



The Lord President

Parliament House  
Edinburgh, EH1 1RQ

25 May 2015

Mr John Pentland  
Convenor  
Public Petitions Committee  
Room T3.40  
Scottish Parliament  
EDINBURGH  
E99 1SP

*Dear Convenor,*

**PETITION PE 1562 – PERVERSE ACQUITTALS**

I refer to your letter of 29 April requesting views on this public petition.

I am opposed to the idea that a trial judge should have the power to refer a jury verdict to the High Court (which I understand to mean the High Court sitting as a court of criminal appeal) in the event that he considers that verdict to be perverse.

Such a provision would allow an accused to be tried for a second time for the same offence and on the same evidence. That would place an accused in a position of double jeopardy. We do have provisions which allow for a second trial, following an acquittal. These are set out in the Double Jeopardy (Scotland) Act 2011. Shortly stated, there must be new evidence available which strengthens the Crown case substantially, which was not available and which could not with reasonable diligence have been made available at the trial. A provision such as that proposed in the petition would not and could not be subject to statutory safeguards of this sort, as by definition there would be no new evidence.

The Right Honourable Lord Gill

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It appears to me that this proposal is based on the assumption that a single judge's view of the evidence in a trial will always be preferable to that of a jury. To allow a judge power to set the jury's to view one side undermines the jury's role. The jury system remains the cornerstone of our system of criminal justice. I think it would be dangerous to diminish the role of the jury without very clear evidence that such a step is both necessary and in keeping with legal principle.