Justice Committee

Criminal Verdicts (Scotland) Bill

Written submission from John C Hutchison MBE JP

I believe that the Not Proven verdict should be retained.

I respond with the experience of a Justice of the Peace for 30 years (and Honorary Sheriff for over 20 years) in Grampian, Highlands and Islands and can recall many instances where a Not Proven verdict has been entirely appropriate. I do feel that the present desire to remove the Not Proven verdict is substantially media-driven and that those involved in the justice system should be playing a stronger part in explaining its use. If we were to approach this logically, it is the ‘Not Guilty’ verdict that should be under examination.

My strong preference is that ‘proven’ and ‘not proven’ be retained and established as the available verdicts in Scotland. Those verdicts present the outcome of deliberations far more accurately than ‘guilty’ and ‘not guilty’. Only the accused knows whether they are guilty or not; a Court cannot ‘find’ that to be the case and so such nomenclature to explain the outcome of consideration, viz. the ‘verdict’, is not logical.

Given that the Court procedure is a rehearsal of the case for and against, supported by evidence, it would be far more logical that a Bench accepts a case for one or the other as in a debate, where a motion would be carried or not carried, viz. the argument has been proven or not proven.

Further, since the judge (or a jury) is expected to consider whether the prosecution has established a case ‘beyond reasonable doubt’ then it is entirely logical that the formal nomenclature to be used to describe the outcome should be that the case against the accused has ‘been proven’, has reached the measure of the yardstick. A verdict in these circumstances should not expect to be exculpatory – this is where I believe that the media is driving this.

In most other aspects of life we apply rational principles to whether a case has been made or not and so I find it illogical to treat court procedure any differently. I have in mind science, engineering or public enquiries, where the case for adopting a procedure, component, or proposed development respectively, is pursued through logical debate. The process establishes whether the evidence is reasonable, not that it possesses some other state, such as ‘safe’, say.

Over a couple of centuries ago the nomenclature used for the available pleas became used for the potential verdicts, for no logical reason at all, so the country now has an opportunity to correct that. In Scottish Justice we should proudly embrace these old verdicts as being very logical rather than move to replace them with those that apply in other countries as some matter of convention.

I therefore support the adoption of Proven and Not Proven as the available verdicts in Scotland.
John C Hutchison MBE JP
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