



Fixed-term Parliaments Bill 2010-11: Commons stages

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The *Fixed-term Parliaments Bill* [Bill No 64 of 2010-11] was introduced to the House of Commons on 22 July 2010. The Bill fixes the date of the next general election at 7 May 2015, and provides for five year intervals between elections. An early general election could take place in two ways: if a motion of no confidence is passed and no alternative government is found within 14 days; or a motion for an early dissolution is agreed either by at least two-thirds of the House or without division. The Library Research Paper 10/54, [Fixed-term Parliaments Bill](#) sets out the provisions of the Bill in detail.

The Clerk of the House of Commons has raised some concerns about the potential impact of the proposals on Parliamentary privilege. He argued that provisions in the Bill relating to early dissolutions should be placed in Standing Orders to protect the exclusive cognisance of the House. However, the Government has stated that such important constitutional changes should be, as a matter of principle, in primary legislation. The Government did not believe there was any potential for the courts to question proceedings in Parliament as a result of the provisions in the Bill.

This was amongst the key issues raised during the Second Reading debate on 13 September 2010. Other points of debate were the procedures for early dissolution and the proposed length of a parliament of five years. Also on 13 September, the Government announced that the next Queen's speech would take place in May 2012, with sessions normally running from Spring to Spring thereafter.

The only amendments made during the Committee stage were tabled by the Government to the Schedule and were largely technical. However, the Government indicated that they would introduce provisions at a later stage in the Bill's progress to allow elections to the devolved legislatures to be pushed back by up to six months. This would enable the coincidence of elections to the UK Parliament and the devolved bodies to be prevented. The first day in Committee was held on 16 November; the second day on 24 November; and the last day on 1 December. The date for report and remaining stages has not yet been announced.

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1 Introduction

The *Fixed-term Parliaments Bill* [Bill No 64 of 2010-11] was introduced in the House of Commons on 22 July 2010. The Bill fixes the date of the next general election at 7 May 2015, with elections occurring thereafter every five years on the first Thursday of May. The Prime Minister, by Order, would be able to extend or shorten the period between general elections by up to two months. Parliament would be dissolved 17 days before the date of the general election.

Under the provisions in the Bill as introduced, it would be possible to trigger an early general election in two circumstances:

- if a motion of no confidence is agreed by the House and no alternative government can be confirmed by the House within 14 days;¹
- if a motion for an early general election is agreed. Where this is on a division of the House, the number of Members voting in favour of the early general election must be equal to or above two-thirds of the total number of seats in the House of Commons.²

In both cases, the Speaker, after consulting his deputies “as far as practicable”,³ would have to issue a certificate certifying that the conditions as set out in the Bill were met. The Bill states that, “A certificate is conclusive for all purposes”.⁴

The Bill, if enacted, would therefore have major implications for both our constitution and our wider political system. The ability of the Prime Minister to choose the date of the next general election has been a key political power which will now be limited. Advance knowledge of the date of general elections will have implications for parliamentary timetabling. General elections will, by law, take place on Thursdays and normally take place in May. There will be a requirement for a super-majority in legislation. The consequences of a vote of no confidence, previously a matter for convention and precedent, would become a matter of law.

The Bill has not been subject to pre-legislative scrutiny and the timetable for parliamentary consideration has been subject to some criticism. The Constitution Committee in the House of Lords is currently conducting an inquiry into the subject. The Political and Constitutional Reform Committee published a short report on the Bill before the Second Reading debate on 13 September which stated that:

We regret the unnecessarily rushed way in which the Bill is being proceeded with, without any prior consultation or pre-legislative scrutiny, which a bill of this legal and constitutional sensitivity deserves.⁵

Full details of the Bill and issues raised by its provisions are set out in the Library Research Paper 10/54, *Fixed-term Parliaments Bill*.

¹ *Fixed-term Parliaments Bill 2010-11*, 2(2)

² *Ibid*, c2(3)

³ *Ibid*, c2(4)

⁴ *Ibid*, c2(3)

⁵ Political and Constitution Reform Committee, *Fixed-term Parliaments Bill*, 9 September 2010, HC 436 2010-11, Summary

2 Developments between First and Second Reading

2.1 Parliamentary Privilege

The provisions in the Bill which have attracted the most attention are those relating to early dissolution. In order to be effective, the Bill has to make it difficult for a Government to force an election at a time of its own choosing, but allow an early general election to take place if no Government is able to command a majority in the House of Commons. Early proposals for a dissolution to require a majority of 55 per cent of Members of the House were revised by the Government after criticism, and replaced with a requirement for two thirds of Members to vote in favour. However, concerns have continued, particularly about placing the arrangements for confidence motions and dissolution motions in primary legislation. There has been some discussion as to whether placing proceedings of the House in this way in statute could affect the right of the House of Commons to regulate its own affairs (exclusive cognisance).

The Government has argued that the fact that the Speaker's certificate which would certify that the conditions in either clause have been met has been described in the Bill as "conclusive for all purposes" and therefore parliamentary proceedings could not be considered by the Courts. However, the Clerk of the House of Commons has suggested that there is potential for Parliamentary proceedings to be questioned in court as a result of the provisions in the Bill and that it would be better for the provisions in clause 2 to be placed in Standing Orders. The Government has stated that, as a matter of principle, such constitutional provisions should be placed in primary legislation rather than Standing Orders.

The view of the Clerk

The Clerk of the House of Commons, Dr Malcolm Jack, raised concerns regarding the impact of the Bill on Parliamentary privilege in both his oral and written evidence to the Political and Constitutional Reform Committee. In his [written evidence](#), the Clerk stated that:

12. The Bill brings the internal proceedings of the House into the ambit of the Courts, albeit indirectly by the route of Speaker's certificates.

13. In Clause 2 (1) (a) of the Bill, the Speaker is empowered to issue a certificate if the House has passed a motion that there should be an early parliamentary general election. Clause 2 (b) and (c) seeks to include in the certification a recording of the fact as to whether the Motion that there should be an early general election "was passed on a division" and that "the number of members who voted in favour of the motion was a number equal to or greater than two thirds of the number of seats in the House (including vacant seats)."

14. In this provision, the Speaker is thus invited to certify not merely *what* has been decided by the House but *how* it has reached that decision.

15. In Clause 2 (2) of the Bill,

"An early parliamentary general election is also to take place if the Speaker of the House of Commons issues a certificate certifying that –

(a) on a specified day the House passed a motion of no confidence in Her Majesty's Government (as then constituted), and

(b) the period of 14 days after the specified day has ended without the House passing any motion expressing confidence in any Government of Her Majesty."

