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Dissolution and Calling of Parliament Bill 2021-22: progress of the Bill

Summary

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Summary

The [Dissolution and Calling of Parliament Bill](#) [Bill 8 of 2021-22] was introduced on 12 May 2021.

The Bill would repeal of the Fixed-term Parliaments Act 2011 (FTPA) and provides that the maximum term of a Parliament (rather than the period between general elections) shall be five years.

The Bill's [Explanatory Notes](#) confirm that its effect is to “enable Governments, within the life of a Parliament, to call a general election at the time of their choosing”. It does not envisage that there will be a role for Parliament in deciding when general elections are held.

The Bill provides that the timetable for the election of a new Parliament is triggered by the dissolution of the old Parliament.

The Bill includes an ouster clause that states that questions relating to the use of the powers, preliminary work on dissolution and the extent of the powers cannot be questioned by the courts.

Progress in the House of Commons

The Bill was given a [second reading](#) on 6 July 2021.

The House of Commons [completed the remaining stages of the Bill](#) in a single day on 13 September 2021. The Bill was not amended in Committee of the whole House; and given a third reading by 312 votes to 55. Before the Bill was considered in Committee, the House [debated and decided against](#) instructing the Committee that it would have leave to make provision relating to the prorogation of Parliament.

Between its introduction and second reading, the Public Administration and Constitutional Affairs Committee held [an oral evidence session](#) with the Minister for the Constitution and Devolution, Chloe Smith. After the session, the Committee [pursued a number of questions with the Minister](#), in writing. The Minister's [reply](#) was published by the Committee on 7 September 2021.

Pre-legislative scrutiny

The FTPA required the Prime Minister to make arrangements for the Act to be reviewed. A Joint Committee was appointed to undertake the statutory review of the FTPA in November 2020. It also scrutinised the [Draft Fixed-term Parliaments Act 2011 \(Repeal\) Bill](#), which was published on 1 December 2020.

The Joint Committee's [report was published](#) on 24 March 2021.

Issues raised at second reading

Seven notable issues featured prominently in the second reading debate:

- the legislative approach to “reviving” a prerogative system;
- the implications of enabling Prime Ministers (in effect) to call early elections unilaterally (given who that constitutionally empowers);
- whether the ouster clause was necessary and desirable;
- whether, and when, the Sovereign may refuse a dissolution request;
- whether the House of Commons should retain a role in early dissolution;
- whether the maximum term should be four, rather than five, years; and
- whether, and if so, how, the election timetable should be shortened.

“Reviving” the prerogative

At second reading, MPs debated how a prerogative system would be returned to should the Bill become law. Chloe Smith, Minister of State for the Constitution and Devolution, [confirmed](#) the Government’s view that “the prerogative power can be revived but ... express provision is needed, and clause 2 does exactly that”.

Implications of prerogative revival

Although the formal power to dissolve parliament would rest with the Sovereign, there was a shared understanding that, for practical purposes, early dissolutions would be initiated and invariably secured by the incumbent Prime Minister. It was recognised that this represented a clear shift in power away from the House of Commons directly controlling when early elections happen. A justification offered for this in debate was that a decision to dissolve a parliament early would in short order lead to power being returned to the electorate: when they vote in the ensuing general election.

Is the ouster clause necessary and desirable?

MPs disagreed about whether an ouster clause was necessary to prevent the courts determining questions about the dissolution of Parliament. Some argued that the courts would be extremely unlikely to intervene to strike down the dissolution decision of the Sovereign regardless of whether an ouster clause was present. For them the ouster clause risked provoking, rather than avoiding, conflict between parliament, the executive, and the courts.

Importance of the role of the monarch

Both in the context of the ouster clause and more widely, MPs considered the circumstances in which the Sovereign might, exceptionally, refuse a dissolution request. Some argued that the existence of a genuine monarchical veto would be sufficient to ward off judicial involvement in the process.

The Government has declined the Joint Committee’s recommendation to set out when the Sovereign may reasonably refuse a dissolution request.

Retaining a role for the House of Commons?

