

PREM 19/2758

Confidential Filing

The Jury System in Britain

LEGAL PROCEDURE

October 1988

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
1-11-88							
7-17-88							
16-12-88							
3.1.89							

CLOSED

PREM 19/2758



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary


3 January 1989

Many thanks for your letter of 7 December about the jury system and to Paul Stockton for his of 20 December. The Prime Minister has seen these and is grateful for the information they contained. The Prime Minister welcomes the proposed amendment of the 1974 Juries Act to allow those who are illiterate to be discharged without being brought before the judge.

I am copying this letter to Paul Stockton (Lord Chancellor's Office).

Dominic Morris

Philip Mawer Esq
Home Office.

A handwritten signature in blue ink, possibly reading 'P', is located in the bottom right corner of the page.

PRIME MINISTER

JURIES

You saw the note a couple of months ago from Carolyn Sinclair highlighting the shortcomings in the Jury system. I minuted out to the departments concerned on the basis of her recommendations. You might be interested to see the response from the Home Office and the Lord Chancellor's Office on what they are now doing.

DM

Welcome the proposed amendment of
the Juries Act on need to
understand fully the spoken &
written word in English.

D C B MORRIS

mt

22.12.88

FROM THE PRIVATE SECRETARY

R20/12

CC C SIMONIA.



HOUSE OF LORDS,
LONDON SW1A 0PW

20 December 1988

Dominic Morris Esq
10 Downing Street
LONDON SW1A 2AA

Dear Dominic,

JUROR LITERACY

Thank you for your letter of 16 December.

It is not, and has never been, a requirement that a juror is able to read and write English. This is because the vast majority of Crown Court cases depend upon oral evidence. What is in issue, therefore, is our being able to detect and excuse from service those who cannot understand English well. Setting formal criteria and testing them would be difficult. It would almost certainly require primary legislation and would certainly be extremely expensive, bearing in mind that we summon about 500,000 people to Jury Service every year. We are trying to handle this in 2 ways. The first is by including a question on the jury summons. The second, which is an innovation, is by including a passage in the welcoming speech which a court official gives to every jury panel when it first assembles. We do have to strike a balance, however, between the need to avoid including people that have a poor understanding of English on panels and the risk of providing those whose understanding of English is perfectly acceptable but who wish to avoid jury service with an easy excuse.

This is, as you can see, awkward. We are involving people who have to administer the jury system on the ground in our search for a solution and will be discussing the matter at a meeting next month.

Paul Stockton



file 115

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

16 December 1988

Dear Paul

Couple of things for a Friday night. You kindly agreed to look into the draft provided by Donna on 7 December to Mr Paul Lamplugh which did not seem to square very well with the earlier letter which I had sent based on the draft which she sent on 17 October. I should be grateful to know where this has got to.

Secondly, you will have seen a copy of Philip Mawer's letter to me of 7 December about the jury system responding to my letter of 1 November. In his letter Philip says that the Lord Chancellor's Department is looking at ways of ensuring that potential jurors have an understanding of English. I should be grateful for a short note from you during the course of next week on what this involves and the likely time scale so that I can put them together with Philip's note in the Prime Minister's box over Christmas.

A copy goes to Philip Mawer (Home Office).

DM
Dominic

Dominic Morris

Paul Stockton Esq
Lord Chancellor's Office.

DM

EPA

B/P
22/12.HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

7 December 1988

Dear Dominic,

at 11.45

Thank you for your letter of 1 November about the jury system. The Home Secretary agrees with the Prime Minister that there is a case for giving someone the specific responsibility of ensuring that jurors have sufficient understanding of the English language to make sense of court proceedings. At present, the law allows a judge to discharge a juror if it appears to an officer of the court that the juror cannot understand English, but there are no systematic checks. The Lord Chancellor's Department is looking at ways of ensuring that potential jurors have an adequate understanding of English and, depending on the outcome of this, the Home Secretary would want to consider amending the 1974 Juries Act to allow those who are illiterate to be discharged without being brought before the judge.

The Home Secretary also shares the Prime Minister's concern that excusal from jury service should not be too easy. The number of excusals and the reasons for excusal are not recorded systematically, but a recent ad hoc survey by the Lord Chancellor's Department suggested that self-employed businessmen are excused or have their service deferred quite frequently on the grounds that to be away from their business for two weeks or more would cause hardship. According to the survey, businessmen generally are unlikely to be excused jury service but might well have their service deferred to a more convenient time.