16. The provisions of this subsection make the Speaker's consideration of confidence motions and the House's practices justiciable questions for determination by the ordinary courts. Not only might the Speaker's decisions involve difficult judgements – for example about what constitutes a confidence motion, the selection of amendments to such Motions and the consequences of their being carried – but they would be made in a potentially highly charged political situation which could also lead to challenge in the House. As these would become justiciable questions, the courts could be drawn into matters of acute political controversy.

17. Although the provision in 2 (3), that the Speaker's certificate is conclusive for all purposes, is meant to mitigate challenge or questioning in the courts, it cannot be a protection against the courts interpreting statute either in the UK or in Strasbourg. The comity established between Parliament and the Courts has relied on the fact that the internal proceedings of the House were entirely matters within the House's jurisdiction and were not for determination by the courts. Thus the principal procedures and practices of the House arise from Standing Orders, Resolutions or Rulings from the Chair, none of which can be legally challenged, nor can the Courts' assistance be sought in interpretation or enforcement. The same applies to the House's control, through the Speaker, of the precincts. But embodying these internal proceedings in statute radically changes their status since, by reason of being embodied in statute law, they become questions which are ultimately to be determined by the judiciary rather than by members of the legislature accountable to the electorate whom they serve.

18. The history of the courts' involvement in interpreting the meaning of words in the Bill of Rights and the implications of human rights aspects of European law, provide no basis for concluding that the courts will keep out of this new statutory territory. Indeed, it is the purpose of the courts to interpret and apply the law to individual cases. In the case of Clause 2(3) it would be for the court to determine whether a document issued by the Speaker was a 'certificate' for the purposes of that clause. It is not impossible for a court to take the view that what appeared to be a certificate was not a 'certificate' because in making it the Speaker had made an error of law.

19. In passing, I would mention difficulties in the operation of Section 2 (4) of the Bill. In the first place, it is the Speaker who has exclusive authority over the records of the House's decisions. Furthermore, the possibility of disagreement with his deputies could also make the subsection difficult to operate. The provision imposes a legal duty on the Speaker to consult the Deputy Speakers 'so far as practicable'. The question of whether consultation was 'practicable' would become a legal question, with the courts making determinations with respect to the relationship between the Speaker and his deputies.⁶

Dr Jack suggested that the provisions relating to early dissolution could be moved into Standing Orders:

28. It would be possible to avoid these privilege problems if the provisions of the Bill relating to the calling of early parliamentary general elections were instead to be written into the Standing Orders of the House, thereby preventing them from being questioned or interfered with outside Parliament. Moreover, a Standing Order regulating the matters in the Bill could provide for its staying in effect unless repealed by a specified majority — for example by a number equal to or greater than two thirds of the number of seats in the House. Not only is the principle of specifying majorities already written into the Standing Orders of the House, but in the past the House has

⁶ Political and Constitutional Reform Committee, *Fixed-term Parliaments Bill*, 9 September 2010, HC 436 2010-11, Ev 24-25

also required a relative majority for reaching decision. This was the case in questions relating to urgent business where a Question could only be resolved in the affirmative if there was — “a majority of not less than three to one, in a House of not less than 300 Members”.

29. So far as dissolution is concerned, the Standing Order could include the mechanism for an Humble Address to the Crown seeking dissolution when the conditions of the Standing Order were met, thereby incidentally preserving the Crown’s prerogative in the matter of dissolution.

30. There is therefore precedent and a route by which the purpose of the Bill on fixed-term Parliaments could be achieved which would avoid the constitutional innovation of moving such matters into the judicial province and so leave undisturbed the House’s mastery of its own proceedings.⁷

The view of the Government

The Government placed a [memorandum](#) in the Library on 13 September 2010 in response to the issues raised by the Clerk. The memorandum explained that the Government did not agree that the Bill posed any risks to parliamentary privilege, and that placing provisions in Standing Orders would not be satisfactory:

The Government is not persuaded that placing the safeguards – in particular the two-thirds requirement – in Standing Orders, as the memorandum suggests, would be satisfactory. Normally, Standing Orders can be overridden by a single simple majority vote of the House of Commons. Paragraph 28 of the memorandum suggests (without citing any precedent or other authority) that it is possible for a Standing Order to provide “for its staying in effect unless repealed by a specified majority”. In other words, the memorandum appears to be contemplating that a Standing Order passed only by a simple majority could itself make provision for it to be revoked (or amended) only with the approval of a “super-majority”. As a matter of principle, this does not seem appropriate and reinforces the Government’s view that the appropriate place for the two-thirds requirement is in primary legislation. Nor is it appropriate that some of the most significant detail of a reform affecting Parliament as a whole and the Royal Prerogative should be effected by amending Standing Orders of the House of Commons.

Naturally the view that constitutional reform should be dealt with in primary legislation needs to be balanced against undesirable outcomes, for example, the rebalancing of the relationship between Parliament and the courts. But the Government considers that this Bill would cause no such rebalancing and that the Bill will in no way open up parliamentary proceedings to the jurisdiction of the courts.⁸

2.2 Report from the Political and Constitutional Reform Committee

The Political and Constitutional Reform Committee in the House of Commons published a [report](#) on the Government’s Bill on 9 September 2010.⁹ The report was critical of the timetable for the introduction of the Bill.¹⁰

On the length of a Parliament, the Committee, concluded that:

⁷ *Ibid*, Ev 26

⁸ Mark Harper, Minister for Political and Constitutional Reform, [Fixed-term Parliaments Bill: Note on Implications for Parliamentary Privilege](#), 13 September 2010, DEP2010-1699

⁹ Political and Constitution Reform Committee, [Fixed-term Parliaments Bill](#), 9 September 2010, HC 436 2010-11

¹⁰ *Ibid*, paras 5-6

In the limited period we have had to receive evidence, most of the opinion suggests that it would be better for general elections to be held every four years, rather than every five. This is an important point, but not one that we would wish to see obstruct the passage of the Bill through the House. We would, however, expect the Government to explain more fully to the House the advantages and disadvantages of four and five year terms, and how it weighed these up in reaching its decision on the length of a fixed term.¹¹

The report considered the proposals for triggering an early dissolution. The report considered the evidence from the Clerk, and concluded that:

