

Politics in Crisis?

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Edited by

Marie Paxton, Ekaterina Kolpinskaya
and Jana Jonasova

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FOREWORD

This volume includes fifteen conference papers presented at the postgraduate conference “Politics in Crisis?” held at the University of Nottingham in April 2013. The conference aimed to explore and interrogate the assumption that politics as we know it is in decline, or even crisis. Although this theme frequently features in public, political and academic debates, there is no single, comprehensive understanding of what the crisis of politics means, how it manifests, and whether (and how) it can be resolved. Moreover, the very assumption that politics is in crisis is a controversial and contested one.

The conference attempted to explore this assumption from a variety of angles by providing three conference streams – International Political Theory, British Politics, and International Political Economy and International Relations. Papers across these themes offered critical insights into the structure and development of political institutions, international governance, and normative political theory, drawing upon the United Kingdom and international case studies as examples.

Organised by postgraduate research students from the School of Politics and International Relations at the University of Nottingham, the conference received generous financial and organisational support from the School’s research centres, including the Centre for British Politics, Centre for European Governance (now Centre for Comparative Political Research), Centre for Conflict, Security and Terrorism, Centre for the Study of Social and Global Justice, Centre for Normative Political Theory and the Institute of Asia and Pacific Studies. Additionally, the Methods and Data Institute and the ESRC Doctoral Training Centre at the University of Nottingham provided invaluable support in organising the Research Methods Workshop that followed the conference. Without the involvement of these Centres and Institutes, “Politics in Crisis?” would not have been possible, and we would like to express our gratitude toward them.

Altogether the conference attracted over sixty postgraduate and early career researchers from universities across the UK, as well as European universities, such as the Autonomous University of Madrid and the Institute of Social Studies at the Erasmus University. The quality of the papers was recognised by conference participants, discussants and the

three keynote speakers: Professor Michael Freeden (University of Nottingham), Chris Leslie (Member of Parliament for Nottingham East and the Shadow Chief Secretary to the Treasury) and Dr Nicola Pratt (University of Warwick).

Finally, the quality of the conference was recognised in the post-conference feedback survey conducted by one of the conference organisers, Stuart Fox. Respondents were almost unanimous in providing positive feedback about the conference. Over 80 per cent felt that there was sufficient information ahead of the conference to make arrival and registration easy, that the conference venue was appropriate, that the conference packs provided were useful, and that the dinner was an enjoyable success. The survey also included a number of questions asking respondents to rate how useful the conference was for their research and development as a scholar on a 0 – 10 scale; over a half of the participants gave a score of 8 or higher. In a further question, respondents were asked to rate how enjoyable and interesting the event was, and more than three fourth gave a score of 8 or higher. Finally, we asked how interested our participants would be in attending future events which matched the “Politics in Crisis?” format, and whether or not they would recommend such an event to their students and colleagues. Respondents were unanimous in expressing their interest in attending a future version of “Politics in Crisis?” with 97 per cent stating that they would recommend the event to their colleagues.

This volume presents a selection of papers presented at the conference. All of the papers examine and challenge the idea of “politics in crisis”, whether through institutional analysis, reflection on case studies or theoretical exploration. The papers in the volume are grouped to reflect three broad topics. It begins with an analysis of recent developments in institutional politics, considering how traditional political institutions are shaped by empirical events, focusing particularly on British politics. It subsequently moves onto international case studies, exploring challenges to democratic development through, for instance, focus on human rights and conflict resolution in the Middle East and Asia. Finally, the volume provides critical discussion of normative democratic theory. The volume concludes with Professor Michael Freeden’s afterword, which rounds up the discussion and puts forward the idea that, in order to avoid crisis, students must bridge the gap between political philosophy and what *actually* happens in politics.

Thanks to the diverse nature of the papers, the volume offers an exciting read for academics and practitioners interested in challenges to political systems, events, and theories both in the UK and the global realm.

Written by early career researchers, the volume aspires to provide an accessible and engaging read for all – from undergraduate students, to senior academics, to political practitioners.

All in all, we hope you enjoy reading the volume as much as we enjoyed preparing it.

ACKNOWLEDGEMENTS

We would like to express our gratitude to all of the people who have supported the initiative and development of this publication.

First and foremost, we would like to express gratitude to each author who has contributed to the volume. We really appreciate your patience and responsiveness, as well as the time and effort invested into this collection of papers. We are also extremely grateful to Professor Michael Freeden for tying the volume together with an insightful and thought-provoking afterword. We understand that weaving the multitude of papers together was no easy feat, and we truly appreciate how the afterword unites each of the contributions.

