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Interview with former Cabinet Secretary for Justice Kenny MacAskill MSP
LEFT FIELD?

Kenny MacAskill MSP, Cabinet Secretary for Justice from 2007-2014 interviewed by Nancy Loucks

**NL:** Scotland has had only three Justice Secretaries since devolution. Has that continuity had an impact?

**KM:** We all have a shelf life in politics but seven and a half years is probably longer than most justice secretaries will serve. I think there were reasons for it, including police reform. Michael Matheson will make changes to reflect his own personality, but the direction of travel is the same.

After 2003 [the SNP] learnt a lesson that we had to say what we were for, not just what we were against - that we had to engage with the wider stakeholder community. Labour got into difficulties with the mantra of 'tough on crime, tough on the causes of crime'. SNP didn’t go in with an ideology; we went in taking the expertise from the practitioners. The policy decision about 1,000 additional officers was supported by the Police Federation and indeed the public. The coherent penal policy came from speaking to Andrew Coyle, came from speaking to others in the POA, it came from the wider circle.

The divergence north and south has come about because the SNP government has delivered policy that was formulated by best possible advice. We licked our wounds after two electoral defeats, learnt from the community and went forth with a solid coherent basis that’s been reflected in continuity and in the support the stakeholders have given us.

What would you say has been the main change in direction since Cathy Jamieson’s time in office?

**KM:** We have created a more liberal regime. We managed to create some calm; and we don’t need perpetual change for change’s sake. We need to have respect and understanding. I was amazed to find out that the Cabinet Secretary did not routinely meet chief constables. It’s about engagement. Showing respect got respect, and going in the right direction got support.

It can be quite a difficult balance being strategic and liberal rather than reactive or populist.

**KM:** Sometimes you’ve just got to source some courage and recognise that what they say in the paper, tomorrow is chip wrappings! The public are not as repressive as the Daily Mail would have, and they are not as vindictive as the Daily Express would desire. Equally there were things we were prepared to do and things we weren’t prepared to do. I remember meeting the then editor of *The Sun in Scotland* to try and get them to support community sentencing. He said that if we put everybody in orange jump suits, he would back us. I remember saying “if there is evidence that says putting people in orange jump suits will work, then I will be prepared to do it. If there isn’t, then I am not prepared to do it”.

David Torrance’s biography of Alec Salmond refers to you as ‘a radical young lawyer’ in your earlier career.

**KM:** I was a young lawyer, and yes I probably was radical, but I like to consider myself as something of the left. I view myself as social democratic in the North European tradition. In government, there are constraints that go with that office; out of government, you can be more open.
I always remember being asked, “What do you want to do, Minister?”. We said four things: 1) a visible police presence in our communities; 2) we want a coherent penal policy - that prisons should be for those who have to be there; 3) we want to tackle serious organised crime, not just dealing with those at a lower level; and 4) to address the problem we face in Scotland with alcohol abuse. To be fair to the civil servants, they went away and delivered. We have record police numbers. We have, after McLeish and Angiolini, a better direction for penal policy. We have the Serious Organised Crime Task Force taking action …

Beyond that, there is an opposition to privatisation. It was suggested at some stage by police officers that maybe we could be outsourcing what’s currently dealt with by police staff. We ruled that out. I don’t care whether it goes to the Prison Service or it stays within the police service, but it’s not going out to G4S.

You’ve taken some difficult decisions, not least in relation to the compassionate release of Megrahi. What bearing would you say these decisions have had on your work or yourself?

KM: I don’t think it made any difference. The staff I had in my private office and in the wider justice department were exceptional. What I delivered was based on the principles, laws and the regulations we have in Scotland and how we think society should be. What effect did it have? Well, it put my profile global. I managed to escape for a brief holiday shortly after, and as I passed through Amsterdam airport I saw my picture on the front page of the Wall Street Journal. Are there people who disagreed? Yes there are. Equally there are lots of people who are very kind in supporting me. I met with victims from all over. Grief is a very personal thing and you have to cut slack about how people react. I have nothing but contempt for those who sought to take what was a very difficult situation for Scotland and make political capital out of it. So we did what was right, and I’ve never ever hidden or shirked from the decision.

Why did you change your mind on the building of HMP Inverclyde?

KM: I don’t think I necessarily ever changed my views. What has changed is the ability/window to deliver. It comes back to what we said earlier: you have to be able to sell it to the public and take the public with you.

This came about with the election of Nicola Sturgeon: that was the transformation, because, before then, there would have been problems, and there would not have been the political will. We would not have got the same level of political buy-in from opposition parties. But once you have the first female First Minister, a gender-equal Cabinet, what you cannot then do is to say that 400 of the most vulnerable, marginal are not included.

Policy choices opened up an opportunity. I welcome where Jim Murphy has come from. I believe the Government will take that on board. It’s not as simple as saying “Well, if you don’t build for 300, build for 200 and you’ll get 100 spaces in the community”. The money is not as ‘sell-able’ as that, but there is a clear direction of travel, and it ties in with changes that are coming in terms of the Judicial Institute so this is the moment to seize it.

Does that imply that the Referendum took the focus away from some of these issues?

KM: The Referendum has actually created a much more politically aware society and a much more radical society. Many of those who are championing the position about building a new HM Prison Inverclyde [such as] Women for Independence either had an interest or who have been galvanised by it. Frankly over the last seven years Labour has been a mirror image of the Tories in justice policy, and hopefully this will be an opportunity to change. I remember when it was Pauline Neil, and I was early in office, making the overture that, “Can we get to a situation in the Scottish Parliament where SNP, Labour, Liberals, and Greens will all support what’s not SNP policy but is actually the sector policy. We’ll never get the Tories on board, but the rest of us can”. I would hope that this, after 2016, might be the scenario.

The change in Labour hopefully will be not just superficial, and I can’t criticise where they are, and I am hopeful and maybe confident that the SNP Government will realise that when it’s going back out to tender for a smaller prison, let’s put resources into the community.

What would you say your biggest challenges were?

KM: One of the biggest challenges was holding the line on knife crime because the media was quite hostile. Knife crime has plummeted. And yet I remember seven years ago, it was almost every time you picked up a paper it was another horrendous murder. So it wasn’t easy there, but we did the right thing with the support of a wide section of those involved in the front line. Had we not, then that would simply have fuelled other attacks, other drives to move away from the social democratic agenda.

What are you proudest of?

KM: There’s lots of things, but I think the Cashback for Communities Scheme. I go to so many events where you realise that being Justice Secretary is not all about the laws that you’ve brought in, it’s actually about encouraging good behaviour, to give folk an opportunity. Equally simply realising that moving away from an agenda driven by the Daily Mail-type view that an eye for an eye is the way to go; no, the way to go is to give people hope, opportunity, and self-esteem.

This is an edited version. For full transcript: editor@scottishjusticematters.com.
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