

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

EUROPEAN UNION (REFERENDUM) BILL

Fourth Sitting

Wednesday 4 September 2013

(Afternoon)

CONTENTS

CLAUSE 2 agreed to.

Adjourned till Tuesday 10 September at Two o'clock.

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5.00

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Sunday 8 September 2013

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The Committee consisted of the following Members:

Chairs: MR JOE BENTON, † MR GARY STREETER

† Bain, Mr William (*Glasgow North East*) (Lab)
 † Burley, Mr Aidan (*Cannock Chase*) (Con)
 Campbell, Mr Gregory (*East Londonderry*) (DUP)
 Dowd, Jim (*Lewisham West and Penge*) (Lab)
 † Ellwood, Mr Tobias (*Bournemouth East*) (Con)
 † Hart, Simon (*Carmarthen West and South
 Pembrokeshire*) (Con)
 Hopkins, Kelvin (*Luton North*) (Lab)
 † Horwood, Martin (*Cheltenham*) (LD)
 † Latham, Pauline (*Mid Derbyshire*) (Con)
 † Lidington, Mr David (*Minister for Europe*)

† Reynolds, Emma (*Wolverhampton North East*)
 (Lab)
 † Sheerman, Mr Barry (*Huddersfield*) (Lab/Co-op)
 † Smith, Miss Chloe (*Parliamentary Secretary,
 Cabinet Office*)
 Vaz, Keith (*Leicester East*) (Lab)
 † Wharton, James (*Stockton South*) (Con)
 † Williamson, Gavin (*South Staffordshire*) (Con)

Kate Emms, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 4 September 2013

(Afternoon)

[MR GARY STREETER *in the Chair*]

European Union (Referendum) Bill

Clause 2

ENTITLEMENT TO VOTE IN THE REFERENDUM

2 pm

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): I beg to move amendment 93, in clause 2, page 1, line 17, leave out from ‘would’ to end and insert

‘are British citizens resident in the United Kingdom and have attained the age of 16 years old.’.

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

Amendment 19, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) Persons who are legally resident in the United Kingdom, and’.

Amendment 20, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) Persons over the age of 16 who are legally resident in the United Kingdom, and’.

Amendment 21, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) All persons who are legally entitled to vote as electors in a European Parliamentary election, and’.

Amendment 22, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) All persons who are legally entitled to vote as electors at a local election, and’.

Amendment 23, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) All British citizens resident in any of the member states of the European Union, and’.

Amendment 24, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) All British citizens over the age of 16 resident in any country in the world, and’.

Amendment 25, in clause 2, page 1, line 18, leave out ‘and’ and insert—

‘(aa) All British citizens over the age of 16 resident in any of the member states of the European Union, and’.

Amendment 26, in clause 2, page 1, line 18, leave out ‘and’ and insert ‘citizens of Gibraltar, and’.

Amendment 71, in clause 2, page 1, line 20, at end add ‘but—

- (i) would be entitled to vote as electors at a local government election in any electoral area in Great Britain,
- (ii) would be entitled to vote as electors at a local election in any district electoral area in Northern Ireland, or

- (iii) would be entitled to vote as electors at a European Parliamentary election in any electoral region by virtue of section 3 of the Representation of the People Act 1985 (peers resident outside the United Kingdom).

‘(2) In subsection (2)(b)(i) “local government election” includes a municipal election in the City of London (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, alderman and liveryman in common hall).’.

Amendment 43, in clause 2, page 1, line 20, at end insert—

‘(c) this Act shall not come into force until the disqualification of peers from voting as electors at parliamentary elections has been removed.’.

Amendment 76, in clause 2, page 1, line 20, at end insert—

‘(c) provision will be made so that all Britons resident in Gibraltar aged 16 and over will be able to vote in person or by post.’.

Amendment 77, in clause 2, page 1, line 20, at end insert—

‘(c) provision will be made so that all British soldiers resident abroad aged 16 and over will be able to vote in person or by post.’.

Amendment 78, in clause 2, page 1, line 20, at end insert—

‘(c) would be entitled to vote as electors at a European parliamentary election in any electoral region by virtue of section 3 of the Representation of the People Act 1985 (peers resident outside the United Kingdom).’.

Amendment 79, in clause 2, page 1, line 20, at end insert—

‘(c) This Act shall not come into force until the disqualification of peers from voting as electors at parliamentary elections has been removed.’.

Amendment 96, in clause 2, page 1, line 20, at end insert—

‘(d) provision will be made so that all Britons resident abroad aged 16 and over will be able to vote in person or by post.’.

Mr Sheerman: It is lovely, Mr Streeter, to see you chairing the Committee. We go back a long way in terms of experiences in the House.

It gives me great pleasure to move the amendment, because it shows a true spirit of openness to ideas. Many in the House will know that I am a passionate opponent of votes at 16. I have spoken about the issue and blamed the right hon. Member for Bermondsey and Old Southwark (Simon Hughes) and my right hon. and learned Friend from just up the road, the Member for Camberwell and Peckham (Ms Harman), the deputy leader of the Labour party, for wishing it on our party. In the spirit of openness to ideas, I thought that because the First Minister in Scotland has climbed on the votes at 16 bandwagon for the Scottish referendum, it is only right for us to discuss and debate it through this important private Member’s Bill. The amendment is probing and I intend the issue to be fully discussed today. There will be a referendum in Scotland with votes at 16, so I can see that there is a case to be made for votes at 16 in referendums.

