Progress of the *Political Parties and Elections Bill 2008-09*

Standard Note: SN/PC/04967

Last updated: 27 July 2009

Author: Oonagh Gay and Isobel White

Section Parliament and Constitution Centre

The *Political Parties and Elections Bill* was introduced into the House of Commons on 17 July 2008 and was carried over from the 2007-08 session. The Bill received Royal Assent on 21 July 2009.

This Note summarises the debates and changes made to the Bill in the House of Commons and the House of Lords after Committee stage in the Commons. For general information about the Bill and its consideration during Committee stage in the House of Commons see Library Research Papers 08/74 and 08/91.

http://www.parliament.uk/commons/lib/research/rp2008/rp08-074.pdf
http://www.parliament.uk/commons/lib/research/rp2008/rp08-091.pdf

Contents

1 Programme motion

The variation to the programme motion for the Bill moved on 9 February 2009 allowed for two days for report stage and third reading. On the first day, the House considered the Bill in respect of clauses 1 to 12, and associated amendments and new clauses. On the second day new clauses and amendments in relation to political donations and loans, other new clauses relating to elections and the remaining clauses of the Bill were considered. For details, see the programme motion.[1]

2 Amendments on first day of Report

2.1 Investigative powers of the Electoral Commission

A series of Government amendments to Schedule 1 amended the powers of entry and inspection given to the Electoral Commission. Individual regulated donees (including MPs, but excluding members' associations) are removed from the scope of the powers of the Commission to enter premises to obtain information under para 2 of Schedule 1, as part of their supervisory functions. Further amendments allow the Electoral Commission to apply for a county court order to obtain documents where these have been refused to the Commission and an offence or contravention of PPERA has been suspected. These powers are now set out in para 4 of Schedule 1. This replaces the original provisions in Schedule 1 in the Bill introduced in the Commons, which enabled the Commission to apply for a warrant from a Justice of the Peace in order to search premises. In Public Bill Committee these provisions were criticised as inappropriate and disproportionate. For further details, see Research Paper 08/91.

The Joint Committee on Human Rights had drawn special attention to the Bill in its fourth report of 2008-09 expressing concern about the breadth of the proposed powers given to the Commission in Schedule 1.[2] The Committee recommended that sub-paragraph 1(5) of the proposed new Schedule 19A of PPERA (Schedule 1 in the Bill) should be deleted:

> 1.9 We remind the Government that the onus is on it to demonstrate a pressing social need for powers of entry and inspection that interfere with the right to respect for private life and home. We do not consider that the Government has shown a pressing social need to extend an already broad power of entry and inspection, which has never been used, and the Commission will already have available a power to enter and search, with a warrant, where there are reasonable grounds to suspect an offence under, or contravention of, election law. We therefore recommend that paragraph 1(5) of proposed new Schedule 19A to the Political Parties, Elections and Referendums Act 2000 be deleted from the Bill because the Government has failed to show any pressing social need for such a wide power to interfere with the private life and homes of candidates and their agents. We suggest the following amendment to give effect to this recommendation:
>
> Schedule 1, page 17, line 5, leave out sub-paragraph (5).[3]

---

1 Order of Business 9 February 2009 p677

2 *Legislative scrutiny: Political Parties and Elections Bill.* Fourth report of the House of Lords and House of Commons Joint Committee on Human Rights. HC 204, 2008-09. Available at http://www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/23/23.pdf

3 Ibid, para 1.9

Initially, the Lord Chancellor, Jack Straw had defended clause 1(5) as appropriate to ensure that Commission had sufficient powers to perform its compliance monitoring function in a letter to the Committee.

However, Government amendments tabled on 26 January 2009 indicated a change of policy. Government amendment 11 removed sub-paragraph 1(5) of Schedule 1 and inserted new paragraph 1A. Mr Wills explained as follows:

> Government amendment 11 replaces paragraph 1(5) to new schedule 19A to the Political Parties, Elections and Referendums Act 2000—that new schedule is contained in schedule 1 to this Bill—with new paragraph 1A. The new paragraph differs from paragraph 1(5) by specifying a more restricted list of organisations and individuals to whom the commission's powers of entry and inspection for the purposes of carrying out its functions will apply—the list includes registered political parties, recognised third parties, permitted participants in a referendum, members associations and any former member of any of those categories. The power can be exercised by the commission for the purposes of carrying out its functions, but it does not authorise the use of force to enter premises.
>
> As hon. Members have said, the effect of the amendment is that the commission will not have the power to enter the premises of the following: candidates at an election; election agents; permitted participants; and regulated donees, including MPs—with the exception of members associations. The financial affairs of members' associations are likely to be more complex than those of regulated individuals, so retaining the extension to the existing power in section 146(3) of PPERA in relation to this group will help the commission to ensure transparency in supervising its activity.[4]

He went on to say:

> Should the commission require entry to a parliamentary office—for example, where a party has chosen to keep its records in a Member's office or a member's association has been run from a Member's parliamentary office—it advises that it would seek access only through the appropriate channels, and in the House of Commons, that would be through the Speaker…. For the avoidance of doubt, may I emphasise that the commission's power in schedule 1 to the Bill to require the disclosure of documents relating to income and expenditure from all supervised individuals, including regulated donees, will remain?[5]

Mr Wills indicated how Government policy on the Commission's powers of entry by warrant had changed:

> The proposals have been discussed with the commission at all stages of their development. Government amendment 13 would remove the power set out in paragraph 3 of new schedule 19(a), which enables the commission to apply to a justice of the peace for a warrant to authorise entry and search of premises in connection with an investigation. It would replace that power with a power enabling the commission, in cases in which a person has already refused to provide documents, to apply to the court for an order to require disclosure of the previously requested documents in order to enforce the commission's original notice. The court which issues an order may not, when making an order or dealing with any failure to comply with that order, use this power to authorise the commission to enter premises to obtain the documents. This is

---

4 HC Deb 9 February 2009 c1172

5 Ibid

> the key difference between the warrant power and this new proposal, and I want to be as clear as I can about that.[6]

He resisted proposed Opposition amendments to require that the applications be referred to the High Court, but indicated that he would consider the amendments in greater detail after report stage.[7] Mr Wills also indicated acceptance of Opposition amendments to ensure that there would be a time limit on the Commission's power to serve disclosure notices on former officers of parties so that those who had not served in office for five years or more would not be investigated. The Opposition had argued that voluntary workers would otherwise be inhibited from party work.[8] Government amendments also require the Electoral Commission to report annually on its use of the new civil sanctions in Schedule 2 of the Bill, following discussion of this point in Public Bill Committee.[9]

The investigatory powers in paragraph 2 of Schedule 1 (to require information, documents or an explanation) remain and can be used in respect of any person whom the Commission reasonably believes may hold information that would assist in an investigation into a suspected offence or contravention of the Act. As such, the power could be applied to donors (i.e. those who donate money to political parties) or any body else (including all regulated organisations and individuals listed at paragraph 1(1)) as long as it is in relation to a suspected offence. Following the Government amendments which remove the powers of entry by warrant powers in paragraph 3 of the Bill, there is no power of entry in relation to a suspected breach or offence under PPERA. The briefing from the Electoral Commission on the amendment noted that the power to obtain information from donors would fill a gap identified in PPERA. It was in general supportive of the Government amendments to replace the warrant powers as a proportionate way of means of enforcing statutory requests for documents.[10]

In order to assist the House for consideration at report, the Electoral Commission produced a document illustrating how it intended to use its powers and sanctions, which is available online.[11] This document takes account of the Government amendments made to the bill outlined above.

2.2 Compliance officers

Government New Clause 13 introduces a new part to Schedule 7 of PPERA (regulation of donations) Regulated donees will be able to appoint a compliance officer to share responsibility for compliance with the regulation of donations, if the donee opts to share responsibility for the regulation. The idea of a compliance officer has been promoted by Peter Hain, as an equivalent to the agent in an election campaign.[12] A similar amendment was debated in committee. At this point Michael Wills wondered whether it would be appropriate for all office holders, such as MEPS and local councillors.[13] As currently drafted, the New

---

6 HC Deb 9 February 2009 c1172
7 HC Deb 9 February 2009 c1176
8 HC Deb 9 February 2009 c1178
9 HC Deb 9 February 2009 c1162
10 *Political Parties and Election Bill Report Stage Day 1 Monday 9 February 2009* Electoral Commission
11 *Investigation and Enforcement: The Electoral Commission's proposed approach* January 2009 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0020/71606/Working-Draft-Enforcement-Policy-and-Guidance---post-PPP.pdf
12 "Peter Hain case may prompt change in donations" 27 January 2009 *Guardian*
13 PBC Deb 20 November 2008 c399

Clause would apply to holders of all relevant elective office. The amendments were accepted without a division.[14]

2.3 Triggering

Government New Clause 17 made some major changes to the original drafting of the Bill. It introduces a new section 76ZA into the RPA. The concept of triggering explained in Research Paper 08/91 has in effect been dropped in favour of a new system of expense limits which will apply before the formal dissolution of Parliament. These will be known as Pre-Candidacy Expense Limits, which will apply only when there has not been a general election for over 55 months or 4 years 7 months (counted from the date at which Parliament first met after the election).[15] The new limit is £25,000 plus 7p for every entry in the electoral register in county constituencies and 5p in borough constituencies. However, the limits will be tapered so that the full amount is only available when the dissolution is in the 60th month, and at 90 per cent if in the 59th month, reducing to 60 per cent for the 55th month. The Labour MPs, Martin Linton and Alan Whitehead, spoke to a similar amendment during committee stage, which appears to have been developed by the Government. For further details, see Library Research Paper 09/91, p28. Mr Linton said:

> In the amendment, my hon. Friend the Member for Southampton, Test and I suggest a different version of triggering that is meant to achieve the objective in a better way. The idea first came up in evidence from my hon. Friend to the Constitutional Affairs Committee. Instead of candidate limits that apply from the point when somebody becomes or declares themselves a candidate or appeals for votes, they should apply from a specific point in the parliamentary cycle. The first suggestion was 42 months. Three and a half years into a Parliament, candidate limits should automatically come into effect…
>
> So there would be two regulated periods, which would double the amount that candidates could spend to £20,000 to £25,000. That is a reasonable proposition. I do not make it out of self-interest—my self-interest would best be served by what is in the Bill—but because I recognise that there are many legal difficulties associated with triggering and that, in the past eight years, parties have got used to having no restrictions on candidates. It might be a bit difficult for us to turn the clock back to a situation where triggering operates all the time.[16]

The Government new clause applies the new expense limit from 4 and a half years into a Parliament, rather than three and a half as proposed in the Linton amendment.