Although a number of our witnesses believe that the current drafting of the Bill is already adequate to avoid unwarranted judicial challenge of this kind, the House would be wise to consider whether the approach suggested by the Clerk of the House could be made to work in practice without significantly altering or diluting the purpose of the Bill or opening the door to abuse by Government...¹²

The Committee then looked at alternatives to the provisions for a super-majority which could ensure that the Prime Minister would not be able to continue to choose the date of the next general election. In his evidence to the Committee, Robert Blackburn, Professor of Constitutional Law at King's College London had suggested that:

To ensure a governing majority does not abuse its ability to push through an early election resolution for no good reason other than being a favourable time to itself go to the polls, the duration of the Parliament following the early election might be equivalent to the remainder of the term of the Parliament in which the resolution takes place.¹³

The Committee also considered the possibility that:

...the Bill could provide that the only situation in which an early general election could be called was where there was cross-party agreement that this was desirable. This could be achieved by amending clause 2 of the Bill to provide that an early general election should take place only where the House agreed by a simple majority to a motion in the name of the Prime Minister to this effect, tabled with the agreement of the Leader to the Opposition, and possibly with the agreement of the leader of the third largest party in the House.¹⁴

The Committee stated that the benefits of this would also be to remove the need for the reference to confidence motions in the Bill, as "the consequences of the current provisions for confidence motions contained in clause 2 (2) of the Bill are uncertain". As introduced, the Bill appears to allow the Government to table constructive votes of no confidence to trigger an early general election. Historically, there is no set formula for a confidence or no confidence motion. There may be uncertainty as to whether the loss on a key part of the Government's policy agenda might count as a confidence motion. The Committee recommended that there should be clarity, before the Bill enters its remaining stages, as to the circumstances in which a vote of no confidence could trigger an early general election.

The Committee raised two other issues currently not dealt with in the provisions of the Bill. As presently drafted, the Bill requires a vote to assert confidence in a government to take place if there was a change of administration following a vote of no confidence, but not at the

¹¹ *Ibid*, para 20

¹² *Ibid*, para 34

¹³ *Ibid*, Ev 62

¹⁴ *Ibid*, para 41

beginning of a new Parliament to test support for the Government.¹⁵ The Committee stated that they would “examine as part of a future inquiry the possibility of the House formally endorsing a new government, after a general election and in other circumstances”.¹⁶

Lastly, the Committee noted:

While the provisions in the Bill for no confidence motions are problematic, there is one important area in which they are entirely lacking. The Deputy Prime Minister told the House in July 2010 that the Bill would “strengthen the power of this House to throw out a Government through a motion of no confidence”. The Bill does not seek to achieve this, however, but leaves the requirement that a Government should resign if it loses the confidence of the House to unwritten convention. We recommend that the Government should explain why the Bill contains no formal provision requiring a government to resign if it loses the confidence of the House.¹⁷

2.3 Length of the current Session of Parliament

The autumn-to-autumn pattern of sessions was not one required by law, as *Griffith and Ryle on Parliament: Functions, Practice and Procedures* explains:

Sessions usually last for about a year, although there is no requirement, other than a well-established convention and certain practical convenience, for this to be so; business could be conducted in sessions extending over several years and in some countries, for example, Canada, this occurs frequently. The Scottish Parliament has a fixed four-year term, but with no division of that period into separate annual sessions...¹⁸

On the morning of 13 September 2010 the Leader of the House of Commons, Sir George Young, issued a Written Ministerial Statement which announced that as a consequence of the introduction of the *Fixed-term Parliaments Bill*, the Government believed that:

...it would be appropriate to move towards five, 12-month, sessions over a parliament, beginning and ending in the spring. This has the advantage of avoiding a final fifth session of only a few months, which restricts the ability of Parliament to consider a full legislative programme.¹⁹

The Written Ministerial Statement further announced that the current session of Parliament would run until “around Easter 2012”.

The most recent year without a King or Queen’s Speech was 1949.²⁰ The 1948-49 Session ran from 26 October 1948 to 16 December 1949. The 1950 Session opened on 1 March 1950, following the general election of 11 January 1950. There were some unusual circumstances. The previous session in 1948 had been short, in order to facilitate the passage of the *Parliament Act 1949*, which became law under the *Parliament Act 1911* procedures. This required three successive sessions, with at least two years between the first Commons second reading and the Commons third reading in the third session. According to *The British General Election of 1950*, the *Parliament Act* could not achieve royal

¹⁵ See Library Research Paper 10/54, *Fixed-term Parliaments Bill*, p28

¹⁶ Political and Constitution Reform Committee, *Fixed-term Parliaments Bill*, 9 September 2010, HC 436 2010-11, para 49

¹⁷ *Ibid*, para 50

¹⁸ Robert Blackburn and Andrew Kennon, *Griffith and Ryle on Parliament: Functions, Practice and Procedures*, Second Edition, 2003, 6-024

¹⁹ HC Deb 13 September 2010 c33WS

²⁰ House of Commons Journals

assent before 11 December 1949.²¹ The last calendar year before 1949 without a King's Speech was 1925. There were King's Speeches on 9 December 1924 and 2 February 1926.

The longest session, in terms of the number of sitting days, since the 1832 Great Reform Act appears to be from 18 April 1966 to 27 October 1967: 246 sitting days. The 1979-80 Session had 244 sitting days, 1997-98 had 241 and 1992-93 240. All were long sessions following a general election. The number of sitting days does not necessarily correspond with the number of chronological days between the beginning and end of a session.

Mr Speaker granted Denis MacShane an Urgent Question on the statement before the Second Reading debate on the *Fixed-term Parliaments Bill*. The Leader of the House stated that:

This is a sensible response to a Bill in the coalition Government's programme that the Opposition support. It is announced in good time and subject to parliamentary scrutiny, during the Bill that will be debated this afternoon. Today's announcement will also ensure that Parliament has adequate time in this Session to debate and scrutinise the Government's legislative programme... Far from being an affront to Parliament, it is one way in which the Government are empowering it.²²

The then Shadow Leader of the House, Rosie Winterton argued that:

The Leader of the House has, in effect, announced today that the Government has abolished next year's Queen's Speech and given themselves an extra year to get through their legislation, including some very controversial Bills...²³

She continued:

The Government have made much of their "new politics" and of giving away power from the Executive to Parliament. So why is one of their first acts to give the Executive huge power by extending the time in which to get their legislation through?²⁴

3 Second Reading debate

3.1 Introduction

The [Second Reading](#) debate took place on 13 September 2010. Although the Opposition did not oppose the Bill in principle, a number of concerns were raised about the detailed content of the Bill. The House divided on the Bill with 311 voting for the Bill and 23 against.