My position is that I could accept votes at 16 in a referendum on this important issue, which will be of significance to the lives of young people for a very long

time—I am not persuaded at the moment, but I could be. Years as Chairman of the Select Committee on Children, Schools and Families taught me the preciousness of childhood. I would not find defensible anything that squeezed childhood ever further. Many of the protections of children and childhood go through to 18—not all of them; there is a balance. Some go through to an earlier age and some to a later age. We should discuss votes at 16, but I think that it is a bit of a gimmick, even in Scotland. I knew the First Minister well when he was in the House of Commons. I did not have a very high opinion of him in those days and nothing has happened to change my mind.

As I pointed out in the House fairly recently, when the very highly respected Hansard Society, chaired by the Speaker, looked into voting patterns and voting potential, it found that only 12% of young people between 18 and 25 were likely to vote in the next election. That is astounding. I shall say only one party political thing in moving the amendment. When I conducted a major inquiry into citizenship in schools, I found that, where citizenship is well taught, it is very good indeed. It is a whole-school enterprise, not something stuck into the timetable a little bit every week or fortnight. There can be a bit of a knee-jerk reaction to citizenship, which may be taught by someone not trained in teaching it. Even if I could be persuaded on votes at 16, I would want, in parallel, highly organised citizenship preparation for that voting opportunity.

Although I have reservations, we should discuss votes at 16, given the Scottish precedent. This is a private Member's Bill, and its promoter may accept the amendment with open arms. He might be passionate about votes at 16; I do not know, because I have not seen his position on the record. I know him to be a sensible Member. He may want to intervene on me and let me know how he feels about it in respect of his Bill

James Wharton (Stockton South) (Con): I cannot ignore the hon. Gentleman's kind invitation to make known my own feelings on the matter. I do not know whether his intention is to persuade the Committee or to persuade himself, but he is unlikely to persuade me that votes at 16 would be a good idea for this referendum or for future elections.

Mr Sheerman: I thank the hon. Gentleman for that intervention. It looks like I will soon flush out the promoter of the Bill. I know he will tell me in a moment whether he would like to see this amendment in his Bill. Of course knowing which way he was disposed on the matter would weigh very heavily with my colleagues and me. My own opinion is that, given the Scottish precedent, we would have a lot of explaining to do if this were not thoroughly discussed in Committee. I moved the amendment to start a short discussion about whether the amendment was relevant and to see whether the Committee feels that it would move the Bill on. Those who want to see a vote in a referendum could make an assessment of whether this would be useful in terms of not just the narrow point of winning or losing a referendum but being inclusive of the whole population.

Mr William Bain (Glasgow North East) (Lab) *rose*—

Mr Sheerman: I was about to sit down.

Mr Bain: I am most grateful to my hon. Friend for giving way. I caution against postponing his peroration, but I just wanted to share with him and the Committee what is happening with 16 and 17-year-olds in Scotland at the moment. They are remarkably cynical that Scotland's First Minister is seeking to give them the vote. It is only for this referendum of course, because they would not have the vote for any other referendum or election. They are remarkably cynical and think they are being given the vote because the First Minister believes that they will vote in the way that he intends. What we are actually seeing is 16 and 17-year-olds saying that, if they are going to have the vote, they should have the vote for every election and not just for a single plebiscite or referendum.

Mr Sheerman: I could not agree more with my hon. Friend. When I saw that Alex Salmond had made that commitment, it did seem that it could well be perceived as a gimmick to try to get that extra vote from young people. As some have said, those young people do not yet fully understand the full ramifications of the vote in which they might be asked to participate. It is an important matter. One could argue that it is the thin end of the wedge—even in a referendum, as important as it is. As I have said, they are being allowed to vote because it is an important and long-lasting decision that will change the very nature of our social and economic region. If it is that important, people could say, "Well, what about local elections? What about elections for mayors?" What about any election that we want to involve young people in? I suspect that, if we allowed this for the referendum, we would be pretty much committed to votes at 16 in all those elections for local government and mayors and for parliamentary elections.

I know that I am not expressing the policy of my party. I am not revealing anything secret here, but I did have a vigorous conversation with the person who wrote the Labour manifesto running up to 2010 on my worries and concerns that the impact on children and childhood had not been taken into account. I met him that day in his ministerial office just down the road from here. He is now leader of the Labour party. The fact is that this matter should be discussed. It is an important contribution. I am keen to know whether the promoter of the Bill would like to support the amendment.

Martin Horwood (Cheltenham) (LD): It is a pleasure to see you in the Chair, Mr Streeter. You may find this to be a slightly bizarre Committee. On the hon. Member for Huddersfield's speech, I have to say that that is the first time I have ever heard someone propose an amendment and then declare themselves unconvinced by it. That is yet another first for this amazing Committee.

I added my name to a series of amendments tabled by the hon. Member for Ilford South (Mike Gapes), who found himself, for good or ill, not a member of the Committee. These amendments probe the various aspects of the qualification to vote in the referendum and it will be helpful to debate them.

Some strange anomalies and issues have been raised, as the hon. Member for Huddersfield mentioned, by the debate on who should be qualified to vote in the Scottish referendum, whether that should extend to votes at 16, and indeed the wider discussion about votes at 16. I do not find myself in a particularly difficult position in

[*Martin Horwood*]

that respect as I have always supported votes at 16 for all elections. Therefore, I do not mind arguing for that, particularly in the case of a referendum, whether Scottish or European.