The volume would not be complete without Esther Mana Akanya's great photography, nor without Stuart Fox's informative statistical data from the *Politics in Crisis?* conference – thank you both.

Equally, this volume would not have been possible without the support of the School of Politics and International Relations Research Committee, the various School of Politics Research Centres, or the fantastically supportive academic staff there. We owe our deepest thanks to the Centre for British Politics, Centre for Comparative Political Research, Centre for Conflict, Security and Terrorism, Centre for the Study of Social and Global Justice, Centre for Normative Political Theory and the Institute of Asia and Pacific Studies and their members for funding, support and encouragement along the way. In particular, we would like to thank Professor Michael Freeden, Professor Steven Fielding, Dr Mark Wenman, Professor Vivien Lowndes, Dr Mark Stuart, Professor Wyn Rees, and Professor Katharine Adeney for their help in reviewing papers for the volume, and providing invaluable advice in putting the volume together.

We would also like to acknowledge the vital contribution of the School's administrative team, especially postgraduate administrators, Gail Evans and Ailsa Mitchell, who – alongside the University of Nottingham Marketing Department – helped us to navigate through a whole range of administrative and marketing obstacles.

Finally, we are hugely grateful to Carol Koulikourdi and to everyone else at Cambridge Scholars Publishing for providing continual support and guidance throughout the entire publication process.

PART I.

INSTITUTIONS IN CRISIS?

CHAPTER ONE

RESPONDING TO CRISIS: WHITEHALL AND THE POLITICS OF AUSTERITY

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Introduction

This chapter is concerned with “crises” and how they are narrated by political elites. It argues that the case for reforming the British state has attained wider currency in the context of the Coalition government’s narration of the post-2008 financial crisis. The Coalition’s strategy has drawn on a critique of New Labour’s centralising approach to state-society relations, alongside the imperatives of fiscal consolidation and deficit reduction (Smith 2010). Somewhat paradoxically in the wake of the financial crash, it is the role of the state rather than the role of markets which has been most under scrutiny. As the Cabinet Office minister Francis Maude argued in a speech to the think-tank Reform, “The era of big government has come to an end not just because the money has literally run out, but it is also shown to have failed”. The Conservative and Liberal Democrat agenda is concerned with harnessing the sense of crisis created by the near-collapse of the financial sector and the consequent pressures on the UK public finances to engineer a radical restructuring of the state. However, this imperative of overhauling the public management capabilities of the British state may undermine its “infrastructural power” at precisely the moment when it needs to strengthen collective capacities to provide an effective response to the “spill-over” effects of the most serious financial crisis in modern economic history (Midgal 2001).

This chapter examines this paradox and explores whether the financial crisis has precipitated an institutional crisis in Whitehall. The implication

of a “crisis of Whitehall” is not new. The concept of “crisis” has been periodically applied to the UK civil service since the 1970s, reflecting the decline of confidence in the British state’s ruling institutions. The fact that the language of crisis is a staple of the media’s commentary on the civil service can, therefore, be seen as a part of wider changes in British politics, as the traditional style of “club government” has been put under increasing exogenous and endogenous pressure (Marquand 1988). A key feature of “club government” is the relationships of trust that exist between its members, who can rely on each other “to observe the spirit of the club rules” (Marquand 1988, 178). Recurring “crises” in Whitehall can be seen as the outcome of the breakdown of this club model of governance while its informal and oligarchic nature is becoming increasingly pressured by Britain’s economic decline and calls for greater democratic accountability (Moran 2003). Interpreting the financial crisis and its impact on Whitehall is, therefore, critical to understanding the contemporary nature of the British state and its transformation.

On one level, the financial crisis and a lack of capacity in the British state it has underlined reflect the exhaustion of the “club government” model and the associated “Whitehall paradigm” (Campbell and Wilson 1995). The following section explores how a lack of capacity – such as an absence of institutional memory; significant knowledge gaps in terms of financial expertise; and a lack of external commercial experience – accompanied by an avowed belief in a light-touch approach, led to the under-regulation of the financial sector. The chapter then goes on to consider what lessons have been learnt (although not necessarily heeded) in the half-decade since the start of the financial crisis. The chapter is, thus, explicitly concerned with the relative trends of change and continuity in Whitehall since 2008.

