



## Fixed-term Parliaments

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The Coalition Government has introduced a Bill to establish five year fixed-term Parliaments. The Bill was introduced on 22 July 2010, and is scheduled for its Second Reading on 13 September 2010. The Bill sets the date of the next election at 7 May 2015 with subsequent general elections to take place at five year intervals. There are provisions to enable the Prime Minister to alter the date by order for up to two months earlier or later if there are special circumstances which make May unsuitable.

There are two provisions which trigger an election otherwise than at five year intervals. These are:

- A motion of no confidence is passed in Her Majesty's Government and 14 days elapses without the House passing a confidence motion in any Government
- 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 dissolution must be equal to or more than two thirds of the total number of seats in the Commons (434 out of a House of 650)

The evidence for either of these events is a certificate issued by the Speaker, which is designed to be conclusive.

This Note explains the term 'fixed-term Parliaments' in respect of the UK Parliament. At present, the date of a general election to the United Kingdom Parliament is set by the government of the day, subject to the five year limit in the *Septennial Act 1715* (as amended). This involves the use of royal prerogative powers to issue the writs to summon a new Parliament. There have been several calls in recent years for the UK to operate a fixed term system of Parliament.

The Library Research Paper 10/54 [Fixed-term Parliaments Bill \[Bill No 64 of 2010-11\]](#) provides more detailed information about the Government's Bill.

Library Standard Note 5531 [Fixed Term Parliaments- Early Dissolution Arrangements](#) offers a comparative perspective from other developed states.

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## Contents

<b>1</b>	<b>Background</b>	<b>3</b>
1.1	Conservative Liberal Coalition Agreement May 2010	3
1.2	Immediate reaction to the Agreement	3
1.3	Statement on 5 July	6
<b>2</b>	<b>The <i>Fixed Term Parliaments Bill 2010-11</i></b>	<b>6</b>
<b>3</b>	<b>The current position</b>	<b>7</b>
<b>4</b>	<b>Arguments for introducing fixed term Parliaments</b>	<b>10</b>
<b>5</b>	<b>Arguments against fixed term Parliaments</b>	<b>11</b>
<b>6</b>	<b>Party policies</b>	<b>12</b>
6.1	Conservative Party policy	12
6.2	Liberal Democrat Party policy	12
6.3	Labour Party policy	12
<b>7</b>	<b>Mechanics of fixed term parliaments</b>	<b>14</b>
<b>8</b>	<b>Recent Bills proposing fixed term Parliaments</b>	<b>16</b>
8.1	Fixed Term Parliaments Bills 2000-01 and 2001-02	16
8.2	Fixed Term Parliaments Bill 2006-07	17

# 1 Background

Fixed term Parliaments was a key part of the Coalition Government negotiations in May 2010. Initially, the agreement was for an early election to be held only when 55 per cent of Members voted in favour; following adverse comment, on 5 July 2010 the Deputy Prime Minister, Nick Clegg, announced that instead either a no confidence motion or a vote of two thirds of the House would trigger an early election.

## 1.1 Conservative Liberal Coalition Agreement May 2010

The coalition agreement was published in the afternoon of 12 May 2010. It stated:

The parties agree to the establishment of five year fixed-term parliaments. A Conservative-Liberal Democrat coalition government will put a binding motion before the House of Commons in the first days following this agreement stating that the next general election will be held on the first Thursday of May 2015. Following this motion, legislation will be brought forward to make provision for fixed term parliaments of five years. This legislation will also provide for dissolution if 55% or more of the House votes in favour.<sup>1</sup>

This commitment was repeated in the Coalition Programme for Government published on 20 May 2010:

We will establish five-year fixed-term Parliaments. We will put a binding motion before the House of Commons stating that the next general election will be held on the first Thursday of May 2015. Following this motion, we will legislate to make provision for fixed-term Parliaments of five years. This legislation will also provide for dissolution if 55% or more of the House votes in favour.<sup>2</sup>

The Queen's Speech on 25 May 2010 referred to a Parliamentary reform bill to be brought forward. Background material on the Commons Leader webpage stated that the purpose of the bill would include :

To provide for fixed, rather than maximum, term parliaments of five years and to provide that the next General Election shall be on 7 May 2015.

To provide that a Prime Minister can seek an earlier dissolution of Parliament only if 55 per cent of the membership of the House of Commons have voted in favour of this.<sup>3</sup>

In response to an adjournment debate, David Heath, Deputy Leader of the House, confirmed that a motion would be brought forward before the summer recess, with legislation on fixed term parliaments to follow.<sup>4</sup> In the event, this motion was not brought forward.

## 1.2 Immediate reaction to the Agreement

The proposals on a 55 per cent threshold and for fixed term parliaments attracted immediate political and media comment. There were a number of interrelated issues. Firstly, there was concern that the House could not bind itself for the future due to the doctrine of parliamentary sovereignty; secondly, the 55 per threshold was attacked as protecting the executive against Parliament; thirdly there was unease that the convention of an immediate dissolution

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<sup>1</sup> [Conservative Liberal Democrat coalition negotiations: agreements reached 11 May 2010](#)

<sup>2</sup> [The Coalition: Our Programme for Government](#) 20 May 2010 Cabinet Office

<sup>3</sup> [Queen's Speech: parliamentary reform bill](#) [Leader of the House of Commons website](#) 25 May 2010

<sup>4</sup> HC Deb 25 May 2010 c154

following a vote of no confidence was being eroded.<sup>5</sup> The Conservative backbencher, Charles Walker said:

It is not the duty of Parliament to prop up this coalition. That is the duty of the coalition partners and if they can't make it work and if they lose the confidence of Parliament then we must have a general election. It is as simple as that," he told the BBC News channel.