The first amendment tabled by the hon. Member for Ilford South but also in my name is amendment 19, which would insert between the two existing paragraphs in the clause an additional one qualifying any person who is legally resident in the United Kingdom to vote. I have not discussed that with the hon. Gentleman, but I think the logic was that potentially this will be a vote on an international issue with implications wider than the United Kingdom itself. Let me turn to the principal difference between that potential electorate and those currently qualified to vote in a UK general election. At the moment, only citizens of the Republic of Ireland and the Commonwealth, in addition to British citizens with the various different qualifications, have the right to vote. Citizens of other EU countries that are not members of the Commonwealth do not; nor do citizens of completely different countries, such as the United States of America. I would guess that it is possible to be legally resident in the United Kingdom and be a citizen of virtually any country, so the amendment is particularly broad in its suggestion and it would be interesting to see what the Minister for Europe, with his ministerial experience, has to say on that.

There is a logic to saying that on an issue with broad international implications, and implications for the freedom of movement between the United Kingdom and other European countries, perhaps we should allow some input from citizens of countries other than just our own, and certainly from those of other European countries who might be significantly affected. The precedent is set by our local and European elections, where citizens of other European countries are allowed to vote. It is not as if we have a narrowly drawn principle of who can vote even in our own local elections—or, in fact, the general elections, because of the Commonwealth and Irish qualification to vote as well. We do vary and flex the qualification, so the amendment deserves debate.

I am slightly more comfortable with amendment 20, which takes the same principle but extends eligibility to vote—as do a couple of the other amendments—to those aged 16. I think that votes at 16 is desirable; I have argued for it for many years on a number of bases. The first is the driving of political engagement between politicians and young people at a time that is formative for young people in their political ideals. I do not know whether I am representative of the United Kingdom—I am probably not, being a bit of a political geek, as all of us here are—but my political ideas began to be formed at that kind of age: between 16 and 17.

When I engage with school students, I find them much less cynical and more open-minded about politics than perhaps even university students a couple of years down the path. It would seem to be very positive to engage people in the voting and decision-making process at that slightly younger age. Some of them occasionally suggest to me that they do not feel they have all the knowledge required to vote in elections at that age, and I tell them that they should go out and meet the rest of the electorate some time, because a lot of people vote without any knowledge whatsoever. The principle of a

democracy is that every vote counts, and everyone who has the good sense to understand that they need to have knowledge in order to vote and form a judgment should be entitled to do just that.

2.15 pm

Mr Sheerman: May I bring the hon. Gentleman back to that famous debate we had—on a Back-Bench motion, I think—in the House last year? Many of us joined in and it was a good debate on both sides, and the case he is making now was made passionately well then. What he has just said is equally applicable to 14-year-olds, so why 16? Why not have voting at 14, or 12?

Martin Horwood: It is a matter of degree, and there is a degree of maturity involved in reaching the age of 16 that simply is not there at 12 or 14. I notice that difference with work experience students who come into my office. Year 12 and 13 students have a maturity and an interest in the issues that simply is not there even a couple of years earlier. There is a logical distinction there.

The second reason I think that votes at 16 are a good idea, is that 16 is the age of majority in many other respects. It is not an absolute rule, but someone can get married or fight for their country at 16.

Mr Sheerman: I am tired of that being trotted out. Someone can get married or join the Army at 16 with the consent of their parents. It is true that there is a range of things, some of which can be done earlier and some later, but the trouble with the hon. Gentleman's case is the argument that the age should be brought down to 16 because 16 consolidates the end of childhood.

Martin Horwood: I am afraid I disagree. The point is that they can do those things. Perhaps we should not have that qualification that someone can join the Army with parental consent as a safeguard to protect younger people, but it does not change the fact that they can be serving members of the armed forces at 16, and it certainly does not prevent them from getting married.

Mr Sheerman: It does.

Martin Horwood: But there is still a difference between being able to get married with parental consent at 16 and before the age of 16 not being able to get married at all. There is recognition in law that at the age of 16 something changes and people reach a certain maturity, and there is therefore a change in their legal status. That is undeniable.

Mr Sheerman: I have an unfortunate reputation already for being a bit ageist—but not sexist, I have three daughters who keep me line. I have met a large number of women with children, including boys, but have the people who want votes at 16 ever met a 16-year-old boy? I point that out in a slightly amusing frame. I always ask, “If one of your children wanted to marry at 16, how happy would you be?”

Martin Horwood: It would depend on who they wanted to marry. Logically, having put my views on the record on the matter, I would absolutely endorse a marriage at 16 if I thought it was the right thing for my daughter or son, and I would do my best to respect—[*Interruption.*]

The Chair: Order. The Committee has been so well behaved, but it might be useful to focus again on the amendments. Sedentary interventions are never helpful.

Martin Horwood: Thank you, Mr Streeter, for drawing us back on to the straight and narrow—not that we are against gay marriage either.

The third argument is that of no taxation without representation. People can take up apprenticeships, earn money and pay tax at 16, and revolutions have been fought over the right to be represented if taxed. In the case of the European referendum there is an additional argument—I think the hon. Member for Huddersfield mentioned it in his remarks—which is that that right is even more essential with something of generational importance. Someone's vote in a local election lasts for only four years, and in a general election only five, but their vote in a referendum on membership of the European Union will have implications for decades to come, at the very least. If the vote is to stay in, we may find that there is not another opportunity to vote on that for an entire generation—as my own generation has found, having not the chance to vote in the original referendum on membership. If we vote to leave the European Union that will have profound implications for generations of young people. To try to push the boundary a little and allow more young people a say in this referendum is, therefore, an entirely laudable aim.

