

LORD JOHNSTON

I was extremely sad to find out on return from holiday that Lord Johnston, the judge who presided over Shirley's trial for perjury in 1999, had died.

A shrewd and humane man he was able to see through the SCRO duplicity and importantly fully understand the forensic consequences of their failures.

While Shirley has suffered at the hands of the justice establishment in Scotland for so many years whenever our judges have been called upon to make decisions, even when they went against her, they have always made them wisely and on the evidence before them.

I believe Lord Johnston's independence of mind and sense of justice marked him out as one of Scotland's outstanding judicial figures and he will be sadly missed.

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Lord Johnston - An appreciation

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Controversial Scottish judge who ignored his critics and was renowned for his old-fashioned independence of mind.

Lord Johnston, who died on June 14 aged 66, was one of Scotland's most senior judges, and presided at the controversial trial of Shirley McKie, a police officer accused of leaving her fingerprint at a crime scene and then lying about it.

Shirley McKie had been part of a team investigating the brutal murder of a woman in Kilmarnock in 1997, but in court she refused to accept that a rogue thumbprint left at the victim's house was hers, as maintained by four fingerprinting experts.

She said she had never been in the house. The defendant was found guilty, but the feeling persisted among her colleagues that she had jeopardised the conviction.

A few months later Shirley McKie was arrested in an early morning raid, brought to the police station, marched past colleagues and friends, strip-searched and thrown in a cell. She was charged with perjury, the only evidence for which was the disputed fingerprint.

At her trial, presided over by Johnston in 1999, the fingerprint experts stood by their earlier testimony, but she was saved from conviction and a possible eight-year prison sentence by the counter evidence of two fingerprint experts from America. The jury unanimously found her not guilty. She was the first person in 100 years of fingerprinting successfully to challenge a fingerprint identification in court.

In his handling of the case, Johnston had been characteristically quick to grasp the points at issue, and after her acquittal he took the unusual step of saying: "Personally I would like to extend to you my respect for the obvious courage and dignity which you have shown throughout this nightmare... I very much hope you can put it behind you." But she was unable to do so until 2006 when she finally accepted £750,000 in settlement of her claim for malicious prosecution.

A tall, burly, generous-spirited man, known affectionately in Edinburgh's legal fraternity as "Big Al" or "Bluff Hal", Johnston was seen as one of the last of Scotland's old-style judges, with a pronounced independence of mind. He was not one to let unnecessary technicalities stand in the way of doing what he thought was right, and he was never bothered by what anyone else might say by way of criticism.

His engaging, straight-talking approach made him popular among advocates pleading their cases before him, although his individual judicial style and obiter dicta occasionally made it easier for his decisions or sentences to be overturned on appeal.

Alan Charles Macpherson Johnston was born in Stirling on January 13 1942 and grew up in Edinburgh's New Town, where his family owned a house on Heriot Row. His father, Lord Dunpark, was a well-known Scottish judge.

Alan went to Edinburgh Academy and Loretto School, then took a degree in English Law at Jesus College, Cambridge, followed by another in Scottish Law at Edinburgh. He was called to the Scottish Bar in 1967 and did his early work as an advocate in cases on behalf of the National Coal Board, and the Scottish Home and Health Department, for which he was Standing Junior Counsel from 1974 until 1979.

He was appointed QC in 1980, and in 1989 became Dean of the Faculty of Advocates, in which capacity he was notably more open to journalists than his predecessors. In 1994 he became a Senator of the College of Justice.

Among his cases which were successfully appealed was one involving a man convicted of drug trafficking, who had his conviction overturned after it was decided that a "sarcastic" remark by Johnston during the prosecution case may have displayed to the jury "an adverse view of the accused's credibility".

In another Johnston's sentence of three years imprisonment for a man who had drunk 12 pints of lager and a number of vodka shots before causing a car crash in which two people were killed was held to be unduly lenient, despite the fact that the man was full of remorse and had apologised. On the other hand his decision in 2003 to allow a woman who had killed her abusive partner to walk free from court and rebuild her life was widely applauded.

In the Appeal Court Johnston was one of those who decided earlier this year that a male stripper known as "Sergeant Eros" – whose act involved peeling off a policeman's uniform and brandishing an extendable truncheon – was not guilty of carrying an offensive weapon.

Last year he was among the appeal judges who granted the appeal of a drunken offshore worker, who had dropped his trousers in the street and then gyrated against a handrail, to be taken off the sex offender's register.

Johnston was also one of those who decided that the "naked rambler" would not be allowed to appear in court undressed. Before the rambler's appeal hearing began, his counsel had told the appeal judges that his client was "present, without clothes at the moment, and wants to attend in that state during the proceedings".

The judges went into a huddle and were in a dilemma because if the man attended naked, then lost his appeal, he would be in contempt of court again, and might even be in breach of the peace – if he frightened the escorts sitting beside him in the dock. The rambler was at the time serving a six-month sentence for walking naked from Edinburgh's Saughton prison at the end of a sentence for a similar offence.

Johnston was sworn of the Privy Council in 2005. Away from the law he was a keen countryman, and enjoyed shooting, fishing and stalking. A keen golfer, who was a long-standing member of

Muirfield, he was a gregarious, highly hospitable character, convivial at all hours, and a great family man. He did much for others that was never advertised.

Alan Johnston married, in 1966, Anthea Blackburn; they had three sons.

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