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# ***The Electoral Fraud (Northern Ireland) Bill***

**Bill 6 of 2001-2**

This Bill is being introduced to implement the recommendations of the white paper, *Combating Electoral Fraud in Northern Ireland*. The Bill contains a number of provisions to counter electoral fraud, and applies to Northern Ireland only. In particular, it requires electors to provide their signature and date of birth when applying for inclusion in the electoral register, so that cross checks can be made when absent voting applications are received. It also allows presiding officers in polling stations to ask electors their date of birth. Finally the bill provides for a voluntary electoral ID card which will eventually replace non-photographic means of identification already required by electors before they can vote in Northern Ireland. The second reading of the Bill in the Commons is scheduled for Tuesday 10 July.

Oonagh Gay

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## Summary of main points

Electoral fraud has been a long-standing problem in Northern Ireland. Following the 1997 general election, recommendations for change were made by the Northern Ireland Affairs Select Committee and the Northern Ireland Office review *Administering Elections in Northern Ireland*. The main problems were categorised as:

- Registration of people not resident at the address given
- Fraudulent absent voting applications
- Undue influence at the polling place
- Personation of electors

The reports had difficulty in assessing the extent and the effect of electoral fraud in Northern Ireland. Prosecutions for electoral offences were very rare, but the Chief Electoral Officer for Northern Ireland had noted severe problems in a number of areas.

A white paper was published in March 2001, *Combating Electoral Fraud in Northern Ireland*, which made proposals for legislative action in a number of areas:

- The elector's date of birth and signature would become required information on the electoral registration form.
- The absent voter's form would require confirmation of the elector's date of birth and signature.
- A voluntary electoral ID card would be added to the list of specified documents which have to be produced by an elector at the polling station under 1985 legislation. As a result, non-photographic forms of ID would be phased out.
- Presiding Officers at polling stations would be able to ask electors their date of birth as a deterrent against personation.

These recommendations are given legislative form in the *Electoral Fraud (Northern Ireland) Bill*. In addition, the Bill modifies certain procedures applicable to disabled voters. The white paper set out other administrative changes, such as a research project on the extent of electoral fraud and incremental moves towards the introduction of a comprehensive and secure electoral identity system. A press notice issued at the first reading of the bill stated that the measures would take about 18 months to come into effect, if approved by Parliament.



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# I Introduction

## A. Electoral Law and Administration in Northern Ireland

Election law and election administration are excepted matters under the *Northern Ireland Act 1998* and therefore legislation must be introduced at Westminster to change the law in Northern Ireland.<sup>1</sup> Separate delegated legislation is necessary to apply the law relating to Westminster Parliament elections to Assembly, local and European Parliamentary elections. The draft *Northern Ireland Assembly (Elections) Order*, laid on 4 July applies existing election law to Assembly elections, taking account of developments since 1998, and does not incorporate the provisions in the *Electoral Fraud (Northern Ireland) Bill*. There are some important differences in electoral administration in Northern Ireland, the most important being the post of the Chief Electoral Officer (CEO).

The CEO is an independent official, appointed by the Secretary of State under s14 of the *Electoral Law Act (Northern Ireland) 1962*.<sup>2</sup> The current holder of the office is Dennis Bradley, who was appointed on 1 September 2000. He is responsible for the conduct of all elections in Northern Ireland – a function carried out by locally based electoral officers in Great Britain. He acts as the Registration and Returning Officer for each parliamentary constituency in Northern Ireland, and the Returning Officer for European Parliamentary elections, Assembly elections and district council elections. There is only one electoral register in Northern Ireland, which is administered by the CEO. The new Electoral Commission, established under the *Political Parties, Elections and Referendums Act 2000* has an remit which extends to Northern Ireland but which does not replace the role of the CEO there.<sup>3</sup>

The CEO is under a statutory obligation to submit a detailed annual report to the Secretary of State, which is then presented to Parliament.<sup>4</sup> In recent years, the previous holder of the office, Pat Bradley, has drawn attention to funding difficulties inhibiting more sophisticated work against fraud.

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<sup>1</sup> Schedule 2, paras 2 and 12. Excepted areas are those reserved to the Westminster Parliament

<sup>2</sup> As amended by Article 6(1) of the Electoral Law (Northern Ireland) Order 1972. Under s14(2)(b) of the 1962 Act the CEO holds office 'during good behaviour' otherwise he can be removed from office by the Secretary of State

<sup>3</sup> For further information see Parliament and Constitution Centre standard note *The Electoral Commission* 2 January 2001

<sup>4</sup> Section 14(4) of the *Electoral Law Act (Northern Ireland) 1962* The latest report was published in July 2000 HC 873 1999-2000

## B. Recent Developments

There have been concerns about the extent of electoral fraud in Northern Ireland for many years. The old adage ‘vote early, vote often’ is often made with reference to patterns of voting there. Since the 1997 general election, there have been several parliamentary and official enquiries which have recommended changes:

- The Northern Ireland Affairs Select Committee published its report: *Electoral Malpractice in Northern Ireland* in March 1998.<sup>5</sup>
- The Government response made a number of recommendations in two Special Reports of the Committee.<sup>6</sup>
- The Northern Ireland Forum Committee on Electoral Malpractice in 1997 published a report in October 1997.<sup>7</sup>
- The Northern Ireland Office review *Administering Elections in Northern Ireland* October 1998 was published in October 1998.<sup>8</sup>

There were some minor legislative changes following these reports in the *Representation of the People (Northern Ireland) (Amendment) Regulations 1998*<sup>9</sup> but it was recognised that primary legislation was necessary to achieve the major changes considered necessary.

The Select Committee pressed for the introduction of legislation, but in evidence to the Committee in April 2000, Peter Mandelson, the then Secretary of State noted that no legislative slot was available.<sup>10</sup> The Committee noted in its first special report of 2000-2001 that it was:<sup>11</sup>

very concerned about the length of time it is taking to secure any progress, even on such basic matters as replacing the most vulnerable identification documents which currently entitle a voter to a ballot paper. When we reported in March 1998, less than a year after the General Election, we had a reasonable

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<sup>5</sup> *Electoral Malpractice in Northern Ireland* HC 316 Session 1997-98  
<http://www.publications.parliament.uk/pa/cm199798/cmselect/cmniaf/316ii/nis202.htm>

<sup>6</sup> First Special Report HC 700 1997-98 Government Response to the Second Report of the Northern Ireland Affairs Committee  
<http://www.publications.parliament.uk/pa/cm199798/cmselect/cmniaf/700s1/nis101.htm> Second Special Report HC 484 1998-9  
<http://www.publications.parliament.uk/pa/cm199899/cmselect/cmniaf/484/48402.htm>

<sup>7</sup> Presented to the Forum on 31 October 1997. This body was established following the 30 May 1996 elections as a deliberative forum. Research Paper 98/57 *Northern Ireland: Political Developments since 1972* gives background

<sup>8</sup> Cm 4081 The Review was announced in July 1997 by the Secretary of State, primarily to look into the allegations of widespread malpractice made after the 30 May 1996 Forum elections. It was initially due to report by the end of November 1997. An interim report was appended to the Northern Ireland Affairs Select Committee report in March 1998, but the final report was not published until October 1998

<sup>9</sup> SI 1998 no 2870

<sup>10</sup> Evidence 5 April 2000

<sup>11</sup> HC 148 2000-2001, para 9



expectation that rather more progress might have been made before the next General Election in tackling the serious problems of electoral malpractice than appears likely to be the case.

The issue was the subject of debate in the Northern Ireland Assembly in February 2001, when the motion was carried: ‘That this Assembly calls on the Chief Electoral Officer for Northern Ireland to report on his plans to counter electoral fraud’.<sup>12</sup> A Sinn Féin amendment to widen the terms of the CEO report to include the overall electoral process was defeated. Pat McNamee, in moving the amendment, said:<sup>13</sup>

The RUC said that there was very little evidence of its being called upon to deal with personation. We have lots of vocal, public allegations about electoral fraud, but very little evidence of substance behind them, in spite of the reports and the reviews that have been carried out.

A white paper was issued in March 2001 *Combating Electoral Fraud in Northern Ireland*.<sup>14</sup> It summarised the Government proposals as follows:

6. The proposals are:

- The collection of additional personal identifiers at registration
- The establishment of electoral investigation teams
- The monitoring of multiple registration
- The introduction of bar-coded [Absent Vote] AV application forms and declarations of identity, and, eventually, automated processing of AV applications and declarations.
- The requirement to provide a signature and confirmation of date of birth on AV applications and declarations.
- The maintenance of order at the polling station through the application of existing police powers
- The introduction of a voluntary photo-ID card (the voter ID card) for use at the polling station
- The removal of all non-photographic forms of ID on the list of specified documents
- The use of the date of birth collected at registration as a means of checking the authenticity of the proffered identity document
- The introduction of a third statutory question permitted to the presiding officer
- Incremental moves towards the introduction of a comprehensive and secure electoral identity system, probably incorporating biometric technologies.

