

The future of local government has moved to the centre of the political stage. And the key issue is without doubt the Rates Bill. It will undermine the very principle of local government.

John Stewart

Storming the Town Halls: a Rate-Cap Revolution



THE RATES BILL that is at present before the House of Commons is the latest in a series of measures taken by the Conservative government to reduce local government expenditure. Since the Government was elected in 1979, there have been five bills introduced on local government finance, while the grant system itself has been changed at least seven times.

In effect what has been happening since 1979 is that the rules of the game have been changed in attempt after attempt to achieve the cuts that the Government wished. Until the present bill, the Government has used influence rather than control. It preserved the formal right of a local authority to make its own decision on its level of expenditure.

The Government maintained the position as set out by Tom King, the then Minister of State responsible for Local Government in the House of Commons on 8 July 1980:

'When the public funds have been distributed, it is then a matter for individual local authorities and their councillors as to what their expenditure decisions are. It is their choice between services, and their choice as to the rate levels that they decide to impose.

That is the freedom and discretion that exists in local government. It is this partnership: public, ministerial and parliamentary responsibility for the public funds, the national taxpayers' funds, paid to local government: the local councillors' responsibility for the final rating decisions and the expenditure of their own local authority. That is the basis on which the local government and central government partnership exists. We each have our responsibility to our own electorates in that respect.'

Rising penalties

In effect the continuing changes brought about by the Government left the choice both between services and as to rate levels with local authorities, but imposed ever increasing penalties on local authorities whose choice was not in accordance with the Government's wishes. They recognised the formal freedom of local authorities to make their own choice, but tried by changes in the rules of the game to ensure

the nature of that choice. The problem for the Government was that local authorities, given the right to make their own expenditure decisions, continued to do so and to be re-elected on that basis.

The Government in response rapidly increased the penalties imposed on local authorities which did not make the choices wished by central government. In the rate support grant settlement for 1981/1982, the first settlement under the Local Government, Planning and Land Act, 1980, the Government merely imposed an adjustment for those authorities whose expenditure was 10% above their Grant Related Expenditure Assessment (ie, the Government's assessment of their need for expenditure) which meant that for most authorities grant increased as expenditure increased, but not so much as previously.

The rules were changed — not once, but many times — sometimes even during the financial year to which they applied. Targets were introduced requiring reductions in expenditure from all local authorities. At first exemptions were given to authorities spending less than GREA, but then they were abandoned and the penalties became ever more severe. In 1984/1985, the rate support grant settlement provided that an authority spending only 9% above target would lose grant equivalent in value to a 68p rate or in some cases all of their grant. A process of ever increasing penalties had a dynamic of its own. Penalties had to increase to maintain the pressure on local choice.

But still local authorities made their own choices as Tom King had recognised it was their right to do. The Rates Bill finally takes that right away.

The Rates Bill

The Rates Bill gives the Government a selective power of direct control over the rates, to be implemented immediately against authorities to be designated by the Secretary of State, and a general power over

all authorities to be held in reserve.

If the Bill is passed the Secretary of State will use his powers to designate local authorities in July 1984 with a view to exercising direct control over their rate level in the financial year 1984/1985. He will specify, for each authority designated, the maximum expenditure level for 1984/1985. At the moment he has to act in accordance with principles which have to be the same for all authorities within each class of authorities (eg for all inner London Boroughs). It will in future, however, be for the Secretary of State alone to determine those principles—a remarkable concentration of arbitrary power.

Local authorities designated can ask the Secretary of State to redetermine the level. It will be difficult for them not to do so; otherwise they will be said to have accepted the level without challenge. If however they do ask for that re-determination they open up some very serious dangers.

The Secretary of State, in redetermining the level, can set a higher level, but if he does so he may impose on the authority in question such requirements relating to its expenditure or financial management as he thinks appropriate; and it shall be the duty of the authority to comply with any such requirements and to report to the Secretary of State whenever he so directs on the extent to which those requirements have been complied with (Section 4(6)). Such requirements could presumably specify which expenditure is to be reduced or even which (such as expenditure on the police) is not to be reduced and could specify policy on fares, on rents or on fees and charges. Once an authority has asked for a redetermination central government inevitably becomes involved in the detail of the budget.

