

This new clause would allow voters to make applications for proxy votes on grounds of personal emergency up to the day of the poll.

Brought up, and read the First time.

Fleur Anderson: I beg to move, That the clause be read a Second time.

Maybe we are on a roll; this could be great. I have a confession: not a day goes by that I do not think about the next election, but I think I am in the minority. The new clause would extend the deadline for the emergency appointment of proxies to the day of the election, because a lot of people do not think about election day until the day itself. That would maintain a change that was made by the Government during the covid pandemic, when they extended the deadline for proxy voting to the day of the election. What the Government did during covid was a good thing, and we should learn from some of the changes we had to make under dreadful circumstances by incorporating those changes into our best practice for future elections. The explanatory notes state:

"This Bill makes new provision for and amends existing electoral law to ensure that UK elections remain secure, fair, modern, inclusive and transparent."

On-the-day proxy voting would do just that.

The former Minister for the Constitution and Devolution, the hon. Member for Norwich North (Chloe Smith), wrote to the Chair of the Public Administration and Constitutional Affairs Committee, the hon. Member for Hazel Grove (Mr Wragg), back in February. She said:

"An emergency proxy vote is available in certain…circumstances (such as illness)"

close to polling day. She continued:

"The government is amending secondary legislation to further support proxy voting for people affected by coronavirus close to the polls. In particular, these changes will allow those self-isolating

[Fleur Anderson]

as a result of coronavirus exposure, testing or symptoms to apply for a proxy vote in the days leading up to polling day and until 5pm on the day itself, without having to find someone to attest their application"

or to change who is appointed as proxy if the proxy is affected by coronavirus. She went on:

"This will also be available to those who test positive for the virus, on the same basis."

We would argue that those conditions will continue, because there are other illnesses and other reasons why people will not know that they need a proxy vote until polling day. My husband had to take an emergency flight to Sudan two days before the referendum, so I had to apply for a proxy vote so that he could vote. He would have felt very hard done by and disappointed had he been unable to vote in that referendum. If he had had to fly the night before the election, he would have needed to get the proxy vote on the day itself. Taking the ability to vote away from him and so many others who, owing to illness or other reasons, do not know that they are unable to vote until election day will reduce and suppress voting.

Cat Smith: This strikes me as a timely point in proceedings to remind the Committee that we all get ill occasionally. Indeed, a member of the Committee is not here because he has coronavirus. As it happens, Committee members can pair so that the outcome of a vote is not affected by absence, but in a general election there is no opportunity for a voter to pair with a voter for another party and to agree not to turn up at the polls because one of them has coronavirus. Perhaps the lesson from this Committee is that we are all susceptible to illnesses, and therefore this is a reasonable new clause.

Fleur Anderson: Absolutely. We just do not know what will happen on the day. We do not want people to lose out on a vote just because emergencies happen. To extend proxy voting will not cost any more. It will not undermine any of the previous clauses; it does not change the fact that voting will be secure—the same security will be there. It all stays the same, but extends it until 5 o'clock on election day, which seems a fair thing to do, and I urge everyone to support the new clause.

Kemi Badenoch: The Government cannot support the new clause as we believe that in order to maintain the integrity of the electoral process, the emergency proxy provision cannot be drawn too widely. We discussed that in passing when considering other clauses. The arguments for emergency proxies still stand. There is already provision for electors to be able to apply for an emergency proxy, as the hon. Member for Putney said, in the event of illness or recent disability or for reasons of occupation, service or employment. These are important provisions that facilitate participation in the electoral process.

In his review into electoral fraud, Lord Pickles considered emergency proxy voting and found that there was concern among electoral administrators that widening the right to an emergency proxy would increase the risk of fraud. We therefore have no plans to increase the availability of emergency proxy voting.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 32]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 12

SAME DAY VOTER REGISTRATION

"(1) Registration officers must make provisions to allow electors to register to vote up to and including polling day.

(2) In order to register on polling day prospective electors must present proof of residency at the time of registration.