Amendment 21 seeks to extend the vote to:

“All persons who are legally entitled to vote as electors in a European Parliamentary election”.

In a similar vein—given that, in practice, it has the same effect—amendment 22 would include:

“All persons who are legally entitled to vote as electors at a local election”.

That goes to the heart of the rather strange anomaly where we are allowing all Commonwealth and Irish citizens to vote in some of our elections but not allowing other EU citizens to vote in some of them. In terms of the parliamentary franchise we are left with bizarre scenarios in which somebody who is a citizen of the Republic of Ireland can vote but somebody who is a citizen of the French republic cannot. A citizen of Luxembourg cannot vote but a citizen of Singapore can. A Maltese citizen of the European Union can vote, because Malta is a member of the Commonwealth, but a German representing a far greater and in many ways more important economic relationship cannot vote. An Italian cannot vote but citizens of Mozambique, Belize, Rwanda or Tonga can vote. Although I can understand the historical origins of this anomaly, it is still an anomaly and a rather strange one.

Mr Bain: May I point to another anomaly that would arise, given the current phrasing of the Bill? As the hon. Gentleman will know, in the Scottish referendum the franchise is based on the Scottish parliamentary electoral franchise. That means that EU citizens will be permitted to vote. As he will also be aware, if Scotland chose to leave the United Kingdom it would effectively be choosing to leave the European Union as well, thanks to the advice that the Minister for Europe and his other colleagues in the Foreign and Commonwealth Office have helpfully provided in the campaign. Does the hon. Gentleman not think that it would be a very strange position if a

French or Italian citizen could vote effectively to choose whether to stay in the EU in the Scottish referendum but could not vote in any referendum arising from this Bill?

Martin Horwood: That is exactly right. That is just one of the ludicrous scenarios that might develop, where we might have Scottish citizens who were legally able to vote in England as members of the Commonwealth actually voting to kick England out of the European Union while simultaneously, perhaps, supporting Scottish membership of the European Union. Weird scenarios might develop. It is time—probably in other respects than just the EU referendum—to try to iron out some of those anomalies and problems. It is ludicrous enough in the context of a general election, but it is quite ludicrous in the case of a European referendum, when we are talking, for instance, about European citizens who have decided to make a life here and have never felt the need to abandon the citizenship of their home countries—given that in practical terms it made very little difference to them—but for whose work and livelihoods the implications of the European referendum on the exit of the United Kingdom from the European Union might have profound implications. It is absolutely right that they should be entitled to vote.

Amendment 23 has a slight variation; it looks at the situation from the other end of the telescope, if you like. The amendment allows:

“All British citizens resident in any of the member states of the European Union”

to vote. Some of those citizens are already entitled to vote in a general election, so will already be covered in the franchise. British citizens abroad, if they have lived outside the UK for less than 15 years, are entitled to vote in a general election as long as they were registered to vote in the UK at some point; therefore they would be included in the franchise, as already envisaged in the Bill. The amendment seeks to extend that to all British citizens in EU states.

When we think about how many British citizens have taken advantage of the freedom of movement for people within the European Union to go to live and work in Germany, or Spain, or France, or we think about how many have retirement homes in Tuscany—various new Labour ex-Ministers might well be enjoying the Italian sun at this moment—it is quite easy to see that there are people whose lives could be affected by a sudden decision from Britain to exit the European Union. If the relationship between the UK and the European Union suddenly became uncertain, or was cast into doubt, that could affect those people's rights of residence in the countries that they have adopted or in which they are building businesses; it could affect the lives and careers they have planned and the businesses they have built up. There is therefore an argument for extending the franchise for the referendum to include all those British citizens living in EU member states.

Amendment 24 combines the thoughts behind amendments 23 and 20: it would include in the franchise for the referendum all British citizens

“over the age of 16 resident in any country in the world.”

In fact, as the amendment mentions any country, anywhere in the world, not just within the European Union, it would extend the franchise much further. It is quite a

[*Martin Horwood*]

radical amendment from the hon. Member for Ilford South, but it deserves some discussion. In a way, the amendment would bring the Bill into line logically with the voting entitlement in a general election, which includes British citizens anywhere in the world providing that they meet the time and registration qualifications I have already mentioned. However, I believe the stronger case is for allowing a broader range of citizens resident within other European member states to vote in the referendum. Amendment 25 combines the lower age threshold of 16 and the idea of residency in any member state of the European Union.

Amendment 26 is slightly different. It seeks to tackle an obvious and strange anomaly concerning the citizens of Gibraltar. As Gibraltar is a British overseas territory and is not constitutionally part of the United Kingdom, citizens of Gibraltar cannot vote in the general election and so would be excluded from voting in the referendum. However, Gibraltar is a part of the European Union; in fact, the citizens of Gibraltar are in the same European parliamentary constituency as I am: Cheltenham is part of the south-west electoral region, which includes Gibraltar. My European parliamentary colleague, Sir Graham Watson, is very proud of the fact that he represents Gibraltar alongside Cheltenham, Devon and all the places in the south-west, and makes occasional trips to the Rock to meet his constituents. Especially in the context of the argument that we are making to Spain—that it is up to the citizens of the Rock to decide their own future and that they have twice made the case in a referendum that they want to stay within the United Kingdom—it would be completely bizarre not to allow them a say in whether or not they are removed from the European Union.