This is a matter of convenience because clearly the leader of our party, David Cameron, wants a five year Parliament and the Liberal Democrats want fixed terms and they don't want there to be a general election along the way.

"But if Parliament and the nation lose confidence in this coalition government there should be a general election, whether that is in two years or three years or four years. This is about the primacy of Parliament."<sup>6</sup>

Speaking on a visit to the Scottish Parliament on 14 May, David Cameron said:

I'm the first Prime Minister in British history to give up the right unilaterally to ask the Queen for a dissolution of Parliament. This is a huge change in our system, it is a big giving up of power. Others have talked about it, people have written pamphlets and made speeches about fixed term parliaments, I have made that change. It's a big change and a good change.

Here in the Scottish Parliament, you actually require a vote of 66 per cent of MSPs to change the arrangements – we have argued for the case of 55 per cent – but clearly if you want a fixed term parliament, you have to have a mechanism to deliver it. Obviously that is a mechanism that can be debated in the House of Commons, it can be discussed, but I believe that it is a good arrangement to give us strong and stable government.<sup>7</sup>

Christopher Chope spoke on 25 May 2010, in the first adjournment debate of the new Parliament on the question of dissolution of Parliament. He expressed concern about the need for legislation:

I am not criticising anything that has been proposed; all I am doing is asking questions and saying, "Why is the change to the convention on Dissolution necessary or desirable?" The Prime Minister is giving up his constitutional right to request a Dissolution, and I can understand that that is very important—a matter of honour between himself and the Deputy Prime Minister. It means that the Prime Minister cannot pull the rug from under the coalition, but why do we need legislation or, indeed, a motion to achieve that? Surely the Prime Minister's word is sufficient. Such a unilateral commitment gives the Liberal Democrats the assurance that the Prime Minister will not pull the rug, but during the debate on the Loyal Address earlier today the right hon. Member for Berwick-upon-Tweed (Sir Alan Beith) said that the measure might provide for less stable government, because it would enable the Liberal Democrats to withdraw from the coalition and vote against the Government on a motion of confidence without causing a general election.<sup>8</sup>

In response, David Heath, Deputy Leader of the House, said:

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<sup>5</sup> For background on votes of confidence see Library Standard Note Votes of Confidence

<sup>6</sup> "Cameron faces backbench calls over confidence vote" 14 May 2010 *Press Association*

<sup>7</sup> "Cameron defends change over election vote rules" 14 May 2010 *BBC News*

<sup>8</sup> HC Deb 25 May 2010 c142

The House has a very early opportunity this evening to debate the proposition, but we will have at least two further opportunities to look at it in detail. The first will come when we debate the motion that will be put forward. That is a serious matter, but the second opportunity will arise when we consider the constitutional legislation, and I give the assurance that that constitutional Bill will be dealt with on the Floor of the House. Unlike what happened under the previous Administration, it will not be guillotined. People will be able to have their say on the legislation, and we will have the opportunity to hear them and to respond.<sup>9</sup>

Mr Heath clarified that the Government would have to resign if it lost a vote of confidence by a simple majority, as at present:

The Government will still have to resign if they lose the confidence of the House, and that will still be on a simple majority. There is no ambiguity about that. If the Government lose a vote of confidence, they are no longer the Government of the day....

I return to what will happen in the event of a vote of no confidence, because it is crucial. There would then be two possible outcomes. If the Government lost a vote of confidence, they would no longer be the Government-under our conventions in this House and in common with other political systems around the country. Then another party or coalition of parties might be able to form a Government from within the existing House of Commons. That is not the most unusual thing in the world, because it happens in many other systems that have a fixed-term Parliament. It also happens within our present system if the Government lose a vote of no confidence and it is apparent to the monarch that there is an alternative Government or coalition in the House.

If no one can form a Government that has the confidence of the House, Parliament will be dissolved. Irrespective of other circumstances, if the Government lose a vote of confidence and there is no prospect of stable government, another election is inevitable.<sup>10</sup>

In the legislation for Scotland and Wales, it is necessary for a new First Minister to be given support by a majority in the Parliament or Assembly within a 28 day period. The *Scotland Act* also allows for early dissolution if more than two thirds of the total number of MSPs vote in favour under section 3(1) (a). There was criticism that a minority Government might face a series of defeats on budgetary matters, but without a majority of 55 per cent against that Government, Parliament would be unable to dissolve itself.<sup>11</sup> One safeguard found in some other states is a requirement of a 'constructive' no confidence motion, which must nominate an alternative government in case the motion is carried against the current administration.

A campaign was launched in the wake of the Coalition Agreement against the 55 per cent threshold. Its stated aims are as follows:

Our demands are simple:

1. We believe that our government should remain accountable to Parliament.
2. If a majority votes against the government on a confidence vote, we should hold an election.

