

National Assembly for Wales

Fixed-term Parliaments Bill October 2010

This paper provides a background briefing on the Fixed-term Parliaments Bill which was presented to the UK Parliament by the Rt. Hon Nick Clegg MP, the Deputy Prime Minister, on 22 July 2010.

The Bill aims to introduce fixed-term Parliaments of five years with the next UK General Election to take place on 7 May 2015, the same date as elections to the National Assembly for Wales. The Bill also includes in legislation the processes whereby Parliament can force an early election by formalising the arrangements for votes of no confidence and motions for the early dissolution of the UK Parliament.

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National Assembly for Wales

Fixed-term Parliaments Bill
October 2010

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Summary

This paper provides a background briefing on the [*Fixed-term Parliaments Bill*](#) which was presented to the UK Parliament by the Rt. Hon Nick Clegg MP, the Deputy Prime Minister, on 22 July 2010. The Bill was debated at Second Reading on 13 September 2010 where the House of Commons voted for the Bill to be considered by a Committee of the Whole House.

The Bill aims to introduce fixed term Parliaments of five years with the next UK General Election to take place on 7 May 2015, the same date as elections to the National Assembly for Wales. The Bill also includes in legislation the processes whereby Parliament can force an early election by formalising the arrangements for votes of no confidence and motions for the early dissolution of the UK Parliament.

This Bill directly applies to Wales but is relevant only in relation to the terms of the UK Parliament and the timing of elections to that body. It does not make any provisions which effect the terms of the National Assembly for Wales or the dates of its elections.

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Fixed-term Parliaments Bill

1. Introduction

On 5 July 2010, the Rt. Hon Nick Clegg MP, the Deputy Prime Minister, made a statement to the House of Commons on *Political and Constitutional Reform* in which he announced the Government's intention to publish a Fixed-term Parliaments Bill.¹ The Bill received its first reading on 22 July 2010 and the second reading debate took place on 13 September 2010.

This Bill is a product of the coalition agreement between the Conservative and Liberal Democrat Parties which was published following the UK General Election in May 2010 and is a key component of the UK Government's package for parliamentary reform.

The Liberal Democrats have long been supporters of fixed-term parliaments, and although the Conservative Party did not specifically comment on fixed-term parliaments in their 2010 election manifesto, they did include a pledge to make 'the Royal Prerogative² subject to greater democratic control so that Parliament is properly involved'.³

In a speech given at the Scottish Parliament on 14 May 2010, after the coalition terms had been agreed, the new Prime Minister, the Rt. Hon David Cameron MP, 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 and a good change.⁴

In the subsequent Conservative-Liberal Democrat coalition agreement, both parties 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.⁵

This is the first time that UK parliamentary terms have been specified in legislation; although fixed term elections to the **National Assembly for Wales**

¹ [HC Debates, 5 July 2010, c23-25](#)

² The Royal Prerogative refers to the special rights, powers and immunities to which the Crown alone is entitled under the common law (e.g. the dissolution of Parliament)

³ [The Conservative Party Manifesto 2010, An Invitation to Join the Government of Britain](#)

⁴ [Cameron defends change over election vote rules, BBC News, 14 May 2010](#)

⁵ [UK Government, The Coalition : Our programme for government, June 2010](#)

and the Scottish Parliament are set out in the *Government of Wales Act 2006*⁶ ('the 2006 Act') and the *Scotland Act 1998*⁷ respectively.

At present, the maximum duration of a UK Parliament is five years, as dictated by the *Septennial Act 1715*⁸ (as amended by the *Parliament Act 1911*⁹). Under that Act if a Parliament is not dissolved in the period up to five years after the day on which it was summoned to meet, it automatically expires.

In recent years however, pressures have grown to ensure fixed-term parliaments for the House of Commons with both the Labour Party¹⁰ and the Liberal Democrats¹¹ including it as a commitment in their 2010 General Election manifestos.

