

## THE YEAR AT WESTMINSTER

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Scottish Ministers could have been forgiven if they had staggered off for their holidays in the summer of 1980 rather punch drunk. Unemployment in Scotland had risen to more than 236,000 - a figure unthinkable only a decade before - and popular support for the Conservatives seemed on another downward turn. The cries of battle were all around: "the most reactionary Government for a generation", "the hatchet men", "Ayatollah Younger". Yet at Westminster there was a curiously satisfied air in Scottish Tory circles. Things, they said, could have been worse.

At the beginning of an extraordinarily long Parliamentary session - stretching from May 1979 to November 1980 - Ministers and MPs on the Government side were bracing themselves for a few nasty moments. The new entrants, particularly, were aware that the Thatcher approach was going to make things tough for them. But however difficult it may have been in the Constituencies to calm the worries about unemployment and industrial decline, Tories felt by July 1980 that in the Parliamentary cocoon they had done rather well.

This is not to say there was no opposition: but it is to suggest that the Labour Party's struggle against the Government's opening legislative salvo could have been more effective. The story of the year at Westminster is of opportunities missed and some skilful public relations work by Ministers.

The battle centred on two pieces of legislation which could hardly have been more controversial. The Tenants' Rights Etc. (Scotland) Bill enshrined in law the right of nearly every council tenant to buy his home and opened up, in the view of its critics, a nest of dangers for the very concept of public housing, threatening to destroy the balance of the housing stock in local authority areas throughout Scotland. The Criminal Justice (Scotland) Bill was even more contentious.

With its new rules for detention of suspects and the power for the police to stop and search in the street, it precipitated a battle royal on the civil liberties of the subject, allowing the Right and Left to bare their breasts and argue out the fundamental differences between them. As these two lengthy and complex Bills moved through the Commons and the Lords, Scots MPs were trying hard to knock their new select committee into shape. The difficulties which attended its early days, and the controversy which clung grimly to its central report during the year, revealed, as well as anything else, the relationships between the two new sets of MPs and the finer points of the Tory-Labour argument over government aid for industry in Scotland.

But first it is worth looking at the Scottish Office team itself. George Younger had a difficult start as Secretary of State: he was second choice for the job. When Teddy Taylor's Scottish career ended in a defeat at the general election the genial laird - and scion of the "beerage" - found himself summoned to the Cabinet table. At Westminster there were knowing smiles. George is a nice chap, they would say, but too gentle. No backbone. By the end of his first year even his critics were willing to give him credit. Despite the appalling industrial difficulties and unemployment figures he was seen to have been effective at some crucial moments.

The battle over Ferranti was certainly his most politically-useful victory. When Sir Keith Joseph, the Industry Secretary, signalled his intention to sell the National Enterprise Board's holding in the electronics company to the highest bidder, the spectre of Arnold Weinstock, the chairman of GEC, chilled MPs on both sides of the Commons. They saw one of Scotland's most successful companies - rescued by the Government from financial disaster in 1974 - being gobbled up by a competitor in an asset-stripping coup. So Younger had to fight. Helped by a Commons debate in which MPs on both sides backed Ferranti's independence and with the powerful backing of Mr Jim Prior, the Employment Secretary (and, it was rumoured, some support from the Prime Minister), Younger was able to claim that he had forced Joseph to tie strings to the sale of shares. Not only was that a useful victory, it was essential. Had Younger lost he would have been branded a Cabinet weakling. On the debit side, he had to preside over

a series of savage cuts - although the Government were given to denying that they were cuts at all, on the grounds that, for example, expenditure on health was rising, at least on paper. He was accused of ignoring local authorities, unions of every description and most of the main pressure groups in Scotland.

His lieutenants were a mixed bunch. Malcolm Rifkind was quickly marked down as a high flier and was in complete command of his ministerial brief. Cynics observed lift off as early as the debate on the repeal of the Scotland Act after the referendum when he wound up a stormy debate in the Commons without a note, arguing the case for ditching devolution. They suggested that for someone who had been on the "Yes" side this was a very efficient performance. He was on his way. Rifkind soon established himself as a formidable force in committee and in the Commons.