For expenses to be regulated by s76ZA they have to:

(1) Be on regulated matters as set out in Schedule 4A

(2) Be "used for the purposes of the candidate's election"

(3) Be used between the point after 55 months and the point when a person formally becomes a candidate as set out in s118A.

Because this limit will regulate expenses which are used before someone formally becomes a candidate, Government amendment 41 amends s90ZA(5) of the RPA to clarify that a

---

14 HC Deb 9 February 2009 c1187

15 The timing will actually run from the first meeting of Parliament following a general election.

16 PBC Deb 20 November 2008 c419

reference to a 'candidate' can (where the context allows) include a reference to a person who goes on to become a candidate after expenses are incurred.

The Electoral Commission offered some cautious support for the Linton amendment at committee stage, as offering greater certainty than triggering.[17] Press reports presented the change as a major concession by the Government.[18]

At Report stage, Mr Wills stressed the need for consensus on party funding. He said:

> Unfortunately, debate on that point was curtailed in Committee; however, I am clear that the measure does not enjoy the support of Opposition parties. I am disappointed that we have not been able to secure agreement to the proposal. Nevertheless, in our characteristic spirit of openness and co-operation, we have listened to the views put forward by hon. Members and tabled this group of amendments, which will retain the existing consideration of the purpose for which expenditure is used and, additionally, introduce a fixed point in time from which that expenditure is regulated for certain elections. I believe that that will achieve more effective regulation of spending and minimise uncertainty for candidates.
>
> Although there is usually uncertainty about whether a general election will be called at any particular point, the one point of absolute certainty is the last possible point by which a Parliament must be dissolved; when a Parliament enters its final months, we can be certain that a general election is imminent. In those circumstances, those intending to stand as candidates will have formed their intention and many prospective or already declared candidates will be likely to begin campaigning well in advance of Dissolution. We believe that in those circumstances it is possible and desirable to provide for a longer regulated period for candidate expenses.[19]

He went on to explain that the new limit would apply only after 55 months and that the new limit would regulate the same types of expenditure as the current candidate expenses limit. He also explained that the limit would not have retrospective effect, so it would not apply to "any expenses incurred before commencement of the clause and used at a time when the new limit applies".[20] The new limit would vary according to size and type of constituency, but generally would amount to around £30,000. The limit would increase by order and the new clause would be commenced after royal assent[21] Mr Wills had an exchange with the Opposition spokesman Francis Maude about the timing of commencement and an associated debate on communications allowances:

> **Mr. Wills:** As I say, we are open to representations on this. We want to take a view that as far as possible commands consensus. If the hon. Gentleman wants to come forward with an alternative proposal, I can absolutely assure him that we will consider it with an open mind, as we have done with all the representations that we have received.
>
> We propose that the new clause and associated amendments will be commenced by order following Royal Assent. The exact date of commencement is to be determined and will in part hinge on the timetabling of a debate to consider the appropriate use of parliamentary allowances during the longer regulated period. Regardless of the date of

---

17 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/69182/Committee-Briefing-20-November-2008-Clauses-8-11-remaining-new-clauses.FINAL.pdf

18 "Ministers scrap plans to block wealthy donors' spending in marginal seats" 6 February 2009 *Guardian*

19 HC Deb 9 February 2009 c1218

20 HC Deb 9 February 2009 c1219

21 HC Deb 9 February 2009 c1220

> commencement of the new clause, for the sake of clarity and simplicity we have provided that should the new limit be needed for the current Parliament, it would only begin to regulate expenses used after 1 January 2010. That is slightly later than the 55- month point, but we do not consider that this significantly undermines the purpose of the provisions.
>
> **Mr. Maude:** Will the Minister be a little more specific about the proposal that the Government plan to bring before the House on the use of Members' allowances during this equivalent period? He will know from previous discussions that we are concerned about symmetry in this case. Members of Parliament have large allowances available that can be used for pro-active communication with their electors. When candidates are affected by this measure, which we support, to control spending during the last few months of the Parliament, the House must put in place rock-solid arrangements regarding the use of allowances, whether for communications or for incidental expenses, to do stuff that promotes Members of Parliament in a way that is equivalent to a candidate's campaigning. I am grateful to him for the indication that new clause 17 will not commence until such matters have been decided, but it is crucial that the House understands exactly what is proposed, and that there is no intention to commence the provision until that happens.[22]

In response, Mr Wills indicated that he would be able to clarify timing on commencement. Mr Maude noted that in general, the Opposition supported the principle of the Government amendments. Martin Linton expressed satisfaction with the amendments but considered that an earlier period of 50 months, or even 36 months, would be more appropriate.[23] An amendment sponsored by Bob Spink and Andrew Mackinlay sought to reduce the period to 50 months, but this was not successful. Mr Wills indicated that this would have increased uncertainty for candidates to an unacceptable extent.[24] The Electoral Commission also expressed concern that a 50 month period would create unacceptable uncertainty for candidates.[25] David Howarth, for the Liberal Democrats, said that the proposals did not deal with third party spending in support of a candidate. Following a brief speech from Mr Wills, the debate was interrupted by the operation of the programme motion and the Government new clause 17 was added to the Bill and the original clause 11 on triggering removed without a division.

In response to a parliamentary question on 27 February, Mr Straw set out the position in cases where the use of the Communication Allowance by a Member had been the subject of a report from the Parliamentary Commissioner for Standards and that expenditure was subsequently challenged as a breach of the RPA 1983. He noted that:

> It would ultimately be a matter for the relevant court to decide whether a particular form of expenditure was knowingly excluded from a candidate's expense return where it should clearly have been recorded. In reaching its decision, the court could well take into account any judgement from the Commissioner of Standards in relation to expenditure which breached the rules on the use of parliamentary allowances, should the court consider this relevant.[26]

---

22 HC Deb 9 February 2009 c1220-21
23 HC Deb 9 February 2009 c1225
24 HC Deb 9 February 2009 c1227
25 *Political Parties and Election Bill Report Stage Day 1 Monday 9 February 2009* Electoral Commission
26 HC Deb 27 February 2009 c1158

2.4 Electoral Commissioners

There was a long debate at report stage about the position of the minority parties in relation to the nomination of the fourth 'political' Commissioner. The SNP spoke to an unsuccessful amendment on behalf of all the minority parties represented in the Commons, which would have enlarged the membership of the Electoral Commission to reflect the electoral position in the devolved legislature. In response, the Government and Opposition spokespeople emphasised that the political Commissioners would be in a minority within the Commission and would in any case not act as a delegate for the party which nominated them.[27]

Peter Viggers spoke to amendments supported by the Electoral Commission and presented formally by the Government, which would reduce from two to one the minimum number of candidates put forward to the Speaker's Committee by the three main political parties. Mr Viggers explained that the Speaker's Committee should not be required to choose between names put forward, since the party leader was best placed to make that choice, and the role of the Committee was to assess suitability No further details were made available by Mr Viggers as to the process by which the fourth political Commissioner would be selected by the Speaker's Committee, but he emphasised that it would fulfil its work as fairly and properly as possible. The amendment on the minimum number of candidates was passed.[28]

3 Amendments on the second day of Report

3.1 Increased thresholds for reporting donations and loans

Government New Clause 19 and a series of Government amendments raised the thresholds for reporting and recording donations under PPERA. The thresholds have not been increased since the passage of the Act in 2000.The changes can be summarised as:

- An increase in the threshold for recording donations from £200 to £500 (this threshold requires recipients to verify the permissibility of the donor and to keep their details)
- An increase in the threshold for reporting to the Electoral Commission donations and loans from accounting units and individual regulated donees from £1,000 to £1,500
- An increase in the threshold for reporting donations and loans to the Electoral Commission from party headquarters, members associations, recognised third parties and permitted participants from £5,000 to £7,500.
- Similar increases in the thresholds in clause 8 of the current bill in respect of declarations of donations received.

In response to questions, Mr Wills said that the new threshold levels were the result of exercising judgement as to the appropriate level.29

Mr Wills also considered the proposed amendments sponsored by the Conservatives which would have applied upwards only indexation to the thresholds. He indicated that the Government would table amendments in the House of Lords to create indexation:

> What persuaded me of the merit of the Opposition amendment—and the reason for our intention, subject to a condition that I shall explain in shortly, to

---

[27] HC Deb c1191-1199
[28] HC Deb 9 February 2009 c1199-2000
[29] HC Deb 2 March 2009 c593

> table our own amendments in the House of Lords to achieve the same effect—was the fact that one part of it does entrench the principle of there being a threshold. That means that we will not have to return to the threshold, because we will not see it being eroded over time by inflation.[30]

Mr Wills indicated that some further thought was necessary in relation to the mechanism for indexation and that a statutory instrument laid before both Houses setting out each increase was the most likely method for implementation.[31]

For the Opposition, Jonathan Djanogly argued that the thresholds were still too low and were a deterrent to grass roots political activity. [32] A briefing from the Electoral Commission stated that further increases in the reporting thresholds would begin to 'have a material effect on the transparency of donations to party headquarters and accounting units.'[33]

In response to Opposition amendments to clause 8 (declarations as to source of donations) Mr Wills also indicated that there would be a series of Government amendments in the Lords to deal with individuals who made small inadvertent errors:

> I am happy to confirm that we intend to introduce amendments in the other place to reframe some of the offences in the 2000 Act that might currently be so widely framed as not to take full account of inadvertent errors for which there is a genuine, reasonable excuse.
>
> I hope that that approach will be welcomed by Members who are concerned that the current framing of certain offences is too stark, binary and polarising. I hope that they will be reassured that the Electoral Commission will be better able to apply its reasonable judgment at the outset of considering a potential case. We have listened carefully to all the concerns that have been expressed about that and taken account of them.[34]

He did not provide any further details of the proposed amendments.[35]

3.2 Unincorporated associations

Government **new clause 20 and new schedule 1** added a new Schedule 19ZA to PPERA which requires unincorporated associations making a political donation over £25,000 in any one year, to specify to the Commission any gifts it receives over £7,500 on a quarterly basis. The Commission are required to keep a published register of recordable gifts, with some safeguards on personal data. Mr Wills explained that the amendments were designed to address the policy issues raised by Amendment 8, sponsored by Fabian Hamilton, that had been rehearsed in Public Bill Committee. The Conservative spokesman, Jonathan Djanogly, indicated that the Opposition was in general satisfied with the changes. A briefing from the Electoral Commission supported the Government proposals in principle, but considered that there were several practical concerns about workability, including the definition of gifts.