(3) Proof of residency can include but is not limited to—

(a) a utility bill;

(b) a driving licence;

(c) a mortgage statement dated within 3 months of the date of the poll;

(d) a bank or building society statement dated within 3 months of the date of the poll;

(e) a credit card statement dated within 3 months of the date of the poll;

(f) a council tax demand letter or statement dated within 12 months of the date of the poll;

(g) a P45 or P60 form dated within 12 months of the date of the poll; or

(h) a standard acknowledgement letter (SAL) issued by the Home Office for asylum seekers.

(4) Nothing in this section affects entitlement to register to vote anonymously."—*(Fleur Anderson.)*

This new clause would require registration officers to make provision for voter registration up to and including polling day.

Brought up, and read the First time.

Fleur Anderson: I beg to move, That the clause be read a Second time.

The new clause is in a similar vein to the previous new clause. It would require officers to make provision for voter registration up to and including polling day.

Yesterday, the ultra low emission zone was extended—bear with, because this is relevant. Plans for the ULEZ started in 2014; it was announced in 2017, there were lots of consultations across London, and it was introduced in 2019. There were further consultations on extending it, as has happened. More consultations and measures were put in place. It was very controversial. Signs have been going up on our streets since May. Yet still, yesterday, it was a surprise to some people. A lot of constituents got in contact with me, saying, "What is this ULEZ? Why don't I have a say on what's happening?"

As we all know, we might flag something, advertise it as much as we like, but some people will be surprised to find that it is election day. They will be surprised to find out that they have to use their ID to vote. They will be

surprised to find out that the deadline to get a postal vote or voter ID has passed. These changes will be a surprise to many. There are 9 million people of voting age not on the register. The moves in the Bill to increase the frequency of registering for a postal vote and to change to the voter ID system will not be known about by many people until election day.

As I have said, every single vote counts. I am sure we all agree. However, in every single pilot for this Bill, people were turned away from polling stations and then did not return because they did not know about the different provisions being made. Some elections are won or lost by a single vote, or a handful of votes.

This, therefore, is a high-risk strategy; if same-day voter registration is not allowed, the Bill will stop people from voting. It is an unproven system—there were not many pilot schemes—and at the cost of £120 million, we must get it right. We should be increasing voting, not decreasing it, and having same-day registration will increase voting. The new clause will enable everyone who wants to vote to vote. Not allowing same-day registration will prevent that.

I am sure the Minister will not accept the new clause, despite the earlier signs of change. However, I challenge her to return to amend the Bill, if this is not accepted, with the provisions that she would deem necessary to enable same-day registration, and to match the ID that would be deemed to be strong enough, safe enough and secure enough to maintain the integrity of the Bill, in the Government's view, but also allow same-day voting.

Kemi Badenoch: We cannot agree to the new clause, as it would have a significant logistical impact on the conduct of elections. Allowing registrations on polling day itself would raise issues about how the eligibility of applicants can be verified, and uncertainties as to the register to be used for the election, undermining confidence in the process.

All applications should be subject to the same level of scrutiny and checks; if we allow applications to be made on the day, that would leave electoral registration officers having to confirm a person's eligibility after the close of poll. As there is a legal requirement that returning officers start the count within four hours of the close of poll, that would have a significant impact on the timing of the declaration of the results for polls. The declaration would need to be delayed, pending confirmation that those voters who registered on polling day were indeed entitled to vote at the poll.

Any same-day registrations would need to be verified by EROs, which could take some days to do. That would no doubt present some issues to the longstanding tradition of counting and declaring election results as soon as possible, which has had benefits for establishing certainty and for having a Government in place as soon as possible. I therefore urge the hon. Lady to withdraw the motion.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 33]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 13

VOTER REGISTRATION AT UNIVERSITIES AND COLLEGES

"(1) The Secretary of State must by regulations require universities and colleges to provide to registration officers the information they hold that is required for the officers to register their students to vote.

(2) Universities and colleges must share with each student the information relating to the student that the university or college proposes to provide to the relevant registration officer, and must give students the opportunity to withhold consent to the provision of the information.

(3) If a student withholds consent under subsection (2), the university or college must not send their information to the registration officer.

