

T: 0845 774 1741

E: scottish.ministers@scotland.gsi.gov.uk

The Hon. Lord Drummond Young  
Chairman  
Scottish Law Commission  
140 Causewayside  
Edinburgh EH9 1PR

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Dear Lord Drummond Young

## DOUBLE JEOPARDY

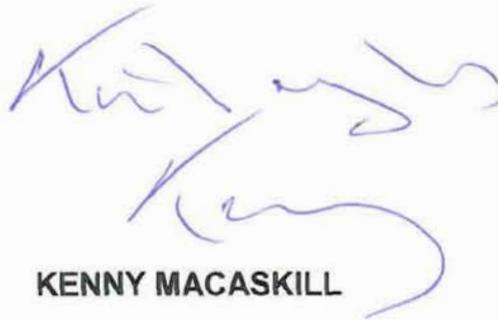
I am writing to express my thanks for the Scottish Law Commission's Report on Double Jeopardy, presented to Ministers in December 2009 and to advise you of my plans to take this issue forward.

I very much appreciate the conscientious, thorough and rapid reaction by the SLC to my November 2007 reference. I have been pleased to bring forward provisions in the Criminal Justice & Licensing Bill to implement the 2008 Report on Crown Appeals and look forward to the fruits of the SLC's ongoing work on the remaining parts of the reference.

In relation to double jeopardy, I published a consultation paper on Monday 22 March. This consultation is not upon the Report on Double Jeopardy in its entirety. I fully accept the general thrust of the recommendations on codifying the rule and in relation to post-acquittal confessions and tainted or corrupted trials.

Instead, the consultation paper focuses upon the establishment of a new evidence exception, where the Commission was of course undecided either way. My personal view is that if new evidence emerges which shows the original ruling was fundamentally flawed, it should be possible to have a second trial. I also believe that this reform should be made retrospective. The consultation paper seeks views on those points and also on a number of other questions such as the test to be applied in assessing new evidence and the offences that a new evidence exception should cover. The intention is very much to build upon the valuable work covered by the Report.

The public consultation will run until 14 June and it is my intention to legislate on this issue at the earliest practicable opportunity thereafter. Please accept my thanks to you and the Scottish Law Commission as a whole for the progress on this issue.



**KENNY MACASKILL**