⁶ [Government of Wales Act 2006, c32](#)

⁷ [Scotland Act 1998, c46](#)

⁸ [Septennial Act 1715, c38](#)

⁹ [Parliament Act 1911, c13](#)

¹⁰ [Labour Party Manifesto 2010, A Future Fair For All](#)

¹¹ [Liberal Democrats Manifesto 2010](#)

2. Fixed-term Parliaments Bill : Key provisions

2.1. *Clause 1 : Polling days for Parliamentary Elections*

This Clause provides for fixed days for polls for parliamentary elections. Under the provisions outlined, UK General Elections will generally be held on the first Thursday in May every five years, with the next UK General Election to be held on 7 May 2015:

Clause 1 states that the polling day for the next parliamentary general election is to be 7 May 2015. Subsection (3) sets out that the polling day for each subsequent parliamentary election is to be the first Thursday in May in the fifth year after the year of the preceding general election.¹²

Under the proposals contained in the Bill, the Prime Minister will however have a limited power to vary the date of UK General Elections by two months earlier or later than the scheduled election date. According to the Explanatory Notes, this is included to:

... accommodate short term crises or other conditions which might make it inappropriate to hold the election on the scheduled date, for example, a repeat of the foot and mouth crises which led to the postponement of the local elections in 2001.¹³

The Bill also states that if an early election is held before the first Thursday in May 2015 the next general election will be held on the first Thursday in May four years later.

2.2. *Clause 2 : Early Parliamentary Elections*

This Clause provides for the circumstances in which an early General Election can be held and states the processes by which Parliament can call for an early election. The Bill specifies two mechanisms by which Parliament could 'trigger' such elections.

Firstly, the Bill states that:

If the House of Commons passes a motion of no confidence in the Government, an election must be held unless within the period of 14 days the House passes a motion expressing confidence in a Government.¹⁴

This provides an opportunity for 'an alternative government to be formed without an election'.¹⁵

¹² [Fixed-term Parliaments Bill, Explanatory Notes, paragraph 13](#)

¹³ [ibid, paragraph 14](#)

¹⁴ [ibid, paragraph 16](#)

¹⁵ [ibid](#)

Secondly, an early election could be ‘triggered’ by a vote passed by at least two-thirds of all MPs in favour of dissolution:

Subsection (1) provides for an early election if the House of Commons passes a motion that there should be such an election. Where such a motion has been passed on a division, the number of members who voted in favour of the motion must be a number equal to or greater than two-thirds of the number of seats in the House, including vacant seats.¹⁶

These provisions are somewhat of a safety valve which allows an ineffective Government to fall mid-term, or a deadlocked Parliament to be dissolved.

The requirement for a two-thirds majority in favour of early dissolution represents a departure from the initial coalition agreement which stated that early dissolution would be achieved with a parliamentary majority of 55%. In a statement to the House of Commons on 5 July, the Deputy Prime Minister explained that this change of policy was in response to ‘the objections raised on both sides of the House to our 55% threshold’.¹⁷

2.3. Clause 3 : Dissolution of Parliament

This section makes the necessary changes to election law and the law concerning the meeting of Parliament in light of fixed days for elections. Namely:

it provides that Parliament dissolves automatically 17 working days before the polling day which has been fixed for the general election under Section 1 of the Bill.¹⁸

Subsection (2) states that Parliament cannot be dissolved in any other circumstances, hence ending the royal prerogative power of dissolution.

¹⁶ [Fixed-term Parliaments Bill, Explanatory Notes, paragraph 15](#)

¹⁷ [HC Debates, 5 July 2010, c27](#)

¹⁸ [Fixed-term Parliaments Bill, Explanatory Notes, paragraph 20](#)

3. Reaction to the proposals

3.1. *Principle of the Bill*

In a statement to the House of Commons on Political and Constitutional Reform on 5 July 2010, the Rt. Hon Nick Clegg MP, the Deputy Prime Minister, stated the Government's intention to introduce fixed parliamentary terms and announced the next date of the general election as 7 May 2015.¹⁹

The Deputy Prime Minister also criticised the current arrangements for parliamentary elections in the UK for giving the incumbent Government an unfair advantage in setting the date of the next election. He told the House that:

It is simply not right that general elections can be called according to a Prime Minister's whims, so this Prime Minister will be the first Prime Minister to give up that right.²⁰

In their report on the Bill which was published on 10 September 2010, the Political and Constitutional Reform Committee stated that:

It is questionable whether a Prime Minister should be able to use his position in government to give him and his party an electoral advantage by choosing to hold the next general election to a schedule that best suits him. We therefore acknowledge the principle behind the Fixed-term Parliaments Bill.²¹

The House of Lords Constitution Committee is also currently conducting its own separate inquiry into Fixed-term Parliaments. Their call for evidence closes on 30 September.²²

3.2. *The date of the next General Election*

In responding on behalf of Plaid Cymru, Elfyn Llwyd MP raised concerns that the date of the next UK General Election would coincide with the date of elections to the National Assembly for Wales and the Scottish Parliament:

Making this announcement and fixing, to use the right hon. Gentleman's word, the date of the next general election for the same day as the Scottish and Welsh elections totally ignores the strong recommendations of both the Gould and Arbuthnott reports. It sounds to me not like the respect agenda, but actually like the contempt agenda.²³

¹⁹ [HC Debates, 5 July 2010, c23](#)

²⁰ [Ibid](#)

²¹ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraph 1](#)

²² [HL Constitution Committee, *Lords Constitution Committee investigates proposals for fixed term parliaments*, 15 July 2008](#)

²³ [HC Debates, 5 July 2010, c30](#)

The Deputy Prime Minister responded by stating that holding numerous polls on one day underestimates the people of Wales and Scotland's capacity to decide 'more than one thing on the same day'²⁴.

3.3. *The length of Parliamentary terms*

In a briefing on the Coalition's agenda for constitutional and political reform, prepared by the Constitution Unit of University College London, Professor Robert Hazell argued that a five year parliamentary term is long in comparison with arrangements in other countries:

Australia and New Zealand both have three-year maximum terms. The legislatures of Canada and many of its provinces have four-year fixed terms, as do most Australian states ... Ireland's lower house has a five-year maximum, as in the UK. In continental Europe most countries have four year fixed terms, and only three (France, Italy, and Luxembourg) have five years. So a five year term is long by comparison with most other parliamentary systems.²⁵

Professor Hazell also states that five year parliamentary terms is long in comparison with Westminster's parliamentary experience since 1945:

An analysis of those post war parliaments which ran for a full term records seven parliaments which lasted four years (1951, 1966, 1970, 1979, 1983, 1997, 2001), three which lasted four and a half years (1945, 1955, 1974), and four parliaments which ran for five (1959, 1987, 1992, 2005); so the balance is more even than people suppose.²⁶

In their report on the Bill, the Political and Constitutional Reform Committee stated that 'precedent gives no clear answer as to whether parliaments should last four years or five'.²⁷ The report also recommends that 'it would be better for general elections to be held on every four years, rather than every five'²⁸ and believes that the government should:

... 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 the fixed term.²⁹

3.4. *Dissolution and early Parliamentary elections*

The Deputy Prime Minister told MPs that the Bill's aims were to put the power of Parliament to call an early election into law which he claimed would subsequently strengthen Parliament's role in relation to the Government:

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

²⁴ [HC Debates, 5 July 2010, c30](#)

²⁵ [Hazell, Robert \(2010\) *The Conservative-Liberal Democrat Agenda for Constitutional and Political Reform*. The Constitution Unit : University College London, June 2010](#)

²⁶ [Ibid](#)

²⁷ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraph 13](#)

²⁸ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraph 20](#)

²⁹ [Ibid](#)

cannot be formed within 14 days, Parliament will be dissolved and a general election will be held Thirdly, there will be an additional power for Parliament to vote for an early and immediate Dissolution³⁰.

In responding to the Government's proposals on behalf of the Opposition, the Rt. Hon Jack Straw QC MP criticised the purpose of introducing a mechanism which would allow Parliament to 'trigger' an early election through a motion backed by a two-thirds majority of all MPs:

As to his now subsidiary proposal for a two-thirds majority for any other Dissolution, what is its purpose? It is not completely superfluous? Either he is in favour of fixed-term Parliaments as long as the Government of the day enjoy the confidence of this House or he is not.³¹

In response, the Deputy Prime Minister stated that the inclusion of a two-thirds majority threshold would in effect strengthen the power of the Parliament:

The inclusion of the two-thirds threshold gives an additional, new power to Parliament. Let us be clear what we are doing with the fixed-term provisions—provisions that his party used to support. We are taking power away from the Prime Minister and giving Parliament more power over the Executive. Surely that is something that he and other Opposition Members would support.³²

In evidence to the Political and Constitutional Reform Committee on 8 September 2010, the Clerk of the House of Commons, Dr Malcolm Jack, told the Committee that Clause 2 of the Bill (which provided the mechanisms for early dissolution) could impact on parliamentary privilege. Dr Malcolm Jack felt that enshrining these conventions and procedures in law could bring Parliament and the judiciary into conflict in the event of an early dissolution in future.