The ability of the Coalition government to narrate the fiscal crisis strategically in order to pull back “the frontiers of the state” has been significant in transforming the size and scope of Whitehall. The impact of these changes, in the context of austerity, on the policy-making and the management capacity of Whitehall is examined through a case study of the Treasury. We must, however, be careful not to overstate the extent of change. The civil service has proved extremely resistant to change and reform throughout the post-war period despite sustained criticism of its culture, recruitment, and practices. A key barrier to change has been the dominant political tradition in the UK, which underpins the resources and power of ministers and mandarins as the key actors at the core of the British state. The final section of the chapter examines how the post-2010

civil service reform process has been mediated by the dominant political and administrative traditions in the UK.

Governance after Crisis: from the Big State to the post-bureaucratic society

One of the defining characteristics of any crisis is that it catches those in power off-guard. This was certainly the case with the Labour government and the onset of financial crisis in 2007. Just weeks before the run on Northern Rock in September 2007, Gordon Brown could be found eulogising about a “golden age for the City of London” (Brown 2007), apparently unaware that equity prices in the banking sector were about to fall by 80 per cent over the next 18 months (Haldane 2010, 1). In the wake of the crisis, the Labour government’s initial response took the shape of day-to-day “fire-fighting” rather than coherent and strategic planning. The failure to construct a coherent alternative growth strategy led to a political vacuum, which the Conservatives were able to exploit by interpreting the financial crisis as a crisis *of* (and not merely *for*) the British state (McCartney 2011). Froud et al. (2010) argue that the financial crisis opened a window of opportunity for substantively reforming the way in which markets are governed. They claim, however, that this opportunity has been “politically wasted” due to the institutionalisation of international finance and the long-established patterns of regulation in the UK (Froud et al. 2010, 25). However, while the financial crisis may have only led to a limited reordering of the governance of the markets, it has by no means been “politically wasted”. In the context of “austerity”, the Coalition government have been able to mount a sustained rhetorical attack on the “Big State”.

The antipathy to the centralising state reflects separate but by no means contradictory strands of the British liberal tradition. On the one hand, the “Orange Book” tendency within the Liberal Democrats emphasises the need for decentralisation and local autonomy within a dynamic market economy. One of the book’s authors, David Laws, argues that the “Liberal belief in economic liberalism” ought to be rescued from “soggy socialism and corporatism” (Laws and Marshall 2004, 11). On the other hand, the “liberal conservatism” lauded by David Cameron prioritises social duty and compassionate paternalism over the centralising state claiming that “the old, top-down, big-government approach has failed”. The Coalition has sought to contrast Labour’s centralised, statist approach with an emphasis on decentralisation and notions of a post-bureaucratic society (Smith 2010; Norman and Ganesh 2006). Modernisers within the

Conservative Party have argued that the state needs to reform in order to remain relevant in an age of transparency when technology enables individuals to access information with ease. At its core, post-bureaucracy is about the “transference of power from the centralised bureaucracy to the empowered individual” (Gove 2009).

Prior to the crisis, Cameron’s Conservatives sought to challenge the legacy of “Whitehall knows best”, particularly in social policy (Bale 2010; Blond 2010). The principle of a post-bureaucratic state was about “bottom-up” solutions to social problems, breaking with the top-down, centralising approach adopted by the previous Labour governments. The legitimacy and power afforded by the centralised state is rejected in favour of mobilising civil society and the private sector (Smith 2010; Kenny 2009). The Conservatives insisted that state-driven models of social reform rarely succeeded, reinforcing passive dependency on the welfare state. The challenges of an ageing society require new delivery tools, reducing citizens’ reliance on state provision and forging “pro-social” attitudes, behaviours and incentives (Halpern 2010; Thaler and Sunstein 2008) (Halpern 2010; Thaler and Sunstein 2008).

While Labour’s bureaucratic state allegedly “crowded out” voluntary initiative, the Conservatives advocated a strategy of decentralisation among local agencies and actors. The post-bureaucratic society appeared to fit rationally with the imperative of the post-2008 crisis moving towards fiscal retrenchment and a redrawing of the parameters of the state. Nonetheless, the Coalition Government was confronted by a strategic dilemma. Public opinion surveys indicated that the British electorate continued to support universal public services free at the point of use (Curtice et. al. 2010). The strategy was to reconcile retrenchment in the UK public finances with a commitment to social cohesion and a fairer society (Smith 2010).

Ministers sought to portray the post-bureaucratic state as a necessary decentralising reform by challenging the nostrum that “the gentleman man in Whitehall knows best” and pointing out that government programmes had failed to ameliorate poverty and social deprivation (Norman and Ganesh 2006). Moreover, cuts in public expenditure were needed to maintain confidence in the British economy and to safeguard Britain’s status as a “safe haven” with international investors. The fiscal impact of the financial crisis on the British state was severe: the total UK public sector debt was 85.2 per cent of GDP, and Britain had the second highest level of debt among the industrialised nations.

