Heresthetic and Strategic Choice in a Constitutional Moment: The Abdication of Edward VIII

Scot M. Peterson, Corpus Christi College, Oxford

1. Introduction

Constitutional moments—structural upheavals in a state's institutions—show who has power and how that changes. A constitutional moment involves higher law-making, in which institutional conflict alters existing constitutional power arrangements (Ackerman 1998). Giovanni Capoccia and Daniel Kelemen (2007, p. 348) systematically define these as critical junctures: '*relatively* short periods of time during which there is a *substantially* heightened probability that agents' choices will affect the outcome of interest'. They go on to argue that negative cases, where institutional change could take place but does not, should be included in any analysis of critical junctures. The importance lies with the *potential* for structural change, irrespective of whether it takes place.

The abdication of Edward VIII, who succeeded to the British monarchy in January 1936 and gave up the throne that December, provides an important instance of such a constitutional moment, as parliament changed the succession for the first time since 1714, when George I succeeded Queen Anne. Some constitutional scholars have treated the crisis as unimportant; Vernon Bogdanor emphasizes the government's success in averting a crisis. Indeed, he seems to adopt Baldwin's own characterization of the outcome, that Edward abdicated 'of his own free will' (Bogdanor 1995, p. 136).

Finding these accounts implausible, this study incorporates a systematic study of historical material from the National Archives, released in 2003, and from other archives, as well as accounts based on them.[1] In fact, the crisis had serious, long-term consequences both for the commonwealth and for the power of the monarchy, as the next two monarchs had less power (or exercised it less) than Edward's father, George V, or his grandfather, Edward VII. As Philip Murphy has argued, the abdication was 'the greatest threat to the British monarchy in the twentieth century, and … a crisis for the imperial crown' (Murphy 2013, p. 23). It was a constitutional moment, because it was a struggle for power between Edward and his prime minster, Stanley Baldwin. Edward's marriage was simply the field on which that battle played out.

The crisis fits Capoccia and Kelemen's requirements: the events happened over only a few months, but the consequences lasted much longer; agents' choices mattered; and some changes that observably could have taken place did not. Agents' choices—in particular, those of Baldwin and the king—controlled the outcome. According to the press lord Max Aitken, first baron Beaverbrook, '[A]fter everything had been entered up on either side of the ledger, the most exciting possibility depended on the conduct of two men—the King and Baldwin' (Aitken 1966, p. 45). Baldwin and the king also attempted to influence the outcome by shaping others' incentives through heresthetic: manipulating the

[1] Ziegler (1990), as Edward's official biographer, had access to the files that were released to the public in 2003.

issue dimensions—that is, what exactly was in dispute—and the veto players who could block movement away from the status quo (Riker 1986; Tsebelis 2002). While this article analyses the abdication using rational choice (Seyd 2013, p. 413), and in particular the tools of game theory and heresthetic, these tools also reflect a defining tension in politics and history: the interaction between circumstances, incentives and agency.

The following sections first summarize the undisputed facts that led to the abdication and then identify the incentives that drove Edward's and Baldwin's choices. These can be modelled in a normal-form game, but that model oversimplifies matters. In fact, both Edward and Baldwin used heresthetic to try to improve their own outcome, manipulating issue dimensions and veto players. The two issue dimensions were Edward's proposed marriage and abdication: whether either would happen, and if they did what form they would take. In connection with these, different configurations of veto players—parliament, the commonwealth realms and the people—could prevent movement away from the status quo. In the end, the result was predictable, but it was neither optimal nor voluntary for either party: it was the outcome of strategic conflict and negotiation and the best that either could achieve under the circumstances.

2. Factual Summary[2]

Edward VIII, born in 1894, was raised in a manner befitting a future king in the early twentieth century: he had private tutors, spent time at Oxford University without graduating, and went into the Grenadier Guards. He served in Europe during World War I, where he was popular with the troops, and he toured the empire, becoming personally well known in Australia, Canada and New Zealand. In 1934 he met Wallis Simpson, then married to her second husband Ernest, and began a relationship with her. Although he brought her to an evening party at Buckingham Palace in November 1934, he did so over his father, George V's objection. Edward and Wallis vacationed together publicly in the summers of 1935 and 1936, and Mrs Simpson's name appeared in the published court circular as a guest of Edward, first in the company of her husband and later without him.

In January 1936 George V died. That summer the foreign, but not British, press covered their Mediterranean holiday on the yacht *Nahlin*. Government concern with the relationship increased when Mrs Simpson filed for divorce from Mr. Simpson in July (this would be her second divorce). A preliminary legal hearing was scheduled for October, to determine whether there was a case for divorce. This increased the leakage of foreign press reports, speculating about the couple's relationship, into the country. Baldwin confronted Edward, objecting

[2] This summary of undisputed facts is drawn from Larman (2020); Phillips (2016); Williams (2003); and Ziegler (1990).

to his relationship with Mrs Simpson and to Edward's stated intention to marry her, in a series of meetings in October and November.

Beginning with a meeting October 20, the two defined their positions. Edward initially denied that he had anything to do with Mrs Simpson's divorce. When Edward reversed himself and stated his intention to marry, Baldwin eliminated various alternatives proposed by Edward, including a proposal to marry Mrs Simpson without her becoming queen—a morganatic marriage.[3] On 2 December the British press broke the story of Edward's relationship with Mrs Simpson, and on 10 December Edward signed the instrument of abdication. Afterward Edward was allowed by the government to give a radio address, in which he explained,

> You must believe me when I tell you that I have found it impossible to carry the heavy burden of responsibility and to discharge my duty as King as I would wish to do, without the help and support of the woman I love. … I now quit altogether public affairs, and I lay down my burden. … And now we all have a new King. I wish him, and you, his people, happiness and prosperity with all my heart (quoted in Ziegler 1990, p. 332).'

