Letter from Westminster

New faces, but the same subjects

WILLIAM RUSSELL

There is no doubt about it. This parliament has begun, as Lord Elwyn-Jones, the former Labour Chancellor put it, not only in a mood of *déjà vu* but of *déjà entendu*. There are certainly lots of new faces in the Commons, and there will soon be some in the Lords, but when it comes to the legislation it is a bit like a Priestley time play. We have been there before. Data protection, for instance, is back and has just received an unopposed second reading in the Lords, where it has started its progress through parliament. The Bill is designed to safeguard information held on computers from unauthorised access, but clearly there have to be exceptions to the rule and it is when it comes to spelling these out that controversy breaks out.

Lord Elwyn-Jones, who led the criticism last time, said that there were still serious omissions in the Bill, and he was particularly critical of clause 28, which sets out the grounds for exemption. It was, he said, a "much maligned, universally disapproved" clause. Among its chief critics is, of course, the BMA, who, it transpired, had been lobbying their lordships. He said that what troubled the BMA most particularly was that doctors would be unable to safeguard the confidentiality of medical records if transfers of information could be made in secret to computer systems and individuals could not check the existence of records. Medical information was particularly sensitive, since patients told doctors things in the greatest confidence so that their problems might be accurately diagnosed. But if they believed that confidential information might be passed on without their knowledge or consent, or if doctors thought that people with access to their records might pass on the contents without their knowledge, then both patients and doctors would limit the information given and recorded.

The BMA argued that the exemptions could mean that a hospital employee with access to a patient's notes could transfer that information to the police without the patient's or doctor's knowledge or consent, he said. That information could then be held by the police indefinitely. The exemptions have been introduced to the Bill to permit access for the prevention or detection of crime, for the apprehension or prosecution of offenders, for the control of immigration, and for income tax purposes.

Lord Richardson, a former president of the BMA, having had his thunder somewhat stolen, tackled clause 23, which deals with compensation for unauthorised disclosure, and argued that if it became law a patient would be required to prove not only unauthorised disclosure but that damage had occurred. "The BMA believe, and doctors such as myself with them, that a breach of confidentiality should in itself be a sufficient basis for proceedings," he said. "Otherwise, the proving of damage, either subtle or obvious, may in the first instance be very difficult and in the second instance very damaging and traumatic to the person who is trying to prove it." He also pointed out that a patient, if he was only a data user, would not have access to the appeals tribunal to question a decision by the data protection registrar or whether the action of a data user had been improper.

Lord Elton, the Home Office minister in charge of the Bill, insisted that clause 28 did not create a single new police power and gave not a single new right to tax inspectors or one new course of action to any immigration officer. All it did was decline the oppor-

tunity afforded by the Bill to make it a new offence for people to disclose to those whose duty it was to enforce the law information properly in their possession that they could now freely disclose. This one is, as they say, going to run and run.

The call by the BMA annual meeting in Dundee for curbs on the entry of foreign doctors looks like resulting in a review of the "open door" policy. Health ministers are also prepared to look again at the policy on student numbers. The meeting called for cuts there and expressed fears about unemployment among doctors. The ministerial willingness to look, however, may not necessarily lead to action since ministers are adamant that so far nobody has come up with hard and fast evidence to back the claim that there is a threat of unemployment, and they point out that there are jobs going, albeit in the unpopular specialties such as geriatrics and anaesthetics. The Social Services Select Committee reported on the problem a couple of years ago and recommended no change in the 4080 target for medical school intakes—a target yet to be achieved. Ministers reckon that training ought to be for specialties in which there is a demand for doctors, rather than for those in which there are few jobs going. But they are having a fresh look taken at the problem by a special advisory committee for medical planning, a body made up of representatives from the universities, the profession, and the Health Departments. The committee is looking at projected trends up to the end of the century, and when it has reported the opinion of the profession will be sought.

Training obligation to foreign doctors

So far as foreign doctors are concerned, ministers accept that we have a training obligation to fulfil but recognise that there is a growing feeling that these doctors should then return home. The select committee did not consider them much of a threat, and argued that doctors trained in the United Kingdom should have no difficulty in finding posts as overseas trained doctors could not generally compete effectively against them.

Labour made a lot during the election campaign of the existence of a secret Tory manifesto, and certainly there is the feeling that quite a lot of things are now being announced that would not have been during the campaign. Mr Norman Fowler, Social Services Secretary, may well have won a battle to secure that 0.5% growth pledge in the face of Treasury opposition, but it would have been difficult to "sell" it to the electorate, something Mrs Gwyneth Dunwoody, Labour's health spokesman, was not slow to point out. She said that it meant absolutely nothing in real terms for the NHS, was a disgrace, and showed how dishonest the Conservative campaign had been. It gave the lie to all they had said about the NHS being safe in their hands and would mean real cuts. The NHS would be destroyed faster than had been feared, she claimed. Mr Fowler, however, does not see the growth assumption as some tablet of stone, more one of rubber, a "guesstimate" to allow the NHS to plan properly. He said that the resource assumptions were intended to replace the unrealistic ones issued in 1978 and would enable health authorities to plan with more confidence. If they could be fulfilled inequalities between regions would be eliminated. It will be this year's public expenditure review that will decide the cash figure. As for the 0.5% figure, that is said to allow the existing service to be maintained, though there will have to be rationalisation of services—even more so since Mr Nigel Lawson, the new Chancellor, announced his £500 million worth of cuts (p 235).