I am sure that was not the intention of the promoter of the Bill, and I would be interested to hear his comments on that subject. We are often in contact with the Government of Gibraltar in this place—from time to time quite a lot of lobbying goes on—and I am sure they would be interested to hear the views of Conservative Members on this issue. It might even be said that the importance of clause 2 could be connected less to the EU referendum and more to the gift it could hand to those within Spanish politics who want to make a fuss about our giving people the right to vote in referendums only when it suits us.

James Wharton: Despite my fear of drifting too far from the amendment in question, Mr Streeter, I think it is important to put on the record that my view—and, I suspect, that of Conservative members of the Committee—is that it must be up to the people of Gibraltar to decide whether they wish to remain in the UK. There is no intention that anything in the Bill should give succour to the claims of the Spanish Government in that regard, and nothing in the Bill that could do so. It is important that that is on record. There is a difference between the franchise for European elections and for parliamentary elections in the UK, as Gibraltar does not have representation in the House of Commons. Although there is a lengthy and interesting discussion to be had about that, for the purposes of the Bill itself, as drafted it does the job in terms of the franchise for the referendum.

2.30 pm

Martin Horwood: I am grateful for the hon. Gentleman's intervention. I appreciate the sentiments that he states and they are very welcome. However, what he eventually concluded was that he was not going to accept this change to the Bill and is therefore going to exclude the citizens of Gibraltar from a vote in the referendum, despite the fact that it will have the effect of excluding them from the European Union. They are only members of the European Union by virtue of our membership. Therefore, if they wanted to continue as members of the European Union—rather parallel to the situation in Scotland—they would presumably have to reapply as a member in the same way that other very small states such as Malta have done. Their chances would be very, very slim because Spain would immediately seek to veto that membership and it would be blocked in the same way that, for example, Macedonia's membership has been blocked by Greece.

This is a critical issue for the citizens of Gibraltar. If we really face the prospect of exit from the European Union, are we saying that they would not have any kind of say in something that might materially affect their lives? The importance of that border turning from an internal EU border into one between the territories of the United Kingdom and the European Union, might be quite significant and could give those in Spanish politics who want to make mischief out of this, an opportunity to argue for new tariff barriers or new obstacles to the free movement across the Gibraltar-Spanish border. I accept the sentiment of what the hon. Member for Stockton South was saying, but he does not seem to have accepted the really important point which is that the Bill as it stands does not solve the issue at all.

Amendment 71 stands in my name and is an alternative approach to resolving the issue of voting. I am sure that the Conservative members of the Committee will support the inclusion of this wording, particularly the Europe Minister as a member of the Government, given they have all voted for it on a previous occasion. The wording is lifted directly from the 2011 Parliamentary Voting System and Constituencies Bill on the alternative vote which coalition MPs—and certainly Ministers—were whipped to support. It basically sets out a franchise that entitles all those electors entitled to vote at a local government election in Great Britain and Northern Ireland to vote in the referendum. If it was good enough for the AV referendum, surely with all these additional arguments and the obvious connection to European Union citizens in this country, it should be good enough for the referendum on membership of the European Union. If hon. Members are going to vote against it on this occasion, they will have to explain to the Committee why they supported it in the case of the AV referendum.

I will leave comment on the other amendments until after I have heard the supporting arguments from other hon. Members.

Emma Reynolds (Wolverhampton North East) (Lab): It is a great pleasure, Mr Streeter, to serve under your chairmanship. I will start by speaking to amendment 76. As the hon. Member for Cheltenham has already suggested, given that Gibraltar is a part of the EU by virtue of being a self-governing British overseas territory, for the people of Gibraltar not to have a say in something that is going to affect them so directly is something that we

should discuss. I welcome the intervention of the hon. Member for Stockton South, who may disagree, but I am glad to see that he is participating in this part of the debate.

This issue needs to be considered. If a referendum takes place on our membership of the European Union, as set out in this Bill, then we could have a scenario in which the people of Gibraltar are not included and the rest of the UK votes to leave the EU. The people of Gibraltar will be affected but will not have had a say in the matter. I would go so far as to say that not only should the good people of Gibraltar be included in the franchise, but that their vote should be counted separately and put on the record, in case we do end up leaving the European Union and they wish to remain in it. As the hon. Member for Cheltenham set out, it would be difficult for them to apply successfully, given the ongoing and recent escalation of tension with Spain around the border area and Spain's claim of sovereignty of the Rock

As the hon. Member for Stockton South pointed out, all Members here and many across the House condemned the recent protests and acts of the Spanish Government, and the fact that Spain is trying to flex its muscles. As they are in a bit of trouble, the Spanish Government are trying to score some cheap political points. However, it is still worth reflecting on the democratic deficit that would apply if we had a referendum that affected the people of Gibraltar without them being included in the franchise. I am interested to hear what Members think about my amendment 76 and amendment 26, which was tabled by the hon. Member for Cheltenham.

There is a strong case for including the people of Gibraltar in the franchise. I have written to the Chief Minister of Gibraltar and spoken to some of his advisers about the omission of Gibraltar from the Bill and I am interested to hear what the Minister for Europe has to say on this important matter.

Martin Horwood: There is an interesting historical parallel, although it is exactly the other way round: the 1985 referendum in Greenland on EU membership. Greenland, which is an overseas part of the kingdom of Denmark, but not part of the Danish state that now remains within the EU, voted to leave the EU. It was given a vote separately from the mother country on its future within the EU. That is the precise right we are apparently not going to extend to the people of Gibraltar.