This article explores the steps that led to this outcome.

3. Incentives

Precommitment is a way of overcoming short-term preferences in favour of longer-term objectives (Elster 1979). Examples include cutting up credit cards to prevent spending in the short term and joining Christmas clubs to provide for spending in the long term (Becker and Mulligan 1997, p. 735). In anticipation of

[3] In a morganatic marriage, a man (or less frequently a woman) of high rank marries, but his spouse and children lack any claim to his title or property (Oxford English Dictionary 2019).

an undesirable short-term decision, people can pre-commit, as Ulysses did with the Sirens, tying his own hands to the mast and enjoying the music, while stopping up his crew's ears so that they did not sail toward it and founder on the rocks.

Edward anticipated that others would object to his relationship with Mrs Simpson. His parents protested strongly when he invited her to an evening party at Buckingham Palace (Ziegler 1990, p. 231). His father George V also told Edward in 1932 that the public would not accept his informal relationships with women (Ziegler 1990, p. 198). Financial documents transferring Edward's funds into a trust, with Mrs Simpson as beneficiary, show Edward's precommitment to Mrs Simpson, anticipating and trying to overcome the conflict he might have over his future relationship with her (NA PREM 1/463).[4]

The financial circumstances of the abdication have been referred to generally based upon second-hand sources (see, e.g., Bloch 1988, p. 47; Phillips 2016, p. 305; Ziegler 1990, p. 326), but no previous study has incorporated the details of these documents because of their legal and financial technicality. They show Edward moved funds out of England early in 1936 and that he had been planning to do so the previous year. In December 1935 two corporations were registered in Prince Edward Island, Canada: Helier Agencies and Beacon Agencies Limited (Prince Edward Island Corporations Office, 2017, personal

[4] References to NA are to the National Archives of England and Wales, Kew Gardens. This particular file contains documents that reflect the establishment of and contributions to the trusts that held the funds. Additional funds seem to have been added later (Ziegler 1990, p. 350).

communication). Beacon Agencies is the trustee of a trust established 20 January 1936, which was eventually funded with £925,926 (approximately £66 million in 2019 pounds). Helier Agencies, also formed in December 1935, acquired and held stocks and bonds in connection with the trust. The initial deposit into the trust was made 20 January 1936, the day George V died. Preparations must have been going on for some time before that.

These deposits amount to a bet by Edward, of much of his personal wealth, that he would remain faithful to Mrs Simpson. It was a bet with himself. This may be because he did not believe he could remain faithful to Mrs Simpson, as he had abandoned other women in the past. He benefitted from not disclosing the bet. His brother the Duke of York (later George VI), ignorant of the trust and believing Edward lacked financial resources, promised him substantial financial support after the abdication (Ziegler 1990, p. 325). As Mrs Simpson was the beneficiary and controlled the trust, it bound Edward's and her financial interests in a way that made their relationship more secure. In addition, the funds were enough for the couple to live independently if they lost other sources of support. This made it possible for Edward to credibly threaten to abdicate. Finally, the trusts protected Edward's assets from the UK taxes Edward would have incurred if he lost the immunity to tax British sovereigns enjoyed (Legal opinion by R.W. Needham, 23 May 1937, Monckton Trustees 15, f. 195). These documents show the comparative importance of marriage to Edward, even if it meant giving up the throne.

Stanley Baldwin's chief concern was to stop Edward's marriage. According to Walter Monckton, who served as an intermediary between Edward and Baldwin during the crisis, Baldwin's 'real wish was, … I am sure … to keep the King on Baldwin's terms, namely if He would give up Mrs Simpson entirely' (Typewritten notes on book draft, Monckton Trustees 20:56). Baldwin's political fortunes had deteriorated in 1935, during the Abyssinian crisis and following the resignation of his foreign secretary. Hitler's re-militarization of the Rhineland, the Spanish civil war and other pressures, including attacks from within his own party, led Baldwin to take a period of medical rest leave over that summer (Middlemas and Barnes 1969, p. 962). Mishandling the proposed marriage or abdication would have been detrimental to his premiership.

[Table 1 about here—I prefer the first version, but the second might be clearer?]

Using these facts as a framework, we can express the two players' preferences in Table 1 as King (K) and Prime Minister (PM).[5] Edward's most important objective was to marry Wallis Simpson; he also wanted to remain on the throne, but only if he could marry. Thus, K prefers to marry, irrespective of whether he can stay on the throne (payoffs 3 and 2). His least-preferred outcome would have been to abdicate but not to marry (payoff 0), which is the only

[5] Values in the table are ordinal; thus questions of interpersonal comparability are avoided. K's 3 may be much worse than PM's 0; the only comparisons that can be made are between one player's payoffs: for either player 3 > 2 > 1 > 0.

alternative worse than the status quo (SQ). On the other hand, Baldwin's least-preferred outcome (payoff 0) was the one that K most preferred: that K be allowed to marry and remain on the throne. The best outcome for PM was for K not to marry but to remain on the throne, maintaining the status quo (payoff 3). He was resigned, however, to abdication and marriage (payoff 2) if this became necessary.

4. The Normal-Form Game and its Limits

The payoff matrix for the normal-form game between Edward and Baldwin is presented in the figure below. In a normal-form game, the players know one another's payoffs, but they can only anticipate the moves that the other will make based on those payoffs. As row chooser, K's payoffs are the first in each pair of payoffs in the cells. The payoff for Don't Marry/Don't Abdicate (1,3) is King 1, Prime Minister 3. Whether Baldwin chooses 'abdicate' or 'don't abdicate', Edward will always choose marry, because in either case Edward's payoff is higher. That is, for Edward 'marry' strictly dominates 'don't marry'. Knowing that, Baldwin will choose to maximize his own payoff, which is abdication (as column chooser, his payoffs are second in the cells, and 2 > 0). The result, 'marry' and 'abdicate' (2,2), is the Nash equilibrium: no other choice can make either party better off, given the other's strategy. Edward and Baldwin eventually got there, but they did not do so immediately, because life does not consist of normal-form games.