This issue was addressed in detail by the Committee in their report:

The mechanism for triggering an early general election would be a Speaker's certificate, attesting to the fact that the events above have taken place. The use of a Speaker's certificate is not entirely unprecedented. The Parliament Acts provide for the Speaker to certify if a Bill meets the criteria set down in those Acts which would allow for it to become law without the agreement of the House of Lords.

In the case of this Bill, the certificate would be "conclusive for all purposes", and thus, in theory at least, not subject to challenge in court. The Clerk of the House has told us, however, that the courts have a duty to interpret statute, and that the Bill could lead to scrutiny by the courts of any Speaker's certificate and the parliamentary proceedings underlying them:

"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.

³⁰ [HC Debates, 5 July 2010, c23](#)

³¹ [Ibid, c26](#)

³² [Ibid, c28](#)

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."

One way in which the courts might become involved would be if a case was brought claiming that the provisions in the Bill had not been followed, and that a purported Speaker's certificate was not in fact a properly constituted certificate at all.

The Clerk's concern is thus that the Bill would infringe the House's exclusive cognizance over its own proceedings: the House's right to decide for itself how its business should be done, and the concomitant principle that the courts will not interfere in this business. How valid this theory of 'exclusive cognizance' is in an age when the Executive dominates Parliament is not a debate for this Report. The Clerk reminded us in the context of clause 2 of the Bill of the view of Committees of both Houses in past Parliaments that "piecemeal dabbling with privilege" was to be avoided, and said that it seemed "odd" to him "that a significant privilege matter" was being dealt with before publication of the Government's draft bill on parliamentary privilege, which is scheduled for pre-legislative scrutiny in due course.³³

Dr Malcolm Jack suggested that these problems could be overcome by including a provision for fixed-term parliaments in the Standing Orders of the House of Commons rather than including the proposals in primary legislation.

I would just say in summary that I think that clause 2 raises practical problems also for the Speaker, or challenges to what the Speaker does, that are very easily dealt with within the House if those matters are kept in the Standing Orders. By putting them in statute, you are opening them to challenge in the courts.³⁴

In addressing the concerns of the Clerk of the House of Commons, the Committee recommended that:

The purpose of the Bill needs to be achieved without inviting the courts to question aspects of the House's own procedures or the actions of the Speaker, except where this is absolutely unavoidable and clearly justifiable.³⁵

3.5. *Timing*

In evidence submitted to the Political and Constitutional Reform Committee, Professor Robert Hazell criticised the lack of time available for adequate legislative scrutiny of the Bill:

The Fixed Term Parliaments Bill was prepared on an extraordinarily rushed timetable. It was introduced with no prior consultation, no Green or White Paper. Nor has time been allowed for pre-legislative scrutiny of a draft bill.³⁶

³³ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraphs 25-28](#)

³⁴ [HC Select Committee on Political and Constitutional Reform Committee, 8 September](#)

³⁵ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraph 33](#)

³⁶ HC Select Committee on Political and Constitutional Reform, *Written Submission of Evidence from Professor Robert Hazell*, FTPB03, paragraph 2.2.

In providing evidence to the same Committee, Professor Anthony Bradley also felt that a wider debate should be held on the constitutional implications of the Bill:

the implications of the change need to be fully explored in public debate, and if this is done it should help to create a broad consensus in favour of the change. The Labour government under Mr Blair was responsible for initiating major reforms affecting the judiciary (eventually incorporated in the Constitutional Reform Act 2005) in a wholly inept way that prejudged informed debate and ran the risk of prejudicing some beneficial reforms. The coalition Government needs to take a more skilful path than this in building a consensus for the long-term constitutional reform that it wishes to see.³⁷

These comments were reiterated by Dr Malcolm Jack who believed that ‘it would have been better for these matters to be dealt with in a draft Bill’.³⁸

In their report on the Bill, the Committee expressed disappointed with the lack of time available to scrutinise the Bill’s proposals in detail:

We regret, however, the rushed timetable that the Government has unnecessarily adopted for the Bill, and the incremental and piecemeal approach to constitutional change that the Bill represents.³⁹

³⁷ HC Select Committee on Political and Constitutional Reform, *Written Submission of Evidence from Professor Anthony Bradley*, FTPB05, paragraph 5

³⁸ [HC Select Committee on Political and Constitutional Reform Committee, Uncorrected oral evidence, 7 September, Q33-34](#)

³⁹ [HC Select Committee on Political and Constitutional Reform, *Second Report : Fixed-term Parliaments Bill*, 10 September 2010, paragraph 51](#)

4. Implications for Wales

This Bill is relevant only in relation to the parliamentary terms of the UK Parliament and the timing of elections to that body. It does not make any provisions which effect the terms of the National Assembly or the dates of its elections.