Nick Clegg, the Deputy Prime Minister, opened the debate, stating that:

The Bill has a single, clear purpose: to introduce fixed-term Parliaments to the United Kingdom to remove the right of a Prime Minister to seek the Dissolution of Parliament for pure political gain. This simple constitutional innovation will none the less have a profound effect because for the first time in our history the timing of general elections will not be a plaything of Governments. There will be no more feverish speculation over the date of the next election, distracting politicians from getting on with running the country. Instead, everyone will know how long a Parliament can be expected to last, bringing much greater stability to our political system. Crucially, if, for some

²¹ Ed H G Nicholas p68. See Library Standard Note SN/PC/675 [The Parliament Acts](#). For timings see p 10 of <http://hcl1.hclibrary.parliament.uk/rp97/rp97-097.pdf>

²² HC Deb 13 September 2010 c614

²³ *Ibid*, c615

²⁴ *Ibid*, c616

reason, there is a need for Parliament to dissolve early, that will be up to the House of Commons to decide.²⁵

Jack Straw, speaking for the Opposition, stated that:

The Bill does botch the job... It provides for a standard Parliament to be too long, at five years. It fails to clarify the procedures for confidence votes, opening up the possibility of a lame-duck administration and constitutional limbo. It leaves a large loophole enabling Prime Ministers to use the prerogative power to prorogue Parliament, as happened recently in Canada. The mechanism for triggering an early Dissolution of Parliament may impinge – I put it no more strongly than that – on parliamentary privilege by creating the risk that courts could intervene on parliamentary proceedings.²⁶

The four key points made during the course of the debate were:

- whether or not fixed-term parliaments were desirable;
- the timetable for the Bill's introduction;
- the length of a parliament (set at five years in the Bill) and the concurrence of elections for the UK Parliament and devolved administrations; and
- the proposals for early dissolution procedures, including the disagreement between the Government and the Clerk over the impact of Parliamentary privilege.

3.2 The principles

The Labour Party's general election manifesto for the May 2010 election had included a commitment to "legislate for fixed-term parliaments".²⁷ The Opposition front bench therefore did not oppose the Second Reading of the Bill, and were generally supportive of the principle of fixing the length of a Parliament although critical of some of the detailed provisions of the Bill. **Jack Straw**, then Shadow Justice Secretary, explained:

If the Government and the House get the Bill right, it will be a positive innovation for our democracy. I do not share the deputy Prime Minister's hyperbole, but I certainly share his belief that it is a step forward, not a step back.²⁸

Other Members also spoke in favour of the principle of fixed parliamentary terms. **Daniel Poulter** (Conservative), in his Maiden Speech, welcomed the Bill:

It will give the country a clear legislative programme, with certainty about what the Government can do over a five-year period. There is so much to do in terms of welfare and educational reform and delivering a new White Paper on health care, and in particular dealing with the profligate economic record of the Labour Government. We must make sure we have a clear five-year programme in which to do that. A fixed-term Parliament can only be a good thing.²⁹

In a 2009 speech, David Cameron had stated that "the arguments for fixed-term Parliaments are strengthening". However, the Conservative Party's 2010 manifesto had not included a

²⁵ *Ibid*, c621

²⁶ *Ibid*, c634

²⁷ Labour Party, *The Labour Party Manifesto 2010: A future fair for all*, may 2010, 9:3

²⁸ HC Deb 13 September 2010 c634

²⁹ *Ibid*, c649

commitment to fixed-terms. Some Conservative Members spoke against the principle of fixed terms. **Jacob Rees-Mogg** (Conservative) argued that:

On the broad constitutional issue, I think that fixed-term Parliaments are a mistake. It is unfortunate to undermine a constitutional monarchy. A constitutional monarchy needs to preserve some role for the sovereign within in it – some purpose in having that final arbiter of the system that is above and beyond politics. I am very nervous about giving that role to the Speaker, as this Bill proposes, because, first, it is a bad idea to have a Head of state and a quasi-Head of State – one is quite enough for me, and a hereditary Head of State whom we have had for the best part of 1,000 years seems a pretty good one to have. Such an approach would also bring the Speaker, who will not be advised by the Prime Minister in this area, into the murky part of politics...³⁰

Richard Shepherd (Conservative) stated that:

The Government have the Parliament Act 1911, which gives them five years if they can make the course and hold the attention of each of us as individual Members from constituencies across the country... However, they can do it without this half-baked legislation.³¹

3.3 The timetable for the Bill

There was some concern raised, echoing that of the Select Committee on Political and Constitutional Reform Committee, that the Bill had been introduced quickly with no green or white papers, or chance for pre-legislative scrutiny. **Jack Straw** stated that “Much of the incoherence of the Bill is a consequence of the haste with which it is being rushed through Parliament”.³² **Geoffrey Cox** (Conservative) stated that, “I do not understand why we should rush through the House so fundamental a constitutional alteration to arrangements that have stood us in reasonably good stead for generations”.³³ In response, **Mark Harper** stated that the Bill would have two days of debate in Committee of the whole House. He added that:

[Sir George Young, Leader of the House of Commons] made the point that in the first Session of a new Parliament it is simply not possible to do as much pre-legislative scrutiny as one would hope to be able to do later in a Parliament. However, we are not racing off at pace, and I encourage the Committee, chaired by the hon. Member for Nottingham North (Mr Allen), to continue its deliberations as I feel that there will be time for the Government and the House to learn from its deliberations before we move into Committee.³⁴

3.4 Length of a Parliament

A number of Members raised concerns about the length of the Parliament put forward in the Bill. **Geoffrey Cox** (Conservative) asserted that fixed-terms of five years were “potentially too long”.³⁵ **Graham Allen** (Chair of the Political and Constitutional Reform Committee) argued that “We should debate on the Floor of the House whether it is four years or five”.³⁶

³⁰ *Ibid*, c675

³¹ *Ibid*, c693

³² *Ibid*, c634

³³ *Ibid*, c653

³⁴ *Ibid*, c701

³⁵ *Ibid*, c655

³⁶ *Ibid*, c663

Austin Mitchell (Labour) stated that he favoured three year parliaments, as is the case in New Zealand.³⁷

The coincidence of the elections for the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly with the UK Parliament in 2015 was also a source of concern. In his opening remarks, **Nick Clegg** had stated that:

With elections to the devolved legislatures every four years and to Westminster every five years, such a situation would occur every two decades. With the next occurrence in five years, we have time to plan for it, but we need to give the issue proper further thought. There is already scope in legislation to vary the dates of elections to devolved legislatures, and the Government are now actively considering whether those powers are sufficient. We have not yet reached a conclusion – we would be very interested to hear the views of others – but if we decide that further powers are needed, we will put forward proposals for an alternative.³⁸

Pete Wishart (SNP) argued that there would still “have to be clear blue water between the elections” in order to avoid “continual election mode” for six months of the year.³⁹ He went on to accuse the Government of “contempt” in their dealings with the devolved administrations.⁴⁰ He asked “Does the Minister know that there are different constituencies for the Scottish and Westminster Parliaments? Two different sets of returning officers and polling staff would be required. God knows what the counts would be like, but it would be an absolute recipe for disaster”.⁴¹ **Mark Williams** (Liberal Democrat) also argued that “to tamper with the date and have a general election in Wales a month after a general election would be completely unacceptable”.⁴² **Nigel Dodds** (DUP) asked for assurance that the Deputy Prime Minister must agree any changes with the devolved administrations and legislatures.⁴³

In response, **Mark Harper** stated that the Government was engaging with the devolved administrations on the matter. In particular, he said that:

My right hon. Friend the Secretary of State for Scotland, for example, has written to the leaders of each of the groups in the Scottish Parliament, the Presiding Officer, Opposition spokesmen in this House and the Chairman of the Select Committee and intends to continue that dialogue. Indeed, I will meet him to discuss this matter further. We take these issues seriously and are not just paying lip service to them.⁴⁴

3.5 Early dissolution procedures

A number of different arguments were put forward about the provisions for early dissolution contained in clause 2 of the Bill. **George Howarth** (Labour) argued that:

We are sent here to exercise a judgement about many things, one of which is the performance of any Government at any given time. One of the devices that we have at our disposal in such circumstances is a vote of no confidence. Normally, a vote of no confidence can trigger an election process, subject to the monarch and all the procedures that have to take place in those circumstances. I do not believe that our

³⁷ *Ibid*, c681

³⁸ *Ibid*, c627

³⁹ *Ibid*, c665

⁴⁰ *Ibid*, c672

⁴¹ *Ibid*, c673

⁴² *Ibid*, c666

⁴³ *Ibid*, c669

⁴⁴ *Ibid*, c702

constituents want us to be in a position where we retain the right to pass a vote of no confidence if the effect of that vote is dependent on the proportion of Members who voted for it...

I was sent here to make sure that whatever the political composition of the Government of the day, I had the ability on behalf of my constituents to say, "Enough is enough. Go!" That ability, which I have had for 20-odd years that I have been a Member of the House, is circumscribed by the terms of the Bill.⁴⁵

A number of Members referred to the disagreement between the Clerk and the Government over the Bill's provisions. **Eleanor Laing** (Conservative) gave her view that:

The evidence put before the House today is not conclusive. It is one legal opinion against another legal opinion, and the integrity of the House and what happens here should not be left in the balance between one legal opinion and another. I sincerely hope that the Minister will consider that point in committee.⁴⁶

Nicholas Boles, a Member of the Political and Constitutional Reform Committee, drew attention to the Committee's recommendation the House should consider whether the clock should not be reset to five years after an early general election, rather the remainder of the original period would run until the next general election (as suggested by Professor Blackburn) in order to avoid any attempt to engineer a Dissolution to the benefit of just one party.⁴⁷

3.6 Programme Motions

As a constitutional Bill, the Committee stage takes place on the floor of the House. After the division on the Second Reading, the House also divided on the Programme Motion which was passed by 304 to 27. The Programme Motion provided for two days in Committee, with consideration and Third Reading to take place on the same day.⁴⁸

At the beginning of the second day in Committee, on 24 November 2010, the House agreed a new programme motion which added an addition day (with provision for three hours of debate) to the consideration in Committee.⁴⁹

4 Government response to the Political and Constitutional Reform Committee's report

The Government response to the Political and Constitutional Reform Committee's report of September 2010⁵⁰ was published on 8 November 2010.

Combining elections

The Government noted the concerns raised about combining elections to the House of Commons and the devolved legislatures in May 2015. They stated that:

In principle the Government believes that combining elections reduces costs and increases interest and turn-out. There are elections somewhere in the United Kingdom every May. Where elections run to different cycles, then sometimes they will coincide

⁴⁵ *Ibid*, c652

⁴⁶ *Ibid*, c684

⁴⁷ *Ibid*, c693

⁴⁸ *Ibid*, c707

⁴⁹ HC Deb 24 November 2010 c294

⁵⁰ See section 2.2 above

and sometimes they will not. Under our proposals, for example, elections to the devolved legislatures will only coincide with Westminster elections once every 20 years. Nevertheless, as the Deputy Prime Minister indicated at Second Reading we are continuing to work with the interested parties to discuss how best to handle this issue.⁵¹

Length of a Parliament

On the length of a Parliament, the Government stated that most Parliaments since the Second World War have lasted between four and five years; therefore the Government had been faced with a choice between Parliaments of four or five years. The Government noted that they were committed to bringing forward proposals for the recall of Members accused of serious wrongdoing to ensure that Members remain accountable between elections. They also noted that they had built in mechanisms to allow for early general elections to ensure that the Government has the confidence of the House of Commons. Finally, they make the case for five year parliaments as necessary for stable and long-term decision-making. They therefore concluded that:

On balance, we believe four years is too short, and five years (the current maximum), coupled with further changes to improve the accountability of both Governments and MPs, is the right amount of time to ensure strong and stable leadership without allowing a Parliament or a Government to become stale.⁵²

Early General Elections

The Government disagreed with the Committee's suggestion that the Bill could be amended so that an early general election should take place only where the House agreed by a simple majority to an early dissolution on a motion in the name of the Prime Minister to this effect, tabled with the agreement of the Leader of the Opposition. On the form of confidence motions required by the legislation, the Government stated that the Speaker will certify whether or not a motion is a confidence motion, leaving this for the exclusive cognisance of the House.

The Government argued against the suggestion that if there were to be an early general election, the next Parliament should only last as long as the remainder of the term of the previous Parliament. The Government stated that if a new government was returned following an early general election with a large majority it would make "little sense to ask voters to return to the polls in as little as a few months".⁵³

The Government response to the Committee's request that they explain "why the Bill contains no formal provision requiring a government to resign if it loses the confidence of the House" was that:

...A Government is able now, and would be able under the Bill, to remain in office after a no confidence motion and contest a general election. Requiring a Government to resign in those circumstances would offend the convention that the Queen is not to be left without a Government.