The Secretary of State may even redetermine expenditure at a lower level than he originally specified. In doing so he is not bound by the principles he himself has laid down.

The process of budgetary scrutiny involved in redetermination can take up to six months or more. Eventually the Secretary of State will set a maximum rate level for each designated authority, designed—after taking account of the block grant—to achieve his required level of expenditure. In setting that level he can take account of a local authority's financial reserves. He can in effect require a rundown in those reserves substituting his judgement for the judgement of the authority on the basis of financial advice from its Treasurer.

Because it is envisaged that this whole process may take even longer, provision is



made for the Secretary of State to fix an interim maximum rate. In that event the final maximum rate need not be set until after the authority's financial year has begun.

It is only when the final maximum rate is set, that the Secretary of State requires positive House of Commons approval for any of his actions. That approval can be given on a mass production basis, grouping several or indeed all authorities together in the same vote.

The rules were changed — not once but many times

The end of local choices

The provisions of the Bill represent for authorities to which they are applied the end of local choice on expenditure and taxation, except where that choice is approved of by the Secretary of State. Even where a local electorate chooses a council committed to higher levels of local expenditure and local taxation, that choice can be over-ridden by the Secretary of State.

That is the fundamental change. As we have seen, up to now, local authorities have been accountable to their own electorate for their decisions on expenditure and taxation. Local authorities have been given local taxes, not in order to make central government's decisions, but to make their own decisions. Otherwise they would have been made wholly dependent on grant.

There have always been local authorities which have spent less and local authorities which have spent more than central government probably wished. That is not surprising. For that is what local government has been about. Indeed, if instead of allegedly 'over-spending' and allegedly

'under-spending' authorities (and there are both), all local authorities spent exactly what the government wanted, then there would be a real question mark over the case for local authorities, local elections and local taxes.

In effect in the Rates Bill the Government is taking the power to limit local choice in designated authorities to a choice that it approves of. Local councils and local electorates will be unable to choose, as up to now they have been free to choose, collective public goods rather than private goods. It is the limit on local choice that underlies the Rates Bill.

In place of local choice will be the decision of the Secretary of State, who is seeking in the Bill remarkably unconstrained power. He can act in accordance with principles he himself lays down and which if at a later stage he finds inconvenient, he can then abandon.

It is only after the possibly detailed and extended involvement of the Secretary of State (or his officials) in the budgetary process of the local authority, that at the final stage, the approval of the House of Commons is required. Even though the House is then being asked to substitute its judgement for the judgement of a locally elected council on its budgetary choice, there is no provision for a detailed consideration. The order placed before the House may require the approval of 5 or 20 or 50 local authorities' budgets, on the basis of a few hours debate.

In the first year I would expect the power to be used only against a small number of authorities. It is probable too that these powers will be used to enforce reductions of not more than 4% or 5%. They will be set at a level which in the first year will be attainable without critical effects. The major effects will be seen in later years. It is

as year follows year that the percentage cut will increase and the number of authorities will grow.

A handful of authorities?

The Government will argue that they will only use their powers against a handful of authorities. Even if that were true the principle of local choice would be overturned. There is however no such restriction in the Bill. What matters in judging the impact of legislation is not what is said by ministers, but what is said in what will eventually become the Act.

Past experience of central-local relations shows that powers once given will be used to the full. We have already seen how the block grant system introduced under the Local Government Planning and Land Act has been transformed out of all recognition in three short years.

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The Bill itself gives no indication that the powers provided will only be used against a handful of authorities. The only restriction placed on the use of the selective powers is that authorities will not be designated if their level of expenditure is below GREA or below £10 million. The level of GREA is however determined by the Secretary of State. The level of £10 million will itself be eroded by the on-going process of inflation which will bring more authorities within

the scope of the Act. In effect this provision exempts most shire districts and was probably introduced to reduce opposition to the Bill. The Secretary of State can propose the raising of the level, but one suspects that once the Bill becomes an Act there will be little incentive for him to do so. The only restrictions imposed by the Bill are in effect capable of adjustment by the Secretary of State.

