

Criminal Justice (Mode of Trial) (No. 2) Bill

Nearly half a century ago, when I used to sit in the official box in the House of Commons, I came to respect many of the highly-competent backbench MPs of those days - none more so than the doughty Leslie Hale, who for more than twenty years served as a Labour MP for Oldham (where as a girl my grandmother was a cotton mill hand). His shade was raised in the debate (March 7) on the second reading of the Criminal Justice (Mode of Trial) (No. 2) Bill. I wrote on January 14 about the first version of this Bill to restrict jury trial, which the House of Lords wrecked. Now, against opposition from all sides, the Government is having a second try to get it enacted.

It was the promoter of the Bill, the Home Secretary Mr Jack Straw, who mentioned the late Mr Hale, or rather Lord Hale (for near the end of his life he was deservedly ennobled). He did so not to praise him; rather the reverse. "I draw some comfort", said Mr Straw, "from the fact that at almost every point that a Home Secretary has sought sensibly to modernise our system of jury trials, he has been met with similarly vocal opposition . . . In 1967, Roy Jenkins proposed to change the requirement of a unanimous verdict to that which the European Union now likes to call a qualified majority. The proposal was met with howls from all sides. I give the House a flavour of the reaction by quoting the then Labour Member for Oldham West, Mr. Leslie Hale, who said of the proposal . . . 'never before in the history of Parliament has there been a provision undermining the constitution of the nation, the liberties of the people and a system of justice that, with all its faults, is the envy of the world, on less evidence, with less consideration, and with a more complete absence of reasoning in its support'."

You note that Mr Hale said then that England had a system of justice that, with all its faults, was the envy of the world. Would any Labour MP of today say that? I will tell you what the patriotic Englishman Mr Jack Straw MP said in the March 7 debate. He said that in enacting this Bill we bring ourselves into line with the better practice of almost all comparable jurisdictions, and come closer to the practice in Scotland. He added: "Often, Scotland is, rightly, held out to be a nation with a more effective criminal justice system than ours". So that is what has become of English pride in Magna Carta and trial by jury.

The jury, said Sir Robert Megarry (former Vice-Chancellor), plays a large part in liberty. He added that it is for the Bench to protect the jury. Are the Bench of today doing this? Mr Straw said of his Bill: "In 1993, it received the unanimous backing of the royal commission on criminal justice. Today, it enjoys the active endorsement of the Lord Chief Justice, Lord Bingham, and of the vast majority of the High Court Bench of nearly 100 senior judges; of the Magistrates Association, representing 30,000 justices of the peace; and of all three police associations, representing more than 125,000 police officers . . ."

If this is so, why does the niggling doubt remain? Mr Straw himself gave the answer three years ago, when he was in opposition: "If . . . a Member of Parliament or even a Secretary of State were charged with an offence of dishonesty, would they not insist on being tried by a jury? If that is the case, why should others be denied that right of election?" (Commons Hansard, February 27 1997, Vol. 291 c. 434).

Mr Straw says he has changed his mind since then. Others have not. For the Conservatives, Sir Nicholas Lyell, a former Attorney General, put his finger on the truth by saying the (defective) logic of the Home Secretary's argument is that, because magistrates generally provide a fair trial, the right to trial by jury can be largely dispensed with.

Mr Straw's revised Bill is even worse than the earlier one, which allowed a respectable accused's reputation to be taken into account in deciding mode of trial. That was criticised as discriminating against ethnic minorities and the unemployed, so it has been omitted from the No. 2 Bill. Mr Straw's plea, hotly disputed by the Bill's opponents, is that it will save £120 million a year. Twenty-nine Labour MPs voted against the second reading, which was nevertheless agreed. Will the Lords again save us from this English Bill that kow-tows to Scotland and rejects English jurisprudence?

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