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Coulson acquittal – beginning of the end game of Leveson?

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'Is this a hack-ney carriage?' 'As your lawyer I advise you to say nothing at all Andy'. EPA/Sean Dempsey

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The acquittal of former News of the World editor and Cameron spin doctor-in-chief Andy Coulson on perjury charges at the high court in Edinburgh appears to have hinged largely on a phrase uttered by the trial judge which will be pored over by legal experts on both sides of the border: “Not every lie amounts to perjury”.

On the direction of judge, Lord Burns, Coulson was cleared of committing perjury in the 2010 trial of Scottish politician Tommy Sheridan. Having been charged with “lying under oath” about his awareness of phone hacking at the NOTW at Sheridan’s own perjury trial, which he denied, Coulson

was formally acquitted of the charges because, the judge said, Coulson’s alleged lies were “not relevant” to the Sheridan case.

As the Guardian reported, Burns ruled that, under Scottish law, perjury can only be committed if the alleged lie had a material effect on the outcome of the previous trial.

According to the tireless court reporter James Doleman, who covered the original Sheridan trial and has recently reported on all of the recent phone hacking trials in admirable detail, it wasn’t supposed to be like this. For him this trial looked like an “open-and-shut case” of perjury where many of Coulson’s associates had advised him to plead guilty. However, instead of a process toward expected conviction Coulson had been part of “one of the greatest escapes in legal history” where the jury were not given the chance to consider the evidence.

The evidence heard against Coulson was compelling. Clive Goodman, the former royal editor at the News of the World jailed in January 2007 for intercepting mobile phone messages involving members of the Royal Household told the court that, in terms of phone hacking, Coulson knew: “exactly what I had been doing, telling me I had to take the blame for it and get it out of the way”.

The paper’s former chief reporter, Neville Thurlbeck, testified that Coulson knew that the voicemail of murdered schoolgirl Milly Dowler had been accessed while the former news editor James Weatherup said that intercepting voicemails had been part of “day-to-day” life and was discussed at daily editorial conferences.

Sinking the Rubicon

That all this this proved to be irrelevant is down to the definition of perjury under Scottish law. As Phillip Sim wrote, in terms of this trial, it didn’t matter what Coulson knew and when; it didn’t even matter whether he had really broken his oath to tell “the truth and nothing but the truth”. The prosecution had to successfully prove that Coulson’s original testimony at Sheridan’s trial had been pertinent to the verdict.



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Collapse of #CoulsonTrial had nothing to do with whether he lied under oath, but nature of perjury.

Spot-on from BBC bbc.co.uk/news/uk-scotla...

9 12:36 PM - Jun 3, 2015

Coulson trial: Why the truth didn't matter

The collapse of Andy Coulson's trial had nothing to do with whether he lied under oath or not, but the nature of perjury itself.

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In Sim's words: "In order to constitute perjury, false testimony has to be relevant to the case at hand; in essence, the lies told have to matter to the jury." In the event, the prosecution spent much time and energy trying to demonstrate that Coulson knew about phone hacking while the defence, ultimately successfully, argued to the judge that this didn't matter one iota. That is why the trial collapsed.

And with the acquittal of Coulson comes the probable end of **Operation Rubicon** – the Scottish police's inquiry into alleged hacking and illegal accessing of confidential data under which he was arrested.

On June 2, the night before Coulson was acquitted of Lord Burns, prosecutors announced that they were going to drop charges of perverting the course of justice and perjury against two former executives at the News of the World in Scotland. Bob Bird, formerly editor of the Scottish edition and former news editor, Doug Wight, will now face no charges. According to Doleman, this more than likely signals an end to the official investigation of phone hacking in Scotland.

Poachers and gamekeepers

South of the border, though, the prosecutions continue to result in trials and headlines. In May, Trinity-Mirror was ordered to pay £1.2m to eight celebrities whose phones were hacked over a ten-year period. The high court heard that the "industrial scale" of phone hacking at the Daily Mirror, Sunday Mirror and the People made the News of the World look like a "small cottage industry" by comparison.



What all the fuss was about: Tommy Sheridan in full flight. Dominique Natanson
CC BY 2.5, CC BY

Neither is there respite for News UK. Neil "The Wolfman" Wallis, the former deputy editor of the Sun and the News of the World, is due to go on trial at the Old Bailey charged, alongside six other journalists at the News of the World and private investigator Glenn Mulcaire, with conspiring to intercept voicemail messages "of well-known people and those associated with them".

Meanwhile, now that the tenancy of Number 10 Downing Street is settled for another five years, our thoughts turn to the future of press regulation. According to former Guardian

editor, Peter Preston, Leveson is over – we must let it go. Writing in the Observer he reasoned that:

Press regulation, save for some further egregious error of a phone-hacking variety sometime during the next five years, is not on this government's agenda. The Independent Press Standards Organisation (IPSO), chaired by Sir Alan Moses, is, more than ever, the only show in town.

Not so writes, Steven Barnett, an academic and contributor to this website. Barnett believes the Leveson "framework" is in place and IPSO can be challenged. The truly independent Press Regulation

Panel (PRP) has been created and will be operational by the Autumn.

It will have the ability to scrutinise IPSO and “any aspiring self-regulator which wants to take advantage of the incentives offered by recognition”. This is important for the **Independent Monitor for the Press (Impress)** which is close to applying for status as regulator with many online, regional and hyperlocal publishers indicating a willingness to join.

Once Impress is functional, argues, Barnett: “things could start to get uncomfortable for the big newspaper companies as they become vulnerable to heavy court costs by staying outside the recognition system”.

All this remains to be seen of course, but Wallis’s trial we can expect to hear further allegations of tabloid malpractice and unlawful deeds. And while we digest what has now become familiar we should, I think, reflect on the scale of the operations that have brought us to this point. According to an **excellent report** by the Press Gazette, with the process of the investigations into British journalism nearing its end, the Metropolitan police has undertaken, since 2011, the “biggest investigation in criminal history”.

As of August 2014 more than 100 journalists have been questioned by police on suspicion of crimes and 63 have been arrested or charged. There have been 11 different task forces engaged in the investigations, calling on the skills of more than 100 officers at a cost of **£33.5m**.

What is quite clear, irrespective of your views, is that no other area of public or private life has undergone the same level of open scrutiny.

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