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<sup>9</sup> HC Deb 25 May 2010 c147

<sup>10</sup> HC Deb 25 May 2010 c148

<sup>11</sup> "This 55 per cent majority plan will taint the New Politics: David Davis" 18 May 2010 *Telegraph*

3. That's it.<sup>12</sup>

Proposals for a five, rather than four or three, year terms, also attracted attention,<sup>13</sup> as well as the fact that the date in the Agreement for the next general election, 7 May 2015, would coincide with elections for the Scottish Parliament and the National Assembly for Wales.<sup>14</sup>

### 1.3 Statement on 5 July

On 5 July the Deputy Prime Minister, Nick Clegg, made a statement on political and constitutional reform in which he indicated changes in the initial Coalition proposals:

I know that when the coalition agreement was published there was some concern about these proposals. We have listened carefully to those concerns, and I can announce today how we will proceed, in a Bill that will be introduced before the summer recess. First, traditional powers of no confidence will be put into law, and a vote of no confidence will still require only a simple majority. Secondly, if after a vote of no confidence a Government cannot be formed within 14 days, Parliament will be dissolved and a general election will be held. Let me be clear: these steps will strengthen Parliament's power over the Executive. Thirdly, there will be an additional power for Parliament to vote for an early and immediate Dissolution. We have decided that a majority of two thirds will be needed to carry the vote, as opposed to the 55% first suggested, as is the case in the Scottish Parliament. These changes will make it impossible for any Government to force a Dissolution for their own purposes. These proposals should make it absolutely clear to the House that votes of no confidence and votes for early Dissolution are entirely separate, and that we are putting in place safeguards against a lame-duck Government being left in limbo if the House passes a vote of no confidence but does not vote for early Dissolution.<sup>15</sup>

Most of the response to this statement concentrated on the announcement of legislation to introduce a referendum on the Alternative Vote and to reduce the size of the House to 600.

## 2 The Fixed Term Parliaments Bill 2010-11

The *Fixed Term Parliaments Bill 2010-11* was introduced on 22 July 2010 and is expected to have its Second Reading on 13 September 2010.<sup>16</sup> As a constitutional bill, it is expected to have its committee stage on the floor of the House.

The Bill introduces five year fixed term Parliaments and sets the date of the next election at 7 May 2015. The Prime Minister is given power to alter the date by order for up to two months earlier or later if there are special circumstances which make May unsuitable (such as the foot and mouth occurrence in the summer of 2001)..

There are two provisions which trigger an election otherwise than at five year intervals. These are:

- A motion of no confidence is passed in Her Majesty's Government and 14 days elapses without the House passing a confidence motion in any Government

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<sup>12</sup> <http://noto55.com/>

<sup>13</sup> *Constitution Unit Press Release "Fixed term Parliaments and the 55 per cent threshold"* 14 May 2010

<sup>14</sup> "[Alarm bells sound in Scotland over next general election](#)" *Guardian Election Blog* 14 May 2010

<sup>15</sup> HC Deb 5 July 2010 c24

<sup>16</sup> [Bill 64](#) of 2010-11

- 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 dissolution must be equal to or more than two thirds of the total number of seats in the Commons (434 out of a House of 650).

The evidence for either of these events is a certificate issued by the Speaker, which is designed to be conclusive.

Where an early election is to take place before the usual five years, the cycle of five years would start again and the next election would normally be the first Thursday in May in five years' time. This is a contrast with the provisions for the Scottish Parliament and the National Assembly for Wales, whereby an extraordinary election is fitted into the normal four year cycle.

Under the terms of the Bill, the Parliament would then dissolve at the beginning of the 17<sup>th</sup> working day before the polling day for the next general election and a proclamation to dissolve Parliament would no longer be necessary, since the Crown would lose any residual role in this area. However, a royal proclamation setting the date of the next meeting of Parliament would still be necessary and the Bill specifically provides that Her Majesty's power to prorogue Parliament would be unaffected.

There are a number of technical issues with the Bill. Firstly, under the uncodified nature of the British constitution, fixed term parliaments could be abolished by legislation in a following session or parliament without the need for any special majority; secondly, there may be issues with determining whether or not a no confidence motion has been passed; thirdly the interaction with provisions in the Parliament Acts to allow the extension of the parliament in times of war by agreement of both Houses may come under further consideration. These issues are examined in detail in the Library Research Paper 10/54, [Fixed-term Parliaments Bill \[Bill No 64 of 2010-11\]](#).

Although the Bill has major constitutional and political implication, it was not subject to pre-legislative scrutiny. The Lords Constitution Committee is conducting an inquiry on the Government's proposals, and the Political and Constitutional Reform Committee in the House of Commons is taking evidence from the Clerk of the House on issues raised by the Bill on 7 September 2010. The Constitution Unit at UCL has also prepared a briefing on the Bill.<sup>17</sup>

### 3 The current position

The date of a general election to the United Kingdom Parliament is set by the government of the day, subject to the five year limit in the *Septennial Act 1715* (as amended).<sup>18</sup> This involves the use of prerogative powers.<sup>19</sup> The *Septennial Act* states:

... this present Parliament, and all Parliaments that shall at any time hereafter be called, assembled, or held, shall and may respectively have continuance for [five years,] and no longer, to be accounted from the day on which by writ of summons this present Parliament hath been, or any future Parliaments shall be, appointed to meet,

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<sup>17</sup> Robert Hazell, [Fixed Term Parliaments](#), August 2010

<sup>18</sup> The Act permits Parliament to meet for five years; in practice the limit is a little over the calendar year, as the Act permits the Parliament to lapse after five years, and then the electoral timetable comes into play. See [Library Standard Note 4454, General Election Timetables](#).