The length of the terms of the Assembly is provided for in section 3 of the *Government of Wales Act 2006*. In accordance with Section 3 of that Act, the Assembly will ordinarily have a fixed term of four years, with elections taking place every four years, on the first Thursday in May. Similar provisions for the Scottish Parliament are included in the *Scotland Act 1998*.

By fixing the dates of UK General Elections, and due to the nature of the fixed electoral cycles that currently exist for elections to the devolved bodies and the European Parliament, the current proposals in the Bill mean that a combination of UK General and devolved elections will take place on the same day in certain future years.

The elections to the Fifth Assembly in 2015 are due to take place on the same date as the next UK General Election. Assembly elections and an UK General Election would however clash infrequently (once every 20 years). A table demonstrating the dates of future elections is included below for information⁴⁰:

Electoral Cycle for UK General Elections and other Elections			
European elections	Devolved elections	UK elections 4 yrs	UK elections 5 yrs
2014	2015	2014	2015
2019	2019	2018	2020
2024	2023	2022	2025
2029	2027	2026	2030
2034	2031	2030	2035
2039	2035	2034	2040

In circumstances where an UK General Election would clash with Assembly elections however, it would be possible for the Secretary of State for Wales, under section 4 of the *Government of Wales Act 2006*, to vary the date of an ordinary general election either no more than one month earlier or one month later than the first Thursday in May.

⁴⁰ [Hazell, Robert \(2010\) *The Conservative-Liberal Democrat Agenda for Constitutional and Political Reform*, The Constitution Unit : University College London, June 2010](#)

Section 5 of the 2006 Act also provide a mechanism for an extraordinary general election to take place before the next scheduled ordinary general election. Such an election may only take place in either one of the following circumstances:

- If the Assembly resolves that it should be dissolved (provided Assembly Members representing at least two-thirds of Assembly seats i.e. 40 AMs voting for the resolution); or
- If the Assembly fails to nominate a First Minister within the period laid down by section 47 of the Act (usually 28 days).

5. The Second Reading debate

5.1. *Principle of the Bill*

The second reading of the debate took place on 13 September 2010. The Rt. Hon Nick Clegg MP, the Deputy Prime Minister, reiterated the key objectives of the Bill:

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 reason, there is a need for Parliament to dissolve early, that will be up to the House of Commons to decide.⁴¹

Responding for the Opposition, the Rt. Hon Jack Straw QC MP stated that the Bill could be ‘a positive innovation for our democracy’ and that its provisions represent a ‘step forward, not a step back’.⁴² For those reasons, Mr Straw explained that Labour would support the Government’s proposals at its second reading stage⁴³.

The principle of the Bill was also supported by the Chair of the Political and Constitutional Reform Committee, Graham Allen MP. He argued that the advantage of fixed-term parliaments would be predictability and continuity, adding:

Instead of permanent politics as-entertainment, in which there is speculation about impending general elections and people feed tittle-tattle and gossip to raise or lower the political temperature, we will know that we can get on with serious business while knowing the date of the next general election and putting such considerations aside. That is something of great importance, and would lead to we as parliamentarians being able to seize greater control of what we do in this place on a number of issues, rather than being engaged, even at arm’s length, in speculation about when an election will take place.⁴⁴

Mr Straw however warned the Government that the Labour Party were unhappy with certain aspects of the Bill. In particular:

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

⁴¹ [HC Debates, 13 September 2010, c621](#)

⁴² [Ibid, c636](#)

⁴³ *Ibid*

⁴⁴ [HC Debates, 13 September 2010, c660](#)

that—on parliamentary privilege by creating the risk that courts could intervene on parliamentary proceedings.⁴⁵

According to Professor Robert Hazell⁴⁶, the Canadian experience of introducing fixed-term parliaments demonstrates what can happen when a Bill does not regulate the prerogative power to dissolve Parliament. The Canadian law which introduced fixed-term parliaments at the federal level in 2007:

... did not alter the Governor General's reserve power to dissolve parliament, which would have required a constitutional amendment. A year later Stephen Harper, the same Prime Minister who had introduced fixed term legislation, sought a dissolution one year before the end of the fixed term, when his party's poll ratings had temporarily increased. The Governor General, relying on her reserve powers, granted Harper's request. In practice, it seems that the Canadian law only fixes the maximum term, leaving the Prime Minister free to call an election at other times. Unless the new law in the UK regulates the prerogative power, it risks being similarly ineffective.⁴⁷

Consequently Mr Straw emphasised that the Bill would need 'substantial revision if we are to be able to support it on Third Reading'.⁴⁸

The Bill was passed by 311 votes to 23 and will be scrutinised by a Committee of the Whole House.

