

THE LOTHIAN AFFAIR: A BATTLE OF PRINCIPLES?

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During the summer of 1981 a row between a Scottish local authority and the Scottish Secretary (Mr George Younger) assumed national importance. Highly centralising measures to reduce local authority spending granted under the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 were threatened and used against seven local authorities charged with "excessive and unreasonable expenditure". Of the seven, Lothian Regional Council was seen as the real test and throughout the summer of 1981 the Council argued that the proposed reduction of £53 million was unjustified, and took a defiant stand against the Secretary of State. The paper will emphasise some of the political difficulties that emerged from the Lothian affair in finding a broadly acceptable solution to the problem of meeting the cost of providing local authority services. The symbolic nature of the change in centre-local relations will be demonstrated and the direction of change placed in context.

Given this context one can argue that the Lothian dispute was the product of an over-reaction by George Younger. In an attempt to contribute to the reduction of the PBSR he decided to take selective powers against spendthrift authorities. He claimed to be protecting ratepayers and other authorities from the excesses of some left wing councils. David Heald argued that Younger had many powers but went much further⁽¹⁾. The Scottish Secretary was seen to be interfering in local authority affairs with minimal information. All but six authorities in Scotland were above his guidelines. It was this latter point and criticism of his dubious comparability exercise that contributed to his reduction of penalties. It was this climbdown from his £63 million proposed reductions, that applied when the seven rebel councils were first named, to £34 million of reduction, that really

emphasises his over-reaction, and because Scottish Office ministers are often closely related to local government issues, a realisation of the enormity of the damage done.

Why then did George Younger proceed in this way? Primarily he was seen to be permitting local disobedience to central government directives. This was having a destabilising effect on his relations with Whitehall. Younger knew that the problem would not go away and he may have been fearful of the Scottish electorate. However what is clear is that Younger's legislation has soured centre-local relations.

The origin of the dispute lies in the Election promises of the Conservatives in 1979. The Conservative Party was elected to reduce overall public expenditure and to abolish the rating system. The outcome of the review of the rating system is still awaited but the limited action on the Layfield Report suggests the political sensitivity of the question. Furthermore, as the Lothian dispute demonstrates, the reduction of public expenditure particularly in the local government field has proved much more difficult, because of the nature and extent of the provision of services.

A climate of suspicion exists in Scottish centre-local relations today, and I wish to argue that this was heightened by the Lothian dispute which was essentially political in origin and character. It was not an administrative dispute but an episode characterised by political brinkmanship and uncertainty. To explain the political mobilisation, the significance of the resistance, and the very limited political outcome, I have divided the account into four stages: first, George Younger's volte-face on the conventional understanding of the financial relationship that underlies local government activities; second some of the political questions raised by the 1981 legislation; third, the emphasis Lothian Region's "Representations" placed on the distinctive contribution that service provision makes to local democracy; and fourth, the political outcome which by September could be construed as illustrating Lothian's political clumsiness and ultimate failure.

I

Reduction of local government expenditure is a prime target for Treasury hawks. Yet central government only has had indirect control over this spending. Combined with the government's stated aims of reducing central interference and reducing a priori controls, the target

is not easy to hit. Mr Younger has been quite explicit about these aims, saying at the Convention of Scottish Local Authorities' Conference in 1980:

"It should not be necessary to introduce in Scotland the same primitive powers being sought by Mr Heseltine to control local government".

In October 1980 he re-emphasised this point:

"It is not part of my wish to be drawn into running local authority affairs for them. This is not my role. If I was to interfere with the setting of rate levels I would remove the essential responsibility of the local councillors towards their ratepayers".

Mr Younger did a complete volte-face with the passing of the 1981 Act. The Secretary of State now has powers to intervene directly in the determination of annual spending and rate levels. Under Section 13 of the new legislation the Secretary of State has power to reduce rate support grant when local authorities propose expenditure that the Secretary of State considers "unreasonable and excessive". Consequently the responsibility to set spending levels remains with local authorities but in the knowledge that the Secretary of State could seek Parliamentary approval to cut rate support grant if they step outside his guidelines. Under already existing powers the Secretary of State could already seek the approval of the House of Commons to penalise any council he considers to have spent the ratepayers' (and taxpayers') money excessively. But the penalty, until the Miscellaneous Provisions legislation, could only be imposed retrospectively. In other words Mr Younger had to wait until the money had actually been spent. Scottish local authorities, unlike England and Wales, are not permitted to levy a supplementary rate. Additionally an amendment to the legislation prevents a penalised authority from borrowing to cover the loss of rate support grant. Councils could also be forced, again by a reduction of the weekly paid support grant, to make a cut in rates during the financial year. Money "saved" from such action would either be returned to central government or a refund could be made to the ratepayers.