⁵¹ *Government response to the report of the Political and Constitutional Reform Committee on the Fixed-term Parliament Bill*, Cm 7951, November 2010, para 6

⁵² *Ibid*, para 25

⁵³ *Ibid*, para 41

It is not easy to define precisely whether, after the passing of a motion of no confidence in it, a Government should resign or remain to contest a general election. This is the reason why this matter is best left to convention.⁵⁴

5 Committee Stage

5.1 First Day – Date of the next General Election and the length of a Parliament

The [first day](#) of the Committee stage took place on 16 November 2010. The debate took place on the Floor of the House, after two ministerial statements and a ten-minute rule Bill had been introduced. The amendments considered during the first day were those concerning the length of a Parliament in normal circumstances, and the length of a Parliament following an early general election. No amendments were agreed.

Jonathan Edwards (Plaid Cymru) moved the amendments in his name and supported by the front bench of the Opposition that there should be four rather than five year Parliaments, with the next general election to take place on 1 May 2014 rather than 7 May 2015. Related amendments regarding the dates of the elections to the devolved legislatures were considered at the same time. **Austin Mitchell** (Labour) spoke to his amendments which would have introduced three-year parliaments. The debate repeated many of the points made during the Second Reading concerning:

- the average length of a parliament;
- the length of parliamentary terms overseas;
- whether more frequent elections were required to ensure accountability to the electorate;
- the coincidence of elections to the devolved legislatures;
- and whether five years was necessary to produce a stable government acting in the long-term interests of the country.

The Government have decided on a way forward for the coincidence of elections with the devolved legislatures: they are to consult on allowing the bodies to push their elections back for up to six months. To do so would require a two-thirds majority vote. **Mark Harper**, the Minister for Political and Constitutional Reform, told the House that:

...we will consult the parties in the devolved Scottish Parliament and Welsh Assembly to give them the power to defer the date of their elections by up to six months – in other words, to move the election into the future to avoid coinciding with elections to this House.

I shall write to the First Ministers, the Presiding Officers and all the parties represented in the Scottish Parliament and the Welsh Assembly tomorrow to set out that plan. My right hon. Friends the Secretaries of State for Scotland and Wales will be available to discuss those matters with parties represented in the Parliament and Assembly.⁵⁵

He further explained that:

The Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly currently have the power to vote with a two-thirds majority for early

⁵⁴ *Ibid*, para 57-58

⁵⁵ HC Deb 16 November 2010 c841-2

Dissolution. In Scotland and Wales, the relevant Acts provide that if the early Dissolution is more than six months before the scheduled election, the scheduled election must still take place. Elections to the devolved legislatures must be held on the first Thursday in May. We want to give them power to extend, because if they have the power to hold elections earlier, elections would effectively have to be held in the depths of winter. The Government has listened on that point, which is why we want to consult the legislatures on the ability to extend the date, which will give them much more flexibility.⁵⁶

On Northern Ireland he stated:

The position in Northern Ireland is slightly different. One difference in the Northern Ireland settlement is that if the date of the election is brought forward by whatever period, the original scheduled election does not have to be held. Also, the responsibility for Assembly elections, including the date, remains a matter for the Northern Ireland Secretary...

Given the difference of the Northern Ireland settlement, and that next year there is a triple combination of Assembly elections, local elections and the referendum, Northern Ireland Ministers want to learn from that experience to see whether the existing power is sufficient or whether they wish to modify it. They will consult parties in Northern Ireland, both now and in May, to see whether a further change needs to be made. If so, we will legislate to bring it into force.⁵⁷

The Minister stated that he hoped to make the changes to the Bill "sooner rather than later".⁵⁸

Eleanor Laing spoke to the amendment tabled by members of the Political and Constitution Reform Committee that if there were to be an early general election, the length of the following parliamentary term would be the period remaining from the term which had been brought to a premature end. She stated at the outset that she would not press the House to a Division but thought that the House should consider the argument. The Government's response to the Select Committee's report had been published on 9 November, before the Committee Stage. The Government had argued that:

It is entirely possible that a Government could be returned following an early general election with a large majority, in which case it would make little sense to ask the voters [to] return to the polls in as little as a few months. Limiting the term of such a Government to the remainder of the five years since the last election would seem unnecessary and unjust.⁵⁹

The House divided on Jonathan Edward's amendment that the next general election should take place on 1 May 2014 with 242 voting in favour and 315 against.⁶⁰ The House also divided on the amendment that following general election should take place every four years, rather than five. The amendment was lost with 246 voting in favour and 313 against.⁶¹

⁵⁶ *Ibid*, c843

⁵⁷ *Ibid*, cc843-44

⁵⁸ *Ibid*, c843

⁵⁹ HM Government, *Government Response to the report of the Political and Constitutional Reform Committee on the Fixed-term Parliaments Bill*, November 2010, Cm 7951, para 41

⁶⁰ HC Deb 16 November 2010 c848

⁶¹ *Ibid*, c852

5.2 The Second Day – provisions for an early general election

The debate on the [second day](#) in Committee, 24 November 2010, began with a division on the motion that clause 1 stand part of the Bill. This was won by 307 to 229. The rest of the debate concerned clause 2 of the Bill – the provisions for an early general election.

Eleanor Laing spoke to an amendment tabled by members of the Political and Constitutional Reform Committee which required that a dissolution would need the support of the leaders of the main opposition parties in the Commons; this one trigger for an early general election would replace the two in the Bill as introduced. She explained that although she did not support the amendment herself, she had moved it in order for the Committee to consider the issues it raised.

There was some discussion of the role of the Speaker in determining whether or not a motion was a no confidence motion as defined in the legislation. The Minister, **Mark Harper**, stated that:

I do not think that we want to set all the rules in stone. We want to allow the Speaker to be clear with the House – I am sure that he would be clear with the House before it debated the motion – about whether he is able to certify that the motion would trigger an early general election. It is better to leave such matters to the judgment of the Speaker.⁶²

Eleanor Laing withdrew her amendment. However, the House divided on a motion tabled by **Bill Cash** to remove the provisions for a two-thirds majority vote. This amendment was tabled with the support of the Opposition. Bill Cash explained that:

Why have I tabled this amendment? It is because I object to the new-fangled idea that any early election would result from a motion, perhaps proposed by the Opposition, any MP or even the Government themselves, that requires – this is contrary to all constitutional precedent and history since our Parliament first sat representing the electors of this country – the support of two-thirds or more of those eligible to vote as Members of Parliament.