7. These proposals are being published at the same time as the Chief Electoral Officer is announcing a number of reforms in the Electoral Office, which will have immediate effect. These are:

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<sup>12</sup> Northern Ireland Assembly Record 20 February 2001 p279 <http://www.ni-assembly.gov.uk/record/010220.htm>

<sup>13</sup> p283

<sup>14</sup> Cm 5080

- (a) The initiation on behalf of the Electoral Office of a research project designed to measure the incidence of electoral fraud.
- (b) The Electoral Office will continue to investigate in conjunction with the RUC all possible instances of electoral fraud, in particular in relation to absent voting.
- (c) A return to locally-managed Absent Vote application procedures.
- (d) The issuing of renewed guidance for both polling agents and polling clerks/presiding officers.
- (e) An enhanced training provision for both electoral staff and local council officials involved in elections.
- (f) The reinforcement of existing liaison between the Electoral Office and the police.

The necessary legislative changes were set out as follows:

#### **APPENDIX A - THE NECESSARY LEGISLATIVE CHANGES**

- The elector's date of birth and signature shall be made required information on the registration form, Form A.
- Specific powers shall be detailed for the Chief Electoral Officer or his officers to cross-check the electoral register against the databases of other organisations and agencies.
- Those electors who are registered more than once shall have their name marked on the electoral register to indicate this fact.
- The Absent Vote application, the declaration of identity and other personal documents issued by the Electoral Office shall require confirmation of the voter's date of birth and signature.
- An electoral photo-ID card issued by the Electoral Office shall be added to the list of specified documents.
- The medical card and other non-photographic forms of ID shall be removed from the list of specified documents.
- A third statutory question—`what is your date of birth?—shall be permitted to the presiding officer.

Powers for the CEO to cross-check the electoral register against other databases are included in para 35 of the *Representation of the People (Northern Ireland) Regulations 2001*.<sup>15</sup> Housing Executive, district council rate collection, Valuation and Lands Agency records and births, marriages and deaths records can be checked. The reference to marking the register with details of those who have registered more than once was in fact an administrative proposal, which does not require legislative action. The CEO will create a register which will be marked with those with multiple registrations, but these details will not be publicly available. Legislation would have been necessary to include a specific mark on the register for a public version.<sup>16</sup>

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<sup>15</sup> SI 2001 no 400

<sup>16</sup> Information from the Northern Ireland Office

## C. Westminster Hall debate

On 29 March there was a short debate in Westminster Hall on electoral fraud in Northern Ireland.<sup>17</sup> The then junior Northern Ireland Office minister, George Howarth, commented on the background to current proposals:<sup>18</sup>

The measures outlined in the White Paper, which has been referred to extensively in the debate, are largely based on the excellent work done by the Select Committee when it investigated electoral malpractice. The conclusions of the report of the Northern Ireland Office, published at about the same time, have also been taken into account in formulating the proposals in the White Paper. Some, including the right hon. Member for Cities of London and Westminster and the hon. Member for Solihull, have pressed for an explanation for our not having already included the proposals in legislation. That is not because of any lack of commitment to the problem, because the matter is of grave concern, something on which I have received many representations, and an issue that I take seriously. The truth of the matter is that the measures in the White Paper have been refined and developed after detailed consultations with all political parties, with the chief electoral officer, and with registration and electoral officers in Great Britain, as well as after an examination of all the measures that have been introduced in other parts of the world to combat electoral fraud.

Whatever measures we introduce must be broadly acceptable to the House and, as important if not more so, they must be broadly acceptable to the electorate. Because the measures that we want to introduce will affect how people register to vote and introduce new attainers, we will have to bring forward primary legislation, as the right hon. Member for Cities of London and Westminster said. However, much of the proposed change will involve new technical equipment that is not in place. If we were to introduce legislation now, its procedures simply could not be implemented straight away.

One recommendation in the select committee report not taken up was a review by the CEO of the right to inspect the marked up-register.<sup>19</sup> There were consultations with the political parties in Northern Ireland, who continued to favour the retention of the right of inspection.<sup>20</sup>

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<sup>17</sup> HC Deb 29 March 2001 c325-350WH

<sup>18</sup> c343WH-344WH

<sup>19</sup> In her evidence, the then Secretary of State, Mo Mowlam, supported the abolition of this right (HC 316 Session 1997-98, Q231).. In Appendix 4 the junior minister, then Paul Murphy, noted the 'opportunity for abuse that the facility for public inspection of these documents can provide'. See below p19 for further background

<sup>20</sup> Information from Northern Ireland Office

## II Areas of concern in the Northern Ireland electoral process

### A. Registration

The system of registration in Northern Ireland still depends on a qualifying period of three months, unlike Great Britain where it is now possible to apply for inclusion on the register as soon as a person has moved house.<sup>21</sup> The three month requirement is long-standing and dates from original UK legislation requiring a qualifying period for registration. This period was repealed in Great Britain in the *Representation of the People Act 1948*. There have always been concerns in Northern Ireland that the qualifying period was necessary as a deterrent against Irish citizens taking up residence simply in order to vote in key elections there.<sup>22</sup> As in Great Britain Irish and Commonwealth citizens may vote in Northern Ireland elections, provided they fulfil the residency requirements.

In line with the rest of the United Kingdom, it is possible to be registered to vote in more than one area, provided that the appropriate electoral officer considers that the requirements in the *Representation of the People Act 1983* as to residence are satisfied.<sup>23</sup> Many students, for example are registered in two places. The danger is that a second registration may be used by an elector to vote twice, or by another voter personating the absent registered voter. The CEO noted in evidence to the Northern Ireland Affairs Select Committee that registration of family members and others who have since moved out of a household was one of the main areas of abuse of the register.<sup>24</sup>

Until February 2001 a draft register appeared on 28 November of each year based on an annual canvass, with a form sent to the head of each household, who is under a legal obligation to complete it on behalf of the eligible members of the household. Before 1988 these forms were returned by post, but the CEO decided to reduce the scope for fraud by employing canvassers to collect door to door and assist householders with completion where necessary. Only after the canvasser has called three times, may the form be returned by post, without checking by the canvasser.<sup>25</sup>

When the draft register was published, there was a period until 16 December in which claims and objections could be made to the CEO in relation to the inclusion of specific

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<sup>21</sup> For details of the system of rolling registration, in operation since February 2001, see Parliament and Constitution Centre standard note *Electoral Registration Changes* 26 March 2001 and Research Paper 99/94 *The Representation of the People Bill*

<sup>22</sup> *Oliver Committee* Cmd 7004 1946

<sup>23</sup> Northern Ireland was brought into line with Great Britain as a result of Northern Ireland Regulations

<sup>24</sup> HC 316 1998-98 para 15 and CEO Evidence p1 and Q4

<sup>25</sup> *Administering Elections in Northern Ireland* para 3.2 Nearly 90 per cent of forms in 1997 were collected by canvassers HC 316 1997-98 Appendix 13, para 4

names. This was work traditionally carried out by the political parties, who could use local knowledge to query where necessary. There were monthly claims hearings to decide upon additions to the register, but not deletions. Following the change in canvassing procedure, there was a sharp decrease in the number of objections accepted by the CEO, until the 1997 general election year. According to evidence presented by the then CEO to the Northern Ireland select committee, this indicated that the register is generally reliable in Northern Ireland, although the reduction may also 'reflect a falling off in party activists' abilities to check names when more experienced party members retire'.<sup>26</sup>

From 16 February 2001 a new system of rolling registration operates in Northern Ireland; in line with the rest of the UK, where a revised register is issued monthly and claims and objections are made on a monthly basis. However, the three month residential qualifying period remains in force and there will still be an annual canvass in the autumn.<sup>27</sup>

In general, the accuracy of the register in Northern Ireland compares well with other parts of the United Kingdom. The CEO considers that the register is currently 91 per cent complete and 94 per cent accurate.<sup>28</sup> 100 per cent accuracy is unachievable in view of population movements. Copies of the register are available for inspection at post offices and sub-post offices in each ward, and they are supplied free on request to political parties and candidates.<sup>29</sup>

The Northern Ireland Affairs Select Committee report expressed concern about the extent of fraud in elections as a result of multiple registration.<sup>30</sup>