For the Liberal Democrats, David Howarth spoke to new clause 1 which would have created a £50,000 cap on donations.[36] In response, Jack Straw argued that a donation limit would

---

30 HC Deb 2 March 2009 c597
31 Ibid c599
32 Ibid c605
33 *Political Parties and Elections Bill Report Stage Day 2* –Monday 2 March 2009 Electoral Commission
34 Ibid c600
35 Ibid c602-3
36 Ibid c621-638

only make sense in the context of a comprehensive package and that state funding in a recession would not receive public support.[37]

3.3 Individual registration

Michael Wills announced that the Government would introduce new clauses when the Bill reached the House of Lords to make provision for a system of individual electoral registration to be introduced over a period of 5 years beginning in the autumn of 2010. The Conservatives and the Liberal Democrats welcomed the announcement but criticised the Government for announcing this so late in the proceedings of the Bill in the House of Commons.

A statutory timetable for the introduction of the new system of individual registration will be put in place and a number of measures to prepare both the public and the electoral administration system for the change will be rolled out:

> We will legislate to allow local authority electoral registration officers to collect personal identifiers – date of birth, signature and national insurance number – from electors. That will take place alongside the existing process of household registration. Provision of the identifiers would be voluntary. That process, which we are calling permissive individual registration, would begin during the autumn 2010 canvass.[38]

The provision of personal identifiers by all electors would become compulsory at the time of the 2015 annual canvass. However the change to a system of individual registration would only proceed if two statutory tests are met, The Electoral Commission will assess the state of preparation for the change and the robustness of the existing registration system in January 2014 and, if it is satisfied that the tests have been met, it will make a recommendation that the shift to full individual registration should proceed, subject to a vote in Parliament as to whether the Commission's recommendation should be accepted.

The Government introduced two new clauses concerning data sharing. The provisions aim to improve the level of electoral registration by allowing information to be disclosed to electoral registration officers by public authorities. These data-matching schemes will be piloted to allow the assessment of new means to help the EROs maintain the accuracy of the registers. The Minister said that there had already been discussions with HM Revenue and Customs and the Department for Work and Pensions and that these authorities were content in principle with the possibility of sharing their data to assist with the improvement of the electoral register. The Electoral Commission and the Ministry of Justice would be involved in the selection of local authorities to participate in the data-matching pilot schemes and details of the process would be published before the summer recess. The two new clauses, 21 and 22, were added to the Bill.

Michael Wills also announced other measures to help improve the accuracy of the electoral register. Secondary legislation will be introduced to allow EROs in areas with two tiers of local government to access data held by the higher tier to help them target individuals who are not registered and to check the accuracy of their register. EROs in areas where there is one tier of local government are already able to gain access to data held by education departments and social services. The Government also intend to make clear that the Section 9 duty, imposed by the *Electoral Administration Act 2006*, to take a number of steps to

---

37 Ibid 626-7

38 HC Deb 2 March 2009 c662

identify those eligible for registration as electors, should apply throughout the year and not just at the time of the annual canvass.

3.4 Candidates' addresses on ballot papers

New Clause 23, which allows the home addresses of candidates at Parliamentary elections to be withheld from publication, was added to the Bill after a division.[39] Subsequently Lord Bach clarified that this had been a free vote,[40] and both Mr Straw and Mr Wills voted against the new clause. Due to the programme motion, there was no opportunity for debate about the new clause which was sponsored by Dr Julian Lewis (Conservative). Dr Lewis had argued at second reading that the requirement for candidates' addresses to appear on ballot papers and other election documents was at odds with the *Freedom of Information (Parliamentary and National Assembly for Wales) Order 2008* which excluded MPs' and Peers' addresses and other categories of information relating to them from the scope of the *Freedom of Information Act*.[41]

Following points of order about the vote on the new clause the Speaker made a statement the next day:

> **Mr. Speaker:** Order. Let me put it on the record, in case there is any doubt, that the Deputy Speaker was acting on my instructions. I used the powers that the House gave me to allow a vote to take place. I do not need to give reasons for that, but I expect hon. Members to use some logic. Only a few weeks ago, a statutory instrument went through the House that allowed the addresses of Members of Parliament to be kept private. There was a debate on the matter, and when the amendment was tabled, I considered it right and fitting for parliamentary candidates to have that privacy. After all, as soon as a general election is called, every hon. Member becomes a parliamentary candidate. That is simple. The hon. Gentleman asks how Members will know when there is to be a vote. If any hon. Member comes to me or the occupant of the Chair and asks, "Is there going to be a vote on that amendment?" sometimes I say yes and sometimes I say no. It could not be simpler.[42]

The Government had published a consultation paper on the publication of candidates' addresses on 26 November 2008.[43]

The responses to the consultation paper were published on 26 February 2009 and the Government noted that it had

> …received 65 responses to the consultation. The majority of the politicians who responded and the Electoral Commission favoured a change to the current position whilst electoral administrators, returning officers and the majority of the responses received from members of the public have confirmed their preference for retaining the status quo.
>
> The Government has an open mind on this matter and is aware from the responses to the consultation that there are strongly-held views on both sides

---

39 HC Deb 2 March 2009 c679
40 HL Deb 18 March 2009 c257
41 HC Deb 20 October 2008 c112. For further background see Library Standard Note 4732 *MPs allowances and FoI requests*
42 HC Deb 3 March 2009 c730
43 http://www.justice.gov.uk/publications/candidate-addresses-consultation.htm

> as to whether or not candidates should have their full addresses published on electoral documents.[44]

The Electoral Commission supported the new clause in principle but noted in its briefing on the report stage of the Bill that:

> The New Clause would potentially enable only candidates, agents, proposers, seconders and representatives of the Electoral Commission to see candidates' full addresses. We are concerned that this would make it difficult for a member of the public to confirm or disprove a suspicion that a candidate does not live within the constituency that they claim.
>
> The New Clause would also give UK Parliamentary candidates the choice of either including their full address on the statement of persons nominated and the ballot paper (as per the current arrangements) or instead opting to have the Parliamentary constituency in which they live published. We are concerned that giving candidates the option of having different categories of information (that is, constituency or full home address) on the ballot paper could increase the potential for voter confusion.[45]

The Commission also noted, in its briefing for the second reading of the Bill in the House of Lords, that

> Moreover, even the people who can see the full address cannot record it for verification at a later date – as existing legislation does not allow those inspecting nomination papers to record information contained within them.
>
> For this reason, we have suggested that it should be possible to view the home addresses of any candidate if done under the supervision of the Returning Officer, who must record their identity.
>
> In addition, we believe that giving candidates the option of having different categories of information (that is, constituency or full home address) on the ballot paper could increase the potential for voter confusion.[46]

4 Third reading

The Bill was read a third time on 2 March 2009. The Lord Chancellor, Jack Straw, acknowledged that the Bill was now different to that published on first reading but that it provided for major reform of the Electoral Commission and 'important reforms in respect of donations and expenditure, including by establishing an upgraded regime for unincorporated associations'. [47] The Lord Chancellor also addressed concerns that there had not been the opportunity to debate the new clauses on registration in the House of Commons and undertook to 'have them discussed informally in draft with the parties before they go to the other place and, secondly, we shall use our best endeavours with the usual channels to ensure that there is adequate time to discuss them when they return.'[48]

---

44 http://www.justice.gov.uk/publications/candidate-addresses-consultation.htm

45 Electoral Commission briefing, available at http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/72384/Report-Stage-Day-2-Briefing-2-March-2009-Final.pdf

46 Electoral Commission briefing for second reading of the Bill in the House of Lords, 18 March 2009. Available at http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/72617/Lords-Second-Reading-FINAL.pdf

47 HC Deb 2 March c694

48 HC Deb 2 March c695

5 Dual registration report from Standards and Privileges Committee

The Committee issued its fourth report, which resolves the outstanding issues in respect of ending a dual reporting regime. This would mean that Members would only have to register financial interests and donations with the Registrar of Members' Interests rather than with the Electoral Commission as well. An amendment to that effect was introduced into the *Electoral Administration Bill 205-06* but has yet to be brought into effect. The Committee's report notes that in certain respects there will be a substantial increase in the amount of information which Members will need to supply to the Register, but a removal of the burden of separate registration with the Commission. The Committee expect dual reporting to end by June 2009. Further details are in the report and in Library Standard Note 1119.[49] The House debated the report on 9 February, where there was some pressure to increase clarity in respect of registering constituency fund raising events which could be linked to the future candidature of Members, but the report was approved, and a commencement order under section 59 of the *Electoral Administration Act 2006* is expected shortly, once Electoral Commission approval is achieved, as required by section 59..

A resolution was passed on 2 March, following report stage of the Bill, to align the thresholds for impermissible donations or loans, and the threshold for registration in the *Guide to the Rules Relating to the Conduct of Members* with the statutory thresholds.[50] An Explanatory Memorandum from the office of the Leader of the House noted that the current threshold of £200 applied for donations received from an unknown or impermissible source and for all donations received, which have to be recorded separately.[51] Presumably this will rise to £500 if the new thresholds are enacted. The total value of donations from any one source must be registered if they amount to more than £1,000 annually and once again this would change to £1,500 if enacted.