MPs debated whether it was desirable that the House of Commons would no longer have a direct say or vote on whether Parliament would be dissolved for an early general election. Some argued that a parliamentary vote would be a better mechanism than an ouster clause to ensure that dissolution decisions avoided review by the courts. They also suggested it would have the additional benefit of avoiding drawing the Monarch into matters of party political controversy.

Should the Committee consider the prorogation of Parliament?

Chris Bryant tabled a [motion](#) to instruct the Committee of the whole House that it should “have leave to make provision relating to the prorogation of Parliament”. If agreed to, such an instruction would allow the Committee to debate and decide upon amendments or new clauses relating to prorogation even though it was not within the scope of the Bill.

The House debated whether to give the Committee of the whole House this instruction. It [rejected](#) the motion that would have instructed (allowed) the Committee of the whole House to debate prorogation by 323 votes to 192.

Remaining stages in the House of Commons

The House of Commons [completed the remaining stages](#) of the Bill in a single day on 13 September 2021. The Bill was not amended in Committee of the whole House; and given a third reading by 312 votes to 55.

Debate on amendments and clauses stand part focused on five issues:

- whether the Prime Minister should be able to request a dissolution or whether parliamentary approval should be required;
- whether a new Parliament should have to meet within 14 days of polling day;
- the length of a Parliament and the gap between elections;
- the length of the statutory election timetable; and
- the timing of extraordinary elections to the Welsh Parliament/Senedd Cymru.

A previous Library briefing described the Bill and the background to its introduction, see [Dissolution and Calling of Parliament Bill 2021-22 \(CBP 9267\)](#).

1

Introduction

The [Dissolution and Calling of Parliament Bill](#) [Bill 8 of 2021-22] was introduced on 12 May 2021.

The Bill would repeal of the Fixed-term Parliaments Act 2011 (FTPA) and confirms that the maximum term of a Parliament (rather than the period between general elections) shall be five years.

The Bill's [Explanatory Notes](#) confirm that its effect is to “enable Governments, within the life of a Parliament, to call a general election at the time of their choosing”. It envisages that there will not be a direct role for Parliament in deciding when general elections are held.

Before the FTPA, the Monarch used personal prerogative powers to dissolve a Parliament, before it expired, and call a new Parliament. Under the FTPA, Parliament was dissolved in accordance with statutory rules, not the prerogative. The Bill states that the powers that were exercisable “by virtue of” the royal prerogative are exercisable again “as if the Fixed-term Parliaments Act 2011 had never been enacted”.

The Bill provides that the timetable for the election of a new Parliament is triggered by the dissolution of the old Parliament. This retains the rule that currently applies by virtue of the FTPA, and differs slightly from the rule that applied prior to 2011.¹

The Bill also states that questions relating to the use of the powers, preliminary work on dissolution and the extent of the powers cannot be questioned by the courts. This ouster clause therefore seeks to provide statutory underpinning for a rule that previously existed by virtue of judicial precedent.

The Bill was preceded by a draft bill that was scrutinised by a Joint Committee. That Committee was also charged with undertaking a review of the Fixed-term Parliaments Act 2011, as required by that Act.

¹ Under the old system technically it was the summoning of a new parliament, not the dissolution of the last, that triggered a general election, but in practice the two things invariably happened at the same time. The Government amended the text of the draft bill before introducing it formally on the recommendation of the Joint Committee on the Fixed-term Parliaments Act. See [Government Response to the Joint Committee on the Fixed-term Parliament Act Report](#), CP 430, May 2021, p13

1.1

Timeline

- 24 March 2021 The Joint Committee on the Fixed-term Parliaments Act's [Report](#) was published.
- 12 May 2021 The [Government's response](#) to the Joint Committee report was published
- 12 May 2021 The [Dissolution and Calling of Parliament Bill 2021-22](#) was introduced in the House of Commons
- 23 June 2021 PACAC [took evidence](#) from Chloe Smith, Minister for the Constitution and Devolution, on the Bill
- 6 July 2021 The Dissolution and Calling of Parliament Bill 2021-22 was given a [second reading](#) in the House of Commons
- 13 Sept 2021 The House of Commons [debated and decided against](#) instructing the Committee that it would have leave to make provision relating to the prorogation of Parliament
- [Committee of the whole House](#): Bill not amended
- Bill given a [third reading](#) by 312 votes to 55

