

What if they lose?

The consequences of Government defeats in the Commons

Even if the Government wins Tuesday night's vote, their troubles with the Higher Education Bill will not be over. Even if they manage to muster a majority of Labour MPs in support of the principle of the Bill, then there will be further opportunities for critics to seek to amend its details as it winds its way through Parliament.

If, however, the Bill fails to receive its Second Reading on Tuesday, then it will progress no further. A potential Government defeat has been compared to looking into the abyss – and other suitably apocalyptic metaphors – but there are in fact three types of government defeat in the House of Commons, many of which are much less dramatic:

[1] Those on votes of confidence. These are motions that explicitly declare confidence in the government or motions to which the government declares confidence attaches. If defeated, the convention is that the government resigns or requests a dissolution of Parliament. The last government to be defeated on a vote of confidence was the Callaghan government on 28 March 1979.

[2] Defeats on major issues of government policy. The government may then decide to resign/request a dissolution or seek a vote of confidence from the House. The more recent historical practice has been to seek a vote of confidence from the House (as the Major Government did following its defeat over the 'Social Protocol' of the Maastricht treaty in 1993).

[3] Defeats on issues that are not deemed to be major. In these cases (the majority of government defeats in the 20th century), the government need only decide whether to accept the defeat or seek its de facto reversal at a later stage. No wider constitutional questions arise.

To a large extent, it is a matter for government to determine in which category a defeat falls. That said, the Opposition can always table a motion of no confidence (for which time is normally found quickly) and pressure may result in a government, in effect, 'up-grading' a defeat.

Defeats on the Second Reading of Government Bills are extremely rare. The twentieth century saw just three - the Rent Restrictions Bill in 1924, the Reduction of Redundancy Rebates Bill in 1977, and the Shops Bill in 1986 – but even these did not automatically fall into the second category. In April 1986, the Thatcher Government became the only Government with a secure majority in the entire twentieth century to lose a Second Reading vote (the others having been under minority administrations) when 72 Conservatives voted with the Opposition to defeat the Shops Bill - but even this defeat was confined to the third category.

In part this was because the defeat was overshadowed by the fact that the same evening US planes bombed Libya, but even without the Libyan bombing it is extremely unlikely that there would have been calls for a motion of confidence. Immediately after the defeat, and despite calling it 'a central piece of their legislative programme', the then Labour leader Neil Kinnock merely demanded an assurance

that the Government would not reintroduce the Bill – an assurance that the Leader of the House, John Biffen, reading from a pre-prepared text, duly gave.

There is therefore no *need* for a motion of (no) confidence in the Government if it loses the Second Reading of the Bill on Tuesday. The Government may choose to table such a motion itself if it wishes – in order to present a united front - as may the Opposition. The latter might normally be thought unlikely, given that it would unite the (currently divided) Labour MPs behind the Government. However, there may be currently be some political mileage in the Opposition tabling a motion of no confidence if the government loses the Second Reading vote. The Government would obviously win any such vote, but it would be an opportunity for the Leader of the Opposition to emphasise the state the Government was in. In this context, Hutton may not so much be a distraction (akin to the Libyan bombing) as an encouragement. That, though, would be for the Government and/or the Opposition to decide. The point is that there is nothing automatic about any vote of confidence.

The Government could then choose to re-introduce the Bill at a later stage, and (if it desired) it could make the Bill's Second Reading a vote of confidence – as the Major Government did with the European Communities Bill in November 1994. Such a tactic is more risky than a generalised motion on confidence in Her Majesty's Government, as previous experience (both under Major in 1994 and Heath in 1972) is that dissident MPs will not always back the Government on votes of confidence that are explicitly linked to Bills.

The immediate consequences of a defeat on Tuesday night therefore would be a mass of bruised egos and damaged reputations (from the Prime Minister down) and some very angry University Vice-Chancellors (not a pretty sight at the best of times). There would however be no need for a vote of confidence or a General Election. To lose a vote with a majority of 161 is a remarkable achievement – but it is not a constitutional crisis.

Notes

*Philip Cowley is a lecturer at the University of Nottingham and author of *Revolts and Rebellions: Parliamentary Voting Under Blair (Politico's, 2002)*. He is available on 0115 8466230 or 07790 763928, or by email on philip.cowley@nottingham.ac.uk. Professor the Lord Norton of Louth [Philip Norton] is Professor of Government at the University of Hull. He is available on 01482 465863; or by email on p.norton@hull.ac.uk.*

This briefing note draws on research funded by the Economic and Social Research Council, and is available from www.revolts.co.uk.