



HOUSE OF LORDS

SELECT COMMITTEE ON THE CONSTITUTION

15 JULY 2010

Call for Evidence: Fixed-Term Parliaments

The Constitution Committee was appointed “to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution”. The Committee has decided to conduct an inquiry into fixed-term Parliaments.

The Coalition Government’s *Programme for Government* (May 2010) stated that “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.” However, on 5 July the Government announced in Parliament that dissolution will take place if a majority of two-thirds votes in favour, and that traditional powers of no confidence will be put into an Act of Parliament, and a vote of no confidence will still require only a simple majority. If after that vote of no confidence a Government cannot be formed within 14 days, Parliament will be dissolved and a general election will be held.¹

Although the relative merits and drawbacks of fixed-term Parliaments have been debated for many years, the Government’s announcement marks the first occasion on which the introduction of fixed-term Parliaments has become a likely prospect. Furthermore, the detail of any fixed-term Parliament proposal is of great importance: how long should a fixed term last? Should there be a safety valve mechanism to take account of extraordinary circumstances, and if so, what form should it take? What would be the impact upon the Monarch’s prerogative power to dissolve Parliament? What role should the House of Lords play? What is the practice of other legislatures?

¹ For the Government’s announcement, made by the Deputy Prime Minister, see House of Commons *Hansard* for 5 July, cols 23-46; see also House of Lords *Hansard* for 5 July, cols 24-36.

The Committee invites interested organisations and individuals to submit written evidence as part of its inquiry, reflecting the guidance given below. Written evidence should reach the Committee as soon as possible and **no later than 30 September 2010**.

Scope of the Committee's inquiry

The Committee will focus as far as possible on the *constitutional* implications of the Government's proposals. In particular, the Committee invites evidence on the following themes:

Issues of principle for and against fixed-term Parliaments

1. What are the arguments for and against fixed-term Parliaments? Should fixed-term Parliaments be introduced?
2. What is the ideal length of a fixed parliamentary term? Is the Government's proposal for a five-year fixed-term appropriate?

Comparative Experiences

3. What is the experience of the devolved legislatures in Scotland, Wales, Northern Ireland, and international case studies, including Canada, Australia, Norway, Sweden and Germany? What lessons can be learned from this experience?

Dealing with extraordinary circumstances

4. Should there be a "safety valve" mechanism to take account of extraordinary circumstances? If so, what form should a "safety valve" take and when should it be used? How can it be ensured that such a mechanism is not abused? What is your opinion of such "safety valves" as:
 - a) A constructive vote of no confidence;
 - b) An extraordinary dissolution in the event of the agreement of a parliamentary super-majority;
 - c) A discretionary prerogative power of dissolution in the hands of the Head of State;
 - d) The flexibility to move the scheduled election date by a short period, e.g. a month either way?
5. What should happen in the event that no viable government can be formed after a general election?

Confidence motions

6. What is your view of the Government's proposal that "traditional powers of no confidence will be put into law"? Should a statutory definition include votes traditionally regarded as questions of confidence, such as votes on Supply or the Queen's Speech? Will it also include votes designated by the government as a question of confidence, for instance the 1993 vote on the Maastricht Treaty?

7. What is your opinion of the Government's proposal that "if after that vote of no confidence a Government cannot be formed within 14 days, Parliament will be dissolved and a general election will be held"?
8. How can it be ensured that such a no confidence mechanism is not open to abuse by a government seeking an early dissolution?

Early Dissolution

9. What is the purpose of the Government's proposal for dissolution if a majority of two-thirds or more of the House of Commons votes in favour? Is this an appropriate mechanism? Is two-thirds an appropriate figure? If not, what alternative figure would you propose?
10. In the event that an extraordinary general election is called, should the parliamentary term that follows last for an entire fixed term, or only until the next general election was originally due to take place?

The consequences of the Government's proposals for prerogative powers

11. Would the adoption of fixed-term Parliaments necessitate the modification or abolition of the Monarch's prerogative power to dissolve Parliament? If so, what impact would this have?

Timing

12. In the event of fixed-term Parliaments being adopted, what is the most appropriate time of year and day of the week for general elections to take place?
13. What account (if any) should be taken of the electoral cycle of the devolved institutions and the European Parliament in determining the length of parliamentary terms and the date of future general elections?

The juridical consequences of the Government's proposals

14. Are the provisions of the Government's proposed legislation likely to be enforceable in the courts of law? If so, would this be undesirable from a constitutional point of view? (Consider, for example, *Robinson v Secretary of State for Northern Ireland* [2002] UKHL 32.)
15. Given that one Parliament cannot generally bind another, how (if at all) can the principle of fixed-term Parliaments be entrenched?

The role of the House of Lords

16. What role would you envisage for the House of Lords in any parliamentary fixed-term and/or early dissolution arrangements?

Those responding to this call for evidence are not necessarily expected to address all these points but instead to focus on those issues on which they have special expertise or about which they are particularly concerned. Respondents should not feel constrained by the

above list from drawing attention to any other points about fixed-term Parliaments thought to be of significance to the United Kingdom constitution.

Background

The Committee has appointed its legal advisers, Professor Adam Tomkins, Professor of Public Law, University of Glasgow, and Professor Richard Rawlings, Professor of Public Law, University College London, to act as Specialist Advisers for the duration of this inquiry.

Written evidence

Please note: This is a public call for evidence. Recipients of this notice are encouraged to draw it to the attention of others who may wish to submit evidence to the inquiry.

Evidence submitted becomes the property of the Committee, and may be printed or circulated by the Committee at any stage. If your evidence is not published, it will in due course be made available to the public in the Parliamentary Archives.

Personal contact details supplied to the Committee will be removed from evidence before publication and from the copy deposited in the Parliamentary Archives. However, personal contact details will be retained by the Committee Office and used for specific purposes relating to the Committee's work, for instance to seek additional information or to send copies of the Committee's Report.

Witnesses may publicise their written evidence themselves, but in doing so should indicate that it was prepared for the Committee.

Submissions by e-mail are preferred (as attachments in Word) and should be emailed to constitution@parliament.uk. A single hard copy (single-sided, unbound) should also be sent to The Clerk of the Constitution Committee, House of Lords, London SW1A 0PW.

Evidence should be clearly printed or typed on single sides of A4 paper, unstapled, and should be set out in numbered paragraphs. The submission should be signed and dated, together with a note of the author's name and status and of whether the evidence is submitted on an individual or corporate basis.

Concise submissions of 1500 words or fewer are preferred. Unless submissions are very short, they should also be accompanied by a single-page summary. Annexes may be submitted, but will not necessarily be published. Relevant material prepared for other purposes (such as reports or submissions to other inquiries and consultations) may be submitted to the Committee for information, but will not be printed. Witnesses who submit original written evidence may be invited to give oral evidence at Westminster; transcripts of such sessions are published and available on the Committee's website.

Evidence should be addressed to:

The Clerk of the Constitution Committee
House of Lords
London
SW1A 0PW
Email: constitution@parliament.uk

Further information about the Constitution Committee's work is available from <http://www.parliament.uk/hlconstitution>.

Committee Membership

Lord Crickhowell
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