(4) Nothing in this section affects entitlement to register to vote anonymously.

(5) The Secretary of State may issue guidance to registration officers, universities and colleges on fulfilling their functions under this section."—*(Cat Smith.)*

This new clause would require universities and colleges to submit to registration officers the information necessary to register their students to vote.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 34]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 14

PERMISSIBLE DONORS

"(1) Section 54 (permissible donors) of PPERA is amended as follows.

(2) In subsection (2)(a), after 'register' insert— 'at the time at which the donation is made, but not an individual so registered as an overseas elector;'."—*(Fleur Anderson.)*

Brought up, and read the First time.

Fleur Anderson: I beg to move, That the clause be read a Second time.

New clause 14 cuts the connection between the ability of overseas voters to vote and to donate. I have high hopes that it will be accepted. I have that hope because

[Fleur Anderson]

when debating amendment 79, which is related to new clause 14, the Minister said that she was interested in talking further about the issue. This could be the one!

4.30 pm

The new clause will leave intact the ability for overseas voters to vote, while cutting the link between being an overseas voter and a permitted donor. We have permitted donor rules for good, well-established reasons and with cross-party agreement, because we want to limit the influence of overseas voters on our voting system. The whole Bill is about safeguarding the integrity of our elections and acting against the worst case scenarios that cause undue influence.

Section 54 of the Political Parties, Elections and Referendums Act 2000, which new clause 14 amends, will leave the door wide open to nefarious influence with permitted donors from overseas. There are plenty of bad actors and foreign powers who would like to influence our voting for their own purposes. There are plenty of overseas nationals who may have dual nationality—so are British as well—who do not want the best for our country. If that were not the case, we would not have armed forces. We know that grey zone activity, as it is called, is increasing. There are plenty of bad actors who would like to influence our elections.

Cat Smith: I wonder whether my hon. Friend would like to draw the Committee's attention to the findings in the Russia report, which I feel have not been discussed enough in the House. I am very proud of our British democracy, and I hope that Government Members are too. The report highlights the very real risks that British politics would be left to the influence of foreign money. I hope new clause 14 will go some way to protecting the democracy we hold so highly in this country, protecting it against foreign interference.

Fleur Anderson: I thank my hon. Friend for raising the awareness of the report to the Committee and directing us toward the potential risks when it comes to overseas permitted donors. Those open the door to a lot of concern, which we have seen in the past and has been reported on in past elections.

What better way is there to have influence than with a UK residency? Someone could be living here as a student, qualify as a resident, then return to their country and many years later be able to register as an overseas voter, thus being able to bankroll and influence our parties. It is unfair and wrong that there is a loophole. People who do not live in the UK and pay tax and are not affected by the rules and decisions of elected politicians can take such a full and active role in financing our political system, giving them more of a say—because of their wealth—than many working people living here all their life, who are very affected by the decisions made.

Many feel that Tory donors, for example, already have more of a say than working people in this country, and the Bill will only continue that fear. As the shadow Minister said previously in Committee,

"My biggest concern about the overseas electors section of this Bill is the fact that it could undermine the integrity of our electoral process."—[*Official Report, Elections Public Bill Committee,* 21 October 2021; c. 245.]

Let us be clear: the true motivation behind these changes to overseas voting is to create a loophole in donation law that would allow donors unlimited access to our democracy, allowing them to bankroll Tory campaigns, for example, from their offshore tax havens. If that is the case, then vote against the amendment, cut the link between overseas voters and permitted donors, and only allow overseas voters to vote. It is as simple as that. If that is not the true motivation, let us close the loophole and cut the link by voting for new clause 14.

Kemi Badenoch: As the hon. Member mentioned, we discussed this issue when considering clauses on overseas electors. I did agree with Opposition Members that we should look at ways to ensure that we do not inadvertently create new loopholes while trying to secure the voting system or inadvertently extend the franchise beyond the Bill's intention.

Having said that, what the hon. Lady refers to as a loophole is not. It is a long-standing principle—one originally recommended by the Committee on Standards in Public Life in 1998—that permissible donors are those on the UK electoral register. If someone can vote for a party, they should be able to donate to it.