2 Passage of the Bill

2.1 House of Commons: second reading (6 July 2021)

At second reading, MPs debated a range of issues arising from the bill. This included, most notably:

- the government’s legislative approach to “reviving” a prerogative system;
- the implications of enabling Prime Ministers (in effect) to call early elections unilaterally (given who that constitutionally empowers);
- whether the ouster clause was necessary and desirable;
- whether, and when, the Sovereign may refuse a dissolution request;
- whether the House of Commons should retain a role in early dissolution;
- whether the maximum term should be four, rather than five, years; and
- whether, and if so, how, the election timetable should be shortened.

The early dissolution of Parliament

MPs did not dwell on the “academic debate” of whether and how the prerogative power of dissolution was revived.² However, in her closing remarks, Chloe Smith, Minister for the Constitution and Devolution, confirmed the Government’s view that “the prerogative power can be revived but that express provision is needed, and clause 2 does exactly that”³ – in other words, the Queen’s power to dissolve Parliament will in future depend upon a statute, even if it is (in substance) indistinguishable from a prerogative power.

There was agreement that power to determine an early dissolution would move from Parliament to the Prime Minister. Cat Smith, for the Labour Party, asked whether that was something the House wished to do.⁴

For the SNP, Brendan O’Hara argued that it would strip away “one more pillar of parliamentary or judicial oversight”. he continued that “it is not simply a return to the position we had in 2011.”⁵

² [HC Deb 6 July 2021 c809; c835](#)

³ [HC Deb 6 July 2021 c848](#)

⁴ [HC Deb 6 July 2021 c799](#)

⁵ [HC Deb 6 July 2021 c805](#)

For the Liberal Democrats, Alistair Carmichael argued that the FTPA had embraced the principle that “Parliament should be in control of its own timetable and election”. Echoing comments that Nick Clegg made in debates on the Fixed-term Parliaments Bill in 2010 and 2011, Mr Carmichael said that “we should never hand to one of the runners the starting pistol that will start the race”.⁶

However, while Aaron Bell accepted that the Bill would take power away from Parliament he argued that “it vests that power in the public and the electorate”.⁷

In his opening speech, Michael Gove had said that “it gives power to the people”.⁸ However, as he described the Bill, Michael Gove said that Clause 2 “allows the Prime Minister to request a dissolution from the Monarch”.⁹

Courts, Parliament or Monarch

The Bill includes an ouster clause. This serves as an explicit instruction to the courts that they cannot question or make decisions about the validity and effect of decisions to do with dissolving and calling parliaments.

MPs reflected on the Joint Committee’s comments on this. Like some members of the Joint Committee, some MPs thought that the clause was unnecessary as a decision by the Sovereign would not be justiciable.¹⁰

Others, such as Cat Smith and Chris Bryant argued that, if Parliament were to retain a vote on dissolution, the process would then engage Article 9 of the Bill of Rights. This would insulate a decision to dissolve parliament from legal challenge, as courts cannot question proceedings in Parliament.¹¹

However, as Craig Whittaker noted, the majority of the Joint Committee considered that in this case it was appropriate to entirely exclude the jurisdiction of the courts.¹² In an intervention, Dr Julian Lewis even suggested that the clause ought to be strengthened.¹³

Cat Smith also argued that a vote in the House of Commons would avoid the potential of the Monarch “being dragged into politics”.¹⁴ Jim Shannon asked

⁶ [HC Deb 6 July 2021 c825](#). For comments during the passage of the Fixed-term Parliaments Bill 2010-12, see [HC Deb 13 September 2010 c704](#) and [HC Deb 18 January 2011 c793](#)

⁷ [HC Deb 6 July 2021 c842](#)

⁸ [HC Deb 6 July 2021 c788](#)