Even with those restrictions, however, there is nothing to stop the selective powers being applied to far more than a handful of authorities.

In any event the Bill also contains general powers, which apply rate-limitation to all authorities without restriction. Those powers are held in reserve, only to be introduced by affirmative resolution both of the House of Commons and the House of Lords. If there is no intention to use these powers, it is difficult to understand why they are in the Bill. Reserve powers can be turned into substantive powers on the basis of a single vote in each House. By that time the principle will already have been conceded and such a vote can be obtained without the detailed scrutiny required for legislation.

Either by an extension of the selective powers or by the introduction of the general powers, the provisions of the Bill can be extended to far more than the 15-20 authorities currently spoken of.

Why the new powers?

A Conservative government committed by party tradition to local government has introduced legislation which represents a fundamental weakening of the position of local authorities. For the first time the Government will have the power of direct

control over local authorities' expenditure and taxation policies.

The first reason for this apparent reversal of position lies in the commitment to abolish the domestic rate first set out in the 1974 Conservative election manifesto. That commitment was repeated in the 1979 manifesto with the safeguard that it might not be possible to implement the commitment in that parliament. As the next general election approached with the pledge unfulfilled, it became necessary for the

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Government to clarify its position.

The prolonged consideration by cabinet sub-committees following the publication in 1981 of the Green Paper on Alternatives to the Domestic Rates (Cmnd 8449) had failed to find an alternative satisfactory to the Government, largely because it had ruled out of court the alternative of a local income tax, at least in part because of the Government's commitment to reduce income tax (and a commitment to replace the domestic rates by a local income tax could involve an increase of at least 5p in the £).

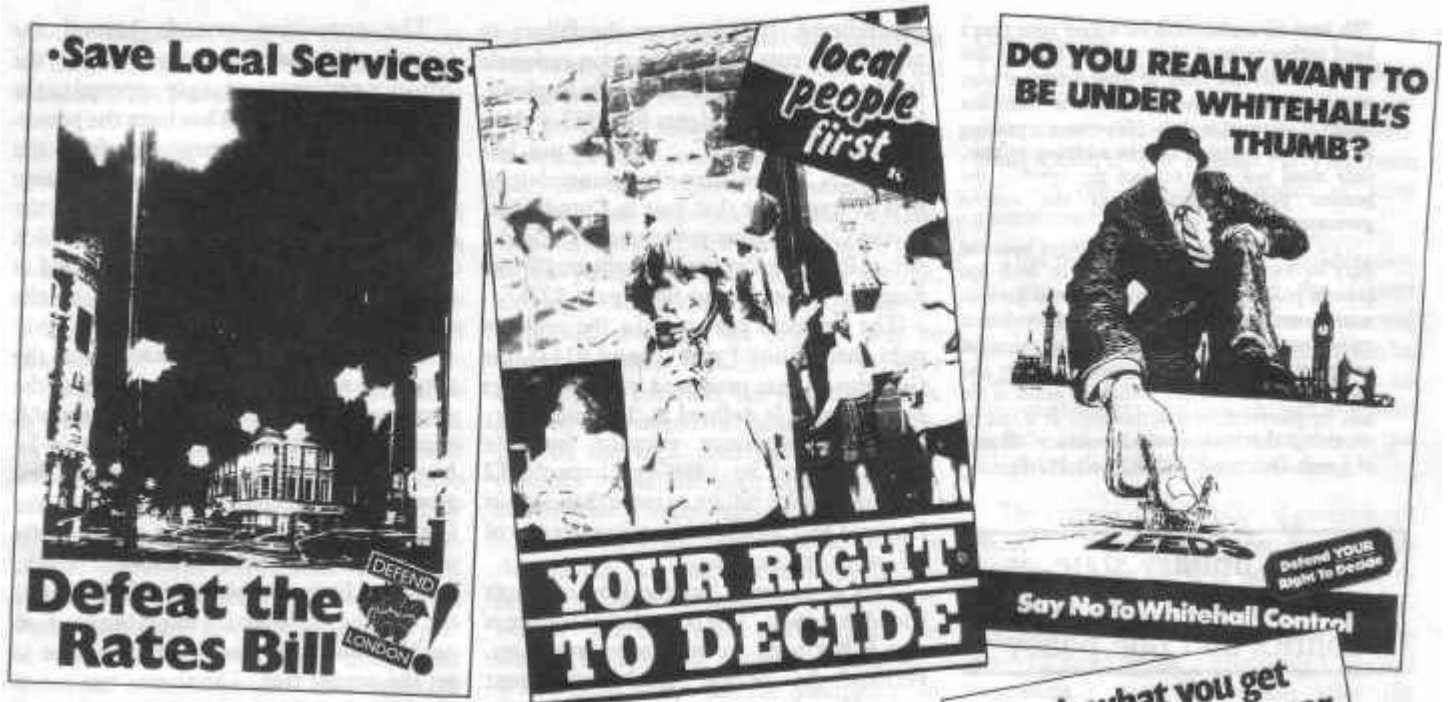
In the last few days before the general election was announced, the cabinet adopted the proposal that it had already rejected on several occasions, the proposal for rate limitation. It was then inserted in the manifesto and became a government commitment.