[Figure 1 about here]

Instead, when human interaction is involved outcomes can be less predictable, because incentives and choices can be manipulated through

heresthetic (Riker 1986; McLean 2002; Heppell 2013). William Riker argues that logic is concerned with the truth-value of sentences, rhetoric is concerned with the persuasion-value of sentences, and heresthetic is concerned with the strategy-value of sentences (Riker 1986). The principal characteristic of heresthetic relevant to the abdication is the manipulation of issue dimensions, increasing or decreasing them, particularly when that change is accompanied by a change in the veto players, who can block movement away from the status quo. This manipulation also permits the heresthetician to assemble alliances, which support a previously disfavoured position. However, heresthetic is also highly empirical and is best studied through examples, rather than general principles (Riker 1983). This is consistent with requirements imposed by Capoccia and Kelemen (2007), who insist on alternative choices being observable at the time a particular choice is made.

The closest analogy to the abdication crisis, which is studied by Riker (1984, 1986), is the introduction of the electoral college into the United States Constitution. By arguing that election by state legislatures would have to have both a long tenure (to permit the president to gain expertise) but no re-election (to prevent corruption to build support for a second term), Governeur Morris made that alternative unacceptable to many members of the constitutional convention. Because of that, the members allowed states to decide how to choose electors, permitting a popular vote in any state, and allocated more power to individual states by weighting their influence according to their representation in Congress.

In the abdication crisis, two issue dimensions were in play: abdication and Edward's marriage. At the outset no one knew what either meant in practice. Parliamentary counsel warned of the 'delicate and difficult problems' raised by an abdication, giving the example of James II/VII's departure in 1688. The convention parliament that followed, not called by a monarch, offered the throne to William and Mary; a second one, which they called, retroactively ratified the first's actions. Counsel wrote, 'It was an extra-legal solution and may not inaptly be described as a revolution clothed and made respectable, so far as possible, with legal forms' (Memorandum by Maurice Gwyer, 5 November 1936, NA PREM 1/449). To avoid this, legislation during Edward's reign would be necessary to change the royal succession. Similarly with marriage. Edward proposed a morganatic marriage to reduce the political and constitutional impact of his choice of a spouse, but legislation was necessary for this to happen, and Baldwin wanted to block the marriage altogether.

Success on either of these dimensions would have improved the chances of a better outcome for one of the two players (but not both because the outcome was the Nash equilibrium). Baldwin worked to keep veto players aligned with his own preferences. Edward attempted to build coalitions, first among his ministers and then with the public. However, neither succeeded in their efforts. In the end, the result was the same one predicted in the normal-form game above. Nevertheless, heresthetic shows how the two parties hoped to gain an advantage and highlights their efforts to improve their own outcome. Baldwin has previously

been characterized as a heresthetician (Taylor 2005). In this instance he succeeded, albeit marginally, where Edward failed.

5. Issue Dimensions

a. Divorce and Marriage

In their first audience of 20 October, Baldwin encouraged Edward to stop Mrs Simpson moving forward with her first divorce hearing.[6] Baldwin later told Stanley Bruce, Australia's High Commissioner to the United Kingdom, 'the King came King over [Baldwin],' told him it was a private matter and said that 'he had nothing to do with it whatever,' which Baldwin told Bruce 'quite bluntly … was a lie' (National Archives of Australia, M104, 4, f. 157). In an attempt to build a coalition, Edward sought a second audience 16 November to see Baldwin with others, including Duff Cooper, who had been on the *Nahlin* that summer and Sam Hoare, who might also be sympathetic (Hardinge 1967, p. 138). Baldwin rejected the request for other ministers to attend, although Edward later met with them separately (Ziegler 1990, p. 300). In the meeting with Baldwin, Edward told him he intended to marry, but Baldwin said that marriage might not be possible, hinting that 'according to some legal opinion the [preliminary decree, which had entered on 27 October] ought not to have been granted, that there were certain aspects

[6] English divorce law at the time involved a *decree nisi*, which initiated the public proceedings and made it possible for others to object to the divorce, and a final decree, dissolving the marriage not less than six months later. Because Mrs Simpson was resident and domiciled in England, English divorce law applied (Rayden et al 1932).

of it that in any ordinary case would not have gone through' (Middlemas and Barnes 1969, p. 995).

Baldwin was making a veiled threat that marriage might be legally impossible. In order to obtain the preliminary decree, Mrs Simpson had accused her husband of adultery (Ziegler 1990, p. 291). The co-respondent, with whom he had an affair, was Mary Raffray, a friend of Mrs Simpson.[7] Mrs Simpson wrote to her aunt about the affair in May 1936 (Bloch 1986, p. 177), but the misconduct alleged in the divorce did not take place until July (Divorce Petition, NA TS 22/1/2). Under English law at the time, a court could not grant a final decree of divorce if there had been collusion: any 'agreement … between the spouses, the petitioner and the co-respondent … or their agents' to promote the suit (Rayden et al 1932, p. 117). If Mrs Simpson knew of and condoned Ernest's affair with Mary Raffray, there was collusion both between the spouses and between the petitioner (Mrs Simpson) and the co-respondent, who was her friend. Disclosure of these facts would have been an absolute bar to divorce.