<sup>19</sup> For further detail on the expiry of parliament and consequential polling days see "Analysis: Putting out the writs" *Public Law*, Autumn 1997

unless this present or any such Parliament hereafter to be summoned shall be sooner dissolved by his Majesty, his heirs or successors.

In both world wars in the twentieth century legislation has been passed to extend the duration of Parliament.

As Professor Robert Blackburn notes, it is the Queen who formally calls a general election since it is she as British monarch who is vested with the legal power to dissolve and summon Parliaments.<sup>20</sup> The power dates back to at least the thirteenth century. Background to the *Septennial Act* and its later amendment in the *Parliament Act 1911* is given in the following extract from *The Electoral System in Britain*.<sup>21</sup>

The question of the most appropriate length of time between elections was a matter of constant political controversy in the last two centuries. The Septennial Act in 1715 laid down a maximum parliamentary term of seven years, which replaced the three-year term which had operated under the Triennial Acts in the late seventeenth century. The Septennial Act had been brought in as an emergency measure by the Whig government during the first year of the reign of King George 1 in order to help facilitate popular acceptance of the Hanoverian dynasty on the throne and safeguard the Protestant succession against the claims of the Jacobites who had mounted an armed invasion in Scotland. After the immediate crisis had passed, governments proved reluctant to return to three-year parliamentary terms, which would have had the effect of curtailing the duration of their tenure in office. For the next 196 years the law on election timing was left in a state which was regularly condemned as providing too long a period in which to leave MPs unaccountable to the electorate. Within the House of Commons there were strong partisan lobbies for terms of three, four or five years, and outside Parliament the Chartist movement, more idealistically, pressed the case for annual general elections. By the early years of the twentieth century, most radical reformers, such as the MPs Keir Hardie and Sidney Buxton, were still arguing in favour of a return to three-year terms, but the Liberal consensus which emerged in section 7 of the Parliament Act 1911 preferred the present five-year maximum. The wording of section 7 simply stated that, 'Five years shall be substituted for seven years as the time fixed for the maximum duration of Parliament under the Septennial Act 1715'. This new five-year limit was based upon the idea, as expressed by Herbert Asquith (then Prime Minister) in presenting the Parliament Bill to the House of Commons, that this would 'probably amount in practice to an actual working term of four years' which was regarded as being about the right balance to be struck between the competing interests of political accountability to the electorate and the need for governments to have a sufficient length of time in which to implement their policy programmes. The motives behind the *Parliament Act 1911* (together with all of its other statutory provisions apart from section 7) were not in fact inspired by the governing party's desire to reform the law of electoral timing so much as the immediate political necessity to reform the House of Lords' power over legislation from one of veto to that of temporary delay only. As part of a revised constitutional system of checks and balances, a more frequent accountability of the government and House of Commons to the electorate was presented as a 'set-off against the reduced future power and role of the parliamentary second chamber within the workings of the British constitution.

The practice is in contrast to other types of elections in the UK, such as for the Scottish Parliament, National Assembly for Wales, the European Parliament, and local elections. The

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<sup>20</sup> There is further background to the process of dissolution in the evidence by the Clerk of the House and others to the Modernisation Committee on potential alterations to the dissolution procedure in 2008. This is discussed in [Library Standard Note 5085](#) *The Dissolution of Parliament*

<sup>21</sup> Robert Blackburn 1995 pp19-20

French National Assembly operates on a five year cycle, the German Bundestag on a four year one. Both Australia and New Zealand have three year maximum terms. Most European countries have four year cycles.<sup>22</sup> A number of commentators and political parties have from time to time suggested that a fixed term system would be more appropriate for the House of Commons.

The five year limit is designed to curtail the duration of a Parliament rather than to ensure that elections are held regularly. In fact, the *Meeting of Parliament Act 1694* merely requires that parliaments are held within three years of the dissolution of the previous Parliament. The consequences are discussed in an extract from *Public Law*.<sup>23</sup>

If it is accepted that there must, in law, be a general election before the meeting of a new Parliament, then the first issue is to decide by what date that Parliament must meet. This is answered by the *Meeting of Parliament Act 1694*, which requires that "from henceforth a parliament shall be holden once in three years at the least". Therefore it could be argued that the law requires that a general election be held no later than the day before three years after the demise (whether by dissolution or efflux of time) of the previous Parliament which itself can last for no more than five years. Putting this another way, a general election need not, under existing law, be held until *eight years* after the previous general election. That Parliament meets more frequently, being in effect in virtually continuous session on an annual sessional cycle, is due to political and legislative practice rather than to any express legal requirement.

Modern practice is for polling day to be a Thursday, although again this is not a legal requirement. Until the *Representation of the People Act 1918* fixed a single day for polling, "voting would stretch over a number of weeks. Since 1935 every election has been held on a Thursday." The month for the election varies but 1923 was the last time that an election has been held in December and there have been no polling days in January since 1910.

*(ii) How is an election triggered?*

This is effected by a Royal Proclamation, with the Great Seal affixed, which dissolves a Parliament and announces that orders have been given for writs to be issued for the summoning of the new Parliament. The date on which the new Parliament will meet is also given in the Proclamation, but *not* the date of the General Election. The writs are dispatched by post from the Clerk of the Crown in Chancery and are delivered on the following day to the Returning Office for each constituency.