The confusion of local government finance

The second reason lies in the present system of local government finance. The White Paper on Rates (Cmnd 9008) identified that only 22% of local government expenditure (net of fees and charges) is borne by the domestic rates which is the only tax that bears clearly on the local electorate.

The Layfield Committee on Local Government Finance (Cmnd 6453) argued in 1976 that there was a basic confusion in local government finance as to where responsibility lay, due to the over-dependence on central government grant. That confusion could only be resolved by a choice between a system based on central accountability or a system based on local accountability. The latter demanded fundamental change through the introduction of a local income tax to replace the degree





of dependence on government grant.

The then Labour government did not face up to the choice. Since then the Conservative government has been moving the system towards central accountability without facing up to the consequences of that decision. They want to force local authorities to bear the responsibility for cuts that are not of their own making.

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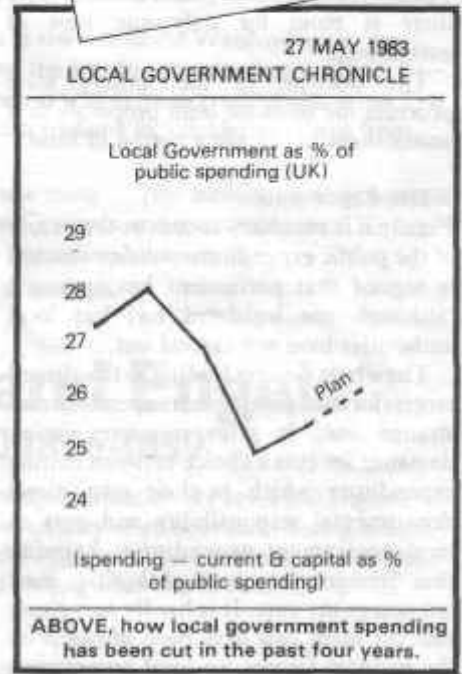
The unitary state of concentrated power
The third reason underlies that rejection. It is in the nature of present day Conservatism which far from seeing the existence of strong local government expressing local choice as desirable, sees instead local authority's power of local choice as a challenge to the authority of central government.

To understand the philosophy of the present Conservative government it is important not to be misled by the rhetoric of rolling back the power of the state: it is a rolling back in certain sectors only. There is a further important element that emphasises the authority of central government. Any other source of political authority, however limited and constrained, is seen as a challenge to that authority.

It is in this context that one must interpret the continual emphasis by the Government on the unitary state. 'But we live in a unitary and not a federal state. Although local authorities are responsible to their electorates, they derive their powers from parliament' (White Paper on Rates, Cmnd 9008). That is true, but parliament has previously seen it necessary to provide for diffusion of power in the unitary state rather than a unitary state of concentrated power.

It is argued that the exercise by local authorities of powers given them by parliament is improper if contrary to the views of the Government. 'There can be no room in our unitary state for unilateral declarations of independence by individual local authorities, relying on claims of a local mandate' (speech by Patrick Jenkin, 14 September 1983). But local authorities have not claimed independence, only the right to pursue their own policies within the law.