Chris Bryant, the Shadow Constitutional Reform Minister, stated that:

The problem with the provision in clause 2 relating to a super-majority is that either it is profoundly dangerous because it removes Parliament's power to hold the Government to account, and to be able to sack the Government or the Prime Minister, or it is otiose, because a Prime Minister who wanted to ensure an early general election at a time of his or her own choosing would simply engineer a motion of no confidence, or, for that matter – as there is no determinant for what counts as a motion of no confidence – table a motion of confidence in which the Government then chose not to vote. The Opposition would almost certainly vote against the motion of confidence, and an early general election would follow.⁶³

The amendment was lost, with 235 voting in favour and 314 voting against.⁶⁴

The Committee moved on to consider amendments to the part of clause 2 concerning confidence motions. The Committee ran out of time before the debate on the group of amendments was finished so debate resumed on the third day in Committee. **Eleanor Laing**

⁶² *Ibid*, c344

⁶³ HC Deb 24 November 2010 c325

⁶⁴ *Ibid*, c349

drew the attention of the Committee to the Government's response to the Political and Constitutional Reform Committee's report on the Bill:

"A Government is able now, and would be able under the Bill, to remain in office after a no confidence motion and contest a general election."

That is a very serious state of affairs...

...First, do the Government intend that the incumbent Government should be able to force an early general election following a vote of no confidence even where an alternative Government with a potential majority in the House are clearly waiting in the wings?

...have the Government considered that an incumbent Government might engineer a vote of no confidence in themselves, requiring only a simple majority, and then simply sit it out for two weeks to force an early general election? Once again, although I have every confidence that the current Government and the Minister at the Dispatch Box would not behave dishonourably, the Bill gives a future Government the power to do that.⁶⁵

5.3 The Third Day – Confidence motions and Parliamentary Privilege

The [third day](#) of the Committee Stage took place on 1 December 2010. The debate began by considering the amendments that probed the actions that would occur as a result of a vote of no confidence. In particular, what would occur if a government refused to resign as a result of such a vote. The Minister, **Mark Harper** stated:

If a Prime Minister who would presumably be seeking to be re-elected in a subsequent election engaged in such constitutional shenanigans, he or she would first suffer a political penalty at that election. If a Prime Minister behaved in an absolutely unconstitutional fashion, there would always be the ultimate long stop: Her Majesty the Queen could dismiss the said Prime minister. That is the ultimate check and balance in our system. Clearly it would require an extraordinary set of circumstances, but it is the position that would obtain if our unwritten or other conventions were breached in a truly appalling fashion.⁶⁶

These comments provoked some comment across the House. In particular, it was asked who would advise the Monarch in such a scenario; and whether enough precautions had been taken in the Bill to mean that such a situation would not be likely to occur.

The debate then turned to an amendment tabled by **Bill Cash** (Conservative) which would have removed the fourteen day period for a new Government to gain the confidence of the House following a vote of no confidence (as set out in Clause 2 (2)). The Minister explained that at present, a vote of no confidence did not necessarily result in a resignation. The Prime Minister may request a dissolution and would remain in office unless he or she lost the resulting General Election. Although Mr Cash was not able to be present at the debate due to an overseas visit on behalf of the European Scrutiny Committee, he had requested that Members push his amendment to a division. This was lost with 6 voting in favour and 498 voting against.⁶⁷

Mark Harper also addressed concerns about the form and content of confidence motions:

⁶⁵ *Ibid*, cc 366-367

⁶⁶ HC Deb 1 December 2010 c826

⁶⁷ *Ibid*, c835

The Government recognise that no confidence motions might take different forms, as they do now, but we do not want to remove the flexibility entirely...

If we try to set out in statute the precise form of a no confidence motion, that could raise the risks to which the Clerk of the House has alluded. We think it is better for the Speaker's certificate to be conclusive and for the Speaker to determine the nature of that certification.⁶⁸

The Committee divided on the amendment tabled by **Sir Peter Soulsby** that for the purposes of the 14 day period in clause 2(2), no account should be taken of any time during which Parliament is prorogued, or the House is adjourned more than four days. The amendment was lost with 202 voting in favour and 297 voting against.⁶⁹

Next, the Committee discussed amendments relating to the nature of the Speaker's certificate under the Bill, and the possibility of intervention by the Courts. **Bernard Jenkin** (Conservative) moved the amendment, tabled in the name of Bill Cash, that the following words should be added to the Bill:

Any certificate of the Speaker of the House of Commons given under this section shall be conclusive for all purposes and shall not be presented to or questioned in any court of law whatsoever.

Tristram Hunt (Labour) questioned whether the amendment went far enough, asking whether the relevant provisions would be best placed in Standing Orders. **Bernard Jenkin** stated that the amendment was:

...a more elaborate way of saying what the Government have already put in the Bill. I would be the first to accept that it may be regarded as a more elaborate bit of sticking plaster, because the clause will be subject to judicial interpretation... The word "whatsoever" in the amendment means that we are referring not just to our own courts, but to the European Court of Human Rights...⁷⁰

He also referred to a letter he had received from the Clerk Assistant on the question of whether Standing Orders could be entrenched by a super-majority procedure. Mr Jenkins quoted the letter as follows:

"As to the practical issue of a "super-majority" SO [Standing Order] being able to be amended or repealed only by a super-majority, I see no difficulty. The Speaker would be the arbiter of whether a motion... either was (a) orderly and (b) had been agreed to; he would be bound by the Standing Order (which should perhaps contain an explicit prohibition on "notwithstanding"-type Motions), and his decision would be beyond any external review."