21. The complete extent of multiple registration whether on an organised scale or not is unknown. Nonetheless, the SDLP have produced some evidence that indicates that there are a surprisingly large number of voters in Northern Ireland who have the same name. Before the 1997 General Election, the SDLP discovered 18,000 names in West Belfast which appeared more than once on the electoral Register for the area. This compares with 6,000 on a London Register for an area which has a large Irish community. While this evidence is in no way conclusive, it raises some doubt about the reliability of the West Belfast Register.<sup>[26]</sup> There can be no doubt about some cases, however. The SDLP challenged 204 entries on the Register for a small area of the Lower Falls in late 1996, partly to demonstrate the unreliability of the system. 101 of the objections were allowed. <sup>[27]</sup>

22. It is misleading to speak of vote stealing throughout Northern Ireland as if the level was constant. There are problems in specific areas which are hard to

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<sup>26</sup> HC 316 1997-98 para 13

<sup>27</sup> *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400, made under the *Representation of the People Act 2000*

<sup>28</sup> *Combating Electoral Fraud in Northern Ireland* Cm 5080 para 8

<sup>29</sup> *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400, para 47

<sup>30</sup> *Electoral Malpractice in Northern Ireland* HC 316 Session 1997-98  
<http://pubs1.tso.parliament.uk/pa/cm199798/cmselect/cmniaf/316ii/nis207.htm>

canvass. Although he was speaking in the context of absent voting abuse, Mr Bradley did identify concentrated areas of abuse in a sector which stretches from Newry, Armagh right along the border, through County Fermanagh and County Tyrone right up to Londonderry and which encompasses the most highly contested electoral areas.[28] It is hard to resist suspecting that these areas produce the most questionable registration claims. In particular, West Belfast is, in Mr Bradley's opinion, "one of the most difficult, if not *the* most difficult" area in the British Isles for canvassing purposes.[29]

23. An accurate Register is vital. Without a trustworthy Register, there can be no secure confidence in the electoral system. At present, it is not absolutely clear how reliable the Register is. We do not share the confidence of the Interim Review Report that "while there may be some scope for some minor adjustments to the current system for the registration of electors in Northern Ireland, in actual terms the accuracy of the Register is not seriously in question." [30] On the contrary, in our view **the evidence indicates that there may be a serious level of multiple registration, at least in some parts of Northern Ireland.**

The report recommended that where voters had registered in more than one area, that they should be under a duty to indicate that they had done so, and to supply the relevant addresses. The Forum Committee and the SDLP supported the ending of multiple registration altogether.<sup>31</sup>

*Administering Elections in Northern Ireland* found that, as a result of interest in the referendum and elections in 1998 following the Belfast Agreement, a number of members of the public who were eligible to appear on the register were not included and there was evidently some confusion about eligibility criteria. The Review also concluded that: 'there is a level of false registration which is carried out with the express intention of abusing the system'.<sup>32</sup>

The review did not favour the abolition of multiple registration, reasoning that 'abuse of the system would not necessarily be curtailed if only single registration was allowed'.<sup>33</sup> Its proposals were as follows:

- Objections as well as claims should be heard at regular monthly intervals
- Each individual member of a household should sign a separate part of the annual canvass form and provide more personal details, including date of birth, mother's maiden name etc
- Further details could be requested about the property on the canvass form, e.g, number of bedrooms
- Computerisation of the Electoral Office to enable cross referencing of details, with a central database of signatures

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<sup>31</sup> *Administering Elections in Northern Ireland* p13

<sup>32</sup> *ibid* p10

<sup>33</sup> *ibid* p13

- A full time Investigation Team to check the accuracy of entries in the register and follow up fraud allegations
- Automated scanning devices for the processing of registration forms

*Combating Electoral Fraud in Northern Ireland*<sup>34</sup> made the following recommendations for change:

**The Solution: a) Personal Identifiers**

10. The Chief Electoral Officer will in future be able to collect additional personal identifiers in the annual canvass. At present, everyone who is given a registration form (Form A) is required to respond, providing their name and address for the electoral register. Other questions that may be asked are not statutory and do not require an answer. In future, however, each voter in Northern Ireland will be required to supply their date of birth and signature as well as their name and address.

11. This additional data will provide the Electoral Office with a means to identify and distinguish individual voters more securely than merely by name and address. Of all personal identifiers, the date of birth and signature are the most useful. They are immediately available and memorable to the elector. This data would be stored on the register database and incorporated into procedural checks against the name of an elector in the Electoral Office.

12. The requirement of personal information on the registration form will change the nature of the form from one that is administered on a household basis to one that is completed individually. For efficiency, a single form will still serve for a whole household. However, each person's signature will indicate individual assent to the personal data provided. Every voter will be accountable for any inaccuracies on the registration form that have allowed fraud to take place in their name. The accuracy of the form will no longer be the responsibility of only one member of a household. Where there are household members temporarily not resident at the time of the annual canvass, they will be invited to register under the provisions of rolling registration.

**The Solution: b) Investigation Teams**

13. The Electoral Office will conduct its own investigations into the accuracy of the register. This will build upon existing procedures, using the additional identifiers. The Chief Electoral Officer relies upon the goodwill and cooperation of the political parties, who may make checks upon the register and challenge the presence there of those whom they believe do not qualify. This is a system that has proven only partially successful.

14. The Electoral Office's investigations will comprise three elements: the scrutiny of the whole register to identify anomalous entries, the investigation of these entries, and the subsequent challenge to individual entries on the register.

15. The Electoral Office will therefore have a team of investigators whose task will be to ensure the accuracy of the electoral register. The Chief Electoral

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<sup>34</sup> *Combating Electoral Fraud in Northern Ireland* Cm 5080 March 2001 <http://www.official-documents.co.uk/document/cm50/5080/508003.htm>

Officer and his investigators would be given express authority to crosscheck the data on the electoral register database with the records of other large-scale data gatherers. The Chief Electoral Officer will be able to remove anyone from

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14. The Electoral Office's investigations will comprise three elements: the scrutiny of the whole register to identify anomalous entries, the investigation of these entries, and the subsequent challenge to individual entries on the register.

15. The Electoral Office will therefore have a team of investigators whose task will be to ensure the accuracy of the electoral register. The Chief Electoral Officer and his investigators would be given express authority to crosscheck the data on the electoral register database with the records of other large-scale data gatherers. The Chief Electoral Officer will be able to remove anyone from the register who, upon investigation, is unable to demonstrate his or her entitlement to entry under a certain address.

16. The reform of staffing and IT capabilities at the Electoral Office will allow for the establishment of investigation teams in a way that has not been possible before.

**The Solution: c) Monitoring Multiple Registration**

17. In respect of the problem of an inaccurate register, there have been calls to end completely the practice of multiple registration. However, the Government believes that this would be an unnecessarily restrictive measure. The opportunity to register at more than one address at which one is resident is valuable for those with second homes, students living away from home, and so on. Such people should not be denied the right to elect their representative at one or other address.

18. Nevertheless, it should be possible for the Electoral Office to prevent legitimate multiple registration within Northern Ireland becoming an opportunity for multiple voting. Simple monitoring procedures would be enough to keep a check on most people tempted to use their multiple registration to vote more than once.

19. To this end, the Chief Electoral Officer, with the help of enhanced IT scheduled for introduction in 2002, will be able to identify those people who are registered more than once, and mark their names in the register to indicate this fact. This will be no more than an indicator to presiding officers and electoral officials conducting investigations. The Chief Electoral Officer's investigators will also be able to check the voting record of those who register twice. If there is sufficient evidence of multiple voting, the Electoral Office will pursue the case in the courts.



## B. Absent Voting

The introduction of postal voting on demand in the *Representation of the People Act 2000* did not extend to Northern Ireland, owing to concerns about electoral fraud. The system in Northern Ireland remains dependent on the applicant having a valid reason for a postal vote, such as absence from home on polling day. Proxy voting provisions are similar to those applicable in the rest of the UK.<sup>35</sup> The CEO does send a notice to every relevant person to inform them that their proxy has been appointed – this alerts people in some cases of fraud.

Attempts to counter abuse are frustrated by timing and volume issues. For Westminster elections, there are only 17 days between dissolution and polling day and voters wanting a one-off absent vote must apply, receive and complete application forms and declarations of identity to be processed by the Electoral Office. For the referendum and Assembly elections in 1998 voting applications had to be received by the fourteenth day before the poll, giving 3 extra days for verification, and this new timetable was used for the general election in 2001.<sup>36</sup>

The Northern Ireland Affairs Select Committee commented on the widespread use of absent voting in Northern Ireland:

32. As elsewhere in the United Kingdom, if voters are unable to attend at their local polling station on election day they may apply for an absent voting paper or a proxy vote. To do so, a voter does not need any proof of identity, as he would if he were to attend personally to vote. There is a permanent list of absent voters, made up of those who are too ill to attend or who have some other permanent cause which prevents them from attending at the polling station. In addition, voters may apply for a postal or proxy vote for a particular election. In the case of parliamentary elections particularly, because of the short notice period, there is a rush of last minute applications from those who are not on the permanent list, in the main submitted by political parties.<sup>[46]</sup> For example, before the General Election on 1 May 1997, the chief Electoral Officer received *ten thousand* applications just hours before the deadline. A large proportion of these were from one political party.<sup>[47]</sup> This clearly makes close scrutiny of applications very difficult for the Chief Electoral Officer and his staff.