In Baldwin's third audience 25 November, Edward proposed a morganatic marriage. This would have mitigated the political implications, as it meant that Wallis would not become queen and their children would not succeed to the

[7] Mrs Raffray stayed at Ft Belvedere, Edward's residence, along with the Simpsons the weekend of 27 March 1936, and she signed the guest book as Mary Raffray (Bloch 1986, p. 297). At dinner that Saturday, however, she used the name Buttercup Kennedy when she was introduced (Hardinge 1967, p. 90). The co-respondent in the Simpson divorce was Mrs E.H. Kennedy (Divorce Petition, amended 29 July 1936, NA TS 22/1/2).

throne, shifting the succession following Edward to his brother, the Duke of York (later George VI). The proposal, initially floated by Esmond Harmsworth (owner of the *Daily Mail*), was intended as a compromise to keep Edward on the throne (Cabinet minutes, 27 November 1936, NA CAB 23/86/10). In response, Baldwin pointed out that legislation would be required and asked Edward's permission to consult cabinet and the dominions, whose approval was necessary to make 'any alteration in the law touching the Succession to the Throne'.[8]

Baldwin blocked a morganatic marriage. In response to Edward's request, Baldwin consulted the cabinet, but no one supported the proposal (Ziegler 1990, p. 304). The Colonial Secretary sent a telegram to the Prime Ministers of the dominions asking for their positions but also stating the government's: 'I feel convinced that neither the Parliament nor the great majority of the public in all parties here should or would accept such a plan, any more than they would accept the proposal that Mrs Simpson should become Queen' (Telegram to dominions, 27 November 1936, NA CAB 127/155). Although some dominions, including New Zealand and Ireland (Murphy 2013, p. 27; Coffey 2009, p. 113), favoured a morganatic marriage, the UK government blocked that alternative.

In response to the threat that a divorce might not enter at all, Edward and his adviser Walter Monckton proposed that parliament pass a bill at the time of the abdication granting an immediate divorce to Mrs Simpson (Ziegler 1990, p. 317). Before divorce reform in the nineteenth century, divorce by act of parliament

[8] Statute of Westminster 1931, 22 Geo. 5 c. 4.

was the norm (Peterson and McLean 2013, p. 105), and, as ministers recognized, Scottish law and the law of some dominions did not impose the six-month waiting period between initial and final decrees that English law did (Cabinet minutes, 6 December 1936, CAB 23/86/16). Baldwin seemed to agree to this course, but he could not convince cabinet. The problem continued after the abdication, as Walter Monckton wrote to Baldwin's personal adviser, asking that Baldwin quash any suggestion that the 'powers that be would be glad' if the divorce were not granted as scheduled in April; he continued, 'I feel that if there was a hitch we might well be in for a tragedy before the Coronation—certainly for something extremely unpleasant' (Letter from Walter Monckton to Horace Wilson, 2 February 1937, NA PREM 1-460). Duff Cooper, Secretary of State for War, had earlier warned that Edward 'might destroy himself if by her action or ours he could not marry' (Ziegler 1990, p. 305).

In the closing hours of the crisis, Ernest Simpson offered to provide evidence that the divorce was a result of collusion (Ziegler 1990, p. 329). A letter from Sir John Simon, the Home Secretary, warned that if evidence of collusion were produced, divorce might not be possible, particularly if Edward were no longer king (Letter to Baldwin, 8 December 1936, NA CAB 21/4100/2[9]). Simon Cretney (2000, 2004) has argued that the vulnerability of the divorce consisted of money changing hands, potentially a payment by Edward to Ernest Simpson (for which I am unaware of direct evidence), or of Mrs Simpson engaging in adultery

[9] Based on its contents, this appears to be Simon's file.

herself, presumably with the King. However, Mrs Simpson's knowledge of Raffray's affair with Simpson would have been an absolute bar to divorce, whereas her own adultery or cooperation between Edward, a third party, and Mr Simpson would have been only a discretionary bar (Rayden et al 1932, p. 130). Simon, a barrister, uses the term 'collusion,' and contemporaneous documents emphasize that the bar would have been absolute (Handwritten note by Maurice Gwyer, 7 December 1936, NA PREM 1-449).

Mrs Simpson's solicitor was sent to France, where she had retreated from publicity, to warn her of these developments (Ziegler 1990, p. 312). At the same time, Baldwin went to see the king, to consult with him (Ziegler 1990, p. 322). While Mrs Simpson issued public statements 'withdrawing' from the 'situation' (The Times 1936b), she told her solicitor, 'wherever she went the King would follow her' (Goddard account of crisis, Monckton Trustees 20, f. 70). Edward's former secretary speculated, 'if the King could not marry Mrs Simpson, … he would certainly live with her, and the crisis would be indefinitely protracted' (Ziegler 1990, p. 330). Edward seems to have made the same threat to Baldwin, who was appalled. He complained to Harold Nicolson later,

> 'You see, the man [i.e. Edward] is mad. MAD. He could see nothing but that woman. He did not realise that any other considerations avail. He lacks religion. I told his mother so. I said to her "Ma'am, the King has no religious sense." (Nicolson Diaries, 10 December 1936, emphasis in original).

Baldwin may have been able to block a morganatic marriage, even though it had some support in the dominions, but by threatening to prolong the crisis and engage in what would have been a scandalous, public relationship with a married woman, Edward ensured that Mrs Simpson was able to obtain her divorce. In the end the divorce was granted, and Edward married in April 1937.

b. Abdication

William Riker argues that time is the friend of the heresthetician, who may be losing but hopes to win; winners have an incentive to seize victory and move on, but a heresthetician attempts to drag out the process looking for opportunities. '[T]he heresthetician is a battlefield strategist, an opportunist, not a closet planner and ideologue' (Riker 1986, p. 34). Baldwin seized an early advantage by structuring the choice as one between abdication and marriage, on one hand, or remaining on the throne but giving up Mrs Simpson, on the other. Edward never regained the advantage, although he dragged out the process.

