

Abolishing the double jeopardy rule

You report (page 407) that Paul Boateng condemned William Hague's proposal to abolish the double jeopardy rule as 'knee-jerk headline seeking'. On 16 May 2000 the *Daily Telegraph* published an article by Janet Daley defending Hague's proposal and attacking lawyers who uphold the rule. As the *Telegraph* declined to publish my letter in reply to this article (or any other such letter) I wonder if you would be kind enough to give it house room? It ran as follows.

'Having been a barrister for half a century, I will try to answer Janet Daley's elegantly phrased question to lawyers, 'What's your problem, guys?'

In the middle ages, when conditions were far more barbarous than they are today, English law was yet merciful enough to say that an acquitted person should never be tried again for the same offence, and this rule has been followed in common law countries ever since.

Persons accused of a criminal offence are not always professional criminals; often they are ordinary citizens. Prosecutions are brought by the state, with all the powerful resources it commands. The citizen often has few resources, and is greatly troubled by having to defend criminal proceedings.

On acquittal (by a jury or magistrate) the accused is said to be "cleared" of the charge, and breathes a mighty sigh of relief. "That's all behind me, thank God", he or she says. "I can start my life over again."

It would be iniquitous if for the rest of that life the acquitted person had to worry lest the matter be dragged up again on some pretext such as the discovery of new evidence. Justice imports mercy, and also finality.

In its wisdom the law has long taken the same sensible line in civil cases too, with the *res judicata* [the thing is decided] doctrine. We should not follow the lead of those who wish to scrap this humane safeguard.'

164 *Justice of the Peace* (2000) 425.