5.2. *The date of the next General Election*

The Deputy Prime Minister admitted that holding the next UK General Election at the same time as the devolved elections in Northern Ireland, Scotland and Wales would be problematic:

The date of the next election, Thursday 7 May 2015, has also raised some questions, as Holyrood, the Welsh Assembly and Stormont will all be holding their own elections on the same day. The issue of combining polls came up last week when we were debating the decision to hold a referendum on 5 May next year, as that referendum will coincide with elections in Scotland, Northern Ireland and Wales. Let me be clear. We believe that holding a referendum on the same day as a parliamentary or Assembly election is entirely justifiable. It allows us to avoid asking people to traipse back and forth to the ballot box, it is an uncomplicated event in which people are simply being asked to say yes or no to the referendum question, so it avoids any confusion or overlap with the elections to the devolved Assemblies, and of course it will save money. However, as I said, I accept that holding elections to different Parliaments or Assemblies on the same day is altogether more complex ...

It is not a simple yes or no choice to a referendum question, but raises a host of questions about how people are governed at the UK-wide and devolved level by different parties and different politicians. With elections to the devolved legislatures every four years and to

⁴⁵ [HC Debates, 13 September 2010, c636](#)

⁴⁶ [Hazell, Robert \(2010\) *The Conservative-Liberal Democrat Agenda for Constitutional and Political Reform*. The Constitution Unit : University College London, June 2010](#)

⁴⁷ Ibid

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 will 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.⁴⁹

In response, Elfyn Llwyd MP raised concerns that problems would still remain even if the elections to the devolved bodies would be altered every time general and devolved elections would coincide in the future:

Surely it is not in the interests of this Government or anybody else to have two major elections within four weeks. That is the point, because there is a leeway of only four weeks within the devolved Administrations.⁵⁰

The Deputy Prime Minister responded by stating that the Government would consider looking at the Bill's provision in detail at a later stage:

That is exactly what we need to look at, and it is exactly why we need to consider whether the existing provisions are sufficient.⁵¹

The Deputy Prime Minister's decision to look closer at the coinciding election dates was welcomed by the Opposition. The Rt. Hon Jack Straw QC MP stated that he was:

... glad that the Deputy Prime Minister has at long last spotted that coinciding the date of a general election with that of national elections in Scotland and Wales is crazy and he is about to seek to go through hoops by which the people of Scotland and Wales and the political parties that are an essential part of the process ... Those people and parties would be burdened with two successive elections with substantial and understandable arguments about which should come first and which should come second. That could directly affect the outcome.⁵²

He felt that these problems could be addressed by changing the proposed parliamentary terms from five to four years:

The answer to all that is to go for four-year Parliaments. Among many others things, if we set a four-year Parliament this one would finish in 2014 and could never clash with the four-year cycle of the Scottish and Welsh Parliaments.⁵³

Similar concerns were raised by Mark Williams MP. In particular, he believed that the interests of the UK's nations would be diluted by holding more than one election on the same day:

... there is a genuine fear, articulated by many parties in Wales, Scotland and, no doubt, Northern Ireland as well that Welsh, Scottish and Northern Irish issues—the issues of the

⁴⁸ [HC Debates, 13 September 2010, c636](#)

⁴⁹ [HC Debates, 13 September 2010, c626-627](#)

⁵⁰ [HC Debates, 13 September 2010, c627](#)

⁵¹ *Ibid*

⁵² [HC Debates, 13 September 2010, c643](#)

⁵³ [Ibid, c644](#)

Celtic nations—will be drowned out in a national picture ... we are talking about national elections for countries—about two general elections happening simultaneously in the same country. That is the difference. We are talking about the relationship between the media and the campaigns and the ability of the Welsh and other Celtic nations to get their message across in the national media.⁵⁴

Roger Williams MP also emphasised that holding two elections on one day would cause added confusion, especially because of the proposed changes to the UK parliamentary constituencies outlined in the *Parliamentary Voting and Constituencies Bill*⁵⁵:

In future elections to the Welsh Assembly, the constituencies for Westminster might not be the same as those for the Assembly, which could lead to the confusion experienced in Scotland for the same reason.⁵⁶

Roger Williams MP also stated that should the election dates for the devolved institutions be altered, 'the Assembly and the other devolved Administrations, rather than Westminster, should be given the power to determine it'.⁵⁷

In response to Mark Williams MP's arguments, similar concerns relating to holding devolved elections on the same day as an UK General Election were raised in relation to Northern Ireland by Nigel Dodds MP:

The hon. Member for Ceredigion (Mr Williams) addressed the issue of the dates of the electoral cycle. I join those Members who have raised concerns about the coincidence in 2015 of the general election and elections to the Northern Ireland Assembly, the Welsh Assembly and the Scottish Parliament. I listened carefully to what the Deputy Prime Minister had to say, and it struck me that his comments were perhaps on the hoof—I do not get the impression that a lot of consideration had been given to the point prior to the debate. He said that he will address the matter, think about it and discuss it. Will the Minister reassure the House that consultation with the devolved Administrations will be genuine, and that when the Deputy Prime Minister speaks to the folk in Northern Ireland, Scotland or Wales, he will not simply go away and then come back and impose a solution? The proposal must be agreed with the respective devolved Administrations. It will be totally unacceptable if the assurance given by the Deputy Prime Minister amounts to nothing more than the usual consultation. The consultation must be genuine and must respect the views of the devolved Administrations.⁵⁸

5.3. *The length of Parliamentary terms*

In response to the concerns of the Political and Constitutional Committee, the Deputy Prime Minister defended his Government's proposals for five year terms:

Five years is the length of Parliaments in France, Italy, and South Africa, among others, and it is the maximum length of Parliament in India. In the United Kingdom, three of the past five

⁵⁴ [Ibid, c665](#)

⁵⁵ [Parliamentary Voting and Constituencies Bill](#)

⁵⁶ [HC Debates, 13 September 2010, c666](#)

⁵⁷ [Ibid, c667](#)

⁵⁸ [Ibid, c669](#)

Parliaments have run for five years. Leaving aside the very short Parliaments, half of all Parliaments since the war have run for more than four years, so five years is both in keeping with our current arrangements, and has international precedent.⁵⁹

Chris Bryant MP also raised concerns that setting parliamentary terms at five years was too long, especially in comparison with other parliaments in the UK:

But if the right hon. Gentleman is to give us all the statistics, he must add that since 1832 the average peacetime length of a Parliament has been three years and eight months—nowhere near five years, which has been pretty exceptional across that time. On the international comparisons, none of the other countries that he mentioned has the same structure with the Executive coming out of Parliament, so ours is a very different system. I urge him to look again at four years.⁶⁰

In response, the Deputy Prime Minister stated:

I am not entirely sure whether that last assertion is correct. The hon. Gentleman wants to give the House a history lesson, so perhaps I may refer him to the Parliament Act 1911, which introduced the current five-year maximum. The then Prime Minister, Herbert Asquith, told the House that five years would

“probably amount in practice to an actual legislative working term of four years”—
[Official Report, 21 February 1911; Vol. 21, c. 1749.]

That is a quote that I picked up from the Committee’s report, rightly pointing out that when a Parliament is expected to last for only four years, as is now the case, it very often ends up, in effect, a three-year Parliament. So our view is that by fixing the cycle at five years, we help to mitigate—[Interruption.] The hon. Gentleman says that that is a ridiculous decision. He knows as well as anybody else that for 12 or 18 months before an election is held, work in the House is blighted by all the parties politicking in advance of polling day. Therefore, if we want Governments to govern for the long term, we think five years is the right period of time.⁶¹

5.4. Dissolution and early Parliamentary Elections

The Deputy Prime Minister defended the proposals for early dissolution which were contained in the Bill:

... no-confidence votes have until now been a matter of convention. Although it has been widely accepted that a no-confidence vote would require a Prime Minister either to resign or to call an early election, there has been nothing to date to enforce this. So for the first time, the Bill gives legal effect to a motion of no confidence passed by this House.⁶²

The Deputy Prime Minister also emphasised that he was content with the mechanisms included in the Bill which set out the processes for votes of no confidence against the Government:

⁵⁹ [Ibid, c625](#)

⁶⁰ [HC Debates, 13 September 2010, c625](#)