⁹ [HC Deb 6 July 2021 c794](#)

¹⁰ see for example, Jackie Doyle-Price, [HC Deb 6 July 2021 c795](#); and William Wragg, [c804](#)

¹¹ [HC Deb 6 July 2021 c802](#); [c813](#)

¹² [HC Deb 6 July 2021 cc821-822](#)

¹³ [HC Deb 6 July 2021 c792](#). Dr Lewis referred to [written evidence](#) submitted by Professor Richard Ekins, for Policy Exchange’s Judicial Power Project, to the Joint Committee on the Fixed-term Parliaments Act

¹⁴ [HC Deb 6 July 2021 c802](#)

the Minister to “elaborate on what steps there are to protect the institution from allegations of affronts to the position of our constitutional monarchy”.¹⁵

Brendan O’Hara and Alistair Carmichael questioned whether, as a matter of political reality (rather than constitutional theory), the Monarch would ever be able to decline a request for a dissolution.¹⁶ Aaron Bell concluded that, if the Sovereign was going to refuse a dissolution request, the Prime Minister would know beforehand and not formally make a request at that time.¹⁷ Chloe Smith reiterated comments she made to the Public Administration and Constitutional Affairs Committee (see section 3.1 below), saying that:

I want to be absolutely clear: there remains a role for the sovereign in exceptional circumstances to refuse a Dissolution request.¹⁸

When might a dissolution be refused?

The Joint Committee had recommended that there should be clarity about at least some of the circumstances in which the Monarch’s refusal of a dissolution request would, or at least could, be constitutionally appropriate.¹⁹

In its response to the Joint Committee, the Government did not identify any such circumstances. It said that “there remains a role for the Sovereign to in certain circumstances refuse a dissolution request. It is not possible to predict every scenario and challenge that a country might face.”²⁰

PACAC pressed Chloe Smith for examples of situations in which the Monarch might refuse a request for a dissolution. She told PACAC that she could not give the committee a list.²¹

Again, in the second reading debate, Ms Smith refused to “speculate” on what situations might lead to the Monarch refusing a request for a dissolution, although she did note that some examples had been given in the course of the debate.²² In his opening speech, Michael Gove confirmed that the Government believed it would be “very difficult” to provide an exhaustive list of cases in which it would be inappropriate to grant a dissolution. He said that the Committee stage would allow a proper consideration of how the Monarch should respond to requests for a dissolution.²³

¹⁵ [HC Deb 6 July 2021 c831](#)

¹⁶ HC Deb 6 July 2021 c806 ([Mr O’Hara](#) and [Mr Carmichael](#)); Cat Smith also “struggle[d] to see the circumstances in which a sovereign might decline a request for a dissolution”, [c802](#)

¹⁷ [HC Deb 6 July 2021 c842](#)

¹⁸ [HC Deb 6 July 2021 c849](#)

¹⁹ Joint Committee on the Fixed-term Parliaments Act, [Report](#), 24 March 2021, HC 1046 2019-21, para 144

²⁰ Cabinet Office, [Government response to the Joint Committee on the Fixed-term Parliament Act Report](#), CP 430, 12 May 2021, p10

²¹ Public Administration and Constitutional Affairs Committee, [Dissolution and Calling of Parliament Bill: Oral Evidence](#), 23 June 2021, Qq36-37 and Qq75-76

²² [HC Deb 6 July 2021 c849](#)

²³ [HC Deb 6 July 2021 c796](#)

The length of a Parliament

Chris Bryant told the House that “five years is far too long for a Parliament” and promised to table an amendment to limit the length of a Parliament to four years.²⁴ Alec Shelbrooke, by contrast, thought that “five years is acceptable”.²⁵ Sir David Evennett also wanted to retain a five-year Parliament. He believed that four years was too short and would lead to constant electioneering.²⁶

Chloe Smith commented that in practice, under the pre-2011 system, “unsuccessful Governments have attempted to get to five years. Successful Governments have gone to the people at four years”. She considered that the prerogative power was “a bit more like ‘break glass in case of emergency’” to allow an election in the case of emergency or crisis.²⁷

Confidence

The operation of the prerogative system of calling elections relied on the adherence to conventions relating to the Government of the day having or not having the confidence of the House of Commons.