That neatly and devastatingly removes the need for the entire Bill. We could be operating entirely through Standing Orders, which would be protected by the super-majority that the Government want to embed in legislation for general elections. It leaves the question of why the Government are resisting this advice.⁷¹

The Minister defended the Bill, and referred to evidence given to the Political and Constitutional Reform Committee by Professor Blackburn that:

⁶⁸ *Ibid*, c834

⁶⁹ *Ibid*, c839

⁷⁰ *Ibid*, c847

⁷¹ *Ibid*, c847

In my view, the government's Fixed-Term Parliaments Bill has been technically well-drafted by the Cabinet Office's parliamentary counsel, particularly in avoiding judicial review of its provisions on early elections by way of Speaker's certificates.⁷²

The Committee divided on the amendment, which was lost with 231 voting in favour and 295 voting against.⁷³

The Committee then came to the end of the time allotted for debate on the Bill and the Chair therefore put the remaining questions forthwith:

- The Committee divided on an Opposition amendment that the Speaker's certificate should be issued within 24 hours of the relevant conditions being met for an early general election. This amendment was lost with 229 in favour and 302 against.
- The Committee divided on an Opposition amendment which defined "motion of no confidence" further. This was lost with 229 in favour and 298 against.
- The Committee divided on the motion that clauses 2 to 4 of the Bill stand part. 306 voted in favour and 218 against.
- The Committee agreed to make a series of Government amendments to the Schedule of the Bill which were largely technical without a division. These included amending the *Parliament Act 1911* to omit section 7, which amends the *Septennial Act 1715* which would be repealed by the provisions currently in the Schedule.

6 House of Lords Constitution Committee Inquiry

The Constitution Committee in the House of Lords has conducted an inquiry into the Government's legislation. They heard evidence from the Deputy Prime Minister, the Minister for Constitutional and Political reform and a variety of academic experts. The Committee's report was published on 16 December 2010.⁷⁴

The majority of the Committee believed that the appropriate length of a fixed parliamentary term should be four years. The Committee concluded that:

Whilst acknowledging the case made by the Deputy Prime Minister for a five year term, nonetheless the majority of the Committee consider that a four year term should be adopted for any fixed-term Parliamentary arrangement at Westminster. In the view of the majority, the shift from a five year maximum to a five year norm would be inconsistent with the Government's stated aim of making the legislature more accountable, inconsistent with existing constitutional practice and inconsistent with the practice of the devolved institutions and the clear majority of international legislatures.⁷⁵

On the provisions for an early dissolution on a vote of two-thirds of the House of Commons, the Committee stated that there needed to be a "safety valve mechanism" in order to deal with the possibility of unforeseen circumstances. The best way to do this would be to enable Parliament to dissolve itself when there was a cross-party majority in favour of an election being called. They believed that a requirement for two thirds of MPs to vote in favour of a

⁷² *Ibid*, c866

⁷³ *Ibid*, c872

⁷⁴ House of Lords Select Committee on the Constitution, *Fixed-term Parliaments Bill*, 16 December 2010, HL Paper 69 2010-11

⁷⁵ *Ibid*, para 186

dissolution motion would most likely necessitate the agreement of cross-party MPs and was therefore an appropriate measure.

The Committee raised questions about the provisions in the Bill on confidence motions. It called on the Government to bring forward amendments to cover all motions of confidence and votes of no confidence. Greater clarity on these definitions would reduce the potential for the Speaker to be drawn into political controversy. The Committee stated that the matter of who the Speaker should consult and how on issuing a vote certificate certifying that the House had passed a vote of no confidence should be a procedural matter for the House to determine, and should not be included on the face of the Bill.

The Committee also had some concerns about the vote of confidence required in a new Government after the 14 day period following a vote of no confidence has come to an end:

126. Dr Twomey, Associate Professor, Faculty of Law, University of Sydney, raised the question of what is meant in clause 2(2)(b) by any motion expressing confidence in "any Government of Her Majesty". Is it intended that Her Majesty would commission a new Prime Minister whose government would need a vote of confidence to survive? This raises the question of what would happen if it were not clear whether a prospective new government could achieve a vote of confidence. Or is it intended that:

"the House may pass a motion indicating its confidence in someone else to form a government, even though it is not yet formally a 'Government of Her Majesty'. Query whether this would oblige Her Majesty to commission that person as Prime Minister? The Bill ought really be clearer as to what is intended."

127. The Government should bring forward an amendment to clarify this provision.

MAY A GOVERNMENT WHICH HAS LOST THE CONFIDENCE OF THE COMMONS RECONSTITUTE ITSELF?

128. Minority governments will always be subject to the possibility of losing the confidence of the Commons. Following a vote of no confidence, a minority administration may decide to form a coalition with another minority party. Situations may also arise whereby a government which has a very slim majority loses a vote of confidence due to MPs having difficulties in attending the House. In either situation, it would be open to the defeated government to table and seek to win a motion of confidence in itself (or the new coalition) in order to avoid an early dissolution.

129. The Minister for Political and Constitutional Reform told us that an election would be held if "the government could not put together an alternative government, or a different government could not be formed." In supplementary written evidence, the Government also confirmed that "It is not our intention that the Bill should rule out the possibility ... of the House changing its mind within the 14 day period and deciding nevertheless to support the current government."

130. In the light of the above statements, **we conclude that the Bill is intended to allow a government which has lost a confidence motion to reconstitute itself within the 14 day period. However, since this does not necessarily follow from the wording of clause 2(2)(b), we recommend that the Government bring forward an amendment to clarify this provision.**

The Committee concluded that if the Bill was passed, it would not be possible to prevent a government from using a vote of no confidence to bring about an early general election, but to do so would be seen by many as an abuse of the Act's provisions.

The Committee considered the arguments put forward by the Clerk of the House of Commons about the effect of the provisions on parliamentary privilege, stating that:

We agree that it would be inappropriate to create a situation in which the courts might be called upon to assess the basis on which the Speaker had issued a certificate.⁷⁶

However, they concluded that:

The risk that the courts may intervene in any early dissolution of Parliament by questioning the Speaker's certificate is very small. Although the political and constitutional consequences of any such intervention would be very significant, we do not consider the risk to be sufficient to warrant a rejection of clause 2 of the Bill.⁷⁷

The Committee commented on the timetable for the introduction of the Bill:

Save where there are justifiable reasons for acting more quickly, the proper way to introduce a constitutional reform proposal is to publish a green or white paper or a draft bill, and to take the comments and concerns raised in the process of consultation and pre-legislative scrutiny into account in the legislation that follows.⁷⁸

Lastly, the Committee quoted the Clerk of the Parliaments on whether the Parliament Act provisions applied to the Bill:

"It is... clear that the [Fixed-term Parliaments] Bill does contain provision to extend the maximum duration of a Parliament beyond five years, and that it cannot, therefore, be passed under the Parliament Acts procedure, unless, before it leaves the Commons, the [relevant] provisions... are amended.

Professors Bradley and Oliver agreed that this was the case, as do we.⁷⁹

⁷⁶ *Ibid*, para 153

⁷⁷ *Ibid*, para 157

⁷⁸ *Ibid*, para 179

⁷⁹ *Ibid*, para 182