UK electoral law already sets out a stringent regime of spending and donation controls, to ensure that only those with a legitimate interest in UK election can donate or campaign. That includes British citizens who are registered as overseas electors. I have explained that I am very open to discussing what we can do to secure the system but, for the reasons I have outlined, the Government do not support the new clause. I hope the hon. Member for Putney understands that and will withdraw the new clause.

Cat Smith: I wonder whether I might trouble the Minister. Will she commit to a meeting to discuss the specific issues that the new clause raises, looking particularly at the Russia report and whether we could find cross-party agreement on ensuring that our elections and democracy are safe and secure?

Kemi Badenoch: I am very happy to have a meeting, and I think we should look at the whole section on overseas electors. I have not read the Russia report, so I am keen to get a briefing on it from the hon. Lady. I am sure that officials will also prepare a briefing so that I can fully understand. Given that, I hope the Opposition will withdraw the new clause.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 35]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

New Clause 15

FINES FOR ELECTORAL OFFENCES

"(1) The Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 is amended as follows.

(2) In Schedule 1, paragraph 5, leave out "£20,000" and insert "£500,000, or 5% of the total spend by the organisation or individual being penalised in the election to which the offence relates, whichever is greater"."—*(Patrick Grady.)*

This new clause would allow the Electoral Commission to impose increased fines for electoral offences.

Brought up, and read the First time.

Patrick Grady: I beg to move, That the clause be read a Second time.

I am not sure how Sir Edward Leigh, one of the other Chairs of the Committee, will feel about this, because I know that he was looking forward to chairing the final session next Wednesday. I will just have to keep this going until the rise of the House, and then for both sessions on Thursday, so that he has the opportunity to hear the Committee conclude its considerations. Otherwise, we will just have to get on with it as quickly as we can—I think we all need a break.

This is a relatively straightforward new clause, and I look forward to hearing the Government's response to its principles, because it reflects the concerns that were expressed earlier when we considered part 3 and the powers of the Electoral Commission. The Government had real concerns that it was not an effective regulator—that it lacked teeth and was somehow not capable of exercising either the deterrent or the punishment when electoral offences took place. The new clause is a way of giving the commission the powers for which it asked, and to change the relatively arbitrary upper threshold of £20,000 that it can levy as a fine for certain offences to a much more proportionate response, either as a proportion of the total spend of the organisation or individual being penalised, or to a maximum of £500,000, whichever is greater.

Brendan O'Hara: Has my hon. Friend, like me, barely slept at night since hearing the tales of widespread personation, voter fraud, intimidation and postal vote harvesting—all manner of fraud, theft and deception—that came from Government Members in the first two or three days, when they used to participate in the Committee? Does he share my confidence that they will look at what is contained in the new clause and support it in order to give the Electoral Commission the full force of the law, and so that the guilty will not go unpunished, as they have insisted throughout, and a £500,000 penalty is just the thing to do it?

Patrick Grady: My hon. Friend is absolutely correct, and the point about proportionality is very important. We have heard about the rampant corruption in the UK electoral system and the complete inadequacy of the police, the Electoral Commission, local election returning officers and so on. A picture has been painted throughout the passage of the Bill. Why would the Government be content to keep the maximum level of fine at £20,000, when the Electoral Commission says it is really not adequate to provide either a deterrent or a punishment?

One example on which everyone in this room will find a point of consensus was when the Liberal Democrats were fined £20,000. [HON. MEMBERS: "Hear, hear!"] They are not here to defend themselves—it is a wee shame. In all seriousness, the investigation that year found that 307 payments totalling £184,676 were missing from the Liberal Democrats' spending return without a reasonable excuse. In return, they were fined £20,000, which was the maximum that the Electoral Commission could levy.

I would not suggest that is the mindset of the Liberal Democrats, but less scrupulous participants in our electoral process might think that £20,000 was a price worth paying for not reporting figures that were nearly 10 times that amount. To be clear, I am not saying that was the case with the Liberal Democrats, but perhaps other, less scrupulous participants might adopt that attitude.