Mr Younger defending the use of these powers said:

"Somebody had to do something to protect ratepayers from a totally intolerable burden. The government had inherited a totally unrealistic public expenditure programme and were, ⁽²⁾ now trying to get the runaway train under control".

Thus by crude legislative means of a sensitive political nature, central government has extended its control over local public expenditure in Scotland. Without taking over functions, there has been a further decisive development of central financial control over local affairs. Local authorities would either have to reduce expenditure to approved levels or resign, again an unprecedented state of affairs. The Scottish Office now has the statutory powers to prevent local authorities raising money for legitimate expenditures. The Government are effectively determining the actual level of council spending in a way that has never been experienced before and this must be considered a serious infringement of local decision-making. Centre-local relations have been drastically altered as a result of the government's economic policy, without apparently much thought given to the constitutional and political implications.

What are some of the political characteristics of this legislation? Until the 1981 legislation, councils were allowed to choose whether they wanted to spend more or less than the Government's guidelines. The Scottish Secretary's view was that the 1981 legislation was necessary because local authorities had not adhered to spending guidelines. The 1981 legislation removed the previous element of choice and introduced some uncertainty. Unless the basic questions of how and by whom "excessive and unreasonable expenditure" is to be assessed, charges about the Secretary of State embarking upon a collision course, bullying and intimidating local authorities will remain.

Midwinter in Conflict and Confusion: the Politics of Rates argued that the Scottish Office exercised choice about target authorities based on only minimal information, namely, a monetary measure of expenditure per head of population of a comparable group of authorities⁽³⁾. He suggested that even the crudest statistics suggest that the authorities compared with Lothian are hardly comparable. He points to significant differences in area, population density, population and extent of urbanisation. As well as criticising this rather dubious methodology, Midwinter was critical of the financial criteria used. He argued that three factors influence rate levels: first inflation; second, the grant decisions of central government; and third, the impact of local policy choice. Using these criteria, Midwinter concluded that although Lothian recorded large rate in-

creases only a small part of these result from actual service growth. The problem has been inadequate provision by central government for inflation in the cash limits. It is unfair, he argued, to use rate poundages as means of determining excessive and unreasonable expenditure when the government's own decisions have been the major determinant of rate increases. Accordingly, Midwinter suggests, in the selection of target authorities, Mr Younger used crude political judgement giving in to pressure not only from the businessmen and ratepayers who generally supported the Conservative Government, but also from within the Cabinet⁽⁴⁾.

To meet the pressure from the Cabinet, hasty and expedient legislation was prepared by the Scottish Office. Although the Scottish Secretary had many powers⁽⁵⁾, he promoted legislation that tied the hands of local authorities in an attempt to reduce local public spending. Because of the necessity to demonstrate a willingness to reflect the Conservative Government's economic priorities, he decided to introduce penalties against local authorities for making ratepayers pay, to keep the services going at all costs. Over-reaction to this pressure by the Scottish Secretary is suggested by the fact that the Department of the Environment was not consulted. In fact it is suggested in Marsham Street that the first time they saw the Bill was after a clerk had been sent to buy it from the HMSO bookshop in High Holborn. A theme of a joint seminar, held in Oxford shortly after the publication of the Bill, between Scottish Office and Department of the Environment officials on the new proposals was that the Scottish Office had used excessive legislative force. The practicalities of the legislation and the political outcome were judged to be uncertain. Interest would therefore be focussed on the first use of the legislation and the exposure of the legislation to wider debate became critical.

