

EXPLANATION TO THE JURY BY LORD BURNS

In the cause

HER MAJESTY'S ADVOCATE

against

ANDREW EDWARD COULSON

I have acquitted the accused of the charge of perjury which he faced and that means that you will not have to return a verdict on the charge in the indictment.

You heard 5 days of oral evidence in the crown case. You have attended and then been sent away repeatedly since the end of the crown case last week and, during that time, what has been happening in this court has, quite deliberately, been kept from you, although you, as jurors, are the most important people in this room. You deserve an explanation of what has been going on. That involves going into some of the issues I have been discussing with Counsel in your absence.

As jurors you were responsible for the facts, I for the law. You were to decide whether the crown could prove that the accused committed perjury during Mr Sheridan's trial in 2010. I was to tell you about the law of perjury. I need to do so now, albeit briefly, to explain to you what has happened.

Perjury is the wilful giving of false evidence under oath or affirmation in judicial proceedings. An oath or affirmation binds the witness to tell the truth. If he gives evidence in a criminal trial or in civil proceedings which he knows to be false **and** which was relevant to the issues in that trial or civil proceedings, he is guilty of perjury.

Relevant means relevant either in proof of the charge against the accused in that trial or in relation to the credibility of the witness. Unlike the falsity of the evidence, the question of its

relevance is a matter of law and therefore for the judge to decide on that matter and not the jury.

To prove the charge against Mr Coulson, the crown needed to prove that:

1 the accused gave evidence in court on oath at Mr Sheridan's trial. There was no dispute about that.

2. that he gave evidence that he knew to be false: that was to be for you to decide. A jury question

3. finally that the allegedly false evidence given by Mr Coulson was relevant to the issues which arose in Mr Sheridan's trial for perjury or Mr Coulson's credibility in the important evidence he gave at that trial. That was the matter of law for me. A judge's question. Relevancy is always a judge's question. Because it was a matter for the judge in the Sheridan trial, now that trial is over but is the subject of this trial, the relevancy of questions and answers in the Sheridan trial was a matter for me in this trial.

In 2010, Mr Sheridan had been on trial for perjuring himself when he gave evidence in the civil proceedings in his action for defamation against the News of the World. So the question of relevancy for me was whether the alleged false evidence given by Mr Coulson in that trial was relevant to the proof of Mr Sheridan's perjury or relevant to Mr Coulson's credibility as a witness in the perjury trial of Mr Sheridan. You will recall that Mr Coulson said in Mr Sheridan's perjury trial that the person speaking on a video tape was Mr Sheridan.

After two days of legal submissions last week and having considered the matter, I decided that the crown had not led sufficient evidence to satisfy me that the allegedly false evidence was relevant to proof of the charge in Mr Sheridan's trial or to Mr Coulson's credibility at that trial.

There are various reasons given for that in my opinion which I don't need to go into now. But, if you want to read it, you will be able to access it on the Scottish Courts website shortly. Once discharged as jurors, you are allowed to do this sort of research.

So, after the crown case had finished last Tuesday, Mr MacLeod argued that the evidence set out in the charge page 1 of the indictment, even assuming it was false, was not relevant in the way that I have explained and so the accused could not be guilty of perjury. Not every lie amounts to perjury.

I was invited to acquit the accused on the basis that there was no case to answer. The Advocate Depute made submissions in support of the contrary position.

That debate took place on Wednesday and Thursday of last week. On Friday I asked you to come back on Monday since I needed some time to consider and decide the matter. On Monday, before you came into court, I issued my decision which was that the allegedly false evidence was not relevant in the trial of Mr Sheridan and that therefore the accused should be acquitted. So even if you answered your question by saying yes he lied, I would have had to answer my question: No. the lies were not relevant and do not amount to perjury. I therefore acquitted him on Monday.

When a judge does that, the Advocate Depute the right to ask for 2 days to consider whether to take an appeal against the decision to the appeal court. He made that request and I was required to suspend the acquittal in case the crown did appeal. Any successful appeal would have required you to resume your duties and to hear any defence evidence, speeches and my directions before considering your verdict.

The Advocate Depute was entitled to ask for that time I granted it. It meant that I had to ask you to return today.

The 2 day period has now elapsed. The crown do not propose to exercise their right of appeal. That means the accused is entitled to be acquitted.

During all this time it was essential that you, who might yet be required to consider and return a verdict on the charge, were not aware of any of this procedure or what was being said, in case it might influence you in any way, if the trial proceeded. So the press and all branches of the media were prohibited from publishing and reporting on the debate and the result. As is to be expected from responsible media organisations, no such information has been published or broadcast.

All this means that the trial is now over and you will not need to reach a verdict on the charge. I can discharge you.

But before I do so, I would like to thank you for the time you have devoted to the case and the attention you have paid to it. It is appreciated that jury service, even in a normal case, is a disruptive and a difficult task. This particular case has certainly been disruptive for you. But jury service is one of the most important public duties any citizen can perform. I am now able to discharge you and you go with the thanks of the court.