Alex Fletcher was given both the industry and education portfolios, in a curious joint role, and had a difficult time. Spending time telling managers and workers that the Government can do nothing to help them with their economic problems is hardly the easiest way to win friends. It sometimes seemed as if his only creative role during the year was in his assiduous pursuit of investment for the micro-electronics industry in Scotland and his determination to develop more research and development facilities to service the industry. Against a background of government withdrawal from many sectors of industry, Fletcher became the bogey man. Russell Fairgrieve, in charge of health and social services, had a quieter time, as did Lord Mansfield, the Minister of State, tucked safely away in the Lords. Younger decided early on that his office needed a strong sense of identity, given the arguments about Scottish influence which had dominated the political scene in Scotland for so long. So for the first time Ministers were given titles, and his underlings were spared the indignity of simply being under-secretaries. Fletcher became, for example, the only Minister for Industry and Education in the Government.

So this was the team that set off to apply the Thatcher experiment to Scotland. Their first legislative test of any significance came in the Tenants' Rights Etc. (Scotland) Bill. The title is worth

examining. Rifkind, as Scottish Environment Minister, was in charge and he was duly presented with a Bill by his civil servants, complete with a boring title. He argued for "Tenants Rights" to make his political point and, although the civil service mind insisted on "etc" to cover everything in the Bill not included in the Tenants Charter, he won his day. That was a harbinger of the political sleight-of-hand he would use throughout the committee stage.

It would be hard to imagine another bill which could stir the Labour heart like Tenants Rights. By giving almost no discretion to local authorities over which houses could be sold, allowing enormous discounts on market value and obliging councils to give loans where building societies had refused, it seemed to undermine the whole structure of public sector housing built up, and propped up, by Labour councils in Scotland. It also seemed to open the way for shady dealing: there was profit to be made on discount housing, and rich pickings for those who could sell advice on how to manipulate the new rules. In short, said one Labour MP, a "chancer's charter." The Government's case was simple. Everyone should have the right to buy a home, thus securing some kind of financial security and independence from council bureaucrats. Rifkind delivered this message hour after hour through a long committee stage and rubbed it in with cheeky taunts at a Labour Party which he claimed wanted to deny to tenants the freedom they sought.

When the Scottish Standing Committee settled down to discuss what Hugh Brown, the former Scottish Housing Minister, called "the bribe of the century" no-one expected the Bill to get back to the floor of the Commons without a guillotine. An Opposition's main weapon is time: with energy and imagination any Government can be ground down in long nights of points of order and filibustering speeches when the deals between the whips have broken down. In committee a Government's first course is to pass a timetable motion, extending the sittings or increasing their number. If they still cannot make progress they must go to the floor of the Commons itself and win a guillotine motion. No Government enjoys having to do it too often, but they do it. Oppositions enjoy guillotine debates because they can accuse Ministers of dictatorship and other undemocratic activities.

Labour would have liked nothing more than an embarrassing guillotine debate on Tenants' Rights. And yet...

The cleverness of Rifkind in throwing the argument back across the floor made it a difficult business for the Opposition. Were they to be seen to be denying people the right to buy houses? Hugh Brown, for one, sometimes seemed unhappy when certain colleagues argued against all sales. He argued for restrictions on sales, but was "soft" on the principle - not surprisingly since he had himself published a green paper advocating much more selling in the public sector. So, for all the Opposition's screams of agony when Rifkind insisted on a tough timetable in the discussions between the whips, the Government were not forced to take the step of cutting short the whole debate.