Or again, 'We live in a unitary state. Parliament is supreme and has granted local government its powers. The national mandate is superior and must be observed. I put it to you that this is the constitutional position' (speech by Patrick Jenkin, 16 November 1983). If this means that legislation carried by parliament is supreme that correctly states the constitutional position. The doctrine is however extended beyond legislation to policy. In the unitary state, it would seem, there is one politics and one policy. The point was expressed well in a House of Lords debate by the former Labour minister Michael Stewart:



'We have all understood for a long time that a local authority must obey the law; that the law lays down certain rules to what it may or may not do, and it neither can disobey them nor ought to attempt to do so. Now we are putting forward the doctrine that in addition to that, they must not only respect the law but the general political outlook of the central government.

. . . The doctrine that it has always been the duty of local authorities to fall in with the general political philosophy of central government has no basis in our history, and nor does it make sense. It is quite often a good thing for central governments to have their authority and their policies challenged within the limits of the law, by powerful local authorities. It is one of the things that makes us a democracy' (House of Lords Debates 15/2/1982 Cols 297-8).

In the unitary state, it would seem, there is one politics and one policy

I quote this speech because it challenges the assumptions in the Thatcherite doctrine of the unitary state which in turn reflects a wider government philosophy. It is the same doctrine that probably underlies the proposed abolition of the Great London Council and metropolitan counties without any adequate investigation of the problems and issues of metropolitan government. It is almost as if they are being abolished because of what their leaders have said, rather than for any other consideration. The leaderships of those authorities have been seen as a challenge to the unitary state, because their voices achieved national publicity. In the unitary state it would seem there is room for only one view in government.

The doctrine of the unitary state provides the basis for both proposals as it unites them in the same period of time.

White Paper cuts

Finally it is necessary to look at the nature of the public expenditure policies which it is argued that parliament has approved (although not legislated for) but local authorities have not carried out.

The whole process leading to the alleged targets for local government expenditure is a strange one. It gives ministers facing demands for cuts a choice between cutting expenditure which is their own direct departmental responsibility and cuts in local government expenditure, knowing that 'irresponsible' local authorities need not accept the cuts. It is hardly surprising that the main cuts have been imposed on the national figures for local government

expenditure. It is however the failure to meet those cuts that is the main rationale for the new rates proposal. 'But in England, local authorities' budgets for 1983-4 show current expenditure . . . that is not less than 12% higher than the planned total first proposed for that year in Cmnd 7841' ie, the Conservative government's original White Paper on Public Expenditure (White Paper on Rates Cmnd 9008 para 127).

The problem remains. In the recently published White Paper (Cmnd 9143), the Government has proposed what is in effect a cut in what is defined as 'local authority current expenditure relevant for rate support grant' by 1986/7 of between £2 billion and £2.5 billion or more than 10% in England and Wales, with an implication of a further cut to come.

This is no leak, but the Government's stated intention. The remarkable feature is that it has been so little commented on. Perhaps the phrase 'local government expenditure' conceals the reality that the expenditure is on schools, libraries, the fire service, the care of the aged, etc. But that is not concealed in the White Paper.

It may well be that because the real decision has lain with local authorities responsible to their local communities, nobody has believed it will happen. Those targets, however arrived at, are a further reason for the Rates Bill. They are the targets the cabinet is now committed to achieving and the Rates Bill once enacted gives the cabinet the power it requires.

Of course the use of selective powers against a handful of authorities will not achieve those reductions. It is unlikely that a reduction of more than £150 million can be achieved from those authorities in any one year. By 1986/7 that will amount to only £450 million per annum. The difference between the cut required of more than £2 billion and this £450 million is the reason why the government needs the general powers and will use them if it obtains them.

The opposition

The opposition to the proposals is widespread. The Labour Party, on the left and the right, is united against the proposals; or, in this context, it may be more relevant to highlight the unity between the centralists, many of them in parliament, and the localists, more often to be found in local authorities.