6 Second reading in the Lords

The Bill was introduced as HL Bill 26 on 4 March 2009.[52] It received its second reading on 18 March and was committed to a Grand Committee. In this form of procedure, amendments may be debated and added to a bill, but it is not possible to hold divisions.[53]

During the second reading there was some debate about the decision to increase the recording level for donations from £200 to £500, above the rate of inflation. Liberal Democrat peers queried the need for the increase, while the Conservative spokesman, Lord Bates, argued for a further increase to £1,000. Lord Tyler, a Liberal Democrat, gave notice that his party would seek to remove clause 17, on candidates' addresses. In response, Lord Bach, for the Government, indicated that this would be considered a free vote.[54] The Liberal Democrats also indicated dissatisfaction with the decision to add new candidate expenditure controls only after 55 months had elapsed since the first meeting of Parliament after a general election. The former chairman of the Committee on Standards in Public Life, Lord Neill of Bladen indicated that the time was still not right for the adoption of public funding for

---

49 Dual Reporting and Revised Guide to the Rules 4th report of 2008-09 at http://www.publications.parliament.uk/pa/cm200809/cmselect/cmstnprv/208/20802.htm

50 HC Deb 2 March 2009 c698-99

51 *Motion relating to the Guide to the Rules Relating to the Conduct of Members: Explanatory Memorandum* 10 February f2009

52 See http://www.publications.parliament.uk/pa/ld200809/ldbills/026/09026.i-ii.html , and Explanatory Notes at

53 See http://www.parliament.uk/about/how/committees/grandcommittees.cfm and http://www.publications.parliament.uk/pa/ld/ldcomp/a29 for more detail (extract from Lords Companion)

54 For further background, see Library Standard Note 5004 *Candidates addresses on the ballot paper* http://www.parliament.uk/commons/lib/research/briefings/snpc-05004.pdf

parties. There was considerable discussion about the Government proposal to add individual registration to the Bill.

7 Grand Committee and report stages in the Lords

The Bill was considered in Grand Committee in the House of Lords on 29 and 30 April 2009, and 5 and 6 May 2009. The report stage of the Bill in the House of Lords took place on 15 and 17June 2009.

7.1 Disclosure notices

Lord Bach, the Parliamentary Under-Secretary of State, Ministry of Justice, moved amendments in Grand Committee to Schedule 1 to provide a time limitation on the Electoral Commission's ability to issue disclosure notices requesting information or documents as part of its supervisory role. The Minister said that if there was no time limit an unduly onerous burden could be placed on former treasurers or officeholders of political parties.[55] The amendments to Schedule 1 therefore allow the Commission to issue a disclosure notice only to a person who has been a treasurer or other officeholder in the last five years. **The amendments were agreed.**

7.2 The Electoral Commission's investigative powers and sanctions

There were further Government amendments to Schedule 1 made in Grand Committee. Paragraph 2(1) of the new Schedule 19B (which Schedule 1 of the Bill inserts into PPERA) sets out the organisations and individuals to whom the Electoral Commission's powers of entry and inspection will apply; an amendment prevents the Commission from entering the premises of those formerly falling within these categories.[56] Paragraph 4 of the new Schedule allowed the Electoral Commission to apply to a county court for a disclosure order to enforce an earlier notice issued by the Commission requiring specified documents to be produced. Lord Tunnicliffe, speaking for the Government, said that the potential complexity and political sensitivities surrounding such applications meant that the Government had, on reflection, decided that it would be more appropriate for the High Court (or, in Scotland, the Court of Session) to deal with them. A Government amendment also inserted into Schedule 19B a new paragraph 4A which gives the Electoral Commission the power to apply to the High Court for an order to enforce an earlier notice issued by the Commission requiring disclosure of information or an explanation. The amendment addressed concerns, raised by the Commission, that the original court order power was too narrow as it could only be used to compel the disclosure of documents. **The amendments were agreed**.

Lord Henley (Conservative) moved an amendment to prevent the Electoral Commission from holding documents it has seized in the course of an investigation for longer than six weeks. The Bill makes provision for the Commission to be able to hold such documents for three months. Lord Henley suggested that the power to hold documents for this length of time had the potential to place an individual or organisation in a very difficult position.[57] The Minister said that the three month period mirrored the equivalent limitation imposed on the Financial Services Agency by the *Financial Services and Markets Act 2000* and that the Government wanted the Electoral Commission to have the same powers and be subject to the same restrictions as other comparable regulators.[58] Moreover, the Commission had confirmed that

---

55 HL Deb 29 April 2009 c61GC
56 HL Deb 29 April 2009 c73GC
57 HL Deb 29 April 2009 c80GC
58 HL Deb 29 April 2009 c82GC

the owners of such documents would be able to take copies of them before they were passed on to the Commission. Lord Henley withdrew the amendment but said that it was likely that the Conservatives would return to this issue at Report stage.

The House of Lords Delegated Powers and Regulatory Reform Committee had drawn attention to the absence of any limit in the Bill on the penalties that may be prescribed or imposed for contraventions under paragraph 1(5) of the new Schedule 19 C to PPERA.[59] A Government amendment was moved in Grand Committee which would ensure that any order to prescribe the amount that may be imposed by way of a fixed monetary penalty should be subject to the approval of both Houses.[60] **The amendment was agreed**.

Lord Bates (Conservative) moved a group of amendments in Grand Committee relating to the civil sanctions that will be made available to the Electoral Commission. Lord Bates sought more information about the types of offences that might be the subject of these sanctions. Lord Bach said that the Government would set out in a statutory instrument, subject to affirmative resolution by both Houses of Parliament, the offences which would be punishable by the new civil sanctions.[61] The issue was considered again at report stage when Lord Bach gave examples where certain offences would be considered to be criminal: these were knowingly giving the treasurer of a political party false information about donations and withholding from a treasurer information about donations with intent to deceive.[62]

An amendment moved by Lord Henley (Conservative) sought to remove the discounts on early payments of monetary penalties imposed by the Electoral Commission; he suggested that such flexibility in the use of its penalties might tempt the Commission to increase the number it imposed. Lord Rennard (Liberal Democrat) argued that a system of late penalties would be more effective. The Minister responded that the incentives in the Bill for prompt payment of the penalties were replicated from the *Regulatory Enforcement and Sanctions Act 2008* and that the Commission would not be compelled to make use of them in all instances. The amendment was withdrawn but the issue was raised again at report stage.[63] The Minister said that the Electoral Commission had indicated that they would be unlikely to use early payment discounts but the Government had decided to keep the provision in the Bill to keep the option of using such discounts open for the future.

Electoral Commission's powers of entry

Lord Marlesford (Conservative) moved an amendment at report stage which would require the Electoral Commission to obtain a warrant from a magistrate in order to enter the premises of a supervised individual or organisation to inspect documents in the course of its supervisory responsibilities. Lord Neill of Bladen supported the amendment saying that there seemed to be no good reason why the Commission's power of entry should not be subject to the usual formula of 'by order of' or 'with the authority of' a court.[64] The Minister, Lord Bach, said that the Commission already had a power of entry under the provisions of PPERA and that the amendment would place an unnecessary obstacle to the use of this power and risked undermining the Commission's effectiveness. Lord Marlesford accepted that in most

---

59 Delegated Powers and Regulatory Reform Committee, sixth report 2008-09, HL 73, April 2009. Available at http://www.publications.parliament.uk/pa/ld200809/ldselect/lddelreg/73/73.pdf

60 HL Deb 29 April 2009 c84GC

61 HL Deb 29 April 2009 c94GC

62 HL Deb 15 June 2009 c878

63 HL Deb 15 June 2009 c881

64 HL Deb 15 June 2009 c846

cases there would be no need for magistrates' warrants because there would be co-operation between the Commission and the supervised organisation or individual but if there was no co-operation then the Commission should have to obtain a warrant before it could enter premises.[65]

The Government was defeated when the Conservative amendment was agreed on division; contents 152, not-contents 105.

7.3 Role of the Electoral Commission

Lord Norton of Louth moved an amendment in Grand Committee to remove the requirement in Section 13 of PPERA that the Electoral Commission should promote public awareness of the systems of local and national government in the UK and of the institutions of the European Union. Lord Norton argued that although it was appropriate for the Commission to have the role of promoting awareness of electoral systems, as this was its area of expertise, it was not clear why the Commission should promote awareness of systems of government when there were other bodies which could do this more effectively. The Government disagreed with the amendment and Lord Tunnicliffe said that providing information about electoral systems went hand in hand with providing information about local and national government and the EU for which people were voting. Lord Norton was not persuaded by the Minister's comments and, although he withdrew the amendment, said that he would return to it at report stage.

The Government changed its mind following the debate in Grand Committee and moved an amendment at report stage which would remove these requirements in Section 13 of PPERA.[66] **The amendment was agreed**.

Lord Norton of Louth also moved an amendment in Grand Committee requiring the Government to respond in writing to a report from the Electoral Commission within six months of its publication; this would bring Electoral Commission reports into line with Law Commission reports. Despite support for the amendment from the other parties, the Government opposed it. Lord Bach said that it would impose a real burden on government if it was compelled to respond to all reports within six months, irrespective of their subject matter. However, he added that the Government would think again about the issue.[67] The issue was again considered at report stage when, although provision would not be made for this in the Bill, the Government gave a commitment that it would endeavour to respond to Electoral Commission reports produced under section 6 of PPERA within six months.[68]

7.4 Electoral Commissioners

Lord Tyler (Liberal Democrat) moved an amendment in Grand Committee proposing that the politically nominated Commissioners must have relevant experience in the conduct of elections and the organisation of political parties. Lord Tunnicliffe said that the Government did not think that it was appropriate for the criteria for selecting the Commissioners to be set out in legislation. The Speaker's Committee had responsibility for the recruitment and selection of Commissioners and the Government was confident that the Committee would agree robust and relevant criteria for the post of nominated Commissioner. Lord Tunnicliffe added that nominated Commissioners were not intended to represent political parties; they

---

65 HL Deb 15 June 2009 c851
66 HL Deb 15 June 2009 c892
67 HL Deb 30 April 2009 c138GC
68 HL Deb 15 June 2009 c893

would be in a minority and would be expected to act in a non-partisan way. Their terms of office would be the same as for other Commissioners, the only difference being that the restriction on political experience would be lifted. The amendment was withdrawn but Lord Tunnicliffe agreed to write about some of the points made about the appointment of nominated Commissioners during the debate.

A Government amendment addressed concerns raised by the Electoral Commission about the reduction in the restriction on recent political activity for all Electoral Commission staff from ten years to five years for the Chief Executive and to one year for all other staff. Lord Tunnicliffe acknowledged that there might be a small number of posts in the Commission which might merit a longer restriction than one year. The amendment therefore allowed the Chief Executive of the Commission to designate certain other Commission posts as being subject to a restriction period of up to five years. The Chief Executive would be required to give notice to the Speaker's Committee of his intention to designate a particular post and the period of the restriction.[69] Lord Tunnicliffe moved another amendment which would exclude all Electoral Commission staff working for the Boundary Committee for England from the reduced restrictions on political activity. The *Local Democracy, Economic Development and Construction Bill* currently before Parliament makes provision for a Local Government Boundary Commission for England separated from the Electoral Commission; the staff of the new LGBCE (who will mostly be transferred from the Boundary Committee for England) will continue to be subject to the ten year restriction on political activity under the provisions of the *Local Democracy etc Bill*. **The amendments were agreed**.