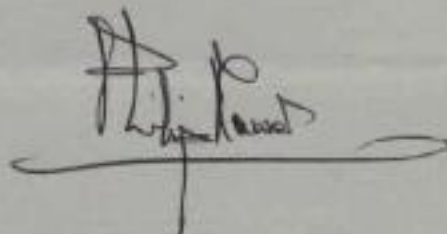
In a practice direction issued on 19 September, the Lord Chief Justice has helpfully re-emphasised that jury service is an important public duty which individual members of the public are chosen at random to undertake, and that the normal presumption is that unless a person is disqualified or ineligible he or she will be required to serve when summoned to do so. The provision in the recent Criminal Justice Act which allows jury service to be deferred once only on each summons should also help by preventing potential jurors from deferring their service repeatedly or indefinitely. Nonetheless the Home Secretary agrees that more could be done to stress the importance of jury service as an aspect of active citizenship, and he and his Ministerial colleagues will seek opportunities to reinforce this message.

As the Prime Minister will be aware, the Government has taken various other measures to strengthen the jury system. The Criminal Justice Act 1988 contains provisions abolishing the right of peremptory challenge, increasing the maximum age for jurors from 65 to 70, and allowing jurors to defer rather than escape jury service if, for example, they have business commitments which prevent them from serving at a particular time. A system of random checks has recently been introduced to help weed out disqualified

jurors. Together these changes should significantly improve the quality of those who serve on juries.

I am copying this letter to Paul Stockton (Lord Chancellor's Department).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'P J C Mawer', with a long horizontal flourish extending to the right.

P J C MAWER

D C B Morris, Esq.

LEGAL PROC: Amy S. [unclear]
Oct 22





file

10 DOWNING STREET

LONDON SW1A 2AA

*a Carolyn
Siclair*

From the Private Secretary

1 November 1988

Dear Philip

The Prime Minister has seen the series of articles in the press recently on the jury system in Britain. She was concerned that on the face of it there does not appear to be any systematic way of ensuring that all jurors do in fact have the ability to read, write and understand English. There is a strong case for giving someone - perhaps the court authorities - the specific responsibility of ensuring (and not just seeking an affirmation) that jurors have sufficient understanding of the English language to make sense of court proceedings.

She has also commented that excusal from jury service appears to be too easy. It is important to ensure that the social mix of juries is genuinely a cross section of the community. Discouraging excusals on business or professional grounds would fit well with the themes of individual social responsibility and the concept of the active citizen which your Secretary of State has been promoting.

I am copying this letter to Paul Stockton (Lord Chancellor's Office).

Yours sincerely

D. C. B. Morris

(D. C. B. MORRIS)

Philip Mawer, Esq.,
Home Office.

Rto

Prime Minister²

If you endorse Min Sinclair's conclusions, do you want me to commission a note from

PRIME MINISTER

27 OCTOBER 1988

Letter to the
Home Office
on recommendation
in this note
please not

the Home Office in ways of making it
harder for people to wriggle out of jury service?

JURIES

DM 28/10.

The 'Times' have this week been running a series of articles on the jury system in Britain. The picture which emerges is of juries full of the unemployed, of people biased against the police, of English speakers who are barely literate, and of non-English speakers who cannot understand what is going on.

None of this comes as a surprise to anyone who lives in London.

A number of factors have contributed to making juries in large cities anything but

'a cross section drawn at random from the community and ... the means of bringing to bear on the issues that face them the corporate sense of that community'.

Key among these are:

- i. the defence's right of peremptory challenge;
- ii. the ease with which people can get out of jury service;
- iii. the fact that it is nobody's job to establish jurors' ability to read, write or understand English.

(i) and (ii) go together. The Criminal Justice Act abolishes the defence's right of peremptory challenge, and it will disappear from next January. It will no longer be possible to keep people out of juries simply because they look middle class. Businessmen and professional people

ought therefore to be more willing to undertake the civic duty of jury service. They are less likely to find themselves reading 'War and Peace' as they wait in vain to be called.

But it is not certain that removing the defence's right to peremptory challenge will be sufficient to make juries more representative. Excusal from jury service is arguably much too easy. Currently about half the people in Greater London who are summoned for jury service do not actually arrive at the court. Some of these simply fail to reply, and others have been wrongly included in the electoral register. But a fair proportion persuade the judge or the jury summoning officer that they have good reasons for not serving on a jury. Not surprisingly, it is easier for the self employed, businessmen and professional people to make out a case for more or less permanent exemption.

