

**INDICTMENT**

**IN THE CROWN COURT AT NEWTOWN**

**THE KING - v - JOHN, JACK & MARY**

**JOHN, JACK, and MARY are charged as follows:**

**Count 1**

**STATEMENT OF OFFENCE**

Attempted murder, contrary to s.1(1) of the Criminal Attempts Act 1981

**PARTICULARS OF OFFENCE**

John and Mary, on the 26<sup>th</sup> day of March 2021, attempted to murder Bill.

**Count 2**

**STATEMENT OF OFFENCE**

Wounding with intent, contrary to section 18 of the Offences Against the Person Act  
1861

**PARTICULARS OF OFFENCE**

John and Mary, on the 26<sup>th</sup> day of March 2021, unlawfully and maliciously wounded  
Bill, with intent to do him grievous bodily harm.

**Count 3**

**STATEMENT OF OFFENCE**

Unlawful wounding, contrary to section 20 of the Offences Against the Person Act  
1861

**PARTICULARS OF OFFENCE**

John and Mary, on the 26<sup>th</sup> day of March 2021, unlawfully and maliciously wounded  
Bill.

**Count 4**

**STATEMENT OF OFFENCE**

Causing death by dangerous driving, contrary to section 1 of the Road Traffic Act  
1988

**PARTICULARS OF OFFENCE**

Jack, on the 26<sup>th</sup> day of March 2021, drove a mechanically propelled vehicle  
dangerously on a road, namely Athol Road, and thereby caused the death of Olivia.

**Count 5**

**STATEMENT OF OFFENCE**

Causing serious injury by dangerous driving, contrary to section 1A of the Road  
Traffic Act 1988

**PARTICULARS OF OFFENCE**

Jack, on the 26<sup>th</sup> day of March 2021, drove a mechanically propelled vehicle  
dangerously on a road, namely Athol Road, and thereby caused serious injury