Baldwin could not rush the situation too much. In a front-page leader published at the height of the crisis, *The Economist* argued, 'The possible advantages of a pause for reflection … vastly outweigh the disadvantages' (Economist 1936). Recognizing this risk early, Baldwin had dismissed efforts by cabinet members to present an ultimatum concerning Mrs Simpson. 'Baldwin sensibly pointed out that if the fact that the government had adopted so minatory an approach became public, it would put the public on the King's side' (Ziegler 1990, p. 299). The government of Canada, replied to the telegram concerning morganatic marriage that if 'it were believed or were in fact the case' that

abdication ‘were something imposed by Ministers,’ opinion there would be sharply divided (Telegram from High Commissioner, Canada, 30 November 1936, NA DO 121/38). Most importantly, Churchill, who supported Edward, issued a statement saying, ‘I plead for time and patience,’ but went on to warn, ‘No Ministry has the authority to advise the abdication of the Sovereign’ (The Times 1936a). Baldwin recognized early on that public opinion would become stronger with the passage of time. (Cabinet minutes, 2 December 1936, NA CAB 23/86/12).

During the time available, Edward explored the possibility of acting as parliamentary counsel had feared: simply leaving the kingdom. He arranged for a plane to be ready to take him to Switzerland, where he planned to stay at the Dolder Hotel in Zurich (Ziegler 1990, p. 315). Before leaving, he wanted to address the nation in a speech similar to the one he delivered when he abdicated. However, the speech proposed a morganatic marriage and concluded,

> ‘I feel it is best to go away for awhile, so that you [i.e. the people] may reflect calmly and quietly, but without undue delay, on what I have said. Nothing is nearer to my heart than that I should return; but whatever may befall, I shall always have a deep affection for my Country, for the Empire, and for you all’ (Appendix II, cabinet minutes, 4 December 1936, CAB 23/86/13).

The government recognized the speech as an attempt to gather popular support and offered formal advice against it. Baldwin gave direct orders to cancel Edward’s plane flight (Middlemas and Barnes 1969, p. 1010).

6. Veto Players

Any move away from the status quo toward morganatic marriage required the approval not only of the government but of parliament, as well. Additionally, according to the Statute of Westminster, any proposal 'touching the Succession to the Throne' required the assent of all the dominions.[10] Although the dominions were not unanimous in their opposition to a morganatic marriage, they did not have to be: the United Kingdom's opposition was sufficient to block movement from the status quo.

Abdication, however, worked in the opposite direction. Approval of all was necessary to move the succession to Edward's brother, and the dominions could dictate terms. At the outset of the crisis, parliamentary counsel had advised that abdication could 'affect, possibly adversely, the whole structure of the British Commonwealth of Nations' (Memorandum by Maurice Gwyer, 23 November 1936, NA PREM 1-449). To avoid this, although the assent of each dominion was necessary, the UK government discouraged individual legislation, which would destroy the so-called unity of the crown: the doctrine that the king was head of state in the dominions simply by virtue of being sovereign of the United Kingdom. If there were dominion legislation, according to parliamentary counsel, 'the new King will become King in that Dominion, and the new succession will become the law of that Dominion, only by virtue of the Dominion Act.' The government therefore telegraphed the dominions, 'We feel and hope that you will agree that

[10] Statute of Westminster 1931, 22 Geo. 5 c. 4, preamble.

in the circumstances of the case the less legislation and therefore the less opportunity for public discussion and debate the better and accordingly that if possible Legislation should be confined to the United Kingdom Act' (Telegram to High Commissioner in Australia, 4 December 1936, National Archives of Australia, CP4-10, 3). The dominions did not all agree.

The incentives driving individual dominions' constitutional politics varied according to the party in power, and the relationship between that dominion and the United Kingdom. Mackenzie King, the Liberal prime minister of Canada, had little reason to sympathize with the Conservative UK government: his grandfather, with whom he identified, had been exiled to the United States after leading a rebellion in Canada in 1837 (Granatstein 2011; Read 2004). Australia's prime minister, Joseph Lyons, was an empire loyalist and a Roman Catholic, who led a coalition made up of the United Australia Party and the Country Party (Henderson 2011). Michael Savage, New Zealand's premier, led a Labour government that had won a sweeping victory in 1935 (Beaglehole 2007), and J.B.M. Hertzog in South Africa was a republican, who favoured complete independence from the empire (Saunders 2011).

Contrary to Baldwin's wishes, Canada and South Africa both legislated for the new succession, while Australia and New Zealand assented by resolution to the UK act (Coffey 2009, p. 109). South Africa developed an entirely new theory of the succession and the monarchy, independent of any action by Westminster. The Irish Free State neither assented to nor approved the abdication legislation in advance, and it too passed its own legislation. A British government

representative reported back that Éamon de Valera evidently felt ‘the crisis meant that, for better or worse, we had reached a parting of the ways’ between Ireland and the crown (Notes by Sir Harry Batterbee, NA DO 121/38). Ireland later approved the new succession but also used the opportunity to remove almost all references to the crown from the Irish constitution and Irish law.[11] Taken as a whole, the dominions’ part in the abdication weakened the role of the crown as binding the commonwealth together, as well as the legal and formal connections between the UK and the dominions.

Because opinion polls were in their infancy, it is difficult to know whether the people could have exercised a veto over the abdication, because they did not (cf. McLean 2001, p. 27). However, Susan Williams (2003) makes a convincing case that Edward enjoyed widespread public support, which could have consolidated in time. The research organization Mass-Observation provides additional evidence for this claim from the time of the coronation in May 1937, when a substantial number of those interviewed expressed loyalty to Edward (Jennings et al. 1937). Another British poll shows that in 1937 61% of those sampled wanted Edward and Mrs Simpson to return to England (Cantril and Strunk 1951, p. 391): they were still viewed favourably in the country.

However, popular opposition to Edward’s marriage was essential to the government’s opposition. Only two monarchs had married between 1688 and

[11] Constitution (Amendment No. 27) Act, 1936 (Act. No. 57/1936); Executive Authority (External Relations) Act 1936, Act (Act No. 58/1936).