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<sup>35</sup> Current provisions are set out in Part IV of the *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400

<sup>36</sup> In the timetable for Great Britain, the last day for the receipt of absent voting applications is the sixth day before the poll

The Committee cited constituencies where there had been a large percentage increase in the number of absent votes between 1992 and 1997; instancing Belfast West and East with the highest increases.<sup>37</sup> It also noted:<sup>38</sup>

33. There is a surprising difference in the number of postal votes issued between constituencies, nearly by a factor of ten. The fact that postal votes are issued in hard-fought constituencies does not *prove* fraud, since it may be the effect of greater keenness among voters and political parties, but it does create considerable suspicion.

34. The Chief Electoral Officer has acted on this suspicion. After elections he has scrutinised many applications for absent voting.[50] The Chief Electoral Officer personally examined every single application that was received for the last three elections in Northern Ireland.[51] These were sorted out into alphabetical sequence within each ward which allowed comparison of signatures which ostensibly were from the same person. His office analysed the reasons given on the application form for the person's being unable to vote. In some cases these were contradictory. For example, a person might be described as being totally incapacitated on one form but be said to be abroad on his holidays on another. In one case a doctor attested that an applicant could not leave their home, but a statement on another application for the same person for a different election said that the person was a long-distance lorry driver.[52]

35. As a result of this work, the Chief Electoral Officer referred 361 suspect applications to the police for investigation. A sample of 95 cases were investigated. 73 were believed fraudulent and 22 proved to be genuine. According to the police, the main method of fraud involved applications using an elector's name and address to make an application; the form sent to the applicant would then be intercepted in the post. The target group for having their votes stolen were those who were judged least likely to vote, namely: the infirm; the old; students; known alcoholics; or those who had never voted in the past. The information on suitable targets was collected through a combination of local knowledge and use of the marked-up Registers for previous elections, which show the names of those who did not vote. The votes of such people can easily be stolen without trace.[53]

36. It is comparatively simple to isolate cases where there is some doubt about applications. The Chief Electoral Officer emphasised, however, that it was impossible at present finally to decide which case is genuine and which false because there is no collection of specimen signatures on file. Three applications with three different signatures may or may not mean that all three are false. Before a poll when time is short he does not know which to disallow without having genuine signatures to compare them against.[54]

37. Despite the difficulties of finally assessing the extent of this form of abuse, Mr Bradley is satisfied beyond any shadow of a doubt that the problem is extensive and involves otherwise law-abiding citizens. In the month before he came to give evidence to the Committee he personally identified some 100 cases

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<sup>37</sup> *Combating Electoral Fraud in Northern Ireland* p5,fn4 notes that there were over 2000 absent votes per constituency in the 1997 general election – double what would be expected per constituency in Great Britain (before the introduction of postal voting on demand).

<sup>38</sup> *ibid* para 33

of people from varied backgrounds who have included the householder's children who had not been there for a number of years on the household registration form.[55]

38. Abuse of absent voting is not new: in 1989, for example, there were 548 specific cases in the Newry-Armagh area of suspected postal vote abuse in which the police determined at least one-half of those were definitely fraudulent.[56] In Mr Bradley's view, it constitutes the commonest form of vote stealing in Northern Ireland. Although the regulations requiring identification have not by any means eliminated personation, they have made it harder to personate successfully; fraudulent applications for absent votes provide a comparatively easy and safe way to steal votes. **Absent voting provides a serious threat to the integrity of the electoral system in Northern Ireland - a view with which the Interim Review agrees.**[57]

*Administering Elections in Northern Ireland* set out the issues as follows:

Incidence of suspicious absent voting applications

The Chief Electoral Officer believes that up to half of all absent vote applications for the 1997 local government elections were suspicious. (Details of his investigation of absent vote applications can be found at page 63) When members of the Review visited the Chief Electoral Officer's HQ in Belfast to inspect the absent vote applications received for the election on 30 May 1996 and the two elections in 1997, it was apparent that large numbers of the forms had been filled out almost on a 'production line'.

For example, many forms in the same ward had been photocopied with the name of the ward and the date of the election applied for included in the photocopy. Likewise, in some wards, one particular handwriting style appeared on dozens of forms completing all the sections apart from the applicant's signature. In the section where reasons must be given for the application, on numerous forms the original explanation had either been deleted or added to by a different hand. In many cases, no attempt was made to hide these corrections, with sometimes two, three or even four different pens and handwriting appearing on the same form.

Both reports found a number of weaknesses in the current system:

- **Attestation**

The rules regarding applications for absent voting do not include requirements to prove identity;<sup>39</sup> attestations by medical personnel<sup>40</sup> are considered to be fraudulent in

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<sup>39</sup> The rules are now set out in Part IV of the *Representation of the People (Northern Ireland) Regulations 2001* SI no 400

<sup>40</sup> Doctors, registered nurses, Christian Science practitioners, people in charge of registered homes or residential accommodation. See para 53 of SI 2001 no 400

an unquantifiable number of cases. In some cases ‘doctors have each attested dozens of individual applications at a level out of proportion with the overall patterns of applications or ill-health across the Province’.<sup>41</sup> The rules on attestation were tightened to improve the wording of the medical declaration, but problems continue.

- **Marked-up registers**

The register used at polling stations to record those who have voted is available for inspection after the election on application. No reason need be given.<sup>42</sup> Its existence enables any one who has access to it to compile a list of names of eligible voters who regularly choose not to exercise their vote. Absent voting applications can then be made and intercepted in the post. The Northern Ireland Affairs Select Committee recommended that the CEO review the availability of the register, due to concerns about fraud.<sup>43</sup>

- **Party activist involvement**

As noted above, in 1997 the CEO reported receiving ten thousand applications just before the deadline, the vast majority of which were handed in by party agents. This represented over 40 per cent of all absent vote applications for the election. Due to time pressures, forms were only checked were incorrectly completed or contained insufficient information.

- **Operation of the absent voting process**

There were significant difficulties in the application process for the 1998 referendum and election to the Assembly. The CEO centralised the absent voting process in 1996 to reduce the scope for malpractice and reduce pressure on electoral staff. However, such was the demand in 1998 for information and applications that bottlenecks appeared in the administration of the scheme.

The Review in 1998 made a number of recommendations, the main ones being to:

1. increase the personal information demanded of applicants,
2. use only forms supplied by the CEO, possibly computer-generated,
3. consider a system of signature verification

*Combating Electoral Fraud in Northern Ireland* made the following proposals:

### **The Solution**

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<sup>41</sup> *Administering Elections in Northern Ireland* p24

<sup>42</sup> Rule 57(2) of Schedule 1 to the *Representation of the People Act 1983*

<sup>43</sup> HC 316 Session 1997-98 para 41 Marked up registers were first made available under the *Ballot Act 1872*, as a safeguard against personation. See file held at Public Record Office HO 328/44 *Election Documents: Preservation*, which noted the use of the marked-up register by Sir Oswald Mosley to check non-voters in the 1959 by election in Kensington North. Sir Oswald brought an unsuccessful election petition

24. The Government intends to encourage everything that would allow the most efficient processing of AV applications. In particular, applications for an absent vote and declarations of identity, which are returned with the postal ballot paper, will be given a serial number. These forms may also be bar-coded for automated accounting purposes. By redesigning AV application forms and declarations, and introducing the necessary technology, including optical character recognition systems, automated processing of absent votes will be possible. Additional speed will allow more time for investigations into questionable applications. Although voters will not be required to submit their application on an original form obtained from the Electoral Office, it will be the norm. Where applications are made on photocopied forms, the pattern of photocopying may allow some further investigation into questionable applications.

25. Both applications and declarations will require the voter to provide a signature and date of birth. These data can be compared to those on the register. Automated processing will allow the Electoral Office to make simultaneous checks against the register; declarations and applications that do not provide sufficient or correct information, as far as the Electoral Office knows, can be identified and rejected immediately.

#### **Conclusion**

26. The removal of political activity from the administration of the AV scheme is the aim of this policy. Just as the removal of party workers from the registration exercise ensured a greater accuracy of the register and reduced the potential for fraud, so too the ending of party involvement in absent voting processes can only be to the voters' benefit. There should be no fear that an unmanageable burden will therefore fall upon the Electoral Office, since the process will be increasingly automated.

