

SUMMARY OF EVIDENCE TO THE POLITICAL AND CONSTITUTIONAL REFORM COMMITTEE ON FIXED-TERM PARLIAMENTS, SEPTEMBER 2010

Robert Blackburn, Professor of Constitutional Law, King's College, London.

The impact of fixed-terms

1. Fixed parliamentary terms would have major implications for our political and constitutional system:
 - I. Removal of the Prime Minister's advantageous control over the date of general elections i.e. equalisation of the positions of government and opposition in the competition for office.
 - II. Removal of the Prime Minister's consequent penal influence over their own party whereby the threat of dissolution can be used to ensure support.
 - III. Removal of the historical use of dissolution as a means to achieve a popular mandate, used in the past to endorse both leaders and policies.
 - IV. Removal of the Royal prerogative to dissolve Parliament.

Support for the principle of fixed-terms

2. The principle of fixed-term parliaments has only recently gained broad support. Until the 1990s it was considered alien and at odds with the UK constitutional tradition.
3. David Cameron has been contradictory in his stance towards fixed-terms:
 - I. 2006 Carlton Club speech: *"it is time we looked closely at fixed-term parliaments"*.
 - II. 2010 election campaign: promise for legislation to require a general election within six months of a new party leader taking over as Prime Minister.
4. The 2010 Conservative manifesto made no reference to fixed-term parliaments.
5. The Liberal Democrats have supported fixed-terms since the early 1990s:
 - I. Considered fairer than the "floating" vote system.
 - II. Seen as a device to compel the two main parties into negotiations.
6. Labour's stance:
 - I. Tony Blair opposed fixed-terms.
 - II. Gordon Brown's 2007 *Governance of Britain* green paper supported the reform of the dissolution convention to force the Prime Minister to gain the support of the Commons before presenting a request to the Monarch.
 - III. 2010 Labour manifesto promised to legislate for fixed-terms.

Genesis of the Bill

7. The catalyst for the Bill was to cement the inter-party alliance of the Coalition, to the mutual benefit of the partners:
 - I. The Liberal Democrats secure a guarantee of Conservative loyalty to the Coalition.

- II. The Conservatives give their partners a vested interest in the life of the government and gain the opportunity to share the responsibility for unpopular economic measures.
8. Original proposals set out in the Coalition Agreement included:
 - I. Fixed date for the next general election: 7 May 2015.
 - II. Legislation creating five-year fixed-terms.
 - III. Early dissolution motions to require support of 55% of MPs.
 9. The Bill, published July 2010, included revised provisions for early dissolution.

The length of the fixed-term

10. A comparative international perspective may be informative but the appropriate system for the UK should be developed on the basis of indigenous political and constitutional factors.
11. The current 5-year maximum term was established in the Parliament Act 1911 with the expectation that parliaments would in practise last around four years.
12. The average parliamentary term over the past 100 years has approximated four years.
13. Comparatively abroad, five years is a long period between elections for most legislative and executive bodies.
14. Parliamentary terms must strike a balance between:
 - I. The executive interest to have sufficient time to implement a policy programme.
 - II. The public interest of holding the executive to account through frequent elections.
15. Fixed-terms should be 4 years. The Government's five-year proposal has likely been influenced by their concern to stabilise the Coalition for the longest period possible.

Procedures for early dissolution

16. The Bill's proposed provisions for early dissolution would supersede the basic constitutional convention that a No confidence resolution compels a Prime Minister to either resign or call a general election.
17. Under the new provisions, a dissolution would occur in the event of:
 - I. A No Confidence motion passed by a simple majority of MPs, followed by 14 days in which no alternative government received a vote of confidence.
 - II. A vote for immediate dissolution passed by two thirds of MPs, including vacant seats.
18. The proposed 'super' majority voting procedure is unprecedented at Westminster.

An alternative approach

19. Fixed-term parliaments are a good idea in principle and the Bill has been well-drafted, particularly in avoiding judicial review of its early dissolution provisions. However, a number of features could be improved:
- I. The fixed-term should last 4 years.
 - II. An early general election should be triggered by a motion to this effect passed by a simple majority in the House of Commons.
 - III. Where the opposition seeks to remove the government, a simple majority motion should be required, perhaps by way of a “constructive” vote of No confidence.
 - IV. The duration of a parliament following an early general election should be equivalent to the remainder of the fixed term during which the resolution took place.
 - V. Parliament should be kept in continuous existence, with fixed election dates followed by a prescribed date on which newly elected MPs take the place of those who have lost their seats.

Legislative process

20. The manner in which the Bill has emerged is indicative of how a lot of constitutional reform is driven by vested interests and drafted in the absence of a coherent overall plan.
21. Likely consequences of the Bill need to be considered more carefully before its enactment:
- I. The removal of the Prime Minister’s ability to seek a popular mandate may lead to more widespread use of referendums. There needs to be constitutional guidelines determining their usage.
 - II. Given the potential for fixed hung Parliaments, the procedures governing inter-party relations need to be considered more comprehensively. A start will have been made by the draft Cabinet Manual, though the process by which this is being prepared should be more transparent.
 - III. The introduction of confirmatory votes for an alternative government following a No confidence motion poses the question whether confirmatory resolutions should apply more widely.
 - IV. The Monarch’s role in prime ministerial appointment in prolonged hung Parliament situations will become more complex and should be considered more closely.
22. In general, a more overarching, joined-up approach should be taken to political and constitutional reform.

This is a summary of written evidence given by Professor Robert Blackburn in September 2010 to the House of Commons Political and Constitutional Reform Select Committee. The summary has been produced by The Constitution Society to assist the All-Party Parliamentary Group on the Constitution. For a full copy of the evidence, please click [here](#).