However, existing law and practice on the time for the issuing of such a Proclamation does not cover every conceivable eventuality. As there is no statutory requirement for the demise of a Parliament to be the trigger for a Proclamation to set in train the general election process, what would happen if a Parliament were allowed to expire naturally after five years, rather than by dissolution? Who would have the constitutional authority to trigger the election and fire the starting gun? The Clerk of the Crown, for example, may feel that there is neither any requirement nor power for the Crown Office to issue the appropriate writs without the authorisation of a Proclamation. If the Prime Minister, the person whose constitutional duty it is to advise the Sovereign on the exercise of the prerogative power of dissolution, fails or refuses to give any such advice, would the Sovereign be entitled to exercise his or her prerogative *personally* in such circumstances, on the grounds that the constitution requires elections to be held promptly (or, at least, without undue delay) after the end of a Parliament?

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<sup>22</sup> See evidence from Professor Robert Blackburn in the Home Affairs Select Committee report *Electoral Law and Administration*, HC 768 –II 1997-98

The prerogative power is currently exercised by the Prime Minister, without any formal or constitutional need to consult the Cabinet.<sup>24</sup> The announcement has, since 1945, normally been made to the press rather than to Parliament. For further information about announcements of general elections see [Library Research Paper 09/44 Election Timetables](#), which sets out the time between the announcement of the general election, prorogation and dissolution, polling day and assembly of the new Parliament.

The practice since 1974 has been to maximise the element of surprise over political opponents by giving the electorate just a few days notice of the dissolution of Parliament. The exception was in 1997 when there were 22 days between the announcement of the election and dissolution. From 1945 to 1974 it had been customary to allow between ten and twenty days notice.

#### **4 Arguments for introducing fixed term Parliaments**

The arguments for introducing fixed term Parliaments can be summarised as follows:

- The present system offers the incumbent Government an ‘unfair’ advantage, since the Prime Minister can choose the most favourable date;
- There is a lengthy period of uncertainty before a general election is called, which affects politics, government and the economy;
- The role of the monarch could become subject to political controversy under the current system. The monarch could refuse a request to dissolve Parliament, particularly when there has been a general election some months previously and a hung Parliament has resulted. Constitutional authorities have disagreed as to whether any personal prerogative of the monarch remains in such circumstances.<sup>25</sup>

The *Political Parties, Elections and Referendums Act 2000* has also caused difficulties. The Act introduced a system of national expenditure limits which will apply for 365 days before a general election. Because the date of the election is not known in advance, in effect political parties and pressure groups are required to monitor their expenditure on a continuous basis, for fear of breaching the limits. This poses particular difficulties for voluntary organisations and pressure groups who may find that their campaigning work is considered to be election expenditure.<sup>26</sup> It is necessary for such groups to register with the Electoral Commission if they are likely to incur more than £10,000 campaign expenditure in any one year.<sup>27</sup> The *Political Parties and Elections Act 2009* also introduced a system of pre-candidacy election expense limits for candidates where a Parliament extended beyond 55 months. A move to fixed term parliaments would make these election expenditure limits permanent.

In a Parliamentary Question on fixed terms in the 2005-2010 Parliament, Sir Patrick Cormack asked whether the Electoral Commission should initiate a debate on the subject, but Peter Viggers, speaking on behalf of the Commission, said it did not think this fell within its remit:

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<sup>23</sup> “Putting out the writs” by Oonagh Gay and Barry Winetrobe. *Public Law*, Autumn 1997

<sup>24</sup> See *The Electoral System in Britain* pp28-32

<sup>25</sup> See general discussion in chapter 6 of *The Monarchy and the Constitution* Vernon Bogdanor

<sup>26</sup> For further details, see *Research Paper 00/1 The Political Parties, Elections and Referendums Bill – Electoral Aspects* Part VI

<sup>27</sup> For details on third party controls see the Electoral Commission website <http://www.electoralcommission.org.uk/party-finance/legislation/third-partiespermitted-participants/third-parties>

**Sir Patrick Cormack (South Staffordshire) (Con):** As the new Prime Minister has indicated that he would not want to go to the country without consulting Parliament—he made that very plain as one of his first utterances in the post—would it be appropriate for the commission to initiate a dialogue on the desirability of fixed terms, as there are many, on both sides of the House, who believe that they are a sensible solution?

**Peter Viggers:** The Electoral Commission does not believe that that is an appropriate matter for it to become involved in, but I have no doubt that the points made by my hon. Friend will have been heard at the commission, as indeed they will have been heard by the Government.<sup>28</sup>

## 5 Arguments against fixed term Parliaments

The arguments against a fixed term Parliament have tended to focus on the possible encouragement to coalition government, given the premise that an administration losing support in parliament would prefer to find a partner than lose power by calling an extraordinary election. The theory is that the executive holds office and governs with the confidence of the House. When that confidence is lost, it is time for the electorate to be given a choice of parties which should form the next executive. One possibility would be to require a dissolution whenever there is a change of Prime Minister.

In addition, in countries which have fixed term parliaments, it is always possible for the Prime Minister to circumvent the rules, by for example engineering a vote of no-confidence in his own government, in order to force an election. This has occurred in Germany on a number of occasions. Most recently, in 2005 there was an unexpected election in Germany, as an election was not due until late 2006.<sup>29</sup> The then Chancellor Schröder contrived to lose a vote of confidence on 1 July, with most of his ministers abstaining. He asked the President to grant a dissolution of parliament under Article 68. This was granted, but a number of smaller political parties protested and took a case to the Federal Constitutional Court which did not make a decision until 18 August, in favour of dissolution. Further information on votes of confidence procedures and fixed terms is given in Library Standard Note 5530 [Fixed term Parliaments- early dissolution arrangements](#).

