

Political and Constitutional Reform Committee

Impact of fixed-term Parliaments

Memorandum by the Clerk of the House

Introduction

1. When I gave evidence to the Committee on 8 September 2010, I undertook to provide the Committee with a paper on the impact of fixed-term parliaments on the business of the House and its administration. This paper draws together comments from across the House service. It does not comment on the merits of the Bill currently before the House. As the Committee will note, the overall impact on the House's business and administration, were the Bill to be passed in its current form, would be quite limited. I would also observe that, although the bill, if enacted, would increase our ability to plan ahead in some areas, some degree of uncertainty will remain even if the Bill became law, as it allows for dissolution before the five years are up. Particularly as far as the administration of the House is concerned, this continuing uncertainty will affect the extent to which we can make firm commitments in our forward planning, and therefore the extent to which we can realise longer-term benefits.

Impacts on the business of the House

General

2. The main advantage of fixed-term parliaments for the management of House business would be the certainty that it offered about the time available in a session and in a parliament as a whole. This would make it possible for the House to schedule its business more evenly over a year and to develop an annual calendar of parliamentary events, if desired, for example to include the allocation of backbench business days or Estimates Day. To some degree, this is possible at present in each session except the ultimate (and penultimate) before a likely Election. Extending this certainty to include the full five-year Parliament could allow more creative use of the time available. For example, the time allotted to debates initiated by the minority parties might be more sensibly spread over five sessions than within a single session.
3. Knowing the end-date of a parliament would also allow for more sensible planning of experiments to changes in procedure. It would be easier to schedule an appropriate time for review and for the agreement of any permanent changes to be built into the proposal. It is not unusual for standing order changes to be pushed through the House, or alternatively run out of time, in the last hectic days before dissolution. A set date for dissolution would focus minds on the time available to plan, pilot and review such changes and to decide whether to make them permanent.

4. If Government Departments knew the end-date of a Parliament, they might be able to plan more easily the dates on which they intend to lay delegated legislation, reports and other documents before Parliament. It is possible that they will take account of the time required by the House to deal with such papers, making scrutiny more effective; equally, it is possible that departments will supply controversial documents to the House at the last minute, when they know it will not be possible for the House or its Committees to do anything about them. Overall, it is therefore difficult to judge whether the House would gain or lose in this respect.

The legislative process

5. Fixed-term parliaments in themselves would have little impact on the legislative process. Governments would have sessions of equal length in which to introduce and pass legislation, rather than the current pattern of a long session after a spring election and a short session at the end of the Parliament, but this would not make any particular difference to practice in dealing with Bills.
6. Neither would there be any specific impact on private members' bills, as the key dates set out in standing orders which govern the PMB calendar are tied to a point in a session rather than a calendar date. For example, the ballot is held "on the second Thursday on which the House shall sit during the session", the ballot bills are introduced "on the fifth Wednesday", etc. There is an impact where the session is especially prolonged, as is the case with the current session, but this is likely to be a one-off, with no longer-term implications.

Finance Bills and the Budget

7. At the end of the Budget debate, the House passes various resolutions, some of which have immediate legal effect under the Provisional Collection of Taxes Act 1968. The Act provides that the legal effect of such resolutions (renewing, varying or abolishing specified taxes, or any existing customs and excise duties) will expire after a certain length of time, or if any of a number of specified events occurs, including any prorogation or dissolution. Prorogation or dissolution also triggers the expiry of a resolution relating to stamp duty (Finance Act 1973). A motion (passed immediately after the Chancellor's Budget speech) giving provisional effect to a motion expires after ten sitting days unless the motion has been passed by then.
8. If Parliament is to be prorogued shortly after a March or April budget (the normal time for a budget in recent years), the related Finance Bill would have to be carried over until the next session (and the 1968 and 1973 Acts would need to be amended to continue the resolutions in effect over a prorogation).
9. The only way of avoiding this would be to present the budget some months earlier (no later than November if the passing of the Finance Bill continued to take the current length of time), or at the start of a new session in April or May, which would mean that the proceedings on the resulting Finance Bill would take place after the new tax year had begun (and the timetable would

have to be compressed if Royal Assent were desired before the summer recess). The 1986 Act provides that if a temporary tax (income tax and corporation tax are currently temporary) has expired, payments and deductions may continue to be made for one month afterwards provided that the House passes a resolution renewing or re-imposing the tax before the period expires. This would have implications for the exact timing of prorogation, particularly in a year with a late Easter.