Emma Reynolds: This is a basic argument. If the people of Gibraltar are to be directly affected by this referendum in terms of membership of the EU, they should have a say. I hope that the arguments that I and the hon. Member for Cheltenham have put forward are being heard by the Minister for Europe and the hon. Member for Stockton South, the promoter of the Bill. I heard what he said a minute ago, but perhaps he will take on board our arguments. This is an important omission from the Bill and something that we need to discuss in greater detail.

I agree with my hon. Friend the Member for Huddersfield that we need to discuss whether people aged 16 and 17 have a vote in the referendum. I am sure we could have a lively debate on the general principle of votes at 16, but I want to focus my remarks on what the hon. Member

for Cheltenham said about the Scottish precedent. One argument for allowing 16 and 17-year-olds to vote in the Scottish referendum is that such a referendum probably will not be held again for many generations to come. I hope that it does not and that it will settle the issue.

I hope that the referendum in September next year on whether Scotland remains part of the Union will draw a line under the issue. Therefore, even for those members of the Committee not in favour of extending the franchise to 16 and 17-year-olds for general, local and European elections, there is still an argument for allowing people of that age to vote in a referendum, either on keeping Scotland in the UK—my opinion on that subject is clear—or on our membership of the EU. That is precisely because, as the hon. Gentleman pointed out, it is a generational opportunity—one that does not come around very often—on a matter that has very profound and wide-reaching implications: either whether Scotland should be part of as the UK; or the UK's role in and membership of the European Union.

Extending the franchise for the referendum to 16 and 17-year-olds deserves greater scrutiny. Regardless of what one's position might be on the general principle of voting at 16, there is a specific case to be made for younger people to be involved in life-changing, generational referendums. I might even have convinced my hon. Friend the Member for Huddersfield—he is nodding his head at me—to support his own amendment, which truly would be something that I could say I had achieved this afternoon.

My other amendment to which I wanted to draw the Committee's attention is amendment 77. With such a referendum, it is important that British service personnel serving abroad are given the opportunity to express their opinion. I know that this does not happen very often, but sometimes 16 and 17-year-olds serve abroad, and they should also be involved in the referendum. Hon. Members will have different opinions about whether 16 and 17-year-olds should have a say in the referendum, so we will scrutinise that matter in more detail on Report.

The Minister for Europe (Mr David Lidington): First, may I welcome you to the Chair, Mr Streeter? When I saw Mr Benton following this morning's sitting, it looked as if a great load had slipped from his shoulders.

We have had a good-natured and useful debate on the amendments. My starting point is that the electoral arrangements for which the Bill provides have a coherence and logic to them. As my hon. Friend the Member for Stockton South said, they deliver what the Bill requires to put a fair question to the people of the United Kingdom. The Bill proposes a general election franchise with the addition of Members of the House of Lords, who would normally be excluded from voting in a House of Commons election.

What we have heard from the hon. Members for Wolverhampton North East and for Huddersfield and my hon. Friend the Member for Cheltenham is a series of proposals as to how that franchise might be varied. I will make one general point before going through some of their specific proposals.

I think it would be perfectly reasonable, even though I might not agree with the proposal, to say, "Right, we need a new Representation of the People Act through

[Mr David Lidington]

which we seek to lower the voting age, to extend the franchise or to lengthen the period of time during which expatriates remain entitled to vote for all elections and referendums in the United Kingdom.” However, despite the valiant efforts of the hon. Lady and my hon. Friend in respect of the voting age, I am not persuaded that there is something so exceptional about this proposed referendum that we should experiment with changes to the established general election franchise. The subject might be aired in a future Parliament in a debate on a Representation of the People Bill, and that would be the right context in which to hold such a debate.

2.45 pm

It was on the point of the voting age on which the hon. Lady and my hon. Friend pressed their case most strongly. I understand the argument that a referendum on our membership of the European Union is life changing or a once-in-a-generation experience, but that could have been said about the proposal for Scottish devolution, and it certainly could have been said about the referendum to endorse the Northern Ireland peace settlement. It might have been just about plausible to argue that in respect of the referendum on the alternative vote, because had the voting system been changed, the probable make-up of future Parliaments and the way in which we do government in this country would have altered quite dramatically.

Martin Horwood: The logical difference with the AV vote is that, of course, the AV vote related specifically to Westminster elections. As I have explained, although the franchise for the referendum extended to those who could vote in local elections, there was something of a logic to not extending it to 16 until the vote itself had been extended to those aged 16, because otherwise we would have had the rather strange situation in which 16-year-olds were able to vote for the alternative vote but would not have been able to exercise it for another two years. The Minister can see that that would have been an anomaly, but perhaps he can answer this: why was there a franchise that allowed those who could vote in local elections to vote in the AV referendum, yet there is no such provision in the Bill?

Mr Lidington: My hon. Friend will have to take up that question with those colleagues, led by the Deputy Prime Minister, who were responsible for that referendum. One can argue for and against changing the age at which people are entitled to vote, and I accept that there are different views in the Committee about that principle. However, I am not persuaded that there is something uniquely important about the proposed referendum on membership of the EU that justifies a different franchise from that at a general election or at another referendum—either ones that we have already held, or those that we might hold in future.