At report stage Lord Brooke of Sutton Mandeville (Conservative) moved an amendment which would require the Electoral Commission to have exactly nine Commissioners at all times. Lord Tunnicliffe said that this would be unnecessarily restrictive and that the flexibility to appoint nine or ten Commissioners would ensure that it would always be possible to appoint the full complement of four politically nominated Commissioners.[70] An amendment moved by Lord Hodgson of Astley Abbotts (Conservative) proposed that the restriction on previous political activity of staff of the Commission should be for three years for all staff of the Commission except the Chief Executive. Lord Tunnicliffe said that this would also be unduly inflexible and would impose an unnecessarily long restriction on the majority of the Commission's staff. The amendments were withdrawn.

7.5 Donations

A Government amendment was moved in Grand Committee which proposed that a declaration as to the source of a donation should be required only for donations above £7,500, whatever the nature of the body receiving it. There was cross-party support for the amendment which was seen as reducing the burden of compliance with the provisions of PPERA.[71] **The amendment was agreed.**

A Liberal Democrat amendment at Grand Committee stage sought to prevent a company controlled by an impermissible donor from making a donation to a political party. The amendment set out a number of circumstances under which a company would be deemed to be controlled by an impermissible donor. Lord Tunnicliffe said that the Government was committed to the principle that political parties should not receive foreign donations and therefore was sympathetic towards the intention behind the amendment which was primarily

---

[69] HL Deb 30 April 2009 c126GC
[70] HL Deb 15 June 2009 c887
[71] HL Deb 30 April 2009 c139GC

aimed at preventing foreign donations being channelled through companies operating in the UK. However, there would be difficulties in verifying the permissibility status of those who own voting shares, of shadow directors and of board members; the amendment was also unlikely to command cross-party consensus.[72] The amendment was withdrawn.

Two new clauses were added to the Bill following Government amendments at Grand Committee stage. The first new clause made allowance for adequate account to be taken of the reason for a breach of PPERA when an assessment was made about whether an offence has been committed. Offences of late and incomplete reporting of donations and loans would only be committed if the breach was "without reasonable excuse". Lord Bach stressed that the effect and intention of the new clause was "not to absolve regulated persons of guilt for all unintended errors."[73]

The second new clause made provisions concerning the control of **donations to members' associations** which are a formal category of regulated recipient, or donee, under PPERA. Currently members' associations are not required to identify to the Electoral Commission who has responsibility for dealing with their donations. The new clause provides that where an association does not have a treasurer and is in receipt of a donation, or enters into a loan which has to be reported to the Commission, the association is required to appoint a responsible person within the reporting period of 30 days. If the reporting requirements are not complied with the responsible person will be liable. The opposition parties welcomed the provisions of the new clauses and **the amendments were agreed**. A Government amendment to the clause at report stage made provision for the responsible person to be appointed for a minimum of twelve months.[74]

Lord Bach moved amendments at Grand Committee stage to the clause allowing the **appointment of a compliance officer by a holder of elected office**. This clause had been introduced at report stage in the House of Commons. The Government amendments made a number of minor technical amendments including the clarification that the reappointment of a compliance officer lasts for one year and that a compliance officer will be able to take responsibility for reporting loans as well as donations. Lord Bach reminded the House that the appointment of a compliance officer did not absolve a holder of elective office from their own liability under PPERA for submitting reports to the Electoral Commission. Lord Neill of Bladen queried why the compliance officers were not required to have a home address in the UK. Lord Bach agreed to respond to this question in writing.[75]

Lord Tyler (Liberal Democrat) moved an amendment in Grand Committee to introduce a cap of £50,000 on donations to political parties from a single individual or organisation in any given year.[76] The Minister said that a cap on donations and state funding of political parties were inextricably linked and reminded the House that calculations made in the white paper *Party Finance and Expenditure in the United Kingdom*, published in June 2008, indicated that a donation cap of £50,000 would produce a shortfall of £5-£6 million each year for the two largest parties; increased public funding would be needed to make up for this shortfall.[77] Lord Bach said that the Government were not minded to accept the amendment given the

---

72 HL Deb 30 April 2009 c163GC
73 HL Deb 5 May 2009 c168GC
74 HL Deb 15 June 2009 c936
75 HL Deb 5 May 2009 c178GC
76 HL Deb 5 May 2009 c180GC
77 HL Deb 5 May 2009 c193GC

lack of consensus between the parties on this issue and the difficulties of increasing state funding for parties at present.[78]

There was a further debate at report stage on a group of amendments moved by the Liberal Democrats to introduce a cap on donations, including those from trade union political funds, and to introduce tax relief on small donations to political parties.[79] Lord Tunnicliffe said that the Government's aim had been to achieve consensus on these matters and it would not be acceptable to make changes to the relevant legislation without such agreement. The amendments were disagreed after divisions.[80]

A Government amendment to make arrangements for increasing the thresholds in PPERA was agreed at Grand Committee stage. The amendment requires the Secretary of State to review and, if necessary, review the recordable and reportable thresholds in PPERA to take account of changes in the value of money. The Secretary of State must carry out such a review at least once during the lifetime of a Parliament lasting more than two years.[81]

Lord Goodhart (Liberal Democrat) moved an amendment at Grand Committee stage which proposed that tax relief should be given on donations to political parties.[82] Lord Goodhart reminded the House that the Committee on Standards in Public Life had recommended tax relief on modest donations in its 1998 report of the funding of political parties. Lord MacGregor of Pulham Market (Conservative) supported the amendment saying that it would reduce the parties' dependence on large donations and could increase the number of small donors but he added that it would be difficult to introduce such a measure in the present economic climate. Despite support from Labour peers for the amendment, Lord Tunnicliffe said that the Government could not support a proposal that, in effect, increased the public funding of political parties. The amendment was withdrawn.

Lord Pearson of Rannoch (UKIP) moved an amendment at report stage which would allow parties to accept donations from people who, although not on the electoral register, were entitled to be included on it.[83] Lord Bach said that the Government's view on this continued to be that the check that a donor was on the electoral register was a conclusive and easily administered test of permissibility; any changes to this would increase the administrative burdens on the parties.

There were a number of technical Government amendments at report stage which

- Clarified the requirements for compliance officers, who are appointed by holders of elective office, to notify the Electoral Commission of any change of address;
- Extended the new provisions covering donations from unincorporated associations so that loans as well as donations from UIAs may trigger the reporting requirements.

Donations by non-UK taxpayers: the Prentice amendments

Lord Campbell-Savours (Labour) moved amendments to the Bill in Grand Committee seeking to make it unlawful for any person who is not a UK resident for tax purposes to make

---

78 HL Deb 5 May 2009 c194GC
79 HL Deb 17 June 2009 c1067
80 HL Deb 17 June 2009 c1089
81 HL Deb 5 May 2009 c199GC
82 HL Deb 5 May 2009 c218GC
83 HL Deb 15 June 2009 c895

a substantial donation to a political party.[84] The amendments were the same as those tabled by Gordon Prentice MP at the report stage of the Bill in the House of Commons; these were not debated because of lack of time. The Minister, Lord Bach, said that the Government wanted to move forward on proposals for better regulation in this area on the basis of consensus and that there were wider issues to consider than those which the amendments addressed. Lord Bach said that the Government was clear that it "would be wrong to tie democratic rights in one area to taxation status, as the amendments propose, while leaving other democratic rights unfettered."[85] Lord Bach also indicated that there would be practical difficulties for a recipient party and the Electoral Commission about ascertaining whether a donor's statement about his tax status was accurate. There would also be confidentiality and data-sharing implications of any proposal to tie residency to the permissibility of donations. Lord Bach concluded that the matter was too complex for a detailed consideration during the timetable allowed for the Bill but that the Government would reflect on how to take forward work on this issue.[86] The amendment was withdrawn but Lord Campbell-Savours returned to the issue at report stage.

Lord Campbell-Savours said that the amendment was based on a simple principle; if someone wanted to donate to a political party they had to be liable for tax in the UK. A donor would tick a box on their tax return and the Electoral Commission would need only to verify that this had been done with HMRC; there would be no onus on the HMRC to investigate the tax status of an individual. The Liberal Democrats supported the amendment and Lord Tyler said

> If we leave the Bill as it is, without a clear statement that these sorts of donations from foreign sources are not permissible, the Bill will not fulfil the requirements that the Government have placed upon it. Even since the Bill was in Grand Committee, there is greater awareness of the potential corruption of our political system by people with very large chequebooks who can buy their way into influencing a relatively small number of constituencies, the marginal seats.[87]

Lord Borrie (Labour) said that there was no supporting evidence or legal argument that a restriction on such donors would breach the European Convention on Human Rights as the Government had suggested.[88] Baroness Gould of Potternewton (Labour) said she could not support the amendment because it was badly flawed although she had great sympathy with what it was trying to achieve. Baroness Gould said she shared the concern of the Electoral Commission about the verification of the permissibility of donations; the Commission suggested that more than 1,000 individual donations would need to be verified each year. It would also be an impossible task for political parties to check the residence status of donors for tax purposes.

Lord Anderson of Swansea (Labour) acknowledged that the amendment would not wholly solve the problem but he agreed with Lord Tyler that it would give the House of Commons the opportunity, denied to it at report stage there, to take a decision on the issue. Lord Anderson could see no reason for the Government's rejection of the amendment and said that "it had not come forward with any real reasons why this particular anomaly should not be

---

84 HL Deb 30 April 2009 c141GC
85 HL Deb 30 April 2009 c153GC
86 HL Deb 30 April 2009 c154GC
87 HL Deb 15 June 2009 c905
88 HL Deb 15 June 2009 c906

met."[89] Lord Bach said that the Government continued to have serious concerns about the amendment "on principled, practical and legal grounds".[90] He continued:

> The Government have stated their firm belief that it would be wrong in principle to create an anomaly by introducing extra restrictions on only one form of participation without considering whether equivalent restrictions should be placed on other forms of participation. We believe that the issue of what should be the correct relationship between an individual's taxation status and their right to civic and democratic participation needs to be looked at as a whole. I can tell the House tonight that this will be one of the issues that will be covered by the democratic renewal council in its deliberations, which are taking place now, on the wider constitutional reform agenda. I can give that commitment to the House this evening that it will be part of its brief to look at this issue as a whole.[91]

Lord Bach also said that there were significant legal and practical difficulties which needed detailed consideration before any restriction on donations relating to tax status could be introduced; there was the possibility of a breach of the European Convention on Human Rights; the linking of an individual's taxation status to their ability to donate would require information on the taxation of all potential donors to be readily available and an investigation into every individual who makes a political donation would be a significant undertaking. The Minister concluded that the amendment was unrealistic and would not work but the Government was continuing to reflect on how the issue could be taken forward. **The Government was defeated when the amendment was agreed on division; contents 107, not-contents 85.**

7.6 Election expenditure

There was debate in Grand Committee on a Liberal Democrat amendment which would restrict the expenditure of political parties in each twelve month period following the date of a general election, instead of after 55 months of a Parliament as proposed by the Bill. Lord Tunnicliffe responded that the regulation of election expenditure was already complex and the amendment would introduce further complexity, in particular it would be difficult to define when a central party's expenditure should be regarded as local or national.[92] The amendment was withdrawn.