Supply procedure

10. Supply procedure is the method by which the House formally makes provision for the ordinary expenditure of the Government and the other public bodies in respect of which Estimates are laid before the House. Estimates are laid before the House, and the totals in those Estimates form the basis for motions for resolutions in the name of a Minister of the Crown. The passage of these resolutions is a necessary preliminary to Supply bills. The totals in the resolutions are then given statutory authorisation *en bloc* in the Consolidated Fund Bill and the ‘Consolidated Fund clauses’ of appropriation bills. These sums are then ‘appropriated’ to the particular services and purposes set out in the Estimates.
11. The House’s principle of sessionality requires that legislative authority for appropriation (and the statutory authorisation of net expenditure *en bloc*) must take place in the same session as that in which the relevant founding resolutions were passed. This means that under the proposed pattern of spring to spring sessions, the Votes on Account would have to be appropriated separately from the Main Estimates of which they are a part. The principle also applies to Defence ‘Votes A’ resolutions, which authorise the maximum numbers of personnel in the three defence services: the numbers in those resolutions need be listed in an appropriation act in the same session.
12. Vote on Account resolutions will in future be in February or March, as will the Defence Votes A. Statutory authorisation of the Votes on Account *en bloc* can be obtained almost immediately in the spring bill, which will otherwise authorise and appropriate the supplementary estimates. But if no change were made to the House’s procedures, the sessionality rule would mean that this spring bill would additionally have another part that would appropriate the Vote on Account. This part would be similar to the special pre-dissolution Appropriation Act that was passed in April 2010. In the next session, there would be separate appropriation of the ‘balances to complete’, following the presentation of the Main Estimates.
13. Given the efforts that are being made to align estimates and budgets, an approach that the House approved on 5 July this year,¹ it might be illogical to persist with a system that would mean that the appropriation of the Main Estimates would thereafter be in two different bills. The appropriation of the Votes on Account would also have the disadvantage of being to a lesser level of detail, as ambits are not included in Vote on Account documents.

¹ HC Deb, 5 July 2010, c108

14. If the House wished to avoid this consequence of the new pattern of sessions, it would need to agree a resolution to disapply the rule of sessionality in the case of Votes on Account and Defence Votes A for the forthcoming financial year, allowing appropriation of the Votes on Account and legislative authorisation of the Defence Votes A to be occur in the following Session. It would be sensible to place a time limit on this. The 5 August date in Standing Order No. 55(4) would be suitable, as this is the last time on which the Main Estimates (with which the Votes on Account would be appropriated) can be agreed to by the House.

Private bills

15. No significant implications for private bill procedure arise from fixed-term parliaments in themselves. The Government has announced that the pattern of sessions will change so that each session will start in the spring.² Given this change, it might be desirable to change the whole private bill timetable so that petitions were received shortly afterwards (e.g. in May or June rather than in November as is currently the case). This would make it more likely that a private bill could pass through all its stages without having to be suspended from one session to the next.

16. In practice, many bills introduced in January have needed to be suspended the following November, and the majority of private bills currently before Parliament have been suspended (or revived) many times. But it might be desirable to avoid a regular suspension of bills about four months after introduction, especially as suspension motions are now often objected to by Members in the same way as second readings and consideration stages, necessitating time to be found for debates.

17. The annual cycle of private legislation dates from the time when there were dozens or even hundreds of bills each year, and allowed related, or competing, bills to be considered together. As the number of new bills each year is currently low (two in each of the last two Novembers), an alternative would be to drop the annual cycle altogether and accept petitions for bills whenever they were ready. Such a change, or changing the petitioning deadline to May or June, should not be considered without full consultation with the House of Lords and the parliamentary agents (the private law firms which assist in the promotion of private bills). Initial discussions between the Private Bill Offices of the two Houses indicate that changes along these lines should be possible.

Impact on the work of Select Committees

18. The House of Commons has 34 select committees. Within their orders of reference, the committees are free to set their own programme of business, and to conduct their work in a manner which best suits both the committee and its membership. Over the course of a Parliament, committees develop their own working practices. The length, content and focus of inquiries varies according

² HC Deb 13 September 2010 c33WS

to both the development of these practices and the nature of the inquiry at hand. It is therefore not possible to consider committees as a homogenous group.