There is powerful trade union opposition and also from the new phenomenon in local government of campaign organisations, of which the most significant is the Local Government Campaign Unit.

The opposition extends beyond the labour movement however. Both the Alliance parties are strongly opposed to the legislation. Significant has been the powerful opposition to the proposals from not merely the *Guardian*, but also the *Times* and the *Financial Times*. There is also the opposition in the Conservative Party which resulted in 13 MPs voting against, and at least the same number abstaining, on the second reading.

The analysis of the reasons for the proposals accounts also for the extent of the opposition in the Conservative Party. All those within the Conservative Party who have believed in a unitary state of diffused power are naturally troubled by the Government's emphasis on a unitary state of concentrated power. As Edward Heath, perhaps a little improbably said, 'I entered the House in 1950 having fought an election on Mr Churchill's theme that we were to set the people free. The theme was not to set the people free to do what we tell them but to set the people free.' (House of Commons debates 17/1/1984 Col 184).

There is a strong Conservative tradition of local government well represented by the impressive opposition of the leadership of the Conservative controlled Local Authority Associations

There is a strong Conservative tradition of local government well represented by the impressive opposition of the leadership of the Conservative controlled Local Authority Associations. That leadership is naturally concerned at the apparent reversal of traditional Conservative defence of local government and worried at the precedent for future intervention by socialist governments.

Finally there is a deep concern about the scale of cuts being demanded of local authorities and fears that this must affect all authorities and the use of the general powers. In rural Conservatism in particular, there is a paternalism of approach that sees a limit to the scale of cuts and is aware that cuts made on paper at the centre have a reality in towns and villages. It is the strength of local government and a sign of the responsibility of councillors that they cannot so easily as central government

protect themselves from the consequences of their action. Local choice is genuine because it is choice seen and felt.

House of Lords

Despite the extent of the opposition, the Bill will undoubtedly pass the House of Commons. Prospect of its defeat rests upon the House of Lords, which can put campaigners in the labour movement in the strange position of placing their hopes on that House.

The constitutional nature of the issues involved, the confused state of local government finance and the ill-considered nature of the proposal make a classic case for the House of Lords exercising their delaying powers. The House of Lords cannot under the Parliament Act defeat legislation introduced so early in a Parliament. They can only delay it, but that is what is required to make the Government think again. To that extent the fact that it is a manifesto commitment is not relevant. The Government have time enough to implement that commitment or better still to start all-party discussions on a real solution to the problems of local government finance.

Those opposed must continue to campaign with that forum in focus, for it is

in the House of Lords that the legislation can be stopped in this present session. That is the political reality.

Two points must be made about the campaign. The issues raised by the Rates Bill are now before parliament. The metropolitan counties and the Greater London Council question will not be fully before parliament until the next session, although the strange Bill abolishing the GLC and metropolitan counties will be taken in this session. The primary campaign is therefore the Rates Bill. It is also the most important issue. If that Bill is passed, the GLC and the metropolitan counties would lose their ability to act as effective local authorities.

The other point that must be made is that the campaign has not yet succeeded in bringing home to many local authority workers and even more to the public the scale of cuts that lie behind the proposal. While it is right in the campaign to emphasise the constitutional issue, the question of the scale of cuts involved should not be ignored. The two are related. There is after all no way that local authorities controlled by any party would make cuts on that scale. They are after all accountable to their local electorate. It is that accountability that is under challenge.

Conclusions

The Rates Bill has raised important issues about the nature of our system of government and the role of local government within it. The Labour Party has been cast for the role of defender of local government and local choice.

That may involve some reconsideration by the Labour Party and the labour movement of its past position. National change implemented through legislation has dominated the past. It has led to an over-centralisation in thought and in action. It has led to over-dependence on the ministerial model of political change.

The present defence of local government should be matched by a positive reconsideration of its role. It is not sufficient to defend the present. Responsibilities, finance, structure, functioning and working may all need to be reconsidered if local government is to be rebuilt after the experience of recent years. That can only be achieved by a labour movement that recognises the limitations of centralisation. While there are certain tasks that can only be achieved by central government, there are limits to what should be achieved and by what can be achieved by central government alone.

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