Lord Tyler (Liberal Democrat) also moved an amendment to introduce a new clause which would define 'qualifying expenditure' for election candidates. Lord Tyler explained that the provisions of the new clause would seek to define "all qualifying expenditure, including all party-political spending, whether it be from central headquarters funds, designed to influence a particular constituency, or whether it is intended for wider dissemination."[93] The provisions would therefore include publications sent to specific constituencies which are paid for from parties' national expenditure in the regulation of candidates' expenditure. Lord Tunnicliffe said that the Government was open to considering whether the list of regulated matters for campaign spending needed to be amended but the proposed new clause went further than was desirable. Lord Tyler withdrew the amendment but said he hoped the Government would think again about the issue.

---

89 HL Deb 15 June 2009 c905
90 HL Deb 15 June 2009 c914
91 HL Deb 15 June 2009 c914
92 HL Deb 5 May 2009 c208GC
93 HL Deb 5 May 2009 c213GC

Lord Rennard (Liberal Democrat) opposed the clause which would regulate candidates' expenses in the last four months of a Parliament which lasts for its full term of five years. Lord Campbell-Savours (Labour) also opposed the clause and moved an amendment to prevent there being a 55 month deregulated period during a full term Parliament. Lord Bach said that the clause took a fresh approach to the problem of unregulated candidate spending before the dissolution of Parliament and that the Government had considered carefully where to fix the start point of a new limit on candidate spending. He continued:

> We are clear that expenses should be regulated only when it is known with certainty that a general election is reasonably imminent. We have therefore specified that the pre-candidacy limit should apply from the point after 55 months of a Parliament has elapsed. When a Parliament reaches its final months, many prospective candidates will begin campaigning some time in advance of the dissolution. After 55 months, there can be little doubt that these are genuinely election expenses and, in those circumstances, we believe that such expenses can and should be regulated. The proposed new limit would not apply for shorter Parliaments. In those cases, we consider that the uncertainty about whether and when an election might take place makes specifying a longer regulated period more difficult.[94]

Lord Bach noted that the 55 month point for the present Parliament would be 11 December 2009 but that in the interests of clarity and simplicity the new limit would only begin to regulate expenses used after 1 January 2010.[95] The clause will be commenced by order after Royal Assent. **The clause was agreed.**

At report stage Lord Tyler (Liberal Democrat) moved amendments to impose a spending limit of £100 million on political parties in the five years following a general election.[96] Lord Tunnicliffe said that the Government could not accept the amendments but that it wanted to move forward on this issue and promised that a meeting of officials and party administrators would be convened in the summer to discuss spending limits. The amendments were withdrawn.

7.7 Candidates' addresses on ballot papers

During the debate in Grand Committee Lord Tyler (Liberal Democrat) opposed the clause which would allow candidates at Parliamentary elections to withhold their addresses from publication. Lord Tyler suggested that it was in the interests of openness and transparency that candidates should be required to provide their home addresses. Lord Campbell-Savours (Labour) supported the clause saying that an MP's family should not have to feel under threat if the Member was speaking about controversial issues. Lord Greaves (Liberal Democrat) argued that it was essential in a democratic system for people to know where elected representatives lived and how they could contact them; there were always risks for those who took part in public life.[97] Lord Tunnicliffe said that the Government did not support the clause but was facilitating a free vote on the issue by including it in the Bill.[98] The clause was agreed.

---

94 HL Deb 6 May 2009 c241GC
95 HL Deb 6 May 2009 c242GC
96 HL Deb 17 June 2009 c1095
97 HL Deb 6 May 2009 c251GC
98 HL Deb 6 May 2009 c258GC

Lord Tyler subsequently moved an amendment at report stage to leave out the clause. The amendment was disagreed on a division.[99]

7.8 Opting in to the edited electoral register

Lord Norton of Louth (Conservative) moved an amendment in Grand Committee to insert a new clause into the Bill which would require electors to opt to be included in the edited version of the register which was available for sale, rather than having to opt out as at present. Lord Norton argued for the edited version of the register to be abolished and noted that the Association of Electoral Administrators, the Electoral Commission and the Information Commissioner also wished to end this practice.[100] Lord Tunnicliffe said that the Government understood the concerns about the sale of personal details on the edited register but needed to consult about the impact its abolition would have on business and charities. The consultation would be launched before the summer recess. Lord Norton welcomed the support for his amendment but withdrew it suggesting that it could be raised again at report stage.

On the second day of report stage Lord Norton moved an amendment to abolish the edited register.[101] Lord Hodgson of Astley Abbotts supported the amendment saying that every effort should be made "to ensure that information collected is used for the purposes for which it is collected and not passed to somebody else for use in a completely different way."[102] The Minister, Lord Bach, said that the Government did not think it appropriate to abolish the edited register before there had been a full public consultation; it was proposed that such a consultation should take place before the summer recess to provide evidence about the advantages and disadvantages of the edited register.[103] He added that it would be possible to remove the provision for the edited register by using existing powers to amend the relevant secondary legislation. The amendment was withdrawn.

7.9 Overseas voters

Lord Hodgson of Astley Abbotts (Conservative) moved an amendment in Grand Committee to insert a new clause which would increase the period from 15 to 20 years during which British citizens resident overseas could remain on the electoral register in the UK and therefore vote in Parliamentary elections. Lord Norton of Louth proposed that British citizens working abroad for international organisations should be afforded the same right to make a declaration enabling them to continue to vote in the same way as those serving in the armed forces and others employed by the Crown outside the UK. Lord Tunnicliffe said that the Government thought it inappropriate to allow the voting rights of British citizens living overseas to continue beyond 15 years given that generally their connection with the UK over this period would be likely to diminish. The Government was more concerned with raising the registration rates amongst those living abroad and eligible to vote because the number of registered overseas voters was very low; fewer than 13,000 were registered in England and Wales as at 1 December 2008.[104] The Government was sympathetic to Lord Norton's amendment but wished to examine the issue further; the Ministry of Justice would undertake a project over the summer to examine the case for extending the franchise to British international civil servants. The amendment was withdrawn.

---

[99] HL Deb 17 June 2009 c1116
[100] HL Deb 6 May 2009 c261GC
[101] HL Deb 17 June 2009 c1103
[102] HL Deb 17 June 2009 c1106
[103] HL Deb 17 June 2009 c1109
[104] HL Deb 6 May 2009 c 272GC

7.10 Individual registration

Government amendments moved in Grand Committee inserted new clauses which would make provision for implementing a system of individual registration of voters under a statutory timetable. Electors' personal identifiers (date of birth, signature and national insurance number) will be collected on a voluntary basis before 2015 after which it will become compulsory for new voters to provide them. The Government will increasingly place the emphasis on individuals taking responsibility to register and vote rather than putting the onus on one member of the household as at present. The Minister, Lord Bach, acknowledged that there was concern that the final move to compulsory individual registration would not take place until 2015 but that a phased approach would allow progress to be monitored at each stage to ensure that registration rates would be maintained. The Government intended to use the data matching pilot schemes to establish which public sector databases would be of most use to EROs in targeting people who should be registered to vote. The Electoral Commission will be required to publish annual progress reports and to make a final recommendation in 2014 on whether the change to individual registration should take place. The new clauses also make provision for the 2002 Northern Ireland model of registration to be applied to the rest of the UK with some amendments, in particular the use of a prescribed canvass form by EROs. The Secretary of State will also be able to prescribe in regulations the alternative evidence to be provided by those who do not have a national insurance number.

Lord Henley (Conservative) said that the Opposition were concerned that the final introduction of individual registration would not take place until after the Electoral Commission had made a final recommendation in 2014. He moved an amendment which sought to probe whether adequate data security procedures would be put in place before the sharing of electors' personal details between EROs and other local and central government departments. Lord Rennard (Liberal Democrat) welcomed the new clauses but called for greater urgency in introducing individual registration. There was opposition to the proposed new system from Lord Campbell-Savours who said that individual registration was being introduced to address the problem of electoral fraud which only existed in certain parts of the country. He moved an amendment which would allow local authorities where there was a problem of fraud to apply to the Secretary of State for the power to introduce a scheme which would then operate just within that authority's area. Lord Bach noted that there was a general consensus in favour of changing the system of registration and rejected Lord Campbell-Savours's proposal suggesting that to treat electoral registration in certain areas of the country differently to others could lead to allegations of discrimination.[105] **The Government amendments were agreed.**

The Government moved a number of technical amendments at report stage relating to individual registration.[106] One of the amendments gave Electoral Registration Officers more flexibility in using the national insurance number database during the voluntary phase of individual registration. Another made provision for the disclosure of information by the CORE (Co-ordinated Online Record of Electors) keeper to an ERO for the purposes of registration. Lord Henley (Conservative) and Lord Tyler (Liberal Democrat) both suggested that the timetable for the introduction of individual registration was very long but Lord Bach reiterated

[105] HL Deb 13 May 2009 c412GC
[106] HL Deb 17 June 2009 c1160

that a phased approach was the only way the ensure that such a radical change was made effectively and that any disruption to elections was minimised.[107]

7.11 Local referendums on recall for misconduct

Lord Tyler (Liberal Democrat) moved an amendment at report stage requiring the Secretary of State to ask the Electoral Commission to review and report on a procedure for local referendums on the recall by constituents of an MP found guilty of misconduct. Lord Bach drew attention to the Government's proposal for a new Parliamentary Standards Authority which would examine the case for exclusion and recall of MPs for gross financial misconduct and said that policy work in this area was for the Government to undertake, not the Electoral Commission.