*Combating Electoral Fraud in Northern Ireland* also noted that, as part of the reforms in the Electoral Office, there would be a return to locally-managed absent vote application procedures.<sup>44</sup>

The Appendix to this Paper gives absent vote statistics for the general elections of 1997 and 2001, and the Assembly elections of 1998.

### **C. Political Presence at the Polling Place and Undue Influence**

There are general provisions in s115 of the *Representation of the People Act 1983* against the threat or use of force, violence or restraint to induce or compel any person to vote, or refrain from voting. Section 115(2) also covers the use of any fraudulent device or contrivance to achieve the same end.

The CEO publishes guidance to polling agents appointed by political parties which sets out their rights and responsibilities. These include checking for personation.

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<sup>44</sup> Cm 5080 para 7

The Northern Ireland Home Affairs Select Committee looked at the question of an exclusion zone from polling places, following evidence from an SDLP witness, but decided against such a recommendation.<sup>45</sup> It expressed concern about relying on upholding the law on temporary staff, who might be open to intimidation, or who have restricted powers.<sup>46</sup>

The 1998 Review did not support recommendations from the political parties to remove the responsibility for identifying personation from the party polling agents and to make it the responsibility of the presiding officer, due to the possibility that this would add to staffing difficulties at polling stations. It did state that the suggestion of the Green Party that ‘a ban be placed on all electioneering activities on the actual day of election with severe penalties for those who do not comply’ merited further consideration.<sup>47</sup> It also expressed concern about allegations that information was allowed to be removed from the polling station, contrary to the spirit of s66 of the *Representation of the People Act 1983* which requires returning officers and other electoral officials to maintain the secrecy of voting.

*Combating Electoral Fraud in Northern Ireland* made no proposals for legislative change, rejecting calls for exclusion zones around the polling place, or the removal of polling agents from the polling station. It noted:

35. The conduct of both electoral officials and political agents is regulated by the Chief Electoral Officer. The Government is pleased to acknowledge his efforts in reinforcing the rules concerning conduct of elections, both on the part of his own staff and polling agents. To this end he is intending to initiate a new programme of training for presiding officers based upon the existing Code of Conduct, which outlines their various rights and responsibilities.

**Conclusion**

36. Ultimately, it is the Government’s hope that undue party-political influence in the conduct of the poll may be ended. That is not to say that politically appointed agents would no longer be present at the poll, but that their presence would cease to be influential. At present, however, good order must and can be maintained by application of existing regulations.

## **D. Voter Identification**

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<sup>45</sup> HC 316 Session 1997-98 paras 43-45

<sup>46</sup> *ibid* para 55

<sup>47</sup> p33

Legislation was introduced in 1985 to require voters in Northern Ireland to present one of a number of specified identity documents before they are given a ballot paper.<sup>48</sup> This followed representations by the CEO about the extent of organised personation in by-elections in Fermanagh and South Tyrone in 1981.<sup>49</sup> The relevant documents are as follows:<sup>50</sup>

- both parts of a current Northern Ireland full driving licence, or a Northern Ireland provisional licence, or a Great Britain full driving licence;
- a current passport issued by the Government of the United Kingdom, or Government of the Republic of Ireland or the Government of a Member State of the European Community;
- a current book for the payment of allowances, benefits or pensions issued by the Department of Health and Social Services for Northern Ireland;
- a medical card issued by the Northern Ireland Central Services Agency;
- a current British Seaman's card;
- a card made of plastic issued by the Department of Health and Social Services, the Department of Social Security or the Department of Social Development with a name and national insurance number embossed on it;
- in the case of a woman married within 2 years prior to polling day, a certified copy or extract of any entry of marriage issued by a Registrar General in the UK.

Not everyone in Northern Ireland possesses either a driving licence or passport, both of which include photographic identification. Particular problems have been found with the forgery of medical cards.

The procedure for checking personation is set out in the Northern Ireland Affairs Select Committee report:

30. As the law now stands, a person wishing to vote is entitled to a ballot paper once he has satisfied the official that he has a valid identification document. Staff are not entitled to challenge a would-be voter unless there is reasonable doubt in the documentation.[39] Where polling staff have doubt about a particular person, they are not entitled to make any enquiries other than the regulation questions: whether the person wishing to vote is the person registered at a particular address; and whether they have voted in that election already.[40] Even if a polling clerk is entirely certain that the person is not who they claim to be, he or she is obliged to issue a ballot paper.[41] By asking these questions, the officials put the party agents on notice that there is some possible doubt about the person asking for a

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<sup>48</sup> RPA 1983 Schedule 1, rule 37, as introduced by the *Elections (Northern Ireland) Act 1985*, s1(2)

<sup>49</sup> HC 316 Session 1997-98, para 25, Evidence by CEO, Q11

<sup>50</sup> Set out in Appendix B to *Combating Electoral Fraud in Northern Ireland* Cm 5080 March 2001 <http://www.official-documents.co.uk/document/cm50/5080/508011.htm>

ballot paper.[42] It is then up to the party agents to challenge the credentials of the person attempting to vote.

31. Although the Chief Electoral Officer has attempted to help party agents with their duties scrutinising claims for ballot papers,[43] the reliance exclusively on the party agents does not amount to a reliable safeguard against personation. It assumes that parties will put polling agents into every polling station, which they do not.[44] If there is a shortage of manpower, party workers are much more likely to be employed in bringing supporters to the polling stations. In many cases officials are the only people who are on hand to ensure compliance with the law.[45] **The present system of relying on party agents to challenge in cases of personation is unrealistic and provides inadequate protection.**

*Administering Elections in Northern Ireland* examined the case for a national identity card, and concluded that a personal election card might be viable:<sup>51</sup>

There are a number of available options for improving voter identification, each with its own merits and difficulties, the most wide reaching being the introduction of National Identity cards. The introduction of a national, photographic identity card which also incorporated an ID number could be used and quoted in all matters relating to elections. It would therefore almost certainly reduce the scope for electoral abuse either by personation or the manipulation of the postal voting system. A National Identity card would simplify electoral procedures and administration because it would no longer be necessary to have a list of specified documents. Furthermore, it would limit the extent to which party polling agents put themselves at risk when identifying personation. Properly administered, a National Identity card scheme would also ensure that all eligible electors were already equipped to exercise their vote.

However, a National Identity card scheme requires very careful consideration. Despite the apparent support for such an initiative among the Northern Ireland parties who responded to the Review, there is no reason to believe it would receive widespread support in the United Kingdom as a whole. A compulsory identity scheme would almost certainly be viewed with suspicion and as a potential infringement of civil liberties, particularly if it were introduced in Northern Ireland alone.

A National Identity card would also have major cost and administrative considerations. There are many different types of card available, with or without a photograph; with a magnetic, encrypted strip or with a computer chip; with or without a holographic image and so on. Each one is able to carry different amounts of information, have different updating capacities and require a variety of equipment for reading the information on the card. Likewise, the inclusion of a photograph would have obvious administrative and cost implications.

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<sup>51</sup> pp17-18



In the context of electoral malpractice in Northern Ireland, a voluntary identification card is really of no value. It could be added to the list of specified documents but it would not address the problem of the insecurity of the other documents on the list. Consequently the high costs involved in a voluntary identity card scheme could not be justified.

It may be possible however, to consider the option of a personal card specifically for use in elections alone. Such an initiative would not have the same kind of civil liberty implications as a National Identity card and would be genuinely presented as an initiative to-make the voting process easier and more accessible for all. An electoral card would mean an end to the list of specified documents, it would be effective as a deterrent to personation and absent voting fraud, would be available as a means of checking the accuracy of the register and would be equally available to all eligible electors ensuring their receipt of a ballot paper.

It favoured a central registry of signatures held on computer for cross-referencing purposes, including for absent votes.

*Combating Electoral Fraud in Northern Ireland* proposed the introduction of a voluntary voter ID card, which would be added to the list of specified documents, eventually replacing the non-photographic documents:

**The Solution: a) The Voter ID Card**

39. The Government will introduce a new, voluntary photographic identity card for use at elections in Northern Ireland. The inadequacy of the non-photographic forms of identification has led the Government to believe that what is required is a list of specified documents that is limited to photographic ID. Presiding Officers will thereby be able to determine with greater certainty whether the document presented identifies the holder. However, most forms of photographic identification that voters carry are insufficiently secure for electoral purposes (e.g. travel cards, workplace passes and student cards). The passport and driving licence would remain on the list, but there will always be some people who have neither of these, particularly the elderly and the poor.