On the general principle of voting age, there is an honest disagreement between the two parties of the coalition. The Liberal Democrats have for some time championed lowering the age to 16, but I tend to be with the crustier tendency on this issue, along with, I think, the hon. Member for Huddersfield. I remember a meeting with 150 girls of the Aylesbury high school

sixth form at which this subject came up. When I put the question, “Would you have the confidence to entrust to the maturity and good judgment of the average 16-year-old boy a decision about the future Government of this country?” I saw a look of horror appearing on their faces straight away. My view is very firmly that we should leave the voting age at 18, but I am sure that Parliament will want to return to that debate in a broader context, outside the confines of the Bill.

Amendments 19 to 26 deal with the franchise and suggest that we include citizens of other EU countries who are not already covered by virtue of Commonwealth citizenship. Amendment 19 would extend the franchise to everybody who is legally resident in the United Kingdom, but that really goes a bit too far. I just cannot understand the case for why, for this referendum, we should enfranchise people from China, Russia, Paraguay or Iran. I stick to the principle that the United Kingdom’s membership of the European Union really should be determined by people who live permanently in the United Kingdom and are entitled to vote in our general elections. I understand the case that my hon. Friend and others have made for using the local election franchise and extending the vote to citizens of other EU countries, but British citizens would find that hard to swallow. We have large numbers of people from other EU countries here, and London is something like the seventh-largest French city, which is why French presidential candidates come over here during their election campaigns. However, the decision should be primarily for British citizens.

Martin Horwood: That would be a logical argument if the general election did not already comprehensively break that rule. A citizen of Mozambique who has leave to remain can vote by virtue of Mozambique’s membership of the Commonwealth. Any citizen of the Irish Republic over the age of 18 can vote even if they are not normally resident in this country, as long as they have an address at the time of electoral registration. The principle is comprehensively broken under the existing general election franchise.

Mr Lidington: As my hon. Friend knows, there are slightly different historical reasons for the franchise covering citizens of the Irish Republic and of Commonwealth countries. If the Liberal Democrats are now arguing that we should withdraw the vote from citizens of the Commonwealth who are resident in this country, that would be an interesting policy proposal. In fairness, I do not think that that is quite what my hon. Friend is arguing for.

Martin Horwood: Extremely briefly, and for the record, I would like to confirm that that is certainly not Liberal Democrat policy.

Mr Lidington: I thought that that might be the response.

We sometimes have arrangements in this country that derive from a theoretical logic and we sometimes have arrangements that are the product of a historical logic because of how our institutions have developed, which is the case with our general election franchise. I do not really see why we should make an exception here.

Some interesting references were made in passing to the 15-year limit beyond which British citizens living overseas lose the right to vote. I go back quite a long way in politics and can remember—it was over 20 years

ago and before I joined this place—that when expatriate voting was first permitted, there was a longer time limit. I believe that the limit was 20 years and the measure was taken through under John Major's Government with cross-party agreement. It was the Blair Government who followed, however, who decided to reduce the entitlement to vote to include expatriates who had been away for only 15 years or less. There is a decent case for looking at those rules again. We are in a global economy and more and more people choose to work in and retire to other parts of the world, but that is best addressed in the context of a wider revision of our electoral law, not in this Bill.

Finally, I want to come on to the difficult question of Gibraltar.

Martin Horwood: Just before the Minister moves on to Gibraltar, a couple of amendments refer to one other small, repressed minority that we have not really debated yet: our noble Friends down the corridor who are not entitled to vote in general elections by virtue of their membership of the other half of the legislature, but who logically should be entitled to vote in a European referendum. I am sorry that we did not get a speech from the hon. Member for Huddersfield as I am not sure he is persuaded by his own case on that, but it would be interesting to hear the Minister's response.

Mr Lidington: If my hon. Friend looks again at clause 2(b), he will see that peers who would normally be disqualified from voting because they sit in the House of Lords would be enfranchised for the purposes of the referendum.

Mr Sheerman: The reason for that amendment was that we thought it was about time that we had a discussion. We are reflecting on what we took for granted—that people who are mentally ill or in prison cannot have a vote in general elections. All that is up for debate and discussion, and still we have the anomaly whereby Members of the House of Lords do not have votes in general elections. It just seemed an appropriate time to mention that. The Bill is an important one, and we thought that we should reflect that challenge.

Mr Lidington: I do not think that it is unreasonable for us to follow historical practice: Members of the upper House, who by virtue of their person and status as peers are legislators in that Chamber, should not have the additional right to vote for the composition of the lower House. There is a logic to those arrangements: if someone sits in one place, they do not vote for the other.

If the hon. Gentleman checks my voting record on House of Lords reform, he will see that I have voted consistently for a wholly or mostly elected upper House. If we get to that state of affairs, there would be a strong case for looking again at the arrangements and saying that someone who sits in one House should be able to vote for Members of the other House. That would be the occasion on which we might want to revisit his question.

Regarding Gibraltar, I have a lot of sympathy for what the hon. Member for Wolverhampton North East and others have said. However, the question is quite

complicated. I readily understand why one's instinctive emotional reaction is that Gibraltarians should have a vote in the referendum, particularly as they are EU citizens and are voters in European parliamentary elections, but there are some obstacles to that argument.

First, Gibraltar is not part of the United Kingdom; it is a British overseas territory. Its involvement with the European Union—or, to be more accurate, with parts of the European Union *acquis*—derives from the United Kingdom's accession and continued membership of the European Union. There are other British overseas territories listed in protocols to the European treaties whose citizens do not have the same rights as those of Gibraltar, but which enjoy certain privileges in respect of EU membership. Those, again, derive from the United Kingdom's decision to join and remain a member of the EU.