The amendment was disagreed on a division; contents 49 and not-contents 148.[108]

7.12 Other amendments debated in Grand Committee and at report stage

Candidates' financial interests

Lord Campbell-Savours moved an amendment in Grand Committee which would require candidates standing for election to provide information about their financial interests at the time of their nomination.[109] Lord Tyler (Liberal Democrat) agreed with the need for greater transparency and openness which the amendment sought to achieve but he had concerns about how such a system would work. The Government rejected the amendment and Lord Bach said that the practical problems of creating a register of candidates' interests were considerable.

Postal voting

An amendment moved by Lord Greaves (Liberal Democrat) in Grand Committee proposed ending the system of postal voting on demand which was introduced by the *Representation of the People Act 2000*. Lord Greaves said that there was a perception that voting fraud was increasing and that more safeguards would be required if postal voting on demand was allowed to continue. Lord Bach rejected the amendment and said that the Government had no plans to restrict the availability of postal voting and that a number of measures had already been put in place to safeguard its security.[110]

At report stage Lord Greaves (Liberal Democrat) moved an amendment which would require Returning Officers to keep information on postal votes which have been rejected because the personal identifiers cannot be verified. The amendment would also require the ROs to write to all electors whose postal votes had been rejected notifying them of the reasons. Lord Greaves drew attention to the likelihood of electoral fraud if there were large numbers of personal identifiers which could not be verified. Lord Tunnicliffe responded that the Government acknowledged the concerns raised during debate on the amendment but wished to consult more widely before bringing forward proposals in the next electoral bill.[111]

Postal voting: checking of personal identifiers

Lord Henley (Conservative) moved an amendment in Grand Committee which would ensure that there was a statutory requirement for electoral administrators to verify the personal

---

[107] HL Deb 17 June 2009 c1162
[108] HL Deb 15 June 2009 c877
[109] HL Deb 13 May 2009 c424GC
[110] HL Deb 13 May 2009 c448GC
[111] HL Deb 17 June 2009 c1152

identifiers accompanying all postal ballots in all cases; at present there is a requirement to check 20% of the postal ballots. Lord Bach said that the Government agreed in principle that all postal votes should be checked but a key factor in deciding when this should be mandatory (and provided for in regulations) would be when it was thought there was sufficient capacity within the postal voting software to support 100% checking.[112] Lord Henley moved the amendment again at report stage and Lord Bach said that it was imperative that the Government should work with the Electoral Commission, electoral administrators and software suppliers to review how the 100% checking of postal votes had worked in practice at the European Parliament elections before requiring 100% checking at all elections. He added that it would be possible to make the change through amendments to existing secondary legislation.[113]

Service voters

Lord Bates (Conservative) moved an amendment in Grand Committee which would allow service voters to make a service declaration which would be indefinite; at present service voters can remain registered under a single service declaration for a period of three years. Lord Bates argued that this would address the under-registration of armed services personnel. Lord Bach said that the Ministry of Defence was not in favour of the amendment and that the three year period struck the right balance between encouraging service personnel to register and maintaining an accurate register.[114] However, by report stage the Government had reconsidered the issue and Lord Bach announced that the **period of a service declaration would be extended from three years to five**. The rules will be changed by statutory instrument as soon as practicable.[115]

Descriptions on nomination and ballot papers

Lord Tyler (Liberal Democrat) moved an amendment at report stage to prevent the use by political parties of descriptions on nomination and ballot papers and to allow independent candidates to use descriptions of up to six words.[116] Lord Tunnicliffe acknowledged the concerns about descriptions used at the recent European Parliament elections but that the Government could not accept the amendment as it went too far in the other direction.

Vacancy in a Northern Ireland European Parliamentary seat

A **Government amendment agreed** at report stage made changes to the clause which allowed a vacancy in a Northern Ireland European Parliamentary seat to be filled by a person nominated by the nominating officer of the political party on whose behalf the previous MEP stood when elected. The amendment acknowledged that a MEP could have been nominated jointly by more than one political party and that therefore if he vacated his seat the nominating officers of each of the parties on whose behalf he stood should jointly nominate a replacement.

Greater London Returning Officer

Baroness Hamwee (Liberal Democrat) moved an amendment at report stage to allow the Greater London Returning Officer to be eligible to be appointed as Regional Returning Officer at a European Parliamentary election in any region in England and Wales. At present

---

[112] HL Deb 13 May 2009 c436GC
[113] HL Deb 17 June 2009 c1142
[114] HL Deb 13 May 2009 c441GC
[115] HL Deb 17 June 2009 c1146
[116] HL Deb 17 June 2009 c1118

RROs have to be acting Returning Offices for Parliamentary elections. **The amendment was agreed.**

Folding of ballot papers

Lord Pearson of Rannoch (UKIP) moved an amendment at report stage which would require ballot papers to be unfolded when they were given to voters in the polling station.[117] Lord Pearson drew attention to the very long ballot papers at the 2009 European Parliamentary elections and said that there had been complaints that where the ballot paper had been folded the UKIP candidate's name at the end of the ballot paper had been obscured. Lord Bach pointed out that there were large versions of the ballot paper posted up in all polling stations but said that the Government would wait for the Electoral Commission's report on the elections before deciding whether to take action on this issue.

CORE

Government amendments at report stage made provision for the CORE (Co-ordinated Online Record of Electors) keeper to be a new non-departmental public body. It had previously been intended that the Electoral Commission should fulfil this role but the Commission was now re-focusing its functions and concentrating on its regulatory role. Other amendments allowed the CORE keeper to supply copies of the electoral registers for the purpose of jury summoning and to provide the Electoral Commission with information relevant to the Commission's functions. **The amendments were agreed**.

Personal identifiers at the ballot box

Lord Henley (Conservative) moved an amendment at report stage to require electors to produce personal identifiers when voting at a polling station.[118] Lord Henley said that there was a growing problem of personation in polling stations and that the amendment was based on the legislation in Northern Ireland. The Minister, Lord Bach, said that any proposal to require voters to produce evidence of their identity would need careful consideration and that any response to the allegations of electoral malpractice must be proportionate. The Government were also concerned that voters would arrive at polling stations without identification and be turned away. The amendment was withdrawn.

8 Third reading in the Lords

Third reading of the Bill in the House of Lords took place on 9 July 2009. A Government amendment which required the three main political parties to each nominate three candidates for consideration for appointment as a nominated Electoral Commissioner was agreed. The Bill had originally only allowed the parties to nominate a single candidate each. Lord Bach said that the amendment would introduce a degree of competition into the process of appointing the nominated Commissioners and would ensure that the there was a pool of candidates from which the Speaker's Committee could select people on merit.[119] He added that names put forward to the Committee would not necessarily be made public.[120]

There were further minor technical amendments to the Bill including amendments which clarified the matters on which a magistrate would have to be satisfied before granting a

[117] HL Deb 17 June 2009 c1152
[118] HL Deb 17 June 2009 c1165
[119] HL Deb 9 July 2009 c782
[120] HL Deb 9 July 2009 c784

warrant for the Electoral Commission to enter premises to inspect documents.[121] Lord Bach said that a magistrate

> … must be satisfied, following information provided on oath by the commission, of three things: first, that there are reasonable grounds for believing that on those premises there are documents relating to the income and expenditure of the organisation or individual; secondly, that the commission needs to inspect the documents for the purposes of carrying out functions of the commission other than investigatory functions; and thirdly, that permission to inspect the documents on the premises has been requested by the commission and has been unreasonably refused.
>
> An inspection warrant will be valid for one month from the date of issue and will authorise a member of staff of the commission to enter the premises specified in the warrant to inspect documents relating to their income and expenditure. The person executing the warrant will be required to produce the warrant and documentary evidence that they are a member of the commission staff.[122]

The amendments were agreed and the Bill was read a third time and returned to the Commons.

9 Consideration of Lords amendments

These were debated in the Commons on 13 July 2009.

9.1 Carry over motion

During the debate on Lords amendments Michael Wills spoke to an amendment to extend the carry over motion until 29 October 2009.[123] Opposition MPs were unclear about the need to obtain such a long extension and expressed concern that if royal assent was delayed until then, implementation of the legislation before the general election would be affected.[124] In response, Mr Wills pointed out that Opposition spokespersons had also called for more time in which to understand the amendments tabled on donations by those who are not domiciled for tax purposes.[125] There followed a programme motion to ensure that there is a maximum of one hour for any consideration of any further Lords amendments

9.2 Donations from those not domiciled for tax purposes

Jack Straw announced that the Government would accept the principle behind the amendments promoted by Lord Campbell-Savours in the Lords relating to donations from those non domiciled in the UK. He introduced two new clauses applicable to non resident donors and lenders which required them to declare that they were domiciled in the UK for tax purposes (or were an Irish citizen), if they made a donation or loan over £7,500 to a political party, or permitted participants, such as candidates or elected representatives. Parties would be required not to accept donations from those not domiciled in the UK in the previous tax year. Similar changes to the rules on making donations or loans to third parties were also included in the amendments. False declarations were made a criminal offence. The original Lords amendments were objected to. Mr Straw also said that further amendments would be necessary in the Lords to achieve a workable scheme:

---

[121] HL Deb 9 July 2009 c785
[122] HL Deb 9 July 2009 c786
[123] The carry over procedure is explained in Library Standard Note 3236 *Modernisation: Carry over of public bills*
[124] HC Deb 13 July 2009 c46
[125] HC Deb 13 July 2009 c48-50

> However, let me state from the outset that the amendments do not fully deal with the problems that the defects of the amendments in their current form cause. Should amendments (a) to (f) be agreed by the House today, the Government will table, when the Bill returns to another place, such further amendments as they consider necessary to put a fair and workable scheme in place. I am happy to make the drafts of those amendments available to members of other parties. I do not ask them to endorse them, but if they find it helpful to see them, it is our responsibility to provide them, and I happy to do that. I recognise the frustration about the time available.
>
> I also want to make it clear that any restriction on permissibility of donations—one of the major problems with the proposition—linked to an individual's taxation status would not currently be fully enforceable without further steps being taken. Should the amendments be agreed, we would want to discuss the implications carefully with the parties and the Electoral Commission before the new restriction came into force.[126]