1936: George III and Victoria. The first acted on the advice of his informal advisor Lord Bute (Hibbert 1998), and Victoria acted against the advice of Lord Melbourne, who objected to her marriage to Albert based upon their consanguinity (Matthew and Reynolds 2012). Neither provides a precedent for government advice concerning a royal marriage. Parliamentary counsel based government's power to offer advice on the marriage on its role as interpreter of public opinion: 'In all matters of this kind, where there are no precedents to guide, Ministers have to act as interpreters of public opinion' (Memorandum by Maurice Gwyer, 5 November 1936, NA PREM 1/449). The centrality of public opinion to Baldwin's reasoning is evident from his account of conversations with Edward (Statement to cabinet, 27 November 1936, NA CAB 23/86/10). Edward's account of their audience on 16 November confirms this: '[Baldwin] might have been the Gallup Poll incarnate' (Windsor 1951, p. 331). The arguments against rushing the process also reflect this concern. Popular opinion may have been relatively indeterminate, but Baldwin's success in neutralizing it by moving as quickly as possible, but not too quickly, was essential to the legal case for opposing Edward's marriage.

7. Constitutional Consequences

The constitutional moment of the abdication had both macro-constitutional and micro-constitutional consequences. At the micro-constitutional level, it was a change in the order of succession, which deviated from the normal rule of primogeniture for the first time since George I succeeded Queen Anne in 1714. It also established a convention that the monarch could not marry without at least

the passive acquiescence of the government. At the macro-constitutional level, the crisis limited the power of the crown vis-à-vis the government. All of these are rules about how rules are made: who succeeds to the throne, both directly (in the case of George VI), and indirectly, since the monarch no longer had autonomy to choose the parents of his or her children. More broadly, it reduced the power of the monarch.

Edward seems to have underestimated Baldwin's determination to win and his willingness to incur costs to do so. According to Riker, success at heresthetic depends in part on the intensity of the heresthetician's commitment: 'The heresthetician thrives when he is losing because he is driven, it seems, by an intense desire to win' (Riker 1986, p. 51). Edward cared about being king, but only as long as it was relatively easy; he referred to the monarchy as a burden twice in his farewell speech. He notoriously neglected state papers; he refused to participate in efforts to maintain relations with foreign heads of state; and he viewed Buckingham Palace, Balmoral and Sandringham as white elephants. Alan Lascelles, his former private secretary, told Harold Nicolson that Edward 'loathed being King and was determined to get out of it as soon as he could' (Nicolson Diaries, 14 December 1936). He made some effort to remain on the throne, however, including agreeing to a morganatic marriage as a compromise and proposing his direct appeal to the people. Lethargy got in the way of success.

Baldwin, on the other hand, wanted Edward to remain as king, but objected to the marriage. On this side of the equation, the question is why the marriage was so objectionable that Baldwin was willing to weaken the commonwealth. In

fact, Edward's marriage was only focus of the conflict, not its basis. Rather, the conflict was a naked power contest between the two. Understood in this context, the abdication crisis was more of a constitutional moment than has previously been understood. Ira Katznelson (2013) and others have described the fragile state of worldwide democracy in the 1930s, and Richard Overy (2009, p. 313) shows that the political divide in Britain during this period was not an ordinary right/left division, but instead one between fascism, communism and democracy, either liberal or social democrat. In this context, the risk of an unelected head of state influencing policy was real, and Baldwin acted to oppose it.

Much speculation surrounds Edward's supposed Nazi sympathies. His official biographer shows that this was largely a product of German efforts to court favour with Edward, which were unsuccessful (Ziegler 1990, p. 271), although he acknowledges that Edward intended to take an active part in politics and had a strong authoritarian streak. Like much of the ruling class, Edward believed that of the two dangers of communism and fascism, the former was greater (Williams 2003, p. 109). Edward's pacifism, endemic among the generation that had fought in World War I, created blind spots toward Nazi policies, which were widespread among Conservatives and the ruling elite of the time. It is less Edward's German sympathies than his unpredictable, and potentially un-Conservative, views that created risk for Baldwin. His lack of commitment to the office he held increased that risk, as he could threaten to abdicate on other matters if he did not get his way.

The debate about the abdication crisis has traditionally addressed what about Mrs Simpson made her so unsuitable for marriage to Edward: her common origins, her American nationality or her two divorces. Bogdanor dismisses the first two, implying that marriage to an undivorced American would have been acceptable. He argues that Mrs Simpson's divorces made her unsuitable:

> The sovereign was Supreme Governor of the Church of England, a church which at that time would not remarry a person whose former spouse was still alive. … [I]t would be anomalous if the sovereign, who is required to be in communion with the Church of England, were to have contracted a marriage contrary to the rules of that church, and it would not have been in accordance with the sovereign's coronation oath to uphold the Established Church (Bogdanor 1995, p. 138).

But this argument is weak in several respects. First, the Church of England discouraged, but did not forbid, the remarriage of a divorced person with a living spouse, if the divorced person was the innocent party (Bennett 1994, p. 628). Because Ernest Simpson had been accused of adultery in their divorce, Mrs Simpson was the innocent party and could have been married in the church. Second, even if the marriage had been anomalous in England, it did not matter elsewhere, including Wales and Scotland as well as the dominions, where the church was not established and the monarch had no institutional relationship with a particular denomination.

Personal morality may have mattered some: Baldwin may have objected to Edward's relationship based on traditional moral principles. However, to Edward it seemed hypocritical that the government might allow him to have Mrs Simpson as a mistress but not to marry her (Windsor 1951, p. 332). Moreover, Baldwin was morally liberal in other senses. His own son Oliver, a Labour MP,

lived in an open relationship with his same-sex partner, whom Baldwin treated as a son-in-law (Walker 2003): a rarity at the time. Baldwin was not the stickler for Victorian morality that he pretended at times to be, or at least he was willing to relax those rules in cases of love, which he acknowledged was the case with Edward and Mrs Simpson.