We should adopt a more proportionate system by simply raising the maximum threshold. We are all familiar with the scene in "Austin Powers" where Dr Evil demands a ransom of $1 million as part of his nefarious plan to take over the Earth, and everybody laughs because it is not a huge amount of money in the modern world that he has woken up in. Similarly, a fine of £20,000 does not adjust for the rate of inflation and cost of inflation—not least the increases that we are experiencing as a result of the Tories' disastrous Brexit policies.

A fine of £20,000 is not as high as it could be, so a maximum of £500,000 is slightly more realistic in the modern world, and then the proportionality of the 5% gives the Electoral Commission that extra flexibility and additional teeth that it might need to serve as a deterrent or to take action in the event of a breach. I have no doubt that the Minister will have lots of creative reasons for rejecting the new clause, and I look forward to hearing what they are.

Kemi Badenoch: The Government do not support the new clause for several reasons. I am aware that the Committee on Standards in Public Life recommended in its "Regulating Election Finance" report that the Electoral Commission's fining powers should be increased to 4% of a campaign's total spend, or £500,000—whichever is higher. The new clause closely mirrors that proposal.

The Government's view is that the commission already has adequate powers to impose civil sanctions on political parties and non-party campaigners of up to £20,000 per offence. The new clause would increase that to £500,000 per offence. We should remember that criminal matters can be and are referred to the police, and in certain cases are taken to criminal prosecution. The courts have the power to levy unlimited fines for some offences and custodial sentences.

As set out in the Government's response to the Committee on Standards in Public Life report, any extension of the commission's fining powers would need to be considered carefully to assess their necessity and proportionality, because it is vital that they are an effective deterrent but do not cause a chilling effect on electoral participation and campaigning. Any direct comparisons with fines that can be issued by the Information Commissioner's Office should note the clear difference between the two regulators and the types of entities that they regulate.

I sympathise with the example that the hon. Member for Glasgow North gave about the Liberal Democrats, but the truth is that political parties are not global corporations. There are over 350 currently registered with the Electoral Commission, many of which are predominantly made up of volunteers. As part of the further work of looking at the regulatory framework for elections beyond this Bill, the Government intend to look at all the recommendations in the report from the Committee on Standards in Public Life, alongside

[Kemi Badenoch]

similar ones, including the forthcoming report on the commission from the Public Administration and Constitutional Affairs Committee. For these reasons, I urge the hon. Member to withdraw the new clause; or the Committee to oppose it.

Patrick Grady: Perhaps if the Minister had been willing to give a little ground, we would be willing to withdraw the new clause. However, we will test the will of the Committee by pressing it to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 36]

AYES

Anderson, Fleur	O'Hara, Brendan
Furniss, Gill	Smith, Cat
Grady, Patrick	Smith, Nick

NOES

Badenoch, Kemi	Harris, Rebecca
Bell, Aaron	Kruger, Danny
Bristow, Paul	Mayhew, Jerome
Clarkson, Chris	Randall, Tom

Question accordingly negatived.

Title

Amendment made: 59, in title, line 2, after "electoral process" insert—

"and provision about the use of the simple majority system in elections for certain offices".—*(Kemi Badenoch.)*

This amendment amends the long title in consequence of the new clause inserted by NC1.

The Chair: Before we finish, I would like to thank the Clerks, who looked after us so well, the Doorkeepers, *Hansard,* the broadcast team, all of you for attending, and my other Chairs. I am glad that we have got through it today. I am sure that all hon. Members would like to pass on their best wishes to our right hon. Friend the Member for Elmet and Rothwell, who is unwell at the moment. Congratulations to the hon. Member for Peterborough on his recent marriage. I am going to include my own little congratulations to the hon. Member for Glasgow North, because in the 10 years that I have been on the Panel of Chairs, I have never before heard Austin Powers mentioned in debate. As a great fan of Austin Powers, I was thrilled and delighted.

Bill, as amended, to be reported.

4.47 pm

Committee rose.

Written evidence reported to the House

EB14 Bond