The scale of public debt created a rationale for the Coalition government to roll back “the frontiers of the state” aiming at eliminating the public sector deficit by 2015-16 (modified to 2016-17 since then), which would entail sharp reductions in year-to-year departmental expenditure. All Whitehall departments had to reduce administrative budgets by 34 per cent over the lifetime of the 2015 parliament, which led to dramatic headcount reductions in some key Whitehall departments (Institute for Government 2013, 8).

The Institute for Government claimed the scale of the retrenchment would have far-reaching consequences for Whitehall (Paun and Halifax 2012). The Cabinet Secretary, Sir Jeremy Heywood, acknowledged that the process of fiscal consolidation required fundamental reforms of the state. The fiscal crisis and the imperative of a post-bureaucratic society entailed major changes in the machinery of government and the institutional apparatus of Whitehall. Some of these implications are discussed in the next section, which considers the impact of the financial crisis and the subsequent Coalition reforms on the Treasury.

The Financial Crisis – the view from the Treasury

The fallout of the financial crisis has had important consequences for the British state. These consequences have been felt particularly acutely in the Treasury. The Treasury had to reduce its administrative spending by one third, including a 25 per cent reduction in headcount by cutting staffing levels to 1,000 in March 2014 from 1,350 in March 2010). The potential for loss of institutional capacity and collective memory had raised concerns prior to the crisis (Hood and Dixon 2012; Riddell 2006). Alistair Darling indicated that the Treasury struggled to cope with the fall-out of the financial crisis following its “slimming- down” during the post-2004 Gershon changes. There was not a single official who worked for the Treasury during the last major economic crisis following Britain’s exit from the European Exchange Rate Mechanism (ERM) in 1992 (Darling 2010).

The concern about the long-term erosion of civil service capability in Whitehall was confirmed in the recent Treasury report on the management of the financial crisis by a senior official, Sharon White (2012). The report noted the high turn-over of the Treasury officials led to the department’s struggle to retain staff with expertise in the financial services sector. When the financial crisis broke in 2008, the Treasury’s Financial Stability team comprised just three civil servants and was reliant on external secondments and advice – much of it provided by employees of the major

investment banks in London and New York. Even after the collapse of Lehman Brothers the Treasury's "scaling up proved to be inadequate and resources were thinly stretched" (White 2012).

The unprecedented scale of the financial crisis and the subsequent response of the Treasury to maintain the stability of the banking system have fundamentally changed the scope of the department. During the height of the crisis in 2008-09 the Treasury's assets increased from £2.3 billion to £44.8 billion due to the recapitalisation of the failing banks and other financial stability measures, such as the Credit Guarantee Scheme. The traditional role of the Treasury was transformed from a policy-based department focused on public expenditure, macroeconomics, and fiscal policy to "a major investor, or owner of a number of banks; guarantor of borrowings by banks in the wholesale markets; and insurer of assets owned by Royal Bank of Scotland" (NAO 2010, 15). The undertakings of the Treasury represented "...the largest UK government intervention in financial markets since the outbreak of the First World War" (Bank of England 2008).

The scale of the task undertaken by the Treasury has been all the more astonishing given that those interventions followed a period in which banking had been the central foundation of the UK's economic growth for a decade, which facilitated significant investment in the public sector combined with a low tax regime (Hay 2011). The expansion and structural transformation of the UK banking sector from the late 1990s was facilitated by a light-touch regulatory system premised on a "principles-based" approach. Financial services policy was not a high-profile area of the Treasury's business; and within the financial services division, financial stability was not the core focus. The lack of political saliency afforded to financial stability in the Treasury had been reflected in the number of dedicated staff working in that area in the years preceding the crisis. Historically, it was the Department for Trade and Industry (DTI) that was responsible for regulating securities and insurance, whereas the Treasury focused on the banks and building societies. Responsibility for regulating securities and insurance was transferred to the Treasury in 1993 and 1997, respectively. The Treasury inherited a significant amount of specialist knowledge and expertise as staff initially moved over from the DTI, who were gradually replaced by the Treasury officials. Following the creation of the tripartite framework between the Bank of England, the Financial Services Authority (FSA), and the Treasury in 1997, the Treasury started to scale back its capacity in financial services and financial stability. Much of the Treasury's specialist knowledge and experience was lost as a consequence. Encouraged by a benign economic

climate, in which “boom and bust” seemed to have been abolished, and alongside a strongly held belief that the “principles-based” approach to financial regulation had reduced the systematic risks in the financial sector, the Treasury was content to be a peripheral figure in the tripartite relationship, entrusting operational responsibility for financial stability to the “experts” at the Bank and the FSA. After 2003, when the Bank began to reduce its personnel covering financial stability, the Treasury chose not to increase its own capacity (White 2012). By the summer of 2007, just before the crisis hit, there was a team of just three officials.