40. The voter ID card will be issued on behalf of the Electoral Office and will carry a photograph of the holder as well as essential personal data. It will include a number of security features to make it hard to forge and impossible to alter. The voter ID card is *not* a universal ID card; it will be entirely voluntary, it is expected that no more than 500,000 people will need one to vote, and it will have no purpose except to prove identity at the polling station. This proposal has been widely welcomed by the parties. It is intended that the new voter ID card will be added to the list of specified documents on introduction and that it will eventually replace the non-photographic ID on the list of specified documents.

41. An initial issuing programme will be scheduled to begin as soon as there is legislative authority. The voter ID card will be freely and easily available. To that end, the issuing process will be conducted locally, with data- and image-capture units (that is, small teams of clerks with a laptop and a small camera linked to the computer) visiting every neighbourhood. It will operate in conjunction with a high-profile media campaign, including publicity targeted at those groups most

likely to need such cards. Permanent issuing stations will subsequently be maintained at local electoral offices.

42. The medical card and other non-photographic documents will be removed from the list once the voter ID card has achieved wide acceptance. The Government is determined that no one should be disenfranchised until they have had every reasonable opportunity to acquire photographic ID. Once the Government is certain that it is safe to remove the other documents from the list, the voter ID card, the passport and driving licence will be the only ID acceptable at the polling station.

43. It may be possible in time to add other photographic identity documents to the list of specified documents. A more secure form of medical card, or other government-issued card, would, if introduced, be a useful addition to the list.

In addition presiding officers would be able to ask voters their date of birth, as an additional identifier in cases of doubt:

**The Solution: b) An Additional Statutory Question**

44. What is required in addition is an opportunity to verify the authenticity of the voter's identity document. The simplest solution would be for the Presiding Officer to check the voter's date of birth on his ID against that stored on the electoral database (see above, paragraphs 10-12). The date of birth would have been printed out on the paper copy of the register used at the polling station. (It would be necessary for this information to be kept private, available only to the presiding officer, and it would not be printed on the copies of the register available to public inspection or sold commercially.) Where the date of birth is the same on both documents, the Presiding Officer would be free to hand over a ballot paper. Where the dates of birth are quite clearly different, the Presiding Officer would proceed as if the document was in doubt and allow the voter to produce a different form of identification or accept a tendered ballot paper.<sup>52</sup>

45. Errors can be made in entering data and the date of birth on one document may be only one or two digits different from that on another. Where there is reason to suppose that either the date of birth on the Electoral Register or that on the proffered identity document has been entered wrongly, the Presiding Officer would have recourse to an additional statutory question: what is your date of birth? This would allow the voter to clarify the discrepancy if necessary. If the voter gives his or her date of birth as that on the identity document rather than that on the electoral register, this would not constitute a reason for denying a ballot paper. However, if the voter gave his or her date of birth as that on the register and not that on the identity document, this would place the identity document into some doubt. The Presiding Officer would then proceed as before, allowing the voter either to provide an alternative form of ID or to take a tendered ballot paper.

**Conclusion**

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<sup>52</sup> These are ballot papers used in certain circumstances, for example where a voter applies for his ballot paper and discovers that someone else has already voted in his stead. See Rule 40, *Parliamentary Elections Rules*

46. At present, the ease with which medical cards can be used irregularly is a principal cause for concern in addressing electoral fraud. To require more credible proof of identity at the polling station should cut out a large part of the existing fraud. The introduction of a new form of photographic ID for electoral purposes is a simple and effective solution to this problem. In addition, with greater emphasis being placed upon the authenticity of the identity documents, the traditional task of identifying attempted personation should be reduced. Polling agents will still be required, but the burden of challenging identity will not rest solely with them.

The cost of the Voter ID card was put at £750,000 over two years, bearing in mind that the proportion of the electorate without driving licences or passports was estimated at one third to one half of the electorate or 400-600,000 people in all. It was envisaged that the issuing programme would take up to eighteen months to complete.<sup>53</sup>

*Combating Electoral Fraud in Northern Ireland* envisaged a system of electoral smart cards for the future, as follows:

Nevertheless, the Government recognises the potential advantages that new technologies may bring. There is the possibility of a comprehensive and secure electoral identity system. With such a system, there would be absolute safeguards against anyone registering more than once without the knowledge of the Electoral Office. More importantly, it could become virtually impossible to vote more than once. As soon as a voter had been issued a postal or proxy vote, or had voted in person, any subsequent attempt to vote would meet with rejection. Current and future IT would make this possible.

49. The ultimate aim is for every voter to be issued with an **Electoral smart card**, bearing a unique identifier. The voter would present this card at the polling station and it would be accepted or rejected automatically. The card could also be used for registering a vote. When the vote has been cast, the voter's name on a central database, and perhaps on the card itself, would be marked so that if the card is presented a second time the machine knows to reject it.

50. To ensure the effectiveness of such a system, the Government believes that biometric data would need to be incorporated into a universal electoral identity card—perhaps a finger-print or hand-geometry scan. Since every biometric measure is unique to the individual, it would be possible to provide every voter with a single, unique and instantly accessible identifier. The polling station would include a biometric reader that would identify the voter and indicate whether he or she is entitled to vote. Identification of voters at the ballot box would not therefore rely upon the presiding officer or polling agents, subject as they are to human infirmities and, in extreme cases, the threat of violence. It would rather be automated and final in its judgement.

51. These are aspirations for the future. Technologies change so rapidly that it is impossible to predict what will be the best route forward or what the timing for a more ambitious project of this kind might be. Such a comprehensive system

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<sup>53</sup> para 53

would need to be wholly secure and restricted to the purposes of electoral administration. The Government will give further consideration to when it might be possible to initiate such a secure electoral identity scheme.

The Home Office website summarises the Government's present position on compulsory identity for the UK thus:

The Government is aware that there is some degree of public support for a national identity card scheme in this country, although there is no consensus as to what purpose the scheme would serve. However, the Government has yet to take a view, one way or another, on whether to introduce identity cards, although the Home Secretary has recently indicated that he is not convinced by the arguments in favour of compulsory cards. It will be necessary to look closely at the potential benefits and disadvantages of a national identity card and to consider whether the benefits could be achieved in other ways.

There is no common agreement on the need for identity cards within the European Union. Under European Community Directives, national identity cards are accepted for travel only within the European Union. Strict controls would be required in the issue of identity cards to ensure security. It is therefore open to question how far an identity card would simplify travel for members of the public.<sup>54</sup>

Most EU countries already have national identity cards (the exceptions are Denmark, the Irish Republic and the UK). A study published in 1995 indicated that possession, and usually the carrying of such cards is compulsory in Belgium, Italy, Germany, Greece, Luxembourg, Portugal and Spain. Voluntary national ID cards are in place in Austria, Finland, France, Netherlands and Sweden. With the exception of Austria, the cards all include the bearer's photograph.<sup>55</sup>

### **III Electoral Fraud –Extent and Effect**

The Northern Ireland Affairs Select Committee commented on the difficulties of obtaining accurate data on the extent of fraud in elections in Northern Ireland:<sup>56</sup>

46. A frustrating aspect of this enquiry is the quality of the evidence on which to base findings. Although we wrote to all the political parties in Northern Ireland, the response was varied. There was some evidence based on particular cases and

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<sup>54</sup> <http://www.homeoffice.gov.uk/ccpd/faqid.htm>, 24 April 2001 There is a Home Affairs section standard note Identity Cards 4 July, available on the intranet, which gives further detail on the national debate

<sup>55</sup> Adrian Beck and Kate Broadhurst, *National Identity Cards in the European Union*, Centre for the Study of Public Order, University of Leicester (1995)

<sup>56</sup> HC 316 Session 1997-98 paras 46-49

much useful coverage of the impression which exists about the integrity of the electoral process in Northern Ireland, but there was limited coherent evidence of the extent of vote stealing. We were not alone in finding evidence hard to collect. In its initial evidence to us the Northern Ireland Office commented on the disappointing amount of evidence sent in to the official Electoral Review.[67] There have been many allegations of voting fraud, in particular made by representatives of political parties, but the allegations have not always been precise. Much of the evidence of fraud is anecdotal and circumstantial. Gossip has not translated into hard evidence. In particular, there is a notable lack of concrete information on the prevalence of voting fraud. As a result, the extent of the problem is hard to define. It is possible that the fear of intimidation has contributed to this reticence.[68]

47. The Chief Electoral Officer himself is unsure about the extent of the problem. He has asked those political parties who have complained about personation for specific details that would enable him to start an investigation which could ultimately involve the police. He told us that he has still not received any specific instances.[69]

48. We found it difficult to gain a clear picture of the extent of the problem from Mr Bradley. For example, on page 1 of his report, paragraph 2.3, headed "Multiple registration", the second sentence says: "There have been allegations of deliberately false multiple registrations in some constituencies as part of a planned electoral abuse campaign." Mr Bradley's response was unclear when we asked him how many of those allegations there had been.[70]