Twice a week for a couple of months they argued it out. Bruce Millan, the former Secretary of State, led for the Opposition but a large part of the burden was borne by Robin Cook, Labour MP for Edinburgh Central, who resumed with Rifkind the arguments they had together on the old days of Edinburgh City Council. He led the Labour backbenches with style and astonishing energy. Cook's central theme - as it was Millan's - was that local authorities would no longer have control over their housing stock. Sales of ordinary family homes could no longer be geared to the needs of the homeless and the length of the waiting list. Rifkind rested his case on the Tory belief in the right to buy.

Throughout the long hours of debate the Tory backbenches were as calm as a duckpond. The Government had told its MPs to keep quiet and to resist the temptation to feed a Labour filibuster by provocative speeches and interventions. There were one or two occasions when they leapt into action - attacking the housing policies of particular councils or calling for some control over sales in rural areas - but their role in the main was to sit through the Labour protests. The Government conceded amendments on some minor matters - and on an amendment protecting the rights to a tenancy of the individual partners in a broken marriage - but the main pillars of the Bill hardly shook.

Indeed, Shelter's determined opposition to the Bill was less concerned with challenging the central arguments in the Tenants' Rights Bill

cause they knew the Government had a comfortable majority - than with mitigating what they thought to be some of the more dangerous side effects. It was a campaign which bore some fruit. On several procedural matters, and on such issues as the protection of the wife of a broken marriage, Shelter succeeded in forcing constructive changes. Their dedicated efforts to amend the Bill through detailed submissions to every MP and a presence through every long hour of the committee stage were in stark contrast to the activities of some other organisations. The Convention of Scottish Local Authorities, for example, maintained a discreet silence until almost the end of the committee stage, when they sought a meeting with Rifkind to press a minor change upon him.

Throughout the committee stage the Government expressed frustration at the Opposition's tactics. Hour after hour Labour MPs would prise open the fine print of the Bill and declare their opposition to the principle. Yet in truth the Government had not expected to get through without a messier fight. Plans had been laid for a guillotine, but it was not needed. The Opposition eventually agreed an informal timetable which allowed the Bill to progress.

But if the Government were surprised at the relative ease with which the Tenants' Rights Bill moved through its Commons stages it hardly conceived that it would have an easy time with the Criminal Justice (Scotland) Bill. From the moment it appeared in the Lords for its first Parliamentary scrutiny it was the object of passionate attacks. Inside and outside Parliament it generated heated debate. In Scotland the Campaign to Stop the Criminal Justice Bill began a lively publicity campaign. The Scottish Council for Civil Liberties, the Law Society, the Glasgow Bar Association and even the Department of Criminology at Edinburgh University registered strong protests at some of its provisions. And the Conservative Party cranked up the law-and-order bandwagon. Yet the Bill was hardly new, or even a surprise. The Labour Bill of a year before had contained many of the same provisions, based on the report of the Thomson Committee, incorporating procedural reforms in the courts and strengthening the powers of the police. One new element did appear, and it brought back memories of an old familiar face. The power to search an individual in the street for an offensive

weapon had been a favourite policy of Teddy Taylor. Indeed the "stop-and-search" part of the Bill was known to some Labour MPs as the Cathcart Memorial Clause. In earlier days Taylor had claimed that the aim was to have random searches, in dance halls for example, in the hope of taming some of the wild boys. As the argument developed it became clear the Government had something a little different in mind.

This was the focus of the Labour attack. In the Lords, Lord McCluskey, Solicitor General in the Labour Government, avoided some of the embarrassment of attacking the powers which had appeared in his own Bill by concentrating on the stop-and-search clause. He was also presented with a gift in the Government's proposal for periods of successive detention. In addition to the six-hour period allowed for questioning without charge at a police station the Bill allowed an unlimited number of six-hour periods to be added on simply on a magistrate's warrant. McCluskey denounced this as a power reminiscent of South Africa and before the Bill left the Lords it was duly removed, as was the power to detain witnesses, on penalty of a hefty fine. But perhaps the most significant Government setback in the Lords was the defeat of the so-called Emslie proposal - put forward by a committee chaired by the Lord Justice General - obliging judges to fix a minimum sentence for murderers. Two Scots Law Lords, Lord Keith of Kinkell and Lord Fraser of Tullybelton, persuaded the Peers that the judges wanted nothing to do with it. The proposal had been a commitment in the 1979 Tory manifesto in Scotland.