Mr Sheerman: The Minister has been doing exceedingly well. He has been persuasive this afternoon, and he was giving an excellent performance until he got to this. The most persuasive case that we have discussed today has been that of Gibraltar. It is new knowledge to me—it is nice to have new knowledge—that we have that constituency in the south-west, with an elected Member. That is different from any of the cases that he has just mentioned.

Mr Lidington: That is absolutely right; it is different. What is also the case, however, is that Gibraltar is not a member state of the European Union. Not only that, Gibraltar neither enjoys all of the rights that come with EU membership nor incurs all the obligations that flow from membership. For example, Gibraltar does not contribute to the EU budget. It is not in the single market for goods and services. It is party to some of the *acquis*, but there are chunks of European law and treaties from which Gibraltar is excluded. That is not through any malice on the part of the United Kingdom, Spain or anybody else, but because that was the deal that was agreed and that we negotiated on behalf of Gibraltar. That was in line with how the Government of Gibraltar and their successors saw the interest of Gibraltar.

3 pm

Mr Sheerman: The big difference is that that overseas territory is the only one where a referendum decision could absolutely imperil its future existence and put its status in Europe at risk. The repercussions of the UK leaving the EU could be catastrophic for the citizens of that small place, unlike any of the other places mentioned.

Mr Lidington: I think Gibraltar would be affected by a British decision to leave, but the extent to which our leaving harmed or benefited Gibraltar would depend in part on the alternative arrangements that were negotiated. I do not believe that our exit would be catastrophic for Gibraltar. We need to keep in mind the fact that Gibraltar has its own constitution, which came into effect in 2006 and gives the Government of Gibraltar, who of course are elected by the people of the Rock, full power over pretty much everything that we would define as domestic policy, and the UK Parliament does not intervene in those matters.

I am particularly aware at the moment that matters such as marine conservation and fisheries policy fall within the constitutional competence of the Government

[*Mr Lidington*]

of Gibraltar, who are accountable to the elected Parliament of the people of Gibraltar and not to us. However, the 2006 constitution also provides that the Government of the United Kingdom remain constitutionally responsible for foreign and external affairs, for defence and for some aspects of Gibraltar's security. That includes decisions about membership of international institutions—not just the EU, important though that is—and it means that we have responsibility for looking after Gibraltar's interests when it comes to other international organisations.

Martin Horwood: The Minister is attempting to answer, but it seems like a giant exercise in post-rationalisation, because that is an exact parallel situation to the one with Greenland, which did enjoy self-government, although not as much as it does now. It allowed foreign affairs and various other aspects to be run by Denmark, but it did have a vote on its status within the European Union, and indeed exercised that right to vote in order to leave the European Union. We are not going to give that right to Gibraltar, even though I think there could be a catastrophe, because there is every incentive for Spain to play hardball in the relationship between the EU and Gibraltar, safe in the knowledge that if the United Kingdom had already voted to leave, we were never going to reverse that decision simply to protect Gibraltar's interests. I think it would be extremely vulnerable to a harsh interpretation of the relationship.

Mr Lidington: I do not think the parallel is an exact one, because, in the case of Greenland, the member state concerned—Denmark—was not proposing to leave. The Danish Government agreed, along with the rest of the EU, that there should be a separate decision in Greenland about whether to be part of the EU, and they agreed to abide by the referendum decision. The nearest analogy in our own experience is the deal that the then British Government negotiated on behalf of Gibraltar, which gave it access to the parts of the *acquis* that were regarded as in Gibraltar's interests, but kept it out of others. I do not see the two parallels as being exact. We were not talking at the time of the Greenland decision about a decision by the member state—Denmark—to alter its status.

Mr Sheerman: The Minister is almost answering my question, but not quite. I do not know enough about Greenland and whether it could vote for Danish representatives to represent it in Europe. The difference is that it is a whole group of people who at present have a vote in European elections. They will not have that if

we leave the European Union. That is true, is it not? That is a major change in their status. At the moment they have some say in who represents them in Europe, but that would change.

Mr Lidington: I do not deny that the people of Gibraltar have a unique status compared with residents of other British overseas territories. When Parliament agreed to the European Union Act 2011, we made a careful and tailored arrangement for the people of Gibraltar. We provided for them to participate in a United Kingdom referendum where a proposed treaty change would affect those parts of EU competences that involved Gibraltar, but Gibraltar did not have the right to take part in such a referendum if it was about a treaty change that did not affect Gibraltar because it covered areas outside Gibraltar's EU engagement. As I said at the outset, this is complicated. I have some sympathy for what members of the Committee have argued, and I propose to reflect further on the Gibraltar issue. I do not give any promises now, but I want to consider it further. Perhaps we will return to the matter here or in the House of Lords.

Mr Sheerman: I shall not delay the Committee any longer. We have had a very good debate on this. I am minded to withdraw my amendment, which was regarded as a probing amendment. I have saved myself some embarrassment: if it were pushed to a vote I might well vote against my own amendment.

Emma Reynolds: I am encouraged by the constructive nature of the debate. Members take different positions on the question of Gibraltar. I welcome the Minister's undertaking to go away and think about this further. I agree with him: it is a complicated matter. The status of Gibraltar is unlike that of any other overseas territory, as my hon. Friend the Member for Huddersfield pointed out. The question deserves further consideration either on the Floor of the House or in the Lords.

Mr Sheerman: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*James Wharton.*)

3.9 pm

Adjourned till Tuesday 10 September at Two o'clock.