No conventions are described in the Dissolution and Calling of Parliament Bill but a common understanding of them and their operation is central to the working of the Bill. In opening his speech on second reading, Michael Gove said:

The Bill contains provisions to ensure that we supersede the Fixed-term Parliaments Act 2011 with appropriate, democratic and timely reform in order to ensure that we restore to this place and to the people an opportunity to ensure that the Government that govern in their name can command the confidence of this House and the confidence of the public.²⁸

Later he said that “the choice of election timing should ultimately depend on the capacity of the Prime Minister to command the confidence of this House”.²⁹ But in response to the question, from Jonathan Edwards, “Would the Government losing a vote of no confidence immediately trigger a general election?”, he replied that “In those circumstances the Prime Minister could immediately, and should immediately, request of Her Majesty a Dissolution and an election would follow.”³⁰

Chris Bryant noted that historically many issues had counted as matters of confidence and asked Mr Gove what he considered to count as a motion of

²⁴ [HC Deb 6 July 2021 c812](#)

²⁵ [HC Deb 6 July 2021 c818](#)

²⁶ [HC Deb 6 July 2021 c838](#)

²⁷ [HC Deb 6 July 2021 c851](#)

²⁸ [HC Deb 6 July 2021 c788](#)

²⁹ [HC Deb 6 July 2021 c791](#)

³⁰ [HC Deb 6 July 2021 c793](#)

confidence. Mr Gove confirmed that a formal motion of no confidence, tabled by the Opposition “is a classic example”. He did not believe that a question on military action would count as that was an exercise of prerogative power. But he did not comment on the other examples suggested by Mr Bryant (defeat on the Queen’s Speech or an amendment to a Finance Bill).³¹ However, if a Prime Minister said that an issue was a matter of confidence, defeat it could lead to a request for a dissolution:

If any Prime Minister felt that the House’s decision not to grant supply, the House’s decision to censure an individual Minister or the House’s decision not to authorise support for military action was a matter of confidence, that might mean that it would be appropriate to request a Dissolution at that point.³²

Aaron Bell reiterated the importance of a shared understanding of confidence conventions:

We need to find a way for things to function so that there has to be confidence in the Government’s flagship policies, Budget and Queen’s Speech; otherwise, they are no longer the Government. That is how things need to proceed in this place.³³

The election timetable

The Joint Committee that examined the draft bill expressed concern about the length of time between the dissolution of the old Parliament and the meeting of the new Parliament.³⁴ It recommended that a cross-party working group be established “to examine how the General Election campaign period can be shortened from 25 days without compromising voter participation, including through the increased use of technology and increased focus on year round voter registration”. It wanted to see any necessary legislation in place before the next general election.³⁵

The Dissolution and Calling of Parliament Bill does not alter the election timetable. It leaves the period between dissolution and polling day unchanged at 25 working days.

During the second reading debate, a number of MPs commented on the length of the election campaign. Robert Goodwill said that with weekends and bank holidays, the 25-day timetable meant that “we have more than 35 full days on the campaign trail. That is far too long”. He called for a 25-day election campaign not a 25 working day election campaign.³⁶

³¹ [HC Deb 6 July 2021 c794](#)

³² [HC Deb 6 July 2021 c794](#)

³³ [HC Deb 6 July 2021 c841](#)

³⁴ Joint Committee on the Fixed-term Parliaments Act, [Report](#), 24 March 2021, HC 1046 2019-21, paras 203-214

³⁵ *Ibid*, para 215

³⁶ [HC Deb 6 July 2021 c810](#)

Craig Whittaker also called for a shorter timetable. Like Robert Goodwill, he suggested that technology and amended processes should be able to do that without affecting voter participation.³⁷

Maria Miller also noted that the election timetable had been extended since 2011. She was a member of the Joint Committee and reiterated its call for a cross-party group to review the timetable.³⁸

Chris Bryant, Sir David Evennett and Aaron Bell all supported calls for a shorter timetable.