The first test of the legislation and the real battle of principle was fought over the budget of Lothian Regional Council. Lothian, the second largest authority in Scotland, had planned expenditure nearly 25% above the Scottish Office guidelines. The Council was accused of "excessive and unreasonable spending", and Mr Younger ordered, in the course of the financial year 1981/2 a cut of £53 million on a revenue programme of £319 million. The financial crisis had been deepening during the previous year with Mr Younger vetting

every item of Lothian's capital spending. But in an unprecedented step to control local authority expenditure, Mr Younger demanded to know:

"whether the council proposed to make any reduction in the level of their planned spending for 1981-82 and whether they proposed to reduce the rates under the power contained in Local Government (Miscellaneous Provisions)(Scotland) Act 1981".(6)

In reply, a remarkable and enthusiastic corporate exercise by Chief Officers in Lothian Region culminated with the publication of Lothian's "Representations to the Secretary of State on the intention to reduce the Rate Support Grant".

The response by Lothian Regional Council to the Scottish Secretary charges the Scottish Office with being ill-informed about the expenditure appropriate to a particular authority and emphasises the importance of local democracy. Furthermore, the Representations suggest that Lothian was being penalised because local social priorities, as seen by the council, did not correspond with central government's emphasis on monetarist policies. The Secretary of State never fully explained why a cut of £53 million was required. Lothian argued that the full weight of legislation was being threatened against them because central government's contribution to the provision of statutory services was diminishing, interest rates were high and the national economy was in recession. Moreover the Scottish Office imposed spending levels and demanded cuts that were arbitrary, not directly related to the services local authorities were expected, and, indeed, sometimes obliged by statute to provide.

The cuts demanded in Lothian would be more than the running costs of a medium size Scottish regional authority. The Representations stated:

"To expect the authority to reduce its expenditure within such a time scale reflects a dangerous lack of appreciation of the financial affairs of a large local authority".(Page 5)

Furthermore:

"A reduction of the magnitude of £53 million would clearly impose intolerable and unacceptable damage on this authority, and a staffing cut of such an unprecedented level would seriously jeopardize the council's ability to provide its statutory services". (Page 6)

It was estimated that the Council, to achieve the cuts demanded by Mr Younger, would require to reduce its staff by giving notice at August 1st 1981 to over 15,000 employees out of a total of 35,000 employed.

The council had been elected in May 1978 to implement a programme of well defined priorities - the extension of the caring community in the form of more social service provision; the strengthening of the local economic infrastructure, stressing the contribution of welfare investment in the broadest sense; and a "levelling-up" of services inherited from the pre-reorganisation local authorities to ensure that each part of the region benefitted from the best available provision. It was the cost of this transition programme and the associated policy of integrating services in a hostile economic climate that Mr Younger and his advisers underestimated.

The Representations provided the basis for Lothian's campaign. Mr Younger's legislation was seen to tie the hands of local authorities, and promote administrative constraint, but above all politically motivated as all but six Scottish authorities were above his spending guidelines. Lothian successfully questioned Mr Younger's guidelines on "excessive and unreasonably expenditure" and the penalty was reduced from £53 million to £47 million as a result of the Representations. Lothian even managed to demonstrate that the Scottish Secretary had imposed the penalty, rather than the outcome being the product of agreement. The Scotsman echoed these sentiments on July 4th, 1981:

"Mr Younger, perhaps with some reluctance, is already well down the road which leads to central control and direction. By insisting that his spending guidelines to regional and district councils are sacrosanct he is claiming that only he and his officials can decide on the standard of local services and the priorities which must be observed in each area".

Lothian's emphasis on the need for local accountability and the distinctive contribution of local authority services was to colour and heighten tension during the inevitable confrontation.

On July 2nd Lothian Regional Council endorsed the Representations and called upon the Secretary of State to reconsider his proposal to reduce RSG by £53 million. Mr Younger promised swift action, and he reported to Parliament on July 21st that there should be imposed on Lothian Region a reduction in RSG because he was satisfied that the estimated expenditure of the authority was "excessive and unreasonable". His call for a reduction in RSG was approved by a parliamentary majority of 57.

At this point no-one seemed to know exactly what would happen. The scale of the cuts required and the impossibility of the penalty

ensured the unity of the Labour Group. The Secretary of State was seen as primarily responsible for bringing about the crisis. In addition the fact that Mr Younger had reduced the penalty from £53 million to £47 million after the Representations, seemed to demonstrate the value of resistance. On July 23, The Scotsman called for a compromise, suggesting the impossibility of the Council's position both legally and financially but noting they had made the political points.