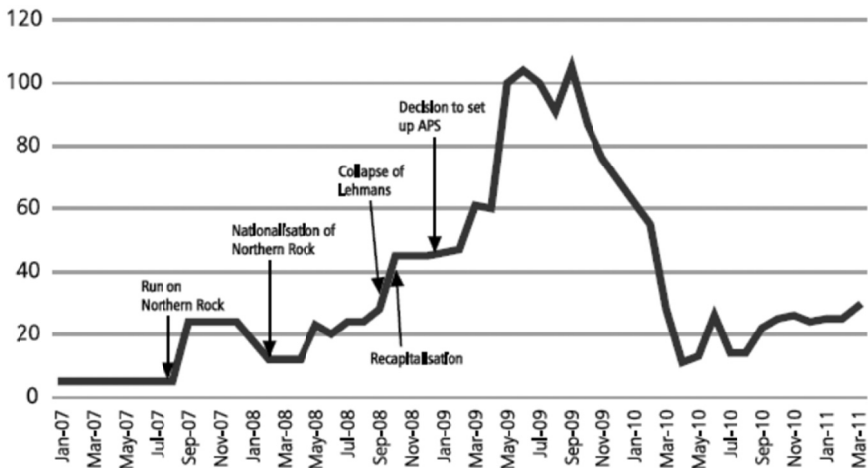
While explanations of the financial crisis are inevitably contested, the lack of institutional capacity within Whitehall – particularly, the Treasury as the competent department for financial stability – is critical for understanding its causes and origins. Although a lack of institutional capacity may seem to be a more prosaic explanation than the structural explanations found elsewhere in the literature (Streek 2011; Gamble 2009), the neo-liberal hegemony within financial services both reflected and reinforced the light-touch, arms-length approach adopted by the Treasury. The consignment of financial stability to the domain of “low politics” in the Treasury was exacerbated by other features of its departmental culture that served to reduce capabilities further in the years preceding the financial crisis. The most important of them was the high degree of staff turnover within the Treasury at the time (the highest in Whitehall at three times the Civil Service average). This staff “churn” peaked at 38 per cent in 2008, as capacity was “ramped up” at the height of the financial crisis and then stabilised at 28 per cent in 2011 (see Figure 1). To put this into context, the turnover rate of the 90,000 people employed by McDonalds in the UK is 35 per cent (Quinn 2013). The Treasury team who were assigned to manage the stabilisation of Northern Rock were led by three different people in the six months before nationalisation (White 2012).

The increase in staffing levels, along with the crisis management experience accrued by Treasury officials since 2007 and the contingency planning driven by continued uncertainty in the Eurozone, has inevitably increased capacity as the staff have undergone a steep learning curve since the start of the crisis. How much of this capacity is retained will be critical to the resilience of the British state to manage economic shocks in the future. The figures suggest much of this crucial institutional memory will be lost (see Figure 2). Approximately half of the current staff (in March 2012) joined the Treasury after 2008; more than half of the policy advisers have three years or less length of service (White 2012, 43); of the 108 staff working in HM Treasury’s Financial Stability Unit in September 2009,

only 41 remained employed by either HM Treasury or UK Financial Investments Ltd on 22 October 2012 (HM Treasury 2012). The upshot is that a large proportion of the Treasury staff has no experience of the 2007-09 crisis, let alone earlier banking and fiscal crises (see Figure 1 and 2).