However, the Minister, Chloe Smith, argued that the 25-working day timetable ensured “the continued operability of our electoral system”. The timetable allowed for nominations to be made and for voters in constituencies to come to decisions on those nominations. Online individual electoral registration and postal voting on demand, which could happen during the election timetable were of benefit to voters. She also noted that electoral administrators “argued strongly” that a shorter timetable would create significant risks of an election failing and increase the risk of disenfranchising potential electors.³⁹

Conclusion of the debate

In a division, the Scottish National Party and the Liberal Democrats opposed the second reading of the Bill. It was given a second reading by 367 votes to 65.

2.2

Should the Committee consider the prorogation of Parliament?

Before a general election, Parliament is often prorogued before dissolution. The Bill introduced by the Government did not mention the prorogation of Parliament.

Chris Bryant tabled a motion to instruct the Committee of the whole House that it should “have leave to make provision relating to the prorogation of Parliament”. If agreed to, such an instruction (see Box) would allow the Committee to debate and decide upon amendments or new clauses relating to prorogation even though it was not within the scope of the Bill.

The House debated whether to give the Committee of the whole House this instruction. Chris Bryant argued that prorogation was analogous to dissolution, citing the Government’s argument in the 2019 case when the Supreme Court ruled that the September 2019 prorogation of Parliament was

³⁷ [HC Deb 6 July 2021 c822](#)

³⁸ [HC Deb 6 July 2021 cc836-837](#)

³⁹ [HC Deb 6 July 2021 c850](#)

unlawful.⁴⁰ Chris Bryant noted that prorogation was not something that MPs could vote upon and that he had tabled an amendment to allow MPs to vote on prorogation for consideration in Committee. However, the amendment could only be considered if the House instructed the Committee that it had leave to do so.⁴¹

Chris Bryant also considered that as the Supreme Court had already determined that prorogation was justiciable, it would remain justiciable unless statute law changed that position.⁴²

Chloe Smith responded to Chris Bryant's speech by saying the Bill was not the right place to debate prorogation. The Bill concerned the beginning and ending of Parliaments, not parliamentary sessions; and it was inappropriate to put such measures in the Bill.⁴³ Later she added that it was not for her to suggest another time for the debate either.⁴⁴

When challenged by Alistair Carmichael that the ouster clause was drawn broadly enough to encompass prorogation, Chloe Smith said that that clause was "much more specifically related to Dissolution decisions".⁴⁵

She commented that such an instruction would allow the introduction of "prescriptive statutory approaches into our flexible constitutional arrangements" and that was something that she called "unnecessary and undesirable".⁴⁶

The House rejected the motion that would have instructed (allowed) the Committee of the whole House to debate prorogation by 323 votes to 192.⁴⁷

⁴⁰ [HC Deb 13 September 2021 cc704-705](#). For further information, see Library briefings: [Prorogation of Parliament](#), 11 June 2019; and [The Prorogation Dispute of 2019: one year on](#), 24 September 2020

⁴¹ [HC Deb 13 September 2021 c705](#)

⁴² [HC Deb 13 September 2021 c706](#); see also [c707](#)

⁴³ [HC Deb 13 September 2021 c710](#); [c710](#)

⁴⁴ [HC Deb 13 September 2021 c712](#)

⁴⁵ [HC Deb 13 September 2021 cc710-711](#)

⁴⁶ [HC Deb 13 September 2021 cc712-713](#)

⁴⁷ [HC Deb 13 September 2021 cc715-718](#)

Box 1: Instructions to committees

Standing Order No 65 gives a general authority to a committee on a bill to amend the bill (even if it means the bill's long title needs to be amended), "provided that the amendments are relevant to the subject matter of the bill".

Instructions are required when it is desired to make amendments which fall outside the scope of the bill.

An Instruction either empowers a committee to do something which it could not otherwise do (permissive) or define a course of action it must follow (mandatory).