Edward, however, asserted himself politically in unpredictable ways. In 1935 he made a speech to the British Legion, advocating a rapprochement with Germany, which irritated both the governments in the United Kingdom and France, although it received a warm response from its immediate audience (Ziegler 1990, p. 209). And at the peak of the abdication crisis, but before it became public, Edward visited Wales, going into people's houses, medical clinics and abandoned steelworks, making comments that were sympathetic to the unemployed workers, who welcomed him (Williams 2003). Baldwin's government faced domestic poverty and international instability, and a politically unpredictable, unelected head of state was likely too great a risk to democracy.

Both Edward's father and grandfather (as well as his great-grandmother Victoria) had actively intervened in politics. Edward VII conducted his own foreign policy, negotiating the entente cordiale despite resistance from his government (Lee 1925, p. 223). During the budget crisis of 1909 both Edward VII and George V fought against creation of peers to ensure passage of the Liberal government's budget (McLean 2010, p. 97). George V demonstrably opposed home rule for Ireland, showing more loyalty to His Majesty's loyal opposition than to his own government (McLean 2010, p. 94). Edward's forebears had not shown neutrality

in politics, so there were precedents for the kind of interventions that Baldwin feared, and Edward was not the reliable Conservative Victoria, Edward and George had been.

All of this adds up to Edward being too dangerous as a head of state for Baldwin to allow him to continue in office. Edward's relationship with Mrs Simpson provided a good reason to open up a conflict with him, without directly engaging in the political contest involved in opposing Edward's approach to unemployment in Wales or to rearmament. Either of those issues would have involved Edward and Baldwin in partisan politics, which could have more seriously threatened the monarchy, whereas Edward's relationship with Mrs Simpson was a moral question, which could be used to foment a less serious dispute. Moreover, it could be resolved, as it was, with a romantic story about the king giving up his throne for the woman he loved. Thus, the question of why Mrs Simpson was an unsuitable wife for Edward is less central to the crisis than Edward's history of taking political sides. Neither subsequent monarch has indulged such tendencies. While that may have been consistent with their character, the abdication provides a cautionary tale.

In his speech to the House of Commons describing the events of the crisis after Edward had signed the instrument of abdication, Stanley Baldwin commended Edward's conduct:

> [I]f he went he would go with dignity. He would not allow a situation to arise in which he could not do that. He wanted to go with as little disturbance of his Ministers and his people as

> possible. He wished to go in circumstances that would make the succession of his brother as little difficult for his brother as possible; and I may say that any idea to him of what might be called a King's party, was abhorrent (HC Hansard, 10 December 1936, vol. 318, c. 2183).

Baldwin was creating a story about the abdication, which ignores many of the conflicts described above. The First Lord of the Admiralty Samuel Hoare's notes about the speech call it 'very successful but very egotistical' on Baldwin's part, noting 'He said little or nothing about the Dominions' (Templewood Papers, Part IX, File 7). Baldwin's failure to mention the dominions was a part of the narrative that he created, in which he and Edward reached a cooperative solution to the crisis with little or no practical consequence for the nation. This article has presented a systematic challenge to that narrative.

8. Conclusion

Riker believed that consistencies in heresthetic could be studied by identifying case studies and considering them carefully (Riker 1984, p. 15). Here, several of Riker's characteristics are evident, but other general characteristics, which he does not discuss, are present as well. Like other dynamic models of decision-making, the set of alternatives faced by the players is variable rather than fixed: the choice is not binary between abdication and not, or between marriage or not, but also about what kind of abdication (abandonment of the throne?) and what kind of marriage (morganatic?). Preferences are also variable over time. Edward was unwilling to take the risk that he might abdicate and not

marry. When Baldwin attempted to impose that as the alternative to remaining on the throne, Edward introduced a far less attractive alternative to Baldwin: living with Mrs Simpson even if she remained married. The existence of that further alternative made abdication (and marriage) more attractive to the prime minister. While Baldwin could not agree to a statutory divorce, he ensured that the divorce decree was granted.

The introduction and elimination of veto players has not been incorporated into Rikerian strategic decision procedure, as far as I am aware. Here, Baldwin and his cabinet knew the risk of public opinion turning against them. Baldwin emphasized its importance to Edward and persuaded him that Baldwin could accurately predict it, thereby both reducing Edward's resistance and securing the legal grounds for intervening in the king's private life. More importantly, neither cabinet nor anyone outside of the Dominions Office was made fully aware of the difficulties involved in obtaining the dominions' agreement to the procedure for abdication and complying with the Statute of Westminster. But costs were incurred in that process. Baldwin's silence concerning the dominions in his speech was the dog that didn't bark.

Power, and shifts in power, are difficult to study, because the data has to include events that do not happen. Although the abdication was a threat to the monarchy, the monarchy survived. The two following reigns, however, involved less political activity by the monarch than the previous two, and that reflects a loss of power. Britain's constitutional monarchy in the twenty-first century is a different

institution to that of the nineteenth or early twentieth centuries, and the abdication was one of the turning points that made it what it is.

References

Archival Sources

National Archives of Australia, Canberra, online at http://www.naa.gov.au/.

Walter Monckton Papers (Dep. Monckton Trustees), Balliol College, Oxford.

Harold Nicolson Diaries, Balliol College Oxford.

National Archives of England and Wales (NA), Kew Gardens, London.

Templewood Papers, Cambridge University Library.

Published Works

Ackerman, B. (1998) We the People: Transformations. Cambridge, Mass.: Harvard University Press.