49. As a result, some may argue that the amount of vote stealing in Northern Ireland is less than many allege. For example, Sinn Féin in their written evidence told us that the issue is exaggerated by parties opposed to Sinn Féin's participation in elections.[71] We do not accept this view, however. Police searches have revealed that medical cards can be expertly forged and absent voting applications fraudulently prepared and indicate the existence of very professionally organised vote stealing. Councillor Attwood estimated that the votes stolen on polling day within one constituency are between 1,000 and 2,000, on the basis that the polling stations are open from seven to ten with 75 or 80 boxes and assuming a regular trickle of votes to be stolen at each box during each hour of the polling day.[72] This is hardly a scientific method of assessment, but it is one founded on long experience of campaigning in one area. We have no reason to suppose that the estimate is wildly wrong, at least within the area where he is an active politician. On the basis of the wide experience of those active in political life in Northern Ireland and, in particular, the product of police searches and enquiries revealing organised arrangements for forging medical cards and abuse of absent voting applications, **there is sufficient evidence of organised voting theft to indicate that the problem of electoral malpractice in Northern Ireland is serious.**

The committee noted that fraud was likely to lead to electoral advantage, particularly in multi seat wards, such as the district council elections, which are held under the Single Transferable Vote in Northern Ireland. There, a the winner of a seat could be determined by a handful of votes either way. The number of prosecutions for personation or for other forms of electoral fraud remains very low, due to difficulties in obtaining evidence. Evidence from the RUC included in the Select Committee report noted that there had

been only three successful prosecutions in 1995 and in 1996 and 1997 there had been no prosecutions at all.<sup>57</sup>

*Administering Elections in Northern Ireland* consulted a number of academics specialising in elections in Northern Ireland for their opinions on the connection between fraud and the electoral outcome:<sup>58</sup>

### **Academic contacts**

In order to encompass as many views as possible with regard to the Review, the Review contacted academics, both in Great Britain and Northern Ireland, to ask their views and make use of their findings.

Although not all the academics contacted responded to the Review's request for information about electoral abuse, those that did, appear largely to concur. No one has expressed concern that electoral malpractice in Northern Ireland constitutes a serious problem, although it is thought to be occurring on some scale.

It is agreed that the SDLP have been the most vocal in attacking Sinn Fein, attributing their electoral successes almost entirely to the abuse of the electoral system.

Unionists have also reacted angrily at Sinn Fein's electoral performance, with Mr David Trimble accusing Sinn Fein of 'massive electoral abuse'. However, academics who have responded to this Review suggested that the abuse which does occur is not confined to one party or one half of the political and religious divide.

For example, in a letter to the Review, Professor Brendan O'Leary of London School of Economics stated that, while he is doubtful that abuse occurs on a large scale, confidential interviews carried out by him with people from all parties except Alliance and the DUP have demonstrated that abuse is perpetrated on behalf of all their parties.....

All that can be said is that those academics who did contribute to the Review are largely convinced that while some abuse goes on, it does not significantly alter the political landscape and that what does occur is not confined to one political party. The academic world expects to see Sinn Fein improve their position still further, whatever measures are brought in to tighten up electoral procedures. Dr Sidney Elliot of Queens University has gone as far as saying that recent results have

raised the question of whether there was now any ceiling to the Sinn Fein vote.

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<sup>57</sup> HC 316 1997-98 Appendix 8 *Memorandum from the Royal Ulster Constabulary*. Further information about RUC investigations is given in para 5.6 of *Administering Elections in Northern Ireland*

<sup>58</sup> Cm 4081 pp50-52

Overall, the Review found that, despite requests for evidence of electoral malpractice, very little material was presented to the Review team.<sup>59</sup>

In his report for 1998-99 the then CEO, Pat Bradley, commented:<sup>60</sup>

The local elections are more susceptible to electoral abuse. A small number of votes can have a significant impact in the election of individual councillors and hence, in the case of marginal councils in determining the overall control of the council.

There appears therefore to be no conclusive evidence of the real electoral effect of personation and other forms of fraud in Northern Ireland.

Following the narrow Sinn Fein victory in the Fermanagh and South Tyrone seat in the 2001 general election, the Ulster Unionist candidate, James Cooper, has launched an electoral petition, alleging that a polling station was kept open later than 10pm.<sup>61</sup> The petition has yet to be heard before the election court.<sup>62</sup>

#### **IV The *Electoral Fraud (Northern Ireland) Bill***

The Bill had its first reading on 28 June 2001. There are seven clauses. Apart from the provisions for disabled voters in clause 5, the provisions in the bill, if passed, would come into force on a day appointed by the Secretary of State. The provisions extend to Northern Ireland only. The intention is that the provisions should be in force by the time of planned Assembly elections in 2003, but there is no provision to link the holding of the elections with full implementation of the provisions in the Bill. In the debate in Westminster Hall on 29 March 2001<sup>63</sup>, the then junior Northern Ireland minister said that ‘it is hoped that the legislative measures, particularly those in the White Paper, will be in place for the Assembly election scheduled for May 2003’.

The press release issued with first reading stated:<sup>64</sup> ‘the new measures proposed by the Bill will take around 18 months to put into effect’. The application of the new provisions

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<sup>59</sup> *Administering Elections in Northern Ireland*, para 5.1

<sup>60</sup> HC 92 Session 1999-2000 p20

<sup>61</sup> *BBC News* 21 June 2001 ‘Unionist fighting election result’

<sup>62</sup> See Parliament and Constitution Centre Standard Note *Election Petitions* 2 July 2001, for background. Fermanagh and South Tyrone was the subject of an election petition in 1955, when the successful candidate was a convicted prisoner. The election court decided that the losing candidate should take the seat

<sup>63</sup> HC Deb 29 March 2001 c345WH

<sup>64</sup> *Northern Ireland Office* June 28 2001 ‘Electoral Fraud (Northern Ireland) Bill introduced into House of Commons’

to Assembly, local government and European parliamentary elections will be made by separate delegated legislation.<sup>65</sup>

### **Clause One**

The *Explanatory Notes*<sup>66</sup> set out the purpose of the clause:

10. This clause enables the Chief Electoral Officer for Northern Ireland to collect additional identifying information from registered voters. Electors and those applying for registration will be required to state their date of birth and sign the form for the annual canvass as well as stating their name and address. The signature and date of birth will not appear on the electoral register (apart from the date of birth of those who will become 18 in the coming year, as at present), but the information will be used in the electoral office and at polling stations for the purposes of making checks against the name of an elector when they apply for a postal vote or to vote by proxy, or attend at the polling station to obtain a ballot paper. The Chief Electoral Officer for Northern Ireland may dispense with the requirement for a voter to supply a signature in certain circumstances.

Amendments are made to s10 of the *Representation of the People Act 1983* requiring electors to provide their signature and date of birth in the annual canvass of electors. The CEO may dispense with the requirement in cases of incapacity or illiteracy. Each person in a household must provide a signature and date of birth, and the entitlement of a person to remain registered terminates if the canvass form does not bear those requirements. When an application to register is made between the annual canvass, there are provisions in clause 1(4) to require the applicant to provide the signature and date of birth. It is hoped that the provisions will be in place for the autumn canvass in 2002.

At this stage, the signatures will not be digitised, but will simply be available for manual checking purposes, when absent voting applications are made. Where queries arise, due to apparent non-matching of signatures, applications will be referred to the CEO for final decision. It is hoped that the inclusion of two personal identifiers, signature and date of birth will speed up the checking process when applications for postal votes are received. However, large numbers of applications will still need to be processed at short notice to meet the deadline in the electoral timetable.

The signatures will not be available on the register at individual polling stations, as voters in person will not be asked to sign for their ballot papers. However, details of dates of birth will be available (see below). In the longer term, it may be possible to link all polling stations into a secure computer network whereby digitised signatures could be compared when an application for a ballot paper is made. New legislation would be required to implement such a scheme.

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<sup>65</sup> Information from the Northern Ireland Office

<sup>66</sup> Bill 6-EN Session 2001-2



## Clause Two

The *Explanatory Notes* set out the purpose of the clause:

15. This clause amends the parliamentary elections rules in Schedule 1 to the Representation of the People Act 1983. These rules apply (with amendments which extend only to Northern Ireland made by the Elections (Northern Ireland) Act 1985 to rules 37 and 40, in particular regarding the requirement that voters should produce specified documents) for the purposes of parliamentary elections in Northern Ireland. Rule 35 relates to the power to put questions to voters attending the polling station. Rule 37 states the circumstances in which a presiding officer or clerk is entitled to refuse to deliver a ballot paper to a voter. Rule 40 states the circumstances in which a voter can be refused a tendered ballot paper.