Mr Younger's concern was illustrated by the time that elapsed, between receiving Parliamentary approval, and after an extension of deadlines, the implementation of the order. It was during this period on August 6th that a significant political shift occurred. Mr Rifkind, the Scottish Under Secretary, spelt out the terms to be met by the final deadline of August 12th:

"The Council could avoid direct Government action by deciding to return £30 million to the ratepayers; or they can get up to £17 million of the £47 million cut in grant returned by adjusting their budget; or they can continue to make savings in which case they would lose the entire £47 million by the end of the financial year".

He argued that during the protracted discussions the Secretary of State had been reasonable, moving from his original demand, but added:

"The Councillors should appreciate that the question is no longer concerned with the scale of cuts required. The issue to be resolved is whether the money is to go back to the ratepayer or whether they insist on giving it back to the Government. Once Government action has been taken the option of returning the money to the ratepayers disappears".

Mr Rifkind had clearly sidestepped the questions of principle - local democracy and the local determination of service priorities - and re-invoked the popular antipathy toward rate levels, further demonstrating the political cutting edge of the legislation and when the council refused to meet his terms on August 11th the political trap was sprung. Mr Rifkind commented that the council's refusal to meet his terms "suggests a degree of irrationality I have not previously come across".

After the Secretary of State had implemented his order to reduce RSG by £1.4 million per week, the Labour Group lost political credibility in a spectacular way. On August 13th the unity of the Labour Group broke and during a council meeting "administratively possible" cuts of £15.2 million were made line by line. Seven of the twenty-five members voting for no cuts. The Conservative opposition had

previously left the chamber. The Scotsman reported a general bewilderment amongst the Labour Group at the enforced destruction of what they saw as their budget and level of services they were elected to provide.⁽⁷⁾ It was privately admitted that "they were in a hell of a mess". At the same meeting the Labour Group also accepted an immediate moratorium on new expenditure, including a freeze on filling all staff vacancies to prevent the council "slipping into illegality". The political outcome of this decision was to cost the council dear. The Education year was about to begin and the moratorium prohibited the renewal of contracts for 480 teachers on fixed term contract and for 400 Further Education lecturers. Councillor Mrs Herriot commented "I don't think anybody realised how many fixed term contracts there were". And in The Scotsman of 17.8.81, Councillor Mulvey said: "there is a problem as people didn't know what they were voting for". On September 1st the Council increased their total of economies to £23.9 million and lifted the spending moratorium. During the confusion the Group lost political credibility and some friends. Political clumsiness in contrast to their previous principled approach restored the political initiative to the Scottish Secretary. On September 3rd he said their economies still fell short of his target and that there would be no concessions. In addition a public debate between the Regional Party and the Group about the question of resignation further detracted attention from the issues. But even when the Scottish Executive of the Labour Party had declared that resignation: "would not be in the best interests of the workforce or of the Trade Union movement as a whole", Mr Rifkind believed the council's will was broken and moved towards an absolute conclusion of the affair.

On September 18th the Council was told that their economies were still insufficient.

Mr Rifkind in the Scotsman of 19th September, stated that he believed that charges wouldn't cause hardship and that reductions could be achieved without compulsory redundancies. The Convener of the Region, Councillor Crighton retorted

"We are very angry about this because the Minister and Mr Younger have said time and time again that in no way did they want to interfere in the detailed budget of the authority. This is what they are now doing, as the Minister made it clear he will not be satisfied unless we get into the area of charges for council services".⁽⁸⁾

and

"I was astonished to discover the Minister telling the Council to increase 'bus fares and cut specific services".(9)

By the 18th of September all opportunities for discussion had been exhausted and on the 23rd the Council implemented the full economies of £30m.

In the aftermath of political rhetoric and brinkmanship politics, the significance of Mr Rifkind's "absolute conclusion" might be overlooked. Mr Rifkind's interference was clear and direct when the political strength of the Council had been snapped. The Scottish Secretary now has powers to put local authority services at risk. The argument must now turn from the "Lothian affair" to the implications for centre-local relations in Scotland.