Permissive instructions may be given to a committee of the whole House or any other committee. Mandatory instructions may only be given to a select committee or to a committee on a private bill.⁴⁸

2.3

Remaining stages (13 September 2021)

The House of Commons completed consideration of the Bill in a single day on 13 September 2021. The Bill was not amended in Committee of the whole House; and given a third reading by 312 votes to 55.⁴⁹

Committee of the whole House

Debate on amendments and clauses stand part focused on five issues:

- whether the Prime Minister should be able to request a dissolution or whether parliamentary approval should be required;
- whether a new Parliament should have to meet within 14 days of polling day;
- the length of a Parliament and the gap between elections;
- the length of the statutory election timetable; and
- the timing of extraordinary elections to the Welsh Parliament/Senedd Cymru.

No amendments were made to the Bill. The only division was on whether clause 2 (the clause that allows the Prime Minister to request a dissolution before the life of a Parliament has expired) should stand part. This was approved by 316 votes to 162. All other clauses and the Schedule were agreed to without divisions.

⁴⁸ Erskine May, *Parliamentary Practice*, 25th edition, 2019, [para 28.69](#)

⁴⁹ [HC Deb 13 September 2021 cc718-759](#)

Arguments that making dissolution subject to a vote in the House of Commons would avoid dragging the Monarch into disputes about dissolution and would avoid the need for an ouster clause were rejected. The Minister, Chloe Smith, countered that giving the House a vote could hinder the function of democracy by making it harder to have an election.

Chris Bryant spoke to his amendment to require Parliament to meet within 14 days of polling day but Chloe Smith considered that it was not necessary to codify this in legislation as it had been practice after most elections since 1950 and new governments would want to meet Parliament.⁵⁰

Chris Bryant also proposed that the five-year maximum term of one Parliament should be counted from polling day rather than the day the new Parliament met. Both approaches would lead to gaps of in excess of five years between elections. The Joint Committee had suggested that the term should be measured from dissolution to dissolution to ensure that the interval between elections was no more than five years.⁵¹ Chloe Smith said that the Government's proposal returned to the previous arrangements⁵² and that "It is also the clearest and simplest way of calculating the parliamentary term—from the point at which Parliament is actually sitting".⁵³

A number of MPs supported Maria Miller's amendment to shorten the timetable. Mrs Miller described her amendment as probing and called on the Minister to commission research on the impact of the length of general elections on democracy.⁵⁴ In her speech, Chloe Smith had confirmed that it was the Government's intention to "maintain the electoral timetable as it stands" but she accepted that the issues – "tensions between voter engagement, the resilience of polls and the needs of the country for a period when it does not have a Parliament or MPs able to help constituents" – could be examined further.⁵⁵

Chloe Smith agreed to meet Jonathan Edwards who had raised concerns about the possibility of extraordinary elections to the Senedd being held on the same day as a general election.⁵⁶ It is not permitted to hold a regular Senedd election on the same day as a UK general election.

Third reading

At third reading, Chloe Smith noted that the debate at Committee stage covered the conventions that underpin the dissolution and calling of

⁵⁰ [HC Deb 13 September 2021 c727](#)

⁵¹ Joint Committee on the Fixed-term Parliament Act, [Report](#), 24 March 2021, HC 1046 2019-21, para 179

⁵² Under previous arrangements, the parliamentary term started on the day Parliament was summoned to meet, even if its first meeting was subsequently postponed

⁵³ [HC Deb 13 September 2021 c728](#)

⁵⁴ [HC Deb 13 September 2021 c737](#) and [c737](#)

⁵⁵ [HC Deb 13 September 2021 c731](#)

⁵⁶ [HC Deb 13 September 2021 c751](#)

Parliaments. She said that the dialogue would continue as the Bill went to the House of Lords. She concluded by saying that:

During its passage, the Government have at all times listened with care to the concerns raised and the thoughts posed, and I reassure the House that this is a focused, careful Bill that will return us to the long-standing constitutional arrangements that have served successive Governments and Parliaments and have ensured effective, responsive, accountable politics in which the voters are supreme. All the flexibility encapsulated in that is essential to our parliamentary democracy. This Bill restores that constitutional balance, and I commend it to the House.⁵⁷