⁶¹ [Ibid](#)

⁶² [HC Debates, 13 September 2010, c629](#)

Such motions of no confidence will continue to require only a simple majority. Following the passing of a no-confidence motion, there will be a period of 14 days during which a Government may seek to gain the confidence of the House. If, during the 14-day period, a Government emerge who can command the confidence of the House, then they will be free to govern for the remainder of the five-year term. We believe that a period of 14 days strikes the right balance, allowing enough time for an alternative Government to be formed while ensuring that there is not a prolonged period without an effective Government.⁶³

In response to the concerns that the Clerk of the House of Commons expressed in oral evidence to the Political and Constitutional Committee, the Deputy Prime Minister insisted that the Bill's provisions would not allow the courts to question a decision made by the House of Commons in relation to early dissolution:

I know that the Clerk of the House of Commons has expressed concerns about these arrangements in a memorandum to the Political and Constitutional Reform Committee. The memorandum suggests that the courts may be able to intervene in parliamentary business. The suggestion is that we would therefore be better off implementing the changes through Standing Orders rather than primary legislation. I would like to reassure the House that the Government have looked into the issue in considerable detail. We are satisfied that the provisions in the Bill will not allow the courts to question the House's internal affairs.⁶⁴

The Deputy Prime Minister also rejected the arguments that the provision for fixed-term parliaments could be included in Standing Orders rather than in primary legislation:

Given the constitutional significance of the Bill, which has been underlined by many Members during the debate, it would be inappropriate for those significant constitutional provisions to be translated into Standing Orders. They need to find their way into primary legislation, and into law.⁶⁵

5.5. Delaying the Queen's Speech

On 13 September 2010, the Leader of the House, the Rt. Hon Sir George Young MP issued a written statement announcing the Government's intention to introduce five 12 month sessions over Parliament due to the proposals included in the Bill for fixed-term five year parliaments, thus postponing next autumn's Queen's speech until spring 2012:

The Fixed-term Parliaments Bill proposes that Parliamentary General Elections will, ordinarily, take place on the first Thursday in May, every five years. One of the benefits of this proposal is the greater certainty it brings to the parliamentary timetable. As a consequence, the Government believes 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.⁶⁶

⁶³ Ibid

⁶⁴ [HC Debates, 13 September 2010, c631](#)

⁶⁵ Ibid

⁶⁶ [Leader of the House of Commons, Sir George Young MP, *Parliamentary Sessions*, Written Ministerial Statement, 13 September 2010](#)

During the second reading debate, the Rt. Hon Jack Straw QC MP questioned the Deputy Prime Minister as to why the provision for five 12 month sessions was not included on the face of the Bill:

Will the Deputy Prime Minister explain how those debates on the proposals made by the Leader of the House will arise during the Bill, because there is absolutely nothing in it that relates to them? To facilitate such provision, will the Deputy Prime Minister ensure, if necessary, that the Government move new clauses providing for the dates of Prorogation and the Queen's Speech so that we can have those debates?⁶⁷

In response, the Deputy Prime Minister reiterated the Government's position:

As I am sure he will acknowledge, these matters are linked. If we adopt this legislation on fixed-term Parliaments, which I understand he supports—unless he has changed his mind—it will have a knock-on effect: we need to align the Sessions of this Parliament to the new fixed-term provisions. Instead of hyperventilating about the abolition of a Queen's Speech, I hope the right hon. Gentleman will recognise that all we are doing is introducing a one-off, transitional arrangement so that those two facts are aligned.⁶⁸

5.6. *Timing*

The Chair of the Political and Constitutional Reform Committee, Graham Allen MP, reiterated concerns that not enough time had been provided for effective scrutiny of the Bill:

The Bill flies in the face of effective pre-legislative scrutiny. We will do our best for the two days of Committee on the Floor of the House, but I hope very much that in future the Government will ensure that we all get adequate time to do what we are here for—to make better law.⁶⁹

The Rt. Hon Jack Straw QC MP also urged the Deputy Prime Minister 'to adopt a more measured, considered and consultative approach than has been evident to date' and criticised 'the unnecessary haste with which it is being rushed through Parliament'.⁷⁰

⁶⁷ [HC Debates, 13 September 2010, c623](#)

⁶⁸ [HC Debates, 13 September 2010, c623](#)

⁶⁹ [Ibid, c658](#)

⁷⁰ [Ibid, c645](#)