

Steel set to let parliament decide on his McKie ruling

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SIR David Steel yesterday signalled his willingness to allow the Scottish Parliament to examine his ruling barring MSPs from debating the case of Shirley McKie, the former police officer whose career was destroyed when her fingerprints were wrongly identified at a crime scene.

According to parliamentary sources, the presiding officer has suggested the procedures committee "might wish to reflect" on his ruling which caused heated protests last month.

MSPs complained when they were prevented from debating the case - which has caused international embarrassment to the Scots judicial system - because it was before the civil courts and judged by Sir David to be sub judice. While MSPs were being kept silent, newspapers, radio and television were reporting it fully as a likely miscarriage of justice.

Ms McKie, accompanied by her father, Iain, travelled to Holyrood when a debate was expected in May but left angry and tearful after Sir David blocked discussion.

Michael Russell, the SNP MSP who is campaigning for Ms McKie, denounced the ruling and referred it to the procedures committee.

Sir David is known to have been concerned at the hostile reaction to his ruling and is said to hold to his view that he had no choice but to bar discussion by MSPs about the case because it was before the Court of Session.

Ms McKie is planning to sue ministers, the Strathclyde Joint Police Board and four individuals - believed to be former colleagues - in the Court of Session.

The Scotland Act requires the Scottish Parliament to have a sub judice rule - broadly similar to Westminster's - which bars debate when "legal proceedings are active."

Parliamentary lawyers believe there is little room for interpretation of the "active" definition because the Contempt of Court Act, 1981, states proceedings are active in the Court of Session or sheriff courts when the record is closed - which is the step before written submissions and oral argument. The record in the McKie case is closed.

Critics of Sir David's view pointed out the McKie case involved a judge without a jury in a civil court and claimed there was no precedent for anyone being found in contempt because they had tried to influence a judge.

A source said: "There has been some misunderstanding by the media who are bound by contempt law. But parliament is bound by both contempt law and its own sub judice rule.

"There is not much room for discretion or interpretation. Sir David is open to the view that there are valid opinions on either side of the argument.

"He does not say the sub judice rule is wrong - he just wants to signal he is keen to see it considered by the procedures committee. If they ask him to appear before them, as he has done before, he would look on such a request sympathetically because the relationship between the parliament and the courts is of fundamental importance.

"He is entirely comfortable that there should be a debate about that."

Mr Russell said: "While I disagree with the presiding officer's ruling which I still think suppressed a very important debate, I am grateful he has indicated that a change is necessary to avoid this situation arising again.

"It follows my own approach to the procedures committee which I hope will hold a full inquiry and bring forward changes to standing orders so that parliament is never placed in this position again."

Murray Tosh, convener of the procedures committee, said: "The committee will almost certainly agree to look at this."

Ms McKie was cleared of perjury after four police officers alleged her fingerprints were found at a murder scene.