For Labour, Cat Smith acknowledged that repealing the FTPA was “right and proper” but continued to express concern that the Bill handed power to the Executive.⁵⁸

For the SNP, Brendan O’ Hara described the Bill as “a thoroughly bad piece of legislation”. He considered it “little more than a brazen attempt by the Executive to entrench more and more powers with themselves, at the expense of this Parliament”. He confirmed that the SNP would oppose the Bill’s third reading.⁵⁹

On a division, the Bill was given a third reading by 312 votes to 55.⁶⁰

⁵⁷ [HC Deb 13 September 2021 c755](#)

⁵⁸ [HC Deb 13 September 2021 c755](#)

⁵⁹ [HC Deb 13 September 2021 c756](#)

⁶⁰ [HC Deb 13 September 2021 cc757-759](#)

3 Select committees and the Bill

3.1 Public Administration and Constitutional Affairs Committee

Oral Evidence

On 23 June 2021, the Public Administration and Constitutional Affairs Committee (PACAC) held an oral evidence session with Chloe Smith on the Bill.⁶¹

The Committee pursued a number of issues raised by the Joint Committee. It sought clarity on whether and how the prerogative power to dissolve Parliament was revived. Chloe Smith considered that the practical effect was the “most important” consideration in this context: that the pre-FTP A position, whereby the Monarch dissolved Parliament at the request of the Prime Minister, was what was being restored.⁶²

The Committee explored whether the ouster clause was necessary. The Minister acknowledged that the prerogative of dissolving Parliament would not have been justiciable before the FTP A but argued that the Bill provided clarity and certainty on the point.⁶³

PACAC sought information on situations in which it would be inappropriate for the Prime Minister to request a dissolution. This led to a discussion of the relationship between the Bill and conventions relating to the role of the Monarch. It also led to a related discussion about the role of the confidence of the House of Commons in the Government of the day. It was noted that the consequence of losing the confidence of the House of Commons would either be the resignation of the Prime Minister in favour of someone who could command the confidence of the House or a request for a dissolution.

PACAC considered the length of a Parliament with the Minister. The Committee asked whether a five-year term was appropriate and whether measuring the length of a Parliament from start to finish, rather than from dissolution to dissolution, was appropriate. The FTP A provided for five-year

⁶¹ Public Administration and Constitutional Affairs Committee, [Dissolution and Calling of Parliament Bill: Oral Evidence](#), 23 June 2021

⁶² Ibid, Qq8-11

⁶³ Ibid, Qq24-30; Qq70-72

intervals between ordinary elections, under the Bill, the period between elections could be longer than five years.⁶⁴

PACAC pressed the Minister to issue a revised Dissolution Principles document. The Joint Committee had described it as “inadequate”. However, Chloe Smith did not think “it would be greatly helpful to be rapidly redrafting documents all the time, but I am very keen to get into this and to have that discussion as the Bill stages progress”.⁶⁵

Correspondence

On 21 July 2021, the Committee’s Chair, William Wragg, wrote to Chloe Smith, outlining three areas where concerns about the Bill persisted:

- the lack of clarity of the source of the power to dissolve Parliament;
- the necessity and desirability of the ouster clause; and
- the uncertainty around what conventions, principles and practices will govern the operation of the system set out in the Bill.⁶⁶

PACAC published the Minister’s reply on 7 September 2021.⁶⁷

⁶⁴ Ibid, Q53. The intervals between the 1959 and 1964 general elections; and between the 1992 and 1997 general elections exceeded five years. Both Parliaments were dissolved before their five-year term elapsed

⁶⁵ Ibid, Q64

⁶⁶ Public Administration and Constitutional Affairs Committee, [Dissolution and Calling of Parliament Bill – letter to Chloe Smith, Minister for the Constitution and Devolution](#), 21 July 2021


⁶⁷ Public Administration and Constitutional Affairs Committee, [Letter from Chloe Smith, Minister of State for the Constitution and Devolution of 12 August 2021](#), 7 September 2021

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