II

The Lothian affair reflects the changed relationship between central and local government in Scotland brought about by hasty legislation. The point at issue is the understanding of this change. If the distinctive contribution of local government in determining local service provision is questioned, then its political relevance will also be challenged. This is increasingly likely, because the affair was the result of a legislative initiative introduced without due consideration of the considerable political and constitutional issues.

Although the local government system has always contained contradictions, local government has often been compliant, respecting central government's ultimate control of national economic policy. This compliance was bought at the price of local authorities being able to identify and articulate local needs and priorities and to press central government to take account of them. Now a confrontation has developed, central government has become increasingly oblivious to this lobby and conveniently ignores the issues. As COSLA have stated:

"It must be stressed that despite the way in which the glare of publicity has settled upon a few local authorities, it cannot be validly argued 'that all the Government's problems stem from a few councils trying to embarrass it for political reasons. It is not just a few councils which have breached guidelines but the vast majority.....This demonstrates that there must be deep seated problems with both individual guidelines and more importantly the aggregate level of relevant expenditure when almost the whole of Scottish local government is at odds with the Secretary of State"(10)

Rather than examining the cause of these problems and the nature of demands placed upon local government, the response from central government has been the introduction and implementation of extremely tight centralist legislation.

Such a change has made the political failure of Lothian's stand more significant because the principles of centre-local relations have been seen to be easily removed from the political agenda. Some calls are made for the repeal of the legislation and for a thorough review of the rating system but the wider significance of the dispute is as a contribution to discussion of the yet unresolved problem of financing local government activities. As David Heald said:

"The Conservative Government was elected on a platform of rolling back the public sector and that inevitably means fewer resources for local authorities. But the issue that has subsequently emerged is that any wharp withdrawal of central government resources from local authorities has clear constitutional implications".(11)

For these reasons the Lothian solution hasn't been extended to England and Wales. The remainder of the paper argues that the affair may indicate the parameters of central government intervention without a major change in the constitutional understanding of the role of local government.

There are perhaps two sets of questions that can be directed towards the outcome of the dispute: constitutional and analytical.

Adopting a 'constitutional' approach raises three major questions. First, how far did the dispute successfully highlight the government's attempt to directly reduce local spending? Second, did the dispute bring about greater public awareness of the problems of the relationship between central and local government? Third, by seeking to raise the level of public debate, how far did the dispute defend the rights of local government which have been seriously undermined by successive governments over a number of years?

Such questions suggest that local government is more political with greater involvement by all political parties concerned with developing active political participation. In contrast the electorate displays antipathy towards local government except perhaps during the circulation of the annual rate demand. Also the electorate has limited interest in service provision except when issues are close and sensitive, such as education or planning. So perhaps the local electorate

care even less about centre-local relations. Such a position gives potential for misrepresentation as was demonstrated during the Lothian dispute, for misrepresentation of issues occurred at many levels.

A more 'analytical' approach however, would argue that centre-local relations are not simply the product of a constitutional partnership of <power-dependence>, but a much more complex process influenced by changes in economic strategy and policy. Such an approach raises a different set of issues. How far have national economic priorities led to centralism? How far have local policy programmes become much more subservient to these priorities rather than local initiatives? How far do such changes run contrary to the characteristics of the new authorities? Since reorganisation authorities are much larger and more political, but also designed for expansion and innovation along locally determined lines, something clearly demonstrated by Lothian in areas of social policy.

These analytical questions therefore reflect the political tensions inherent in the dispute. During the period of the present Conservative administration, the provision of local authority services can only be described as tense. The political appeal of cutting out the local authority level is that it deflects attention away from remote central government. Voters are much more likely to blame the council for a deterioration in local services, or for big rate increases, rather than blame central government. Extravagance and inefficiency recur in the rhetoric of political statements. High spending and waste have become synonymous. There is little explanation or defence of local authorities and there is little attempt to make them more accountable or acceptable. COSLA has argued that it has:

"serious doubts about the future because recent events have left local authorities, the providers of essential local services, with critical financial problems and faced them with great uncertainties about the decisions which they can independently take".(12)