So the Bill was carried to the Commons with one or two of its more controversial provisions removed, in a state not dissimilar to the Labour Bill which had fallen with the General Election a year before. When it arrived in committee, there was Harry Ewing leading the Opposition and Nicholas Fairbairn, as Solicitor General, on the Government benches. They had argued on the opposite sides on similar legislation only a year before.

Ewing was more embarrassed than Fairbairn. At least the Government had a useful ploy to minimise the difficulty. Fairbairn handled the clauses which, as Opposition spokesman, he had favoured. On some of the others which he had attacked he remained silent and left the batting to Rifkind. Ewing had no such luck. He had to open his attack

by announcing, honourably, that he would not vote on matters which he himself had tried to press on the previous committee. So the Labour thrust was blunted from the start. The backbenches had to provide the fire. Donald Dewar, a solicitor, argued with wit and style against changes in procedure which he felt threatened the rights of the accused, particularly the right to silence. Norman Buchan wound himself into a fine frenzy over detention and stop-and-search, and the Labour benches produced some aggressive criticism. Dewar's hands were clean, since he had opposed his own Government just as vigorously on the same provisions, and the other MPs had not served on the previous committee.

On the Tory side there were no fewer than six advocates, including Rifkind and Fairbairn. The most surprising feature of the start of the committee stage was that their contributions from the backbenches were rare, again under Government instructions. When they did intervene it tended to be later in the Bill on procedural matters, which were less controversial and more technical, and at one of the early debates Buchan wondered aloud in the course of a speech whether there was a collective noun for advocates. A "hush" of advocates perhaps? He finally settled on a "fee".

The controversy focussed on the first six clauses in the Bill, covering detention and stop-and-search. The official opposition line was that six hours was too long: four hours would be sufficient. Nowhere was the difficulty of the Labour leadership more clearly underlined. While backbenchers like Buchan and John Maxton railed against the principle of detention as it found expression in the Bill, Ewing was arguing not against the principle but for a slight relaxation of the rules. Rifkind, needless to say, exploited it to the full.

Few significant changes were made in the major provisions of the Bill, and the early debates pointed up the curious ambiguities in Fairbairn's approach to the Bill, although he did not find them curious in the least. As a flamboyant advocate he had a sense of theatre and would launch into an eloquent defence of the rights of the individual at the drop of a hat. Yet there was a streak of hard disciplinary zeal there too, and Labour MPs used to wonder each morning which side of the solicitor general they would see that day. Of course his unpredictability was not only a problem for the Opposition. His

colleagues on the Government side waited daily for some new declaration of policy, which was liable to trip off his tongue at any moment. Once in the Scottish Grand Committee Fairbairn invented a concept on the spot - that of the "innocent offender" - and on another occasion in the Commons itself he happily announced that the Scottish Office were proceeding with the reform of the law of incest, although it was news to the Scottish Office.

His extravagant style certainly enlivened the committee. He would accuse the Opposition of "paranoid humbuggery" or defend the continued use of wigs and gowns in court by remarking that official dress gave a crutch to your dignity, and dignity to your crutch. Even in the darkest debates, when passions ran high, Fairbairn could reduce the committee to helpless laughter. And, on occasion, his libertarian instincts showed through. In rejecting a Tory attempt to reinstate the Emslie proposal he spoke eloquently of the dangers of fixing minimum sentences to assuage the public thirst for retribution, and he was enthusiastic about procedural reforms which he claimed would strengthen the rights of the accused. Yet he had lapses. In the debate on the previous Bill he had said that the power to remove the accused from the court for persistent unreasonable behaviour and to allow the trial to proceed in his absence was a horrific breach in the laws of natural justice. This time round he stayed silent and let Rifkind take the heat - even when Buchan opposed the provision by reading long chunks of Fairbairn's speech to the committee only a year before. Similarly on his defence of judicial examination, the revival of a procedure which the Government claimed could help the prosecution and the accused, he waved aside claims that the proposal was an attack on the fundamental right to silence - something he defended eloquently elsewhere in the Bill.

