



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 28 January 2014

Session 4

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JUSTICE COMMITTEE
4th Meeting 2014, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)
*Roderick Campbell (North East Fife) (SNP)
*John Finnie (Highlands and Islands) (Ind)
*Alison McInnes (North East Scotland) (LD)
*Margaret Mitchell (Central Scotland) (Con)
*John Pentland (Motherwell and Wishaw) (Lab)
*Sandra White (Glasgow Kelvin) (SNP)

*attended

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 6

Scottish Parliament

Justice Committee

Tuesday 28 January 2014

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the fourth meeting of the Justice Committee in 2014. I ask everyone to switch off mobile phones and other electronic devices completely as they interfere with the broadcasting system even when they are switched to silent. No apologies have been received.

Item 1 on the agenda is a decision on taking business in private. Do members agree to take in private item 4, which is consideration of our work programme?

Members *indicated agreement.*

The Convener: Members will also recall that last week we agreed to consider our draft report on the Criminal Justice (Scotland) Bill in private, so that decision has already been taken care of.

Subordinate Legislation

Police Service of Scotland (Amendment) Regulations 2014 (SSI 2014/1)

10:00

The Convener: Item 2 is consideration of one negative instrument. Do members have any comments on the regulations, which amend police constables' public holiday entitlement?

Elaine Murray (Dumfriesshire) (Lab): Although the agreement has clearly been reached between the Scottish Police Federation and the Police Negotiating Board, I have heard that some officers feel that they have not been adequately consulted on the matter. I am not moving against the regulations; I simply note that there appears to have been a problem with consultation.

The Convener: That is nothing to do with the regulations, but I have let you put your comment on the record.

Margaret Mitchell (Central Scotland) (Con): Again, this does not really have anything to do with the substantive issue of the instrument itself but I note that in his letter Calum Steele seems to think that the United Kingdom Government sets the justice budget when it is actually a matter for the Scottish Government. I just found that bit of his correspondence misleading.

The Convener: Where is that?

Margaret Mitchell: I am referring to the first bullet point in Calum Steele's letter.

The Convener: It seems to be more of an inference rather than anything specific. The fact is that budgets are being cut by the UK Government.

John Finnie (Highlands and Islands) (Ind): As someone who has found themselves in a consulting position, I can assure the committee that the Scottish Police Federation has very robust consulting procedures in place. That does not mean, of course, that all 17,500 officers will have availed themselves of the information in the consultation, but they will have been consulted.

The Convener: We now have that on the record. The fact is that, if the Police Negotiating Board has agreed it, it has been agreed, and it is now up to the members what they do with it. As far as this technical matter is concerned, are we content not to make any recommendation?

Sandra White (Glasgow Kelvin) (SNP): I am happy with that, convener.

Criminal Justice (Scotland) Bill: Stage 1

10:02

The Convener: Before I move on to item 3, on the Criminal Justice (Scotland) Bill, I want to refer to the email that Lord McCluskey sent us all. I have to say—and this is a personal comment—that I am a bit cross. I will tell you why.

I have been looking at the committee's scrutiny of the bill—I have a note of it all. Last Friday, we received this request to give evidence to the committee on the provisions of the Criminal Justice (Scotland) Bill in relation to the abolition of the requirement for corroboration. Let me clarify what we have done so far. As we all know, we are in the middle of considering our draft stage 1 report—in fact, we are in the last gasps of that consideration: we signed off the first part last week and will do the same again today. In my view, there was ample time for people to contribute to our evidence-gathering sessions at stage 1, and any requests to give evidence were given full and proper consideration. The bill was introduced on 20 June last year, and we issued our call for written evidence on 26 June with a deadline for submissions of 30 August, although we accepted late submissions while we were hearing oral evidence. We received a total of 65 submissions and held 11 evidence sessions between last September and this month, six of which specifically focused on corroboration.

Furthermore, this is not the first time that the committee has considered the proposal to abolish the requirement for corroboration. We took evidence on the matter immediately after the publication of Lord Carloway's report at the end of 2011.

Everyone—and probably the committee more than anyone else—will recognise that the proposals in the bill, including those relating to corroboration, are hugely significant and require thought and careful scrutiny. However, it is not possible to accommodate any further evidence at this point, given that we are so far down the road with considering our stage 1 report. As I have said on many occasions, that does not preclude us from taking further evidence at stage 2 if required and if amendments are lodged on the matter. That would be possible, and considering whether such a move would be valuable would be a matter for the committee.

Finally, if at this stage I let one person come in—*[Interruption.]* Please bear with me a minute. If I let one person come in to give evidence in the middle of our writing our report, I would have to open it up to other people who might wish to give

stage 1 evidence. That does not mean that we cannot take evidence on the matter at all. Such an option is available to committees during the amendment procedure at stage 2 if required.