A clear demonstration of these analytical questions from the Lothian dispute is the emergent critical attitude to service provision, from the Scottish office. As the Lothian dispute demonstrates, at a time of public sector financial stringency it is alleged that local authorities are overspending. New and powerful controls have therefore been introduced by national government in order to stop this 'profligacy', emphasis-

ing the importance of central government as a source of income for all local authorities and the significance of this for the Public Sector Borrowing Requirement. Little reference is made as to why central government is involved in financing local authority services and to the political significance of this involvement. Commenting on the Lothian affair, Donald McKay has said:

"there is considerable confusion as to the responsibility for service provision and that the existing system of local taxation, the rates, is inequitable and unfair to the ratepayer".(13)

The very complexity of the problem means that the problem cannot be simply reduced to attacks on 'profligacy' and 'waste'. The attack is also directed towards the extent and range of services themselves. The expansion of services has been a major feature of local government in the 1960s and 70s. Commenting on reorganisation, Bleddyn Davies stressed

"the apologists for local autonomy have consistently underestimated the degree to which the public is interested in service standards and have over estimated interest in local government and democracy".(14)

and

"the service politics of the 1960s and 70s would have inevitably created increased pressure for central government interference, irrespective of the degree of local accountability of the system of finance".(15)

Central government therefore had previously legitimated local social policy expansion in both financial and organisational terms. Now it is faced with the problem of legitimating the restriction of policy and services through institutions and procedures designed for expansion and reflecting the assumptions of the service politics of 1960s and 70s.

Such views suggest that the reluctance to reform local government finance is related to the enormity of financial problems and of the political interest in service provision, a theme throughout the Representations presented by Lothian Regional Council. Since the end of the Second World War central government has accepted a major role in the management of the national economy and linked to this their role of provider of the services of the Welfare State. Many social services are provided by local authorities and it is often overlooked that central government requires the cooperation of local authorities

in the administration of services, particularly in aspects of policy innovation and implementation. Local Government reorganisation was introduced partly to improve these inter-governmental relations, emphasising as Wheatley stressed the following advantages of secure local government - power, effectiveness, local democracy and local involvement. The Lothian dispute clearly demonstrates that when the economy is declining, localism is a contingent rather than absolute value, and undermines the extent to which local government services are to remain devolved. Local expenditure and the determination of local service priorities are perhaps questions to be decided in relation to broader changes in the political process and policy priorities. As Professor Bryan Keith-Lucas has argued:

"Perhaps this ideal of local democratic self-government is a will o' the wisp. Perhaps we should recognise that it is a romantic dream and look instead to local government solely as a reasonably efficient means of running schools, digging drains and providing some social services according to government policy".⁽¹⁶⁾

To analysts of local government, the stand taken by Lothian Regional Council is arguably more important than the political outcome. The challenge faced by local government and Lothian Region in particular can no longer be accommodated through simple posturing. Relations between central and local government in Scotland are changing. It appears that the radical potential for administration and service delivery, envisaged at reorganisation, is being ignored. As an editorial in New Society commented:

"local government is now a component of a declining, but increasingly centralised welfare state machine in which the debate on local autonomy appears mainly rhetorical". (19 November 1981).

III

Conclusion

With the introduction of the Local Government and Planning (Scotland) Act 1982, Mr Younger has added powers which establish the tightest supervision of local authority finances. The Scottish Office will now calculate how much each council will spend to conform with Government economic policy. As The Scotsman commented (27th November, 1981):

"It is a pity that a Bill which embodies the Stodart proposals for improving local government should also contain "excessive and unreasonable" powers for

virtually depriving councils of their already meagre financial autonomy".

The 1982 legislation would enable him in future to force a council to reduce their rates and reimburse their ratepayer, or to effect a combination of grant and rate reduction. Democracy and the character of service provision are again being ignored. As COSLA has commented:

"Neither constitutional principle, nor a recognition of practical realities seems to have informed the development of policy".⁽¹⁷⁾

The legislation allowing the Scottish Secretary to determine rate levels will inevitably mean that central government has a significant influence on local services. Furthermore, one might speculate whether the political control of the social policies of local government, through various centralist measures, is an attempt to depoliticize local government without further administrative upheaval and constitutional enquiry. Hiding behind the myths and fallacies about local government, centre-local relations in Scotland are becoming more dominated by the centre, raising further questions about the standard and delivery of social policies.

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