19. The introduction of fixed-term Parliaments is unlikely to have a significant impact on the work of committees, but it could offer them the opportunity to structure their work better in two ways, set out in the following paragraphs.
20. At the beginning of a new Parliament, the expectation that the Parliament would run for five years would present select committees with the opportunity to develop a corresponding 5-year approach to their work in the knowledge that an early dissolution would not disrupt their plans. For example, committees might wish to concentrate on scrutiny of Government policy in the first four years, and turn to post-legislative scrutiny in the final year.
21. Select committees are terminated by dissolution. When a Parliament enters its fourth or fifth year, speculation increases about potential dates for the general election. Committees may take into account the credibility of such speculation when considering their longer-term programmes of work, and adjust them accordingly. They may decide to limit their programme to the near-term to ensure that they can complete their “live” inquiries before a potential dissolution. If subsequently an early election does not materialise committees will then reactivate their longer-term programmes.
22. Fixed-term Parliaments would give select committees a greater ability to plan a more orderly conclusion of their work at the end of a Parliament. At present, once a date for dissolution is known, it is common for select committees to publish a large number of Reports, in a condensed timeframe, which lessens the impact of individual Reports. Furthermore, if an election is called at short notice, some committee inquiries may have to be left unfinished. While the latter is rare, it is not an ideal solution. Fixed-term Parliaments could offer the opportunity better to manage the period running up to dissolution and to conclude select committee work in a more timely and orderly manner.
23. While these two factors may assist select committees, it would be unwise to overplay the potential benefits. Individual committees will decide on the best way to finish their programmes of work. While some may opt for a gradual decrease in activity, others may wish to continue at full speed right up to the last minute. Both are valid approaches and will depend upon the issues before a committee at that time. The determining factor on which route is taken will be the Members serving on each committee and what approach they consider to be the best at that time. Therefore, any view on how fixed-term Parliaments would affect committees is subject to a significant amount of speculation.
24. Overall, the introduction of fixed-term Parliaments is likely to have a limited impact on select committees. It will, however, give them the opportunity to conclude their business in a more managed fashion.

International relations

25. Uncertainties over the date of a prospective general election can lead the Overseas Office to discourage overseas parliamentarians and officials from planning to visit Westminster over a longer period than is likely to be necessary if the date was known. On the other hand a fixed date might lead to an increased demand for visits at the start of a new Parliament, a time when both Members and staff face many other commitments.
26. The introduction of fixed-term parliaments should allow members of the delegations to international parliamentary assemblies to plan with greater confidence the winding-up of their commitments as Chairs or Rapporteurs of assembly committees towards the end of a parliament. It might also improve the accuracy with which the costs of delegation activities could be forecast.

Impact on the administration of the House

The estates programme

27. It is unlikely that fixed-term parliaments would have a significant impact on the work of the Parliamentary Estates Directorate in its work on the Estate. The main advantage to the PED arises from longer recesses, and advance knowledge of when these will fall. The Election dissolution is comparatively short, so it would mainly be used for small projects. Planning for such projects could be assisted by advance knowledge of the Election.

General election: delivery of services to Members

28. Advance knowledge of the date of the next General Election would undoubtedly make planning for the provision of services (information, accommodation, ICT, etc) to Members, and indeed ex-Members, immediately before and after the Election easier for the House Administration. Greater certainty would make it easier for retiring Members and their staff to make plans and for the House's Personnel Advisory Service (PAS) to assist them. It might also assist PAS in making plans to advise Members who lose their seats.
29. Planning to a fixed date should reduce the costs of General Election services, by allowing for clearer specification of external contracts and forward management of the House's own staff resource, though it is not possible to give an estimate of the likely saving at this stage.
30. One feature of general election planning is the engagement between the House Service and representatives of the political parties. Planning has to start many months before the likely election date, but because there is no formal announcement of the election until a few weeks before it takes place, discussions between the House service and the parties have to be conducted on a provisional basis. Greater certainty over the date of the Election might therefore assist engagement by the parties, and planning could also start earlier.
31. A degree of uncertainty will always remain, however. For instance, it would be necessary to continue to cater for the possibility of an Election on an

unexpected date, as a result either of the Government losing a vote of confidence or the two Houses approving an order under section 1(5) to vary the set election date by two months. Although the Fixed-Term Parliament Bill sets the date for the dissolution of Parliament, the date on which the new Parliament meets, and the date of the first Queen's Speech in the new Parliament, which have an impact on election planning, would, as at present, not be known until the writs are issued at dissolution.

32. Another significant uncertainty which affects all aspects of election planning is the scale of Member turnover at an Election, which would of course remain.

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