Aitken, M., first baron Beaverbrook. (1966) The Abdication of King Edward VIII. London: H. Hamilton.

Beaglehole, T.H. (2007) Savage, Michael Joseph (1872–1940), trade unionist and prime minister of New Zealand, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

Becker, G.S., and Mulligan, C.B. (1997) The endogenous determination of time preference. The Quarterly Journal of Economics 112(3): 729-758.

Bennett, Bruce S. (1988) The Church of England and the Law of Divorce since 1837: Marriage Discipline, Ecclesiastical Law and the Establishment. The Journal of Ecclesiastical History 45(4): 625-41.

Bloch, M. (1988) The Secret File of the Duke of Windsor. London: Bantam.

——— (ed.) (1986) Wallis & Edward: Letters 1931–1937. London: Weidenfeld & Nicolson.

Bogdanor, V. (1995) The Monarchy and the Constitution. Oxford: Clarendon Press.

Cantril, H. and Strunk, M. (1978) Public Opinion, 1935–1946. Westport, Conn.: Greenwood.

Capoccia, G. and Kelemen, R.D. (2007) The study of critical junctures. World Politics 59(3): 341–69.

Coffey, D.K. (2009) British, Commonwealth, and Irish responses to the abdication of King Edward VIII. Irish Jurist (N.S.) 44: 95–122.

Cretney, Stephen M. (2000) The King and the King's Proctor: The Abdication Crisis and the Divorce Laws 1936-1937. Law Quarterly Review 116: 583-620.

——— (2004) The Divorce Law and the 1936 Abdication Crisis: A Supplemental Note. Law Quarterly Review 120: 163-71.

Economist (1936) The King. 5 December, p. 1.

Elster, J. (1979) Ulysses and the Sirens. Cambridge: Cambridge University Press.

Granatstein, J.L. (2011) King, (William Lyon) Mackenzie (1874–1950), prime minister of Canada, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

Hardinge, H.M. (1967) Loyal to Three Kings. London: Kimber.

Henderson, A. (2011) Lyons, Joseph Aloysius (1879–1939), prime minister of Australia, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

Heppell, T. (2013) The Conservative Party leadership of David Cameron: heresthetics and the realignment of British politics. British Politics 8(3): 260–284.

Hibbert, C. (1998) George III: A Personal History. London: Viking.

Jennings, H., Madge, C. and Beachcroft, T.O. (1937) May the Twelfth: Mass-Observation Day-Surveys, 1937. London: Faber and Faber.

Katznelson, I. (2013) Fear Itself: The New Deal and the Origins of Our Time. New York, London: Liveright Publishing Corporation.

Larman, A. (2020) The Crown in Crisis: Countdown to the Abdication. London: Weidenfeld & Nicolson.

Matthew, H. C. G., and Reynolds, K. D. (2012) Victoria (1819–1901), queen of the United Kingdom of Great Britain and Ireland, and empress of India, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

McLean, I. (2001) Rational Choice and British Politics. Oxford: Oxford University Press.

———. (2002) William H. Riker and the Invention of Heresthetic(s). British Journal of Political Science 32(3): 535-558.

———. (2010) What's Wrong with the British Constitution? Oxford: Oxford University Press.

Middlemas, K. and Barnes, A.J.L. (1969) Baldwin: A Biography. London: Weidenfeld & Nicolson.

Murphy, P. (2013) Monarchy and the End of Empire. Oxford: Oxford University Press.

Overy, R. J. (2009) The Morbid Age : Britain between the Wars. London: Allen Lane.

Oxford English Dictionary (2019) Morganatic, adj. online ed. Oxford: Oxford University Press.

Peterson, Scot, and Iain McLean (2013). Legally Married: Love and Law in the UK and the US. Edinburgh: Edinburgh University Press.

Phillips, A. (2016) The King Who Had To Go: Edward VIII, Mrs Simpson and the Hidden Politics of the Abdication Crisis. London: Biteback Publishing.

Rayden, W., Mortimer, H.C., Coates, H.H.H. and Bryant, F.S.H. (1932) Rayden & Mortimer's Practice and Law in the Divorce Division of the High Court of Justice and on Appeal Therefrom. 3d ed. London: Butterworth.

Read, C.F. (2004) Mackenzie, William Lyon (1795–1861), journalist and politician in Canada, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

Riker, W.H. Political Theory and the Art of Heresthetics. In: A.W. Finifter (ed.) Political Science: The State of the Discipline. Washington, D.C.: American Political Science Association, pp. 47-68.

———. (1984) The Heresthetics of Constitution-Making: The Presidency in 1787, with Comments on Determinism and Rational Choice. The American Political Science Review 78(1): 1-16.

———. (1986) The Art of Political Manipulation. New Haven: Yale University Press.

Saunders, C. (2011) Hertzog, James Barry Munnik (1866–1942), prime minister of South Africa, Oxford Dictionary of National Biography (online edition). Oxford: Oxford University Press.

Seyd, B. (2013) Analysing constitutional reform in Britain: Insights from economic approaches. British Politics 8(4): 410–432.

Taylor, A.J. (2005) Stanley Baldwin, Heresthetics and the Realignment of British Politics. British Journal of Political Science 35(3): 429–63.

The Times (1936a) Mr Churchill’s Statement. 7 December, p. 8, col. C.

The Times (1936b) A Statement by Mrs Simpson. 8 December, p. 16, col. D.

Tsebelis, G. (2002) Veto Players. New York, Russell Sage Foundation.

Walker, C. (2003) Oliver Baldwin: A Life of Dissent. London: Arcadia.

Williams, S. (2003) The People's King. London: Allen Lane.

Windsor, Edward duke of. (1951) A King’s Story. London: Cassell and Company Ltd.

Ziegler, P. (1990) King Edward VIII. London: Collins.

Date of Manuscript: 18 January 2021

Word count: 8366