Amendments in the Lords would ensure that where a party treasurer has acted reasonably to check tax status they would not be found guilty of an offence.[127]

Mr Straw acknowledged that this would lead to a position where an overseas elector would be able to vote, but would not be able to make a donation over £7,500.[128] He explained the position of Irish citizens as follows:

> The legislation governing donations to political parties and regulated donees in Northern Ireland rightly enables Irish citizens to make political donations to those parties and donees. We would not want to alter that arrangement, and the intention of subsection (b) of proposed new subsection (2ZA) is therefore to make clear our desire that Irish citizens will retain the ability to donate to political parties and other authorised recipients in Northern Ireland. The Government will table further amendments to clarify the intention underlying the subsection in due course.[129]

Mr Straw acknowledged that it would take some time to make the amendments workable and he did not commit himself to a specific timetable for implementation.[130]

The Opposition did not oppose the amendments, which were not subject to a vote. However the Conservative spokesman, Jonathan Djanogly, argued that the provisions were unworkable and were potentially in breach of various articles of the ECHR. He complained about the short notice of the amendments.[131] There had been media reports of a change of Government position on 11 July 2009.[132] For the Liberal Democrats, David Howarth supported the proposals but expressed doubts about workability.[133] Other MPs expressed concern about the increasing complexity of party funding rules, which might have a detrimental effect on voluntary party activity.[134]

In response, Mr Straw pointed out that "that 80 per cent., or four out of five, of the peers who take the Conservative Whip—there are just over 200 of them—failed to vote against Lord Campbell-Savours' amendment when it was before that House in the middle of June; they

---

[126] HC Deb 13 July 2009 c60
[127] HC Deb 13 July 2009 c64
[128] HC Deb 13 July 2009 c61
[129] HC Deb 13 July 2009 c66
[130] HC Deb 13 July 2009 c67
[131] HC Deb 13 July 2009 c72-75
[132] See "Straw reverses stance on political donations by non-residents" 11 July 2009 *Guardian*
[133] HC Deb 13 July 2009 c80
[134] HC Deb 13 July 2009 c85

could muster only 40 Members altogether." He also noted that in the amendments at present there was no requirement to aggregate donations in one year to reach the £7,500 limit, and that this might need to be dealt with in subsequent legislation.[135]

The Electoral Commission briefing on Lords amendments was prepared before the Government tabled the new clauses. It expressed concerns about the Campbell-Savours amendments, noting that individuals made over 1000 reportable donations each year, and that it would be difficult for parties to satisfy themselves about the tax status of such individuals.[136]

9.3 CORE and individual registration

The Minister, Michael Wills, explained the amendments introduced at report stage in the House of Lords which made provision for the CORE (Co-ordinated Online Record of Electors) keeper to be a new non-departmental public body. It had previously been intended that the Electoral Commission should fulfil this role but the Commission was now re-focusing its functions and it was now no longer appropriate for it to undertake the role of CORE keeper now it was concentrating on its regulatory role.[137] Further amendments introduced at report stage in the Lords set out the Government's approach to the introduction of individual registration in Great Britain. The Minister said that there had to be a phased approach to the introduction of the new system alongside extensive work to increase electoral registration rates.[138] The Electoral Commission will be required to report in 2014 before the implementation of full individual registration in 2015. The amendments were agreed.

9.4 Civil sanctions and other amendments relating to the Electoral Commission

Michael Wills outlined the effect of the Government amendments to the Bill's provisions relating to the Electoral Commission's powers and governance. The first followed a report by the House of Lords Delegated Powers and Regulatory Reform Committee and requires any order which sets or alters the level of a fixed monetary penalty to be subject to the affirmative resolution procedure in both Houses.[139] The second amendment requires the leaders of the three main political parties in Westminster to each nominate three candidates for consideration as nominated Electoral Commissioners. Other amendments relating to the Electoral Commission were agreed. Brief details of these are given below, for a fuller explanation see the section on the Lords report stage.

- the Chief Executive of the Commission may increase the one year restriction on previous political activity for designated posts in the Commission
- the reduction in the restriction on previous political activity for all Commission staff engaged on electoral boundary work will not be lifted
- existing obligations placed on the Commission to provide information about systems of government as part of its public awareness role are removed

---

135 HC Deb 13 July 2009 c93-94

136 *Political Parties and Elections Bill: Commons Consideration of Lords Amendments 13 July* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0011/78725/Commons-Consideration-of-Lords-Amendments.FINAL.pdf

137 HC Deb 13 July 2009 c95

138 HC Deb 13 July 2009 c98

139 HC Deb 13 July 2009 c117

- a five year time limit is imposed on the Commission's ability to issue a disclosure notice requesting information or documents from former party treasurers or party officials

- the Commission's powers of entry are restricted so that they will not apply to the premises of those categories of people and organisations formerly supervised by the Commission

- the Commission will have to obtain a warrant from a magistrate in order to enter premises to inspect documents; the criteria that a magistrate will have to be satisfied of before issuing a warrant are set out

- the Commission's applications for court orders to enforce earlier notices requiring documents will have to be approved by the High Court or the Court of Session in Scotland

- the Commission is given the power to apply to the High Court for an order to enforce an earlier notice issued by the Commission requiring disclosure of information or an explanation

During the debate on Lords amendments Pete Wishart (SNP) drew attention to the provisions in the Bill for appointing the nominated Electoral Commissioners, in particular the provision that will allow the smaller political parties to nominate only one Commissioner between them. He said that the Electoral Commission should properly reflect the whole of the United Kingdom with all its devolved assemblies where some of these parties were the party in government or in coalition. David Howarth (Liberal Democrat) agreed that it would be odd if the ruling party in Scotland was not represented on the Electoral Commission; he also called for responsibility for elections in Scotland to be transferred to the Scottish Parliament.[140] The Minister, Michael Wills, responded that whoever was appointed to the new roles of political Commissioners would be expected to put aside partisan considerations; they were to be appointed to bring their experience of the democratic political process to bear in their work on the Commission.[141]

The remaining Lords amendments were agreed without debate.

10 Lords consideration of Commons amendments tabled in lieu of Lords amendments

The House of Lords did not insist on their amendments to the Bill relating to the tax status of donors to political parties but disagreed with the amendments proposed by the House of Commons in lieu of these amendments; further amendments which were tabled by the Government in lieu of these were agreed. The Minister, Lord Bach, said that the new amendments made provision for individuals giving or loaning more than £7,500 to a political party to be resident, ordinarily resident and domiciled in the UK for the tax year in which the relevant donation or loan is made. This higher threshold, of £7,500, means that an individual who does not meet the new permissibility requirement would still be able to make significant donations that did not exceed £7,500 in a calendar year. Lord Bach said this would deal with

[140] HC Deb 13 July 2009 c120
[141] HC Deb 13 July 2009 c122

concerns that had been raised about the compatibility of these provisions with EU law and the ECHR.[142]

Lord Bach outlined how the amendments would work in respect of the aggregation of smaller donations:

> The amendments propose to require donations above the recordable threshold—£500, as proposed by the Bill—to the same donee to be accounted for where in aggregate they exceed the £7,500 threshold. This means that if a donor gave a series of donations of £2,000 to a political party, the fourth such donation would need to be accompanied by a declaration and the donor would need to be resident, ordinarily resident and domiciled in the UK at the time of making that donation.
>
> We have considered whether it is feasible to have a more stringent requirement for the aggregation of all political donations and loans regardless of the recipient, but we have concluded that this would be unworkable in practice, and would impose an excessive burden on donors and more importantly on parties and other recipients. In addition, such a proposal would depart significantly from the way in which the 2000 Act currently requires aggregation to work in the reporting of donations and loans. This is particularly true given that political parties would have no means of ascertaining what other political donations an individual had made, and as such whether or not a declaration was required.[143]

Lord Tyler (Liberal Democrat) welcomed the amendments but raised the issue of the aggregation requirement not applying to multiple donations to different recipients made by a donor not resident in the UK for tax purposes.[144] Lord Tyler also asked whether there would be restrictions on donations made by companies which were controlled by those who were not permissible donors. Lord Bates (Conservative) said that serious questions remained about the amendments and the pace at which they had been introduced; he questioned why the Government had changed its view on the issue and suggested that policing the new amendments would be impossible.[145]

Lord Bach responded that the Government had always been sympathetic to the principle behind the amendments but had been concerned about the practicalities. He said that aggregation was not a loophole and if a donor wanted to get round the new restrictions by giving donations below £7,500 to a large number of MPs from the same party this would be revealed because of the requirement for MPs to report any donations of more than £1,000 (this will be raised to £1,500 by the Bill).[146] The amendments restrict the permissibility of individuals, but not companies, to give political donations, but the Bill requires a declaration about the source of the donation to accompany donations of over £7,500. This should ensure that any agency arrangement is properly declared. Lord Bach also noted that the new amendments changed the requirement for donors to be resident in the year of giving the donation or loan, rather than in the previous tax year, after discussions with HMRC. This would prevent the anomaly of a donor who is not resident in the current year being a permissible donor (because he was resident the previous year) and a donor who is resident

---

142 HL Deb 20 July 2009 c1404
143 HL Deb 20 July 2009 c1404
144 HL Deb 20 July 2009 c1406
145 HL Deb 20 July 2009 c1412
146 HL Deb 20 July 2009 c1413

in the current year not being a permissible donor because he was not resident the year before.[147]

11 Consideration by the Commons of the Lords amendments in lieu of the Commons amendments

The Minister of State, Michael Wills, explained the new amendments which he said addressed "the legal, technical and basic operational deficiencies with the amendments moved by Lord Campbell-Savours."[148] He added that the Government would want to discuss their implementation with the parties and the Electoral Commission before the new restrictions on donors not resident in the UK came into force. Jonathan Djanogly (Conservative) criticised the speed with which the Government had introduced the new amendments about donors and suggested that the new provisions would be extremely hard to implement.[149] David Howarth (Liberal Democrat) asked when the provisions would come into effect; he had tabled an amendment proposing that they would do so on immediately the Bill receives Royal Assent. The Minister responded that "given their complexity, we are practically unable to commence provision before the summer of 2010, so we are not proposing to commence the arrangements before then. Equally we are not envisaging undue delay after that date."[150]

147 HL Deb 20 July 2009 c1415
148 HC Deb 20 July 2009 c681
149 HC Deb 20 July 2009 c682
150 HC Deb 20 July 2009 c687