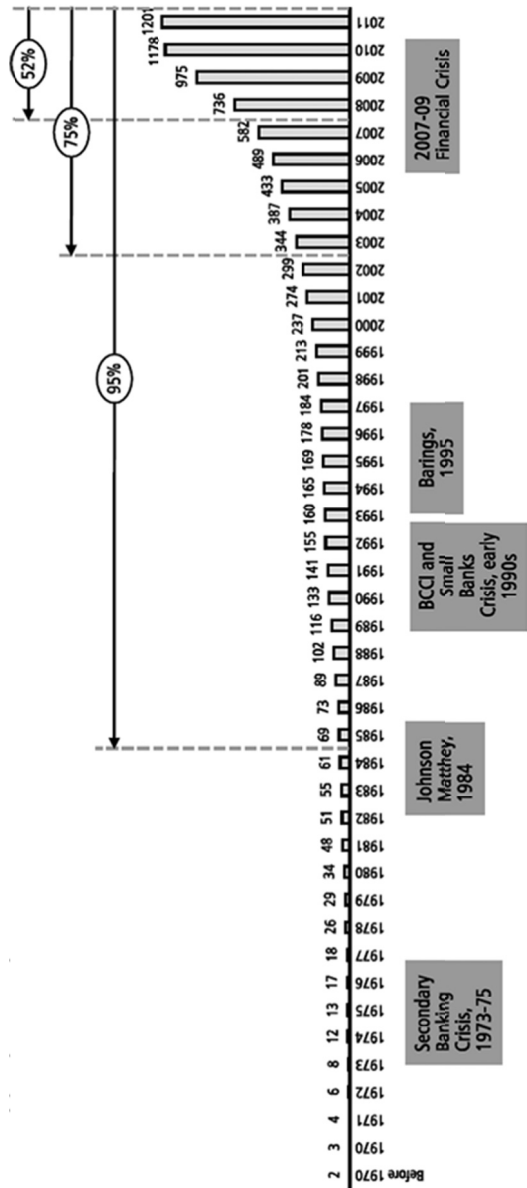
The review envisaged “a scaling back” on financial stability and the winding down of UK Financial Investments Ltd (UKFI) and the Asset Protection Scheme (APS). However, weak economic growth and continued uncertainty in the Eurozone put that decision on hold (White 2012, 37). Following the abolition of the FSA, demands on the Treasury’s capacity will go beyond identifying future crises and developing contingency plans, and the Treasury will play a much more active role in financial services than it did previously under the tripartite regime. Having overall responsibility for the new regulatory framework, the Treasury will be the key actor in implementing the reforms of the banking sector recommended by the Independent Commission on Banking (ICB) including the “ring-fencing” of retail banking from wholesale and investment activities; increasing the capital requirement of banks; and enhancing competition in the financial sector. Moreover, reducing systematic risks in global financial markets will require the Treasury to play a greater role in international supervision and cooperation. These responsibilities will be added to managing existing interventions and assets in the banking sector, including oversight of the APS and UKFI.

Figure 1 Number of staff working on financial stability



Source: HM Treasury

Figure 2 Length of service



Source: HM Treasury

Whitehall: Pathology without Crisis?

The Coalition's objective of reshaping public administration in the wake of the 2008 crisis meant it has sought to develop a consistent strategy for overhauling Whitehall and the civil service. Ministers narrate the "crisis" in terms of Britain's perilous economic position while trying to reduce the cost of government to sustain the confidence of the financial markets. Whitehall will undoubtedly be smaller as a result of the Coalition's reforms: the Thatcher's governments took eleven years to shrink the civil service headcount by 10 per cent – a figure achieved in less than three years by the Coalition (Paun and Halifax 2012). As a result, there has been growing dissatisfaction within the civil service about the prevailing climate of reform.

There are also unresolved questions about constitutional conventions and the impact on state effectiveness. The Coalition's proposals seek to redefine civil servants as "delivery agents". However, officials are rarely accountable directly to MPs. Margaret Hodge, Chair of the House of Commons Public Accounts Committee (PAC), insists that civil servants should "unambiguously answer to Parliament", which is opposed by the Whitehall mandarinates who fear that the Haldane principle of confidentiality between ministers and civil servants is being eroded (Foster 2005). Similarly, the outgoing Cabinet Secretary, Gus O'Donnell, has recently argued that Freedom of Information legislation is weakening the ability of ministers and civil servants to engage in a "free and frank" discussion of policy options within the government (Stratton 2011). There is no immediately obvious resolution of the conundrum over ministerial and parliamentary accountability at the moment.

This chapter contends that the Coalition's reforms perpetuate a historical pattern of "pathology without crises" (Hay 2011), as similar concerns about administrative capability have been expressed since the 1960s and 1970s, but without any fundamental overhaul of existing institutions and practices. During the New Labour years, ministers expressed disquiet about Whitehall's performance, arguing that the civil service had too little capacity for delivery, while officials insisted that traditional nostrums of "good government" were being attacked and undermined. There seemed little prospect of a decisive resolution to the crisis, however. A crisis is usually defined as a moment of decision when medically the patient is either cured for good, or declines with no hope of recovery (Dunleavy 1993). The fundamental point of decision in Whitehall has never been reached, even in the aftermath of the 2008 crisis. The vision of a post-bureaucratic society has yet to be realised.