In other European countries where proportional representation, written constitutions and fixed term Parliaments are in existence, constitutional monarchs also have a role to play in the formation of governments. In Denmark, for example, the Government is in existence in law by virtue of the prime minister being nominated by the sovereign. In some countries, such as Belgium and the Netherlands, the monarch traditionally plays an active personal role in forming a coalition. It is through constitutional convention that the monarch decides on the appointment of a government. Therefore, it is important to note that the introduction of fixed term parliaments to the UK would not necessarily eliminate the use of the royal prerogative in dissolution. Sweden has however removed prerogative powers from its sovereign, by transferring the government formation role to the speaker of the single chamber parliament, the Riksdag under its 1974 constitution, the *Instrument of Government*.<sup>30</sup>

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<sup>28</sup> HC Deb 23 July 2007 c561

<sup>29</sup> *Representation* Volume 42, Number 1, April 2006

<sup>30</sup> Cited in *The Monarchy and the Constitution* p168

## 6 Party policies

### 6.1 Conservative Party policy

David Cameron gave indications of interest in fixed term Parliaments in October 2007,<sup>31</sup> and again in May 2009 in a speech during the expenses crisis:

We also need to look seriously at the immense power Prime Ministers wield through their ability to call an election whenever they want.

I know there are strong political and moral arguments against fixed-term parliaments.

Political - because there's nothing worse than a lame-duck government with a tiny majority limping on for years.

And moral - because when a Prime Minister has gone into an election, and won it promising to serve a full term, but hands over to an unelected leader half-way through, the people deserve an election as soon as possible.

These arguments are of course particularly relevant today.

But I believe the arguments for fixed-term parliaments are strengthening too.

Because if we want Parliament to be a real engine of accountability, we need to show that it is not just the creature of the executive.<sup>32</sup>

That's why a Conservative Government will seriously consider the option of fixed term Parliaments when there is a majority government.

There was no commitment to fixed term Parliaments in the Conservative 2010 manifesto. During the campaign, David Cameron suggested that Parliaments should dissolve within 6 months of a new Prime Minister being appointed.<sup>33</sup>

### 6.2 Liberal Democrat Party policy

Fixed term Parliaments have long been Liberal Democrat Party policy. A policy paper agreed at the party's 2007 autumn conference, *For the People, By the People*, argued that:

An abiding injustice and anachronism in our political system is that the timing of elections, and, to a lesser extent, the length of the campaign which precedes them is in the gift of the Prime Minister of the day. Essentially, a key competitor in the race holds the starting pistol.

Liberal Democrats have long argued that parliaments should last for a fixed term of four years. In a reformed political system coalition government might be the norm and stability can only be encouraged by a system which does not allow for snap elections when political relationships suffer temporary disruption.<sup>34</sup>

### 6.3 Labour Party policy

The 2010 Labour Party manifesto contained a commitment to fixed term Parliaments in the context of a written constitution:

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<sup>31</sup> [The Andrew Marr Show](#), Transcript, 7 October 2007

<sup>32</sup> Conservative Party "[David Cameron: Fixing Broken Politics](#)" 26 May 2009

<sup>33</sup> "David Cameron says that the Tories would prevent parties from replacing a serving Prime Minister" 24 April 2010 [Independent](#)

<sup>34</sup> Liberal Democrats, [For the People, By the People](#), Autumn 2007, p9

Legislation to ensure Parliaments sit for a fixed term and an All Party Commission to chart a course to a Written Constitution.<sup>35</sup>

This was the first time that the Party had committed to this policy since 1992, when the Party was in Opposition. In 1992 the Labour Party manifesto called for the introduction of fixed term Parliaments:

This general election was called only after months of on-again, off-again dithering which damaged our economy and weakened our democracy. No government with a majority should be allowed to put the interests of party above government, as the Conservatives have done. Although an early election will sometimes be necessary, we will introduce as a general rule a fixed parliamentary term.<sup>36</sup>

Part II of the 1993 Plant Report on Electoral Systems recommended the introduction of four year fixed term elections. It stated:

All other parliamentary democracies in the world normally hold elections at the end of a statutory period, removing any possibility of bias.....Provision would have to be built in within the legislation to allow for an election to be triggered when a government lacks the support in Parliament to continue in office or in other circumstances when it is clearly in the public interest. This provision should operate under a strictly defined set of rules and circumstances. These should prevent the party in power from abusing it, to obtain unfair advantage.<sup>37</sup>

There had been much concern in Labour circles in the 1980s about the manner in which Mrs Thatcher was able to call elections at short notice, and well within the five year limit. In the case of the *Council of Civil Service Unions v Minister for the Civil Service*<sup>38</sup> it was stated that there were no grounds on which the prerogative power of dissolution could ever be challenged by way of judicial review proceedings.

In May 1994 Jeff Rooker (now Lord Rooker) subsequently introduced a Bill, *Parliamentary Elections (no 2) Bill*<sup>39</sup> to implement this, and other Plant recommendations. He produced a commentary on the proposals.<sup>40</sup> The Bill had only a first reading and made no further progress. Clause 2 was as follows:

2. - (1) Except as otherwise provided by this section, Her Majesty shall make no proclamation for dissolving a Parliament and summoning another, but a Parliament shall be dissolved on a date twenty-eight days before the fourth anniversary of the date upon which it was first elected.