The main complaint from the Opposition was that Fairbairn - and Rifkind - did not understand their fears about police harassment and the dangers of a breakdown in relations between the police and the community (particularly the young) as a result of the introduction of detention and stop-and-search. The Tories inhabited a different world, Buchan claimed. Yet Tory MPs argued that violent crime required unpleasant remedies: that detention was to be strictly controlled

and stop-and-search powers would not be random. Indeed it soon became clear that the ghost of Teddy Taylor was just that. Gone was the promise of searches throughout dance halls simply on suspicion that one person was carrying a knife. Rifkind, Fairbairn, and Lord Mansfield all stated categorically that suspicion would have to crystallise on one individual for a search to take place. It was, to the Opposition, an important concession. Similarly, Fairbairn was unambiguous in his support for tape-recording interrogations in police stations. Experiments had begun, he told the MPs, and the Government would introduce a scheme unless insuperable difficulties arose. This calmed some of the fears. However, a bizarre attempt by Bill Walker, the maverick Tory right-winger from Perth and East Perthshire, to have video recorders installed in every police station failed. The rest of the Bill was less agonising. There was general agreement on the powers to restrict drinking at football matches by designating specific grounds and banning the carrying of alcohol to or from them. Despite some difficulties over the responsibility of the bus driver for cunning fans who smuggled crates of beer on to his vehicle there was a general consensus.

Nonetheless towards the end of the Bill the Government ran into some further difficulties. Despite pressure from his masters, Walker insisted on introducing a clause to bring back the birch. It failed by 12 votes to 1, but the real embarrassment was for Rifkind and Fairbairn who had both supported a Teddy Taylor move to do the same in the previous committee. They also had to deal with considerable opposition from their own side when they went ahead with proposals to restrict further the publication of names of under-16s involved in court cases. As well as standardising the rules for summary cases and jury trials, the Government proposed that no juveniles - accused or witnesses - could be named without the permission of the sheriff or judge. Tory MPs enthusiastically backed a campaign against the clause mounted by the Scottish newspaper editors, and were denounced by the Opposition for being no more than poodles of the Press. They had stayed quiet, Labour MPs claimed, during more important parts of the Bill. In response, the Government agreed to water down the provision affecting juvenile witnesses and to instruct pro-

secutors to remind sheriffs and judges at the end of every case that they had the power to direct that juveniles be named. But with the Opposition supporting them, for the first time on the Bill, they could leave the new restrictions almost untouched.

So the Criminal Justice Bill had nearly become law by the summer recess, something which came as a surprise to the Government. They had anticipated the need for a guillotine, but again it was not necessary. Although at one stage the agreement between Government and Opposition broke down and the committee went into all-night session, Rifkind succeeded in getting the timetable he wanted without resort to the blunderbuss. The simple reason for this was the division on the Labour benches. Ewing was ready to compromise, up to a point, by agreeing on an unofficial timetable. More dedicated opponents of the principles enshrined in the Bill were not. Some of the arguments behind the scenes on the Labour side were bitter indeed, but in the end their guerilla tactics stopped short of wholesale disruption.

One other aspect of the Bill deserves mention. At report stage Robin Cook succeeded spectacularly in writing in homosexual law reform for Scotland. After years of arguments during which Scotland had maintained the illegality of homosexual acts in private between consenting adults, he won an overwhelming vote 203-80 to bring Scotland into line with the reform achieved in England and Wales in 1967. Cook admitted that his reform did not go far enough, since it affected those over 21 and left those between 18 and 21 vulnerable to prosecution, but he argued that it was a modest step forward and he found support from the Government benches, although not from any Tory Scots.