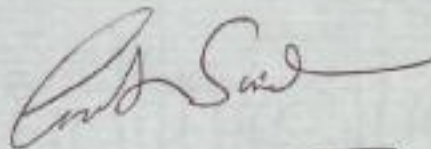
← The ability to read, write or understand English is not required of jurors in any systematic way. Jurors are asked if they understand English, but there have been cases where a juror has said 'yes', although it subsequently emerged that he or she did not speak a word of the language.

← There is a strong case for giving someone - probably the court authorities - the specific responsibility of ensuring that jurors have sufficient understanding of the English language to make sense of court proceedings.

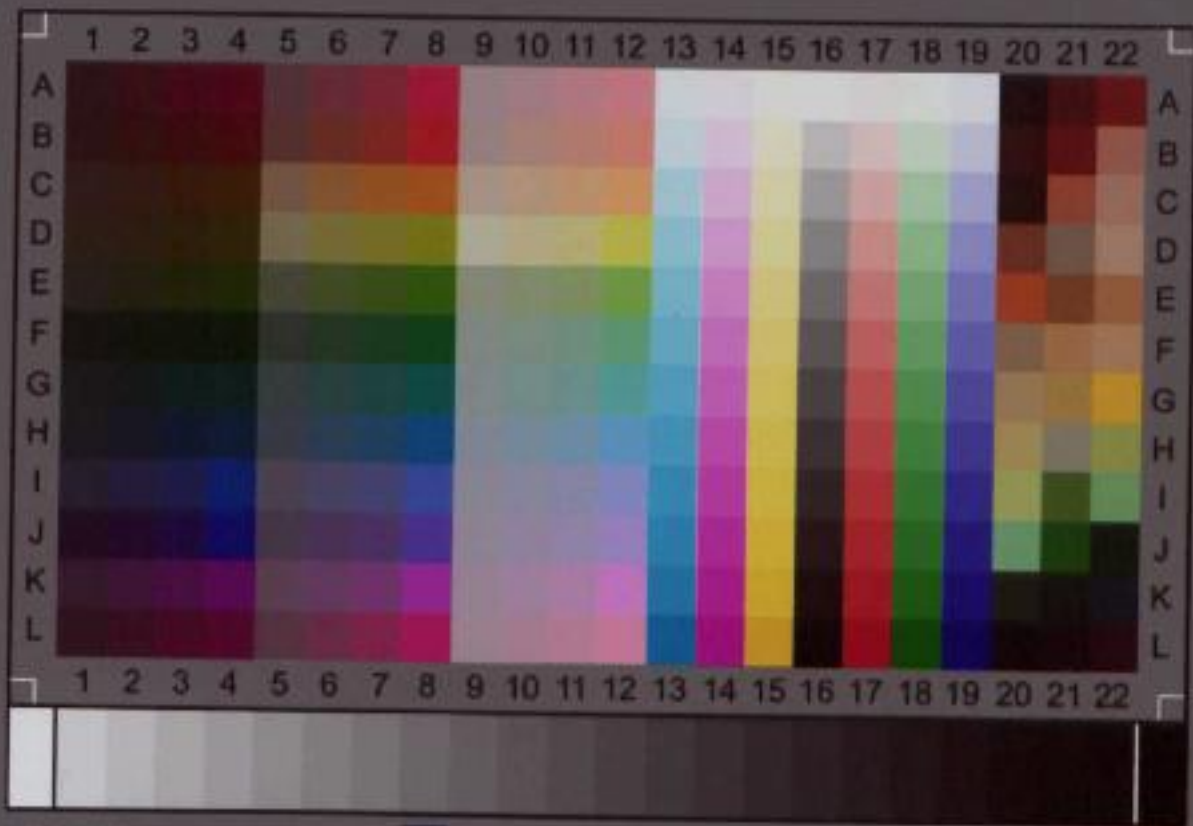
There is also a good case for going further and applying a test of ability to read and write English. But this would be contentious, particularly coming hard on the heels of abolition of the defence's right to peremptory challenge. It is more important to concentrate on getting a better social mix on juries. Discouraging excusals on business grounds would fit well with the theme of individual social responsibility.

Conclusion

Removal of the defence's right to peremptory challenge should help to stop juries being 'packed' on class grounds. But this needs to be accompanied by a greater drive to make juries more representative. The key here is to make jury service like national service - very hard indeed to get out of.



CAROLYN SINCLAIR



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