16. The amendments made by the Bill empower a presiding officer or clerk at a polling station to ask a third statutory question as to a voter's date of birth. If the voter answers to the satisfaction of the presiding officer, the ballot paper must be presented unless a candidate or his election or polling agent accuses the voter of personation.

At present, the only two statutory questions which may be put to a voter are:

- Are you the person registered in the register of parliamentary electors for this election as follows?
- Have you already voted here or elsewhere, at this election, otherwise than as proxy for some other person?<sup>67</sup>

There are provisions to enable the presiding officer to refuse to deliver a ballot paper to a voter (but not to a proxy), as follows:

18. *Subsection (3)* amends rule 37. This rule currently requires a presiding officer or clerk to hand over a ballot paper to a voter who produces a specified document unless the document raises reasonable doubt as to his identity. The amendment to rule 37(1B) adds to the circumstances in which a reasonable doubt may arise. The doubt may be prompted, under the provisions of rule 37(1B), by the information contained in the specified document itself or the apparent age of the voter compared with the date of birth supplied to the Chief Electoral Officer.

19. *Subsection (3)(b)* amends paragraph (1C) of rule 37 so that the power to refuse to deliver a ballot paper where a reasonable doubt arises by virtue of rule 37(1B), will rest with the presiding officer.

Similar provisions apply for tendered ballot papers.<sup>68</sup> The polling agent or candidate retain their right to require the presiding officer to put the statutory questions to an elector.

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<sup>67</sup> Rule 35, *Parliamentary Elections Rules*, Schedule 1 to the *Representation of the People Act 1983*

<sup>68</sup> These are ballot papers used in certain circumstances, for example where a voter applies for his ballot paper and discovers that someone else has already voted in his stead. See Rule 40, *Parliamentary Elections Rules*

### **Clause 3**

The *Explanatory Notes* set out the purpose as follows:

22. This clause amends provisions of the Representation of the People Act 1985 which have effect only in Northern Ireland and which relate to voting by post or by proxy (called "absent voting") at parliamentary elections there. The amendments have the effect that applications to vote by post or proxy must be signed and that the signature on the application must correspond with the signature provided to the Chief Electoral Officer on registration. The Chief Electoral Officer may refuse to grant an absent vote application if he is not satisfied that the signature on the application corresponds with the signature held on his records.

The new provisions apply both for applications for an indefinite absent vote or for a vote at a particular election. A postal ballot paper will not be deemed to be duly returned unless the accompanying declaration of identity has been signed and the signature corresponds with the one supplied on electoral registration.

### **Clause 4**

The *Explanatory Notes* set out the purpose as follows:

26. This clause inserts a new section 13C in the Representation of the People Act 1983. It enables a person to apply to be issued with an electoral identity card (in accordance with any requirements prescribed by regulations). The Chief Electoral Officer has the function under section 13C(3) of determining such an application (in accordance with any regulations) and, if he is satisfied that the information given by an applicant is correct, he is required to issue an electoral identity card free of charge. There is a regulation-making power under section 13C(2) to provide for the types of person who may apply and for the application form.

The electoral identity card must show full name and date of birth, photograph, expiry date of the card and other information as prescribed by the Chief Electoral Officer. It will have a ten year life and is added to the list of prescribed documents used for identification purposes at polling stations. The Summary and Background to the *Explanatory Notes* state:

7. The electoral-ID card proposed by this Bill will be added to the list of specified documents. In due course it is proposed to replace all the non-photographic ID on the list of specified documents (though the Bill makes no provision to this effect). Thereafter the electoral-ID card, the passport and the driving licence would be the only ID acceptable at the polling station. No one will be disenfranchised until they have had every reasonable opportunity to acquire photographic ID.

It is not clear whether the new voluntary ID card will have replaced the medical card by the time of the planned Assembly elections in 2003. In response to queries during the

debate in Westminster Hall on 29 March 2001, the then junior Northern Ireland minister, George Howarth, said:<sup>69</sup>

First, the voter identity card that will be included in the list of documents to be used at polling stations will certainly be issued as quickly as is practicable. However, the House will understand that, when developing such a database and issuing cards of that nature, it is important that both the information technology and the organisation are of the required standard.

### **Clause 5**

The background to this clause is set out in paragraph 8 of the *Explanatory Notes*:

8. Since the commencement of the Elections (Northern Ireland) Act 1985, and before the coming into force of the Representation of the People Act 2000 in February 2001, the law required that a presiding officer in Northern Ireland should not grant a blind voter's application to vote with the assistance of another person unless the voter had produced a specified document to identify himself. Amendments made by section 13 of the Representation of the People Act 2000 widened the scope of the law in question to cover other physical disability and an inability to read. These amendments came into force in Northern Ireland, but without the provision for specified documents. Clause 5 re-introduces that provision and restores the position in Northern Ireland to what it previously was.

This clause modifies certain rules about voting procedure for disabled voters, so that they apply when documents are produced by or ballot papers delivered to a companion, rather than the voter himself.

### **Clause 6**

The *Explanatory Notes* detail the new offences created under the Bill:

32. This clause inserts section 13D in the Representation of the People Act 1983. Section 13D(1) makes it an offence for a person to sign either a canvass form or an application for registration if the person signing is not the person to whom the form or application relates.

33. Section 13D(2) makes it an offence to give the wrong date of birth on behalf of some other person on a canvass form or an application for registration.

34. Section 13D(3) provides that a person found guilty either of the above offences is liable on summary conviction to imprisonment for a term not exceeding six months; or a fine not exceeding level 5 on the standard scale; or both.

35. *Subsection (2)* of clause 6 amends Part I of Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989 to ensure that the provisions about offences in new section 13D apply also to the registration of local electors in

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<sup>69</sup> HC Deb 29 March 2001 c345WH

Northern Ireland. (The changes made to the Representation of the People Act 1983 by clause 1 will automatically apply to local elections there on the basis of amendments made to the Elected Authorities (Northern Ireland) Act 1989 by Schedule 3 to the Representation of the People Act 2000.)

**Clause 7**

This deals with commencement and extent, the details of which are noted above.

## Appendix: Absent votes issued by constituency in Northern Ireland, 1997, 1998, 2001

Table 1

### Absent votes issued by constituency in Northern Ireland 1997, 1998 and 2001

Constituency	2001 result	2001 General Election				Total as % of electorate		
		Postal	Postal proxy	Proxy	Total	2001 General Election	1998 Assembly Election	1997 General Election
West Tyrone	SF gain from UUP	3,427	4	2,012	5,443	9.0%	7.8%	7.5%
Fermanagh & South Tyrone	SF gain from UUP	4,664	4	1,116	5,784	8.7%	9.3%	9.3%
Mid Ulster	SF hold	3,112	2	1,008	4,122	6.7%	8.4%	8.6%
Newry & Armagh	SDLP hold	2,604	0	1,022	3,626	5.0%	5.9%	5.6%
East Londonderry	DUP gain from UUP	1,940	14	489	2,443	4.1%	4.4%	3.6%
South Down	SDLP hold	2,222	0	752	2,974	4.0%	5.0%	5.0%
Foyle	SDLP hold	1,456	5	620	2,081	2.9%	3.3%	2.2%
Upper Bann	UUP hold	1,811	1	256	2,068	2.8%	3.7%	2.5%
North Antrim	DUP hold	1,498	1	278	1,777	2.4%	2.8%	2.0%
Lagan Valley	UUP hold	1,387	5	145	1,537	2.1%	2.8%	2.0%
Belfast South	UUP hold	992	0	205	1,197	2.0%	3.0%	1.4%
Belfast East	DUP hold	932	1	224	1,157	2.0%	2.8%	1.5%
Strangford	DUP gain from UUP	1,126	2	248	1,376	1.9%	3.0%	1.8%
North Down	UUP gain from UKUP	926	9	265	1,200	1.9%	3.1%	1.7%
Belfast North	DUP gain from UUP	735	3	395	1,133	1.9%	2.2%	1.3%
South Antrim	UUP hold	871	2	329	1,202	1.7%	2.3%	1.3%
Belfast West	SF hold	607	2	385	994	1.7%	2.3%	1.8%
East Antrim	UUP hold	738	0	266	1,004	1.6%	2.3%	1.3%
<b>Northern Ireland</b>		<b>31,048</b>	<b>55</b>	<b>10,015</b>	<b>41,118</b>	<b>3.5%</b>	<b>4.1%</b>	<b>3.3%</b>

*Report of the Chief Electoral Officer for Northern Ireland 1998-99, HC 92 1999-00*

*Britain Votes 6, Rallings and Thrasher, Parliamentary Research Services, 1997*

*Electoral Expenses, HC 260 1998-99*

The Electoral Office for Northern Ireland, personal communication, 2 July 2001