

Blair government presses ahead with attack on right to jury trial in England and Wales

Julie Hyland**25 January 2000**

Prime Minister Tony Blair utilised a visit to an east London school on Friday as an occasion to attack the "forces of conservatism and reaction" he claimed were jeopardising his government's "radical" agenda.

His remarks were in response to the House of Lords voting down government plans to restrict the right to trial by jury. In its heaviest defeat in the second chamber, a cross-party alliance produced a vote of 222 to 126 against the government's Criminal Justice (Mode of Trial) Bill.

The bill takes away the right of defendants in England and Wales to decide in which court their case should be heard. It includes so-called "middle-ranking" offences such as theft, possession of drugs, assault and actual bodily harm. Some 280,000 of such cases are currently heard each year and can be tried either before Magistrates or in Crown Court before a jury, based on the defendant's preference. Approximately 20,000 people opt to appear before a jury. The new bill would place the decision in Magistrates' hands.

Home Secretary Jack Straw presented the bill as an example of "modernising reform". This deliberately misleading term has been employed repeatedly over the last years to obscure the reactionary content of measures Labour is introducing, particularly in social policy and the field of democratic rights.

Blair had made the Bill a central part of his pledge to be "tough on crime". According to Labour's propaganda, jury trials are not a democratic right in keeping with the principle "innocent until proven guilty", but a "soft option" for criminals. The money presently expended on such trials being "wasted" on providing such a "luxury", the government went on, could be better used to employ more police officers.

In 1997, whilst still in opposition, Straw had described Tory plans to cut back the right to a jury trial

as "making the system less fair", which was "not only wrong but short-sighted and likely to prove ineffective". Last Friday, he explained, his volte-face was correct. "This is one of those issues where many people at first blush take the view I did," he said. The real issue, he continued, was to modernise the criminal justice system, "ensuring it is re-balanced in favour of victims and witnesses as well as defendants".

The claim that current criminal procedure is biased in favour of defendants has been the standard refrain of the political right generally and the Conservative Party in particular, although this did not prevent the latter opportunistically opposing Straw's Bill in the Lords. Labour has continued and strengthened much of the oppressive "law-and-order" legislation first introduced under the Tory government. Last week, an armed robber was given 22 life sentences at the Old Bailey in London, under the "two strikes and you're out" rule. Introduced in 1997, the ruling means that those found guilty of a second violent or sexual crime automatically receive a life sentence. On Monday, Labour defended its predecessors' criminal legislation in a test case brought before the European Court of Human Rights. The case relates to the Criminal Justice and Public Order Act 1994, which diluted the right of suspects to remain silent by allowing judges to draw adverse inferences from their refusal to speak.

Labour's draconian law-and-order offensive has brought it increasingly into conflict with the legal profession and civil rights campaigners. The Bar Council and the Law Society (professional bodies representing barristers, solicitors and other legal practitioners), as well as civil rights organisations, have condemned the new bill as an unwarranted attack on democratic rights.

The impact, they warned, would be to further

undermine public confidence in the criminal justice system. Leading human rights and public law specialist David Pannick said that under the new legislation, defendants facing serious charges would be tried by people they saw as "representatives of the Establishment" and, "rightly or wrongly, to be prejudiced against them or ignorant of their personal circumstances". Some in the legal profession have pointed out that ethnic minorities will be particularly hard hit by the government's proposals, as black defendants are treated more equitably in jury trials. Far from saving money, the new measures would increase the legal bill as defendants sought to challenge magistrates' rulings on appeal.

Straw had venomously denounced such critics as "woolly Hampstead liberals", motivated by self-interest. Echoing Straw, Blair said the Bill had been the victim of "vested interests", most notably "the lawyers' trade union".

Such attacks are backfiring, however. As Blair reaches his 1,000-day anniversary in office this week, leading political commentators are warning that the gloss surrounding "New Labour" has worn decidedly thin. In May 1997 Blair claimed Labour's commitment to the interests of big business and the banks was compatible with raising living standards and improving public services. Almost three years later, the gap between rich and poor continues to grow, whilst health, education and welfare have been subjected to even tighter spending restrictions than under the Tory government.

Interviewed in the *Observer* newspaper, John Curtice, Professor of Politics at Strathclyde University opined that Labour was now flirting with danger. He warned that the media presentation of Blair's popularity has always been overblown. Whilst Labour won a 179-seat majority in the 1997 general election, it secured just 43 percent of the vote in a low turnout. This meant that the government "had the active support of less than one third of the electorate," Curtice explained. "In terms of share of the vote, it did better in every election between 1945 and 1970. In 1997, the Conservatives lost, rather than Labour won, and since the election Labour's biggest asset has remained the Conservatives."

The underlying message of such articles has been to warn Blair not to believe his own propaganda: The government does not have far to fall from grace and the

last thing it needs is to alienate itself from those once regarded as New Labour's "natural" constituency.

Blithely ignoring such advice, generally offered in the friendliest of terms, however, Blair recklessly declared that he would take on "the forces of conservatism and reaction, left or right, even when they have superficial popular appeal". Blair and Straw have pledged to reintroduce the bill and take every measure to push it through.



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