

Letters to *The Daily Telegraph*

Blair's right to act as Prime Minister when retiring (2)

Introductory Note by Francis Bennion

Being apparently the only person in Britain who finds the Prime Minister's leaving conduct obnoxious, I had another go today, this time with the *Daily Telegraph*. (For my 8 June letter in *The Times* see www.francisbennion.com/2007/010.htm.) The square brackets below indicate the editorial omissions (without my consent of course). For the sake of squeezing in an additional letter or two, editors nowadays cheerfully mutilate the letters they do publish. On balance, this is a loss.

My final, omitted, paragraph is actually the most important one in the letter. It needs to be coupled with an item elsewhere in the same issue of the *Telegraph* which reads:

'The Daily Telegraph can disclose that Mr Brown will announce the creation of a people's assembly to rewrite the constitutional settlement as part of a blizzard of initiatives to mark his first 100 days in office. The public will be invited to help write the new Bill of Rights . . .'

This comes when I have just sent an article to the *Commonwealth Lawyer* spelling out just how it is that lay people are not able to understand 'raw law'. For fear of cliché I won't say what the mind does . . .

Lame-duck Blair (2)

Sir, You report (June 11, page 1) that Tony Blair will [next week] lead negotiations for Britain at the crucial EU summit in Brussels, and that Gordon Brown will not take part, even though he will be our Prime Minister before the end of this month.

It is contrary to the spirit of the British constitution that a person who is just about to hand over supreme power should lead negotiations gravely affecting our future. [Indeed] I would say it is an outrage.

[As your letters page today shows, there is much anxiety over whether the British people will be granted a referendum on the EU constitution which is to be negotiated. In such important matters it is obviously the man who is so soon to become our Prime Minister who should lead the negotiations. It is astonishing, and a bad omen, that Mr Brown fails to understand this.]

Francis Bennion

Later In the *Daily Telegraph* of 13 June came the riposte to Gordon Brown's silliness that I was too listless to compose, written by Kenneth Hynes:

'Mr Brown should know that Parliament cannot constitutionally overthrow our existing Bill of Rights of 1989. He should know that it is a subtle and complex document that was created by highly intelligent individuals who had direct experience of the dangers to the people that came from a lack of control over the government. He should know that such a document cannot be created by adding together the various suggestions of "the public". If he does not know these things, we have to assume that he thinks he can fool all of the people for long enough for his appointed committee to create, after "public consultation", the Bill of Rights that he thinks we ought to have. The Bill of

Rights 1689 provides control over those undesirable tendencies of government and to protect the people from the recurrence of tyrannical rule. We do not need a new, politically correct socialist Bill of Rights. We do need a return to our existing Bill of Rights.'

Although with Mr Hynes in spirit, I could not let these errors pass, so on 14 June I emailed the following letter to the *Daily Telegraph*.

'I admire the *brio* with which Mr Kenneth Hynes attempts to shoot down Gordon Brown's ridiculous proposal to have a new Bill of Rights drafted by the people. However, as a constitutional lawyer I cannot allow your readers to be misled by Mr Hynes's central proposition, which is mistaken. It is not correct, as he says, that "Parliament cannot constitutionally overthrow our existing Bill of Rights of 1989". If it so wishes, our sovereign Parliament can do just that.

'The only slight protection is the so-called principle of legality, recently invented by our judges. By this the courts would not hold that an Act of Parliament overruled the Bill of Rights 1689 unless it expressly stated that such was its intention.'

This was not published, so one can only assume that the editor does not care about misleading his readers.