Letter from Westminster

A virility test for the Tories?

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The leak of the Cabinet's plans for the family showed that they did not have all that much to do with the National Health Service, but it has served to refuel the fears that arose last year after the leak giving the proposals being put forward by the central policy review staff for the social services. The Opposition has not been slow to latch on to it. Mr Michael Foot, the Labour leader, seized on it in a powerful speech during the Bermondsey by-election campaign—not everything Mr Foot does is a disaster—to claim that the assault on the NHS would be more far reaching and deliberate than anything that had been seen before, and to promise that the next Labour government would from the very first day set about restoring the welfare state and rebuilding the NHS.

In the Commons Mrs Gwyneth Dunwoody, Labour's health spokesman, proved just as trenchant, describing the plans being looked at by the Cabinet committee chaired by the Prime Minister as "a new virility test" for the Tories and a demand by her for evidence from the committee's members that each was a bigger vandal than the other by bashing the welfare state. Opening the second reading of the Health and Social Services and Social Security Adjudications Bill, Mrs Dunwoody alleged that what was intended after the next general election, if the voters were conned into allowing the return of a Conservative government, was the reduction of the welfare state to the point where it was simply the minimum safety net for welfare needs. The leak has enraged Mrs Thatcher, and a search is on to find the culprit, but there is no need to feel too sorry for the government. Whatever breach of confidence was concerned, what was leaked was not a state secret but a political one—and there is no harm in those coming to light.

That, and the outcome of the water workers' dispute, has meant that it has not been a particularly good week for Mrs Thatcher. The pay settlement is interesting. It may not have smashed the government's pay policy, but it has certainly inflicted a slow puncture in it, and that could have repercussions when ministers come to decide what to do about the findings of the doctors' and dentists' review body. Until now they have been inclined to pay up that withheld 3%, but on top of any award, and given the water workers' settlement, that might result in a figure that will be too large to stomach.

It is interesting to realise that should Mrs Thatcher respond to all the current speculation and go to the country in June some of the Bills that the medical profession find most controversial would bite the dust. The Police and Criminal Evidence Bill would certainly be one of them because it has not gone far enough in the Commons for it to be anywhere near completion by the time of a June election. When governments call elections the last few days of the parliament are usually spent tidying things up and getting through Bills that are virtually finished. They have, however, to be non-controversial, and so far as Labour is concerned the Police and Criminal Evidence Bill is far from being that. Mr Roy Hattersley, shadow Home Secretary, reckons that it is one of the worst drafted Bills that has ever come

his way. Should he be the next Home Secretary, and should the government have run its course long enough to get the Bill on the statute book, he will repeal it.

The Data Protection Bill, which also deals with the question of confidentiality and doctors' records, is now in its committee stage in the House of Lords, where it has reached the controversial clause 28, which would allow the police access to data held by doctors in order to help them solve a crime. Lord Elwyn-Jones, the former Labour Lord Chancellor, argued that the Bill's purpose may be to protect the confidentiality of personal information held on computers but in practice it might actually encourage breaches of confidentiality. He also insisted that it contradicted the powers being taken in the Police and Criminal Evidence Bill, which is currently in a Commons committee. There the government has allowed an element of judicial control to decide what is proper to be disclosed. He tried to amend clause 28 to provide that disclosure was made under compulsion of law.

Dichotomy between the Bills

Lord Elwyn-Jones was backed by Lord Wigoder, a Liberal peer and chairman of the British United Provident Association, who said that unless the Bill was altered there would be a most extraordinary dichotomy between it and the Police and Criminal Evidence Bill. In the latter Bill there was provision whereby on the order of a circuit judge and provided that it was necessary for the detection of a serious arrestable offence a doctor could be ordered to breach the obligation of confidence that existed between him and his patient. But under the Data Protection Bill doctors who had medical records, or health authorities, would be totally free to disclose the whole of their information to the police and other state authorities.

"It would bring the whole question of the confidentiality of medical records totally into disrepute," he claimed. "No longer would anyone have any faith in it at all. I regard it as absolutely essential that we should take steps to see that the confidentiality of medical records is observed and respected, and is known by patients to be going to be respected."

Lord Elton, the junior Home Office minister, said that the Data Protection Bill's proposals dealt with a quite different set of circumstances from that of the Police and Criminal Evidence Bill. The doctor's code was in no way affected by it, and the present position whereby holders of information decided for themselves whether the public interest in disclosure outweighed any obligation of confidence remained as it always had been.

He insisted that it would be wrong to introduce into a Bill protecting individual privacy a police power to get vital evidence in a murder inquiry as a principal object of the Bill. He recognised that Lords Elwyn-Jones, Wigoder, and Avebury had anxieties about it, but they might well prove to be ill founded. Lord Elwyn-Jones said that he did not think that Lord Elton had yet seized and become aware of the gravity of the argument, and warned that they would return to the fight when the Bill reached its report stage. With any luck there will be an early election and this Bill too will be a casualty.