

Rule that gagged MSPs may be lifted

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SIR David Steel has opened the way for the Scottish parliament to review the rule which has prevented MSPs from debating the case of a former policewoman, Shirley McKie, who has been fighting to clear her name over accusations of perjury.

In a significant move, the Presiding Officer has written to Murray Tosh, the convener of the parliament's procedures committee, suggesting that it might "wish to reflect" on the sub judice rule which resulted in Sir David's controversial decision that the parliament could not debate the issues surrounding the McKie case.

His insistence that he was bound by the rule and could not allow the issues to be discussed in the chamber led to Sir David being accused of "gagging" MSPs.

The row, which flared up last month, followed attempts by Michael Russell, a leading SNP MSP, to initiate a debate on Ms McKie's claim that she was wrongly accused of perjury when her fingerprints were found at a murder scene. She denied having been in the room and her trial ended with an acquittal after experts from the US said the prints were not in fact hers.

The Presiding Officer's decision to write to the convener of the procedures committee - the body that is responsible for the parliament's standing orders - is likely to result in the rule being reviewed.

Parliamentary sources stressed yesterday that Sir David's move did not amount to a reconsideration of his ruling but was a recognition that many MSPs and others were concerned about the way the sub judice rule had operated in the McKie case.

One source said: "Sir David believes the rule is right and that his judgment is right, but he is open to the view that there are valid opinions on other sides of the argument.

"The Scottish parliament is now three years old and it could be time to reflect on the rule."

In his letter to Mr Tosh, Sir David recalls his ruling last month on sub-judice in relation to a motion by Mr Russell on the McKie case. He adds: "I would like to draw the procedures committee's attention to the debate...and specifically my remark that this is a matter on which you might wish to reflect."

Mr Russell, a list MSP for South of Scotland, has already demanded an inquiry into the decision preventing him from raising the case. The MSP argued that the case had been debated in newspapers, on radio and on television yet it could not be debated in the parliament.

Officials of the parliament continue to argue there are sound reasons for Sir David's decision, which was based on a rule the parliament was required to include in its standing orders as a result of the Scotland Act.

They claim that, while Sir David has discretion in the matter, the rule had to be observed because the civil case being pursued by Ms McKie against Scottish ministers, the Strathclyde Police board and others, was regarded as having become "active" in March this year.

"If the debate had taken place it would have been like a mini-trial, with people acting on behalf of both sides putting the case for and against. Sir David felt this was unsatisfactory because the case was already before the courts," a parliament source

said.

Mr Tosh confirmed yesterday that the members of the procedures committee would discuss the sub judice rule including the need for better guidance.

He added: "Clearly, the Presiding Officer was unhappy about the position he was in and he wants the rule looked at. We will certainly do that, I am sure."

Mr Russell said: "While I continue to disagree with the Presiding Officer about his ruling, I am glad that he now realises that the rules have to be changed to prevent a further injustice."

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