All crises have structural determinants, where a deadlock or impasse persists for a long period before resolution (Gamble 2009). While there are phases of stability and order, crises have the potential to erupt unpredictably leading to new regimes, “[n]ew institutions, new alignments, new policies, and new ideologies” (Gamble 2009, 7). However, the analysis of change in Whitehall and the core executive through the concept of “crisis” is rarely illuminating. More significant is how strategically calculating actors legitimate their position within the political system, operating within the dominant tradition of centralised statecraft, majoritarianism, and executive dominance.

Conclusion

This chapter considered Whitehall reform in relation to contested conceptions of “crisis” in British politics. The argument is that since 2010 the Coalition government’s programme of reform is undermining state capacity in Britain by encouraging a retrenchment of public management and resources. Paradoxically, this is occurring at a moment when in the wake of the financial crisis state power is ever more necessary to put forward an alternative model for growth ensuring financial stability in the face of volatile European and global markets. Since 2010, ministers have seized a “window of opportunity” to enact reforms within the permanent bureaucracy in an attempt to initiate a post-bureaucratic society through the restructuring of the state. Although key pillars of the Whitehall model have endured, especially the symbiotic relationship between civil servants and ministers, the machinery of government has been significantly weakened. Over time, this may undermine the United Kingdom’s ability to initiate an effective long-term response to the crisis.

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CHAPTER TWO

HOUSE OF LORDS SELF-RESTRAINT

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“If this House does not have a role as the watchdog of the Constitution, it has no role at all”, Lord Lawson commenting on the Parliamentary Voting System and Constituencies Bill on 16 February 2011 (Hansard 2011, 604)

Introduction

The Second Chamber in a bicameral Parliament is usually considered to be the conservative brake against the populist lower chamber and the guardian of the constitution (Riker 1992, 101). The quote from Lord Lawson above shows that members of the House of Lords consider constitutional protection to be a major part of their remit. Whatever the validity of the argument, the presence of such views set the Lords up as a potential block to major constitutional reforms following the inconclusive outcome of the 2010 UK General Election. When the Conservatives and the Liberal Democrats published their Coalition Agreement, it contained three key pledges: to reform the constitution relating to parliament, including a referendum on voting reforms, constituency boundary changes, and a reduction of the number of MPs; a move to fixed-term parliaments; and the introduction of an elected second chamber (Cabinet Office 2010). On all three points, there was a measure of compromise between the two parties, both deviating considerably from their manifestos published before the election.

Up until 2010, the House of Lords had operated under the Salisbury Convention, which stated that the Upper Chamber would not block legislation that had appeared in the winning party’s manifesto. However, in 2010, no-one won the election, which raised the issue of whether the House of Lords was entitled to block the Government’s bills. The Coalition Agreement was based not on a manifesto endorsed by the British

people at an election, but was drawn up “behind-closed-doors”. The House of Lords, therefore, found itself in a strong position vis-à-vis the Government, not least because the two Coalition parties could not guarantee a majority in the Upper Chamber because of the large number of unaligned Crossbenchers (Russell and Sciarra 2009). Nevertheless, the House of Lords exercised considerable self-restraint in the first session of the new Coalition Parliament, which unusually lasted for two years between 2010 and 2012.

That does not mean to suggest that “ping pong” did not occur. “Ping pong” refers to an exchange of amendments between the Commons and the Lords as a result of a disagreement between the two chambers (Russell 2012; Whitaker 2006). It is often characterised by repeated defeats of the Government in the Lords, although it aims to bring about a compromise acceptable to both sides (Ersine May 2011, 629). Both the Parliamentary Voting System and Constituencies Bill and the Fixed-Term Parliaments Bill underwent four rounds of “ping pong”, with the Commons disagreeing with the suggestions of the Lords, the Lords insisting on their amendments, the Commons then offering a compromise, and the Lords accepting it. This chapter examines the evidence from such exchanges and illustrates how the House of Lords showed restraint during the “ping pong” exchange over these two bills. It begins with a brief background of the “ping pong” procedure of both bills, moving on to present a limited content analysis of the debates on the bills, along with a broader discussion of the Lords behaviour during the “ping pong” exchange, and explains why they exercised a considerable degree of self-restraint.