(2) The Secretary of State shall by regulations specify

(a) the regular weekend dates upon which General Elections shall be held every fourth year, following dissolutions under subsection (1) above; and

(b) the date upon which a Parliament shall first meet, which shall be not more than fourteen days nor fewer than seven days following a General Election held under this section,

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<sup>35</sup> Labour Party Manifesto April 2010 [Democratic Reform](#)

<sup>36</sup> *Time to get Britain working again* Labour Party 1992. The Plant Report also recommended fixed term parliaments in 1993 ( Report of the Working Party on Electoral Systems 1993 Labour Party)

<sup>37</sup> *Report of the working party on electoral systems 1993*, Labour Party, Section II,2

<sup>38</sup> [1984] 3 All ER 935 at 937

<sup>39</sup> Bill 117 of 1993-94

<sup>40</sup> *Notes on Clauses: Parliamentary Elections (No 2) Bill*

and regulations under this subsection shall be made by statutory instrument, a draft of which shall be laid before both Houses of Parliament and which shall not be made until approved by resolution of both Houses.

(3) Notwithstanding the provisions of subsection (1) above, Her Majesty shall by proclamation dissolve a Parliament before the date on which it stands dissolved thereunder if upon a motion of the Prime Minister the House of Commons resolves that it has no confidence in Her Majesty's Government, and such proclamation dissolving a Parliament shall specify the dates of the General Election and of the first meeting of the new Parliament within the same time limits as set out in sub-sections (1) and (2) above.

(4) A Parliament summoned to meet following a dissolution by proclamation under subsection (3) above shall be dissolved on the same date under subsection (1) above as would the Parliament which preceded that Parliament.

Fixed term elections did not feature in any Labour Party manifesto subsequently, and in Government from 1997-2010 the Party did not consider the policy a priority. *The Governance of Britain* Green Paper published by the new Prime Minister, Gordon Brown, in July 2007, proposed that the Prime Minister should have to seek the approval of the House of Commons before asking the Monarch to dissolve Parliament, rather than the dissolution of Parliament occurring only at the request of the Prime Minister, or at the end of a five-year period as the *Parliament Act* 1911 requires. Any new arrangements would have to provide for the situation in which it proved impossible to form a government which commands the support of the House of Commons yet Parliament refuses to dissolve itself. The Government announced that it will consult on these proposals and any change would be announced to Parliament and would become through precedent, a new convention.<sup>41</sup> In the event, Mr Brown left office without implementation of these proposals.<sup>42</sup>

## 7 Mechanics of fixed term parliaments

One difficulty with fixed term parliaments is the need to ensure that elections can be held when necessary, for example a defeat on a no-confidence motion. Mechanisms would be required to ensure that the Government could not just marshal its supporters to vote through a no-confidence motion when it wished to hold an early general election.<sup>43</sup> In Scotland there are provisions under S3 of the *Scotland Act 1998* which require the Presiding Officer to act, once there is a two thirds majority for dissolution:

3. - (1) The Presiding Officer shall propose a day for the holding of a poll if-

(a) the Parliament resolves that it should be dissolved and, if the resolution is passed on a division, the number of members voting in favour of it is not less than two-thirds of the total number of seats for members of the Parliament, or

(b) any period during which the Parliament is required under section 46 to nominate one of its members for appointment as First Minister ends without such a nomination being made.

(2) If the Presiding Officer makes such a proposal, Her Majesty may by proclamation under the Scottish Seal-

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<sup>41</sup> *The Governance of Britain*, July 2007, Cm 7170, paras 34-36

<sup>42</sup> For further information on the implementation of the *Governance of Britain*, see Library [Standard Note 4703](#) *Governance of Britain: an update*

<sup>43</sup> see further *The Meeting of Parliament* pp62-63

- (a) dissolve the Parliament and require an extraordinary general election to be held,
  - (b) require the poll at the election to be held on the day proposed, and
  - (c) require the Parliament to meet within the period of seven days beginning immediately after the day of the poll.
- (3) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 2(5)), that ordinary general election shall not be held.
- (4) Subsection (3) does not affect the year in which the subsequent ordinary general election is to be held.

The reference in 3(1)(b) is to the requirement for the Parliament to approve the appointment of a First Minister within 28 days of an election. If a new Parliament is elected following an extraordinary election, it does not affect the date of the next fixed term Parliament unless it is within 6 months of the date of the next fixed term election. This prevents possible manipulation of the fixed term cycle.

The National Assembly of Wales was not able to dissolve itself under the provisions of the *Government of Wales Act 1998* and was elected for fixed four year terms. However, in the White Paper, *Better Governance for Wales*, published in 2005, the Government said that whilst it had no plans to change the fixed term nature of the Assembly it now believed that it was

...appropriate for a 'safety valve' provision to be put in place in legislation so that, in extremis, an Assembly election in advance of the four-year term could be called. The legislation would however only permit such early elections to be called if at least two thirds of the total number of Assembly members voted for a resolution to that effect.

