

Justice Committee

Criminal Justice (Scotland) Bill

Email exchange: Rt Hon Lord McCluskey and the Committee

I am offering to give evidence to the Committee, particularly on the matter of Corroboration.

John McCluskey
24 January 2014

Thank you for your email, which I have discussed with Christine Grahame, the Convener of the Justice Committee. She has asked me to thank you for your kind offer to give evidence in relation to the corroboration provisions in the Criminal Justice (Scotland) Bill. However, the Committee concluded its evidence-gathering at Stage 1 of the Bill on 14 January and we are now in the process of considering and agreeing our Stage 1 report.

It would be unusual for the Committee to take any further evidence during the passage of the Bill. However, if for any reason, the Committee does decide to do so, the Convener will of course alert Members to your kind offer.

Clerk
Justice Committee
24 January 2014

I am dismayed to receive this deeply regrettable answer.

- I am probably better qualified, by direct experience, to give evidence on this matter than almost everyone whose evidence has been received. I had stayed out of the matter because, having retired some years ago, I thought that others would demonstrate that the proposal to abolish the need for corroboration in ALL criminal cases in Scotland would have been dismissed without difficulty or abandoned in the face of the near unanimous opinion of the Judiciary.
- Additionally, when I came to read the evidence presented to the Committee, I realised that there have been serious errors in that evidence, including, I believe, evidence given by the Lord Advocate himself.
- The evidence of the Justice Secretary raised new matter, namely the idea that “supporting evidence” would be sought. The Lord Advocate said the same. This new matter raised important issues not properly canvassed.
- I am convinced that the Committee has not been given the whole picture, particularly about the practical alternatives to the drastic step of abolishing the need for corroboration.

- There has been a lively correspondence in *The Scotsman* since that newspaper published my article on Wednesday 15th January: is this material also to be ignored because it is out of time? Will it be formally before the Committee? Will my article itself be before the Committee?
- It has also been suggested to me (though I am quite unable to speak to it from my own knowledge) that the Committee, or at least some members of it, may have received briefing from civil servants on this issue, being briefing material that has not been published: is this so?
- In these circumstances, I ask the Committee Convener to reconsider the matter urgently and agree to accept the evidence that I can offer.
- I am not sure that my request to be heard will have been intimated to other members of the Committee. Accordingly I am COPYING this email to all members of the Committee. For their information, the original email that I sent to the Clerk of the Committee (not then in her office) read as follows: -

“Dear Ms Fleming, I have recently contributed to the debate on Corroboration via *The Scotsman* newspaper. I should be willing to give evidence to the Committee, particularly with a view to correcting some errors – as I see it – in evidence already presented to the Committee. The article and the letters that I have written (in *The Scotsman*) may serve as my ‘papers’ for such an appearance.”

- I am able to provide copies of my article and subsequent Letters to the Editor in electronic form to any member of the Committee who would like to receive them.
- I have also prepared notes on the point raised in the last paragraph of my article, viz **“*There are other ways of dealing with the problems that the Lord Advocate suggested to the Committee*”** I do not believe that the Committee has had the opportunity to consider fully these alternatives.
- The pre-legislative scrutiny ought to be comprehensive. The timetable for the Committee’s scrutiny of the Bill (19 December 2013) does not appear to me to state that the last evidence session was to be on 14 January 2014.
- I sincerely hope that you will give this the most urgent and careful attention. I would not intend to let the matter rest if I were denied the opportunity to put my evidence before the Committee.

John McCluskey
24 January 2014