The Bills

The awkwardly titled Parliamentary Voting System and Constituencies Bill represented an uneasy compromise between the Conservative party’s desire to redraw constituency boundaries and reduce the number of MPs sitting in the House of Commons and the long-held Liberal Democrat aim for the introduction of the Single Transferable Vote for Westminster general elections. The Conservative party’s policy outlined in the 2010 manifesto was to reduce the number of MPs from 650 to 500, but following the Coalition negotiations that number was scaled back to 600 politicians (Conservative Home 2010; Cabinet Office 2010). The Liberal Democrats also compromised by changing their policy from the Single Transferrable Vote to the Alternative Vote (Liberal Democrat 2010; Cabinet Office 2010). By the time the House of Lords finished examining the Bill in detail, the Commons received no fewer than 104 Lords

amendments, initiating the first round of “ping pong” on 15 February 2011 (Hansard 2011a). Of these, 98 amendments were accepted by the Government, while six were rejected (Hansard 2011b). In particular, the Government rejected Lord Pannick’s amendments, which gave the Boundary Commission a ± 7.5 per cent leeway for population size when redrawing boundaries. The Government eventually gave way allowing the Isle of Wight to remain a single constituency. At the same time they dug their heels in over the Lords’ attempt to require a turnout of 40 per cent before any AV referendum result could be considered binding. “Ping pong” ensued when these Lords amendments were disagreed to by the House of Commons. On 16 February 2011, the Lords insisted upon their amendment by an increased majority, but when the Bill returned to the House of Commons, ministers offered an amendment in lieu and required the publication of turnout figures. At that point, their Lordships exercised self-restraint and gracefully gave way. The Bill received Royal Assent on 16 February 2011.

The Fixed-Term Parliaments Bill was considerably shorter in terms of the length of its title and the number of clauses that cluttered up the complex Parliamentary Voting System and Constituencies Bill. It sought to fix both the duration of the 2010-15 Parliament and all future parliaments to five years, to hold the general election on a pre-set day, and to codify the procedures for votes of no confidence (Hazell 2010). In total, the House of Lords returned nine amendments to the House of Commons. The Government rejected the Lords’ amendments that made the fixed-term principle renewable with each new parliament. After the summer recess of 2010, the Government continued to insist on its disagreement with the Lords by emphasising that fixed terms could be repealed by primary legislation if a future parliament so wished, but agreed to an amendment in lieu that required a report on the operation of a five year parliament. On 14 September 2010, the Lords debated whether to accept these amendments. Although Lord Butler of Brockwell, the former Cabinet Secretary, moved to insist on the original amendments, the Lords gracefully backed down again. The Bill received its Royal Assent on 15 September 2011.

In neither of the cases summarised above did the government give meaningful ground to the House of Lords. In the case of the Parliamentary Voting System and Constituencies Bill, the Government merely agreed to publish results, but did not concede to a threshold for the referendum, as that would have struck at the principle of the Bill. Similarly, the Fixed Term Parliaments Bill was passed only on the Lords’ insistence of a report on the operation of five year parliaments. Politically, the Coalition wanted to ensure that an AV referendum could be held in spring 2011. The

Conservative ministers were also determined to give the Coalition five full years to implement a tough programme of austerity, while the Liberal Democrats felt they needed the full five years to demonstrate to the electorate that they were a serious party of Government, capable of taking tough decisions.

However, the reasons for the Lords to exercise self-restraint are of more interest for this chapter. The first task is to attempt to measure the extent of that self-restraint.

Methodology

The analysis is based on the Hansard Official Record transcripts of the debates that took place during “ping pong” in the Lords. They are divided into substantive contributions and leave out interruptions, or contributions explaining procedural matters. For example, because the House of Lords is a self-regulating Chamber, its members have to agree on the orders, in which speeches are made. The contributions have been classified based on the peer that made them, the motion to which they were referring, and the bill. The text has then been searched using the phrases that indicate when the House of Lords is referring to its rights to insist. These phrases have been compiled from extensive reading of the contributions to debates conducted as part of the author’s ongoing PhD research. The bills examined in the chapter have been chosen because they involved extensive “ping pong” between the two chambers. They include: the 1976 Aircraft and Shipbuilding Industry Bill, the 1983 Housing and Building Control Bill, the 1992 Railways Bill, the 1997 European Parliamentary Elections Bill, the 2003 European Parliamentary and Local Elections (pilot) Bill, the 2004 Terrorism Bill, the 2005 Terrorism Bill, the 2005 Identity Cards Bill, and the 2007 Corporate Manslaughter and Corporate Homicide Bill. The frequency of the key words that indicate the instances of “ping pong” in the debate is shown in Table 1. Table 1 defines the word or phrase searched for, the number of times it occurs, and the number of separate interventions it occurs in (for example, the phrase “the other place” may be mentioned many times in one speech). The first column indicates whether a word or a phrase relates to the constitutional relationship between the chambers, or if is a request to ask again.