

The Herald 15 February 2005 – Letters to the Editor

The lord advocate's political position

ON A day when the media were fixated with Charles and Camilla there was a small item tucked away in a corner of The Herald: Victims to be told why cases are dropped (February 11). This intimation that the lord advocate is at last prepared to be more accountable and "let light in on the magic" is potentially more important to the Scottish people than a thousand royal weddings. As many families will testify, the lord advocate's refusal to explain his actions has devastated victims who, having had their lives blighted by criminal acts, see accused persons walking away scot free.

As the Shirley McKie case outlines, however, the lord advocate's political position as a Scottish minister presents a further dilemma for the victim.

Despite senior police officers recommending criminal action against certain fingerprint experts, the lord advocate refused to prosecute. Requests for explanation were met with a refusal even to discuss the matter.

Shirley's only way forward was to sue the Scottish ministers who admitted being vicariously responsible for the actions of the fingerprint experts. She then found out that the lord advocate, as a Scottish minister, was a defender in her action and that he and his legal team had access to a mass of vital evidence that they refused to release.

Before we cheer too loudly at the proposed changes, it is perhaps time to examine the constitutional position of the lord advocate and the anomalous position where a defender in a case can apparently quite legally withhold vital evidence from a pursuer.

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