So legislatively the year was dominated by these two Bills. In both, the Opposition opposed vigorously but failed to change their central purposes. There is nothing unusual in that: the Government had a comfortable majority. But their tactics are open to question. Had they forced the Government into sterner measures to restrict debate their opposition would have been underlined more firmly, and the extra-parliamentary campaigns might have been given a significant boost. As it was, the divisions in their ranks - particularly on the Criminal Justice Bill - weakened their parliamentary assault, an operation which is as much psychological as practical. Successful

parliamentary campaigns are those which force a Government, by unrelenting pressure, to change course again and again to escape the constant harrying. Soon Ministers are worn down and backbenchers begin to lose stomach for the fight. They start to pressurise their front bench and, hey presto, changes materialise. Neither on Tenants' Rights nor Criminal Justice did this happen. By the end of the year the Tory benches were more relaxed and happier than anyone could have expected, given the economic difficulties facing Scotland. Their sense of satisfaction did not reflect complacency about the problems in Scotland, but a feeling that in Parliament they had held their own.

The difficulties of the year are also revealed in the activities of the Scottish Select Committee, which are dealt with in more detail elsewhere. From the beginning when the Government decided that it was to have a Labour chairman despite a 7-6 Tory majority, the scene was set for an ugly confrontation. Iain Sproat, Tory MP for South Aberdeen, fought like a tiger to wrest the chairmanship from Labour and failed - largely because of a lack of enthusiasm on his own side. Donald Dewar took over and quickly won the respect of both sides for his patient wheeling and dealing in trying to unite the warring factions. Yet they could not be fully reconciled.

The verdict on the first year of the committee must be that its work was gravely hampered by the partisan arguments which kept bubbling to the surface. Sproat was constantly trying to push for a committee which would act as a watchdog on the public sector, cutting out waste. Others - including most of the Tory side - took a wider view. This split in the Government ranks did not heal, and the difficulties over the committee's major report on the Scottish Development Agency can be attributed to the strains which sprang from that first battle over the chairmanship.

Although the subject - the role of the agencies involved in attracting inward investment - was controversial enough, involving the central questions of government intervention in industry, a consensus could surely have been found more easily between those who wanted more SDA activity abroad and those who wanted less. Dewar certainly sought that consensus, but Sproat fought to the end to produce a report which would effectively clip the wings of the SDA, even more perhaps

than Younger himself would like. While other select committees succeeded in developing a bipartisan approach on some subjects, the Scots MPs did not succeed. Although on their "quickie" investigations on BBC cuts and the White Fish Authority they seemed more united, the long investigation of inward investment was a weary struggle for Dewar.

So what of the state of the Scots Parliamentarians? The General Election was notable for the drop in the average age of Scots MPs. On both sides a lively new breed appeared, replacing the landed paternalists on one side and the ageing "machine" hacks on the other who had dominated less than a decade ago. Men like Martin O'Neill, John Maxton, Norman Hogg and George Foulkes on the Labour side and Peter Fraser, Michael Ancram, Allan Stewart and Alex Pollock on the Tory benches won considerable respect on various issues and suggested that they would decorate the scene for some time to come. On the Opposition side, Dewar and Cook emerged as the most able Scots backbenchers for whom front bench places could not surely be far off.

A word finally about the SNP. A word or two will do. Turkeys are silenced by an early Christmas. The SNP faded dramatically from the scene. Although Gordon Wilson, the Chairman, worked hard on the Tenants' Rights Bill, and he and Donald Stewart slaved away in the Chamber, all the significance of the Nationalists as a Parliamentary force had - temporarily? - gone. Yet overall the character of the Scots MPs had changed. They were younger, perhaps more energetic. They were ensuring that despite the result of the referendum campaign Scotland's voice was still heard at Westminster.