This provision would be equivalent to the provision in the Scotland Act 1998. It would mean that if the election was called less than 6 months before the statutory date for the Assembly election, it would replace that election. In all other circumstances, an Assembly election would still be held on the statutory date.<sup>44</sup>

Section 4 of the *Government of Wales Act 2006* subsequently made provision for extraordinary general elections:

## **5 Extraordinary general elections**

- (1) The Secretary of State must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.
- (2) This subsection applies if –
  - (a) the Assembly resolves that it should be dissolved, and
  - (b) the resolution of the Assembly is passed on a vote in which the number of assembly members voting in favour of it is not less than two thirds of the total number of Assembly seats.
- (3) This subsection applies if any period during which the Assembly is required under section 47 to nominate an Assembly member for appointment as the First Minister ends without such a nomination being made.

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<sup>44</sup> *Better Governance for Wales*, Cm 6582, 2005 p29

## 8 Recent Bills proposing fixed term Parliaments

### 8.1 Fixed Term Parliaments Bills 2000-01 and 2001-02

In 2001 Dr Tony Wright introduced a private member's bill, the *Fixed Term Parliaments Bill*,<sup>45</sup> to create a system of four yearly parliaments. The bill got no further than its first reading but Mr Wright had drawn attention to the underlying principles in a speech during the passage of the *Elections Act 2001*.<sup>46</sup>

**Tony Wright:** I have a slightly different approach. I understand the hon. Gentleman's approach, but my approach is to question whether these matters should be in the hands of politicians at all. The question of when elections should be held is of fundamental constitutional importance. It is a constitutional fixture and politicians should not be able to get their sticky fingers on it. That would be viewed as an outrage in most other constitutional democracies, but we believe that it is entirely normal that we can mess around with such things at whim. We juggle all sorts of political considerations that have such consequences and complications, which the Bill aims to tackle....

On the extraordinarily exceptional occasions when a fixed election might have to be moved, are politicians the best people to make the decision? We have just established an Electoral Commission--another excellent thing--and these are pre-eminently the circumstances, when an extraordinary event occurs that suggests that a constitutional fixture might have to be moved, when such an independent commission, operating on grounds of public interest, not of short-term, narrow political advantage, should be brought into play

Sometimes, out of disaster, good sense breaks out. I hope that, as the House considers the Bill, we will heed the argument for taking the setting of election dates away from politicians and putting it into the hands of someone who can safeguard the public interest<sup>47</sup>

In 2002 Dr Wright introduced a second bill under the ten minute rule procedure. He said:

Ten years ago, I was elected to the House on a policy of introducing a Bill to provide for Parliaments of a fixed term of four years. Labour's 1992 election manifesto declared:

"The general election was called only after months of on-again, off-again dithering which damaged our economy and weakened our democracy. No government with a majority should be allowed to put the interests of party above country as the Conservatives have done. Although an early election will sometimes be necessary, we will introduce as a general rule a fixed parliamentary term."

That proposal was a good one then, and I believe the argument to be a good one now. Indeed, the case has become stronger still because of recent developments, which I shall mention in a moment, but the fundamental issue is this: should one party and one person be able to fix the date of a general election to suit their own interests?<sup>48</sup>

The Bill made provision for Parliament to be dissolved twenty-eight days before the fourth anniversary of the date of the general election at which the members of the House of

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<sup>45</sup> Bill 54 2000-2001

<sup>46</sup> This Act changed the date of the local elections from 3 May to 7 June 2001

<sup>47</sup> HC Deb 4 April 2001 c406-7

<sup>48</sup> HC Deb 7 May 2002 c46

Commons in that Parliament were elected. The Bill also provided for the dissolution of Parliament following a no confidence resolution.

## 8.2 Fixed Term Parliaments Bill 2006-07

On 10 October 2007 the *Fixed Term Parliaments Bill* <sup>49</sup> was introduced by Liberal Democrat MP David Howarth. A Liberal Democrat Press Notice stated:

The Liberal Democrats will today [Monday] table a Bill to the House of Commons to introduce fixed parliamentary terms of four years.

The measure, which represents long-standing party policy, comes after Gordon Brown ruled out holding a General Election this autumn, and described the possibility of a poll in 2008 as "very unlikely".

Commenting, Liberal Democrat Shadow Solicitor General, David Howarth MP, who will table the Bill, said:

"The Liberal Democrats have for a long time argued that parliament should be on the basis of fixed terms like most other modern democratic countries.

"It is quite wrong that the prime minister of the day should be able to fiddle the dates of an election for short term political advantage."

Although fixed-term elections are a long-standing Lib Dem policy, Mr Howarth argued events of the last few days have shown how damaging it is for the prime minister to solely hold the power to call an election.

He said: "Gordon Brown has been playing games with the electorate in a system that is all too open to abuse."

The purpose of the Bill was to:

...fix the date of the next general election and all subsequent general elections; to forbid the dissolution of Parliament otherwise than in accordance with this Act; to allow the House of Commons to change the day of the week on which a general election is held; and for connected purposes.

The Bill would set the date of the next general election as 7 May 2009. Elections would then follow on a four year cycle, taking place on the first Thursday in May each time. Parliament would be dissolved 30 days before each general election. Parliament could, by resolution, change the day of the week which a general election was to take place.<sup>50</sup>

The Bill made no progress and fell at the end of the session.

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<sup>49</sup> [Bill 157 2006-2007](#)

<sup>50</sup> The full text of the Bill is available here:

<http://www.publications.parliament.uk/pa/cm200607/cmbills/157/2007157.pdf>