That is the position as I see it, given what we have done so far. What slightly irritated me was the suggestion that we had not left the process open for people to come into and out of it. I will open the issue to a brief discussion.

Margaret Mitchell: Lord McCluskey's request to speak to the committee was probably triggered in no small part by what I cannot describe as anything other than the stunt—

The Convener: I will not have that language, Margaret.

Margaret Mitchell: —of the cabinet secretary saying at the very last minute, "We'll abolish this—"

The Convener: Can I ask you—

Margaret Mitchell: "—but implement it later."

The Convener: Margaret, stop! I am in the chair! Stop! Please do not use words such as "stunt". You might have been very angry at the way the proposal came forward—that is fine—but please guard your language.

Margaret Mitchell: The cabinet secretary's unorthodox method of introducing his proposal, in which he did not give the committee the courtesy of setting it out in his opening statement, has probably triggered Lord McCluskey's request to speak to the committee now.

The Convener: But that is not the point at issue. The point at issue is that we are three quarters of the way through a stage 1 report. The principle with regard to how the process operates is that we have heard all the evidence so far; the gates have not been closed to hearing further evidence, if necessary, at stage 2. I have already made that clear. Indeed, that has happened in committees before. However, as far as the principle is concerned, I feel that if we let one person, no matter who they are or whatever they represent, come in at this stage in the consideration of our report, we should then open it up to anyone else who wants to come in and give evidence.

Margaret Mitchell: I am not suggesting that we open it up again—I am merely explaining why I think Lord McCluskey asked to give evidence at the very last minute. It was triggered by the events of 14 January.

The Convener: He does not actually say that in his letter; nevertheless, you have made your point.

Alison McInnes (North East Scotland) (LD): I think that Lord McCluskey has raised a number of

important issues. He explains his position in his letter:

“I thought that others would demonstrate that the proposal to abolish the need for corroboration ... would have been dismissed”

but

“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.

The evidence of the Justice Secretary raised new matters, namely the idea that ‘supporting evidence’ would be sought.”

He was asking to give evidence at a point when new evidence had been introduced into the debate. I hope that we will give due regard to that at stage 2.

The Convener: That is fine, but I clarify that the Lord Advocate gave evidence on 24 September last year. Why was there no response from anyone at that stage? That is the point. We have not been shy about the matter. I beg your pardon—the Lord Advocate gave evidence on 20 November last year. There has been plenty of time since then to send in written comments, and frankly I am not prepared for the committee to be directed by correspondence in *The Scotsman*. If you want to do something, write to the committee, but not slap bang in the middle of our stage 1 report.

Thank you, Alison.

Roderick Campbell (North East Fife) (SNP): I understand fully where you are coming from, convener. All I would say is that this debate is also being conducted outwith Parliament and that there are issues that, rather unusually, we might want to return to at stage 2.

The Convener: That is fine. That has never been a problem.

Elaine Murray: The stage 1 report that we prepare is on the evidence that we have taken on the bill as drafted, not on what the cabinet secretary might have suggested as amendments to the bill. We need to find out from others whether the changed proposals and new suggestions are good ideas—indeed, I have made some inquiries and had correspondence on that—but that evidence is for stage 2. Given that the stage 1 debate will be on the bill as drafted, I suggest that we do not take any further evidence at the moment.

The Convener: Thank you, Elaine.

Christian Allard (North East Scotland) (SNP): I just wanted to check that, throughout the process, Lord McCluskey has never contacted the committee.

The Convener: No.

Christian Allard: I find that astonishing, because he must have known the timings. As Roderick Campbell pointed out, Lord McCluskey was trying to have a debate in the media outwith the committee. That should not be happening. We should not be commenting on what is happening outside the committee; people give the committee evidence, and that is what we should talk about.

John Finnie: This should be about process, not personalities, and in that respect I align myself with Alison McInnes’s comments. I certainly would not want to not hear from someone, should the committee be minded to take evidence at a future stage. However, I am very content with the process thus far.

The Convener: That is my point entirely. I cannot open the floodgates here. The stage 1 process does not close matters down and I hope that the people who are listening to this will understand that the committee writes its stage 1 report based on the evidence that it has heard up to that point. That does not mean that that is the end of the matter. There is the stage 1 debate in the chamber and then there are the stage 2 amendments—and I suspect that there might be rather substantial amendments to certain areas of the bill. That leaves it open to the committee to take further evidence and extend the timings for stage 2. We are still masters of the process.

Thank you very much. Now that the issue has been aired, I move the meeting into private for consideration of our stage 1 report.

10:10

Meeting continued in private until 12:59.

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e-format first available
ISBN 978-1-78392-622-0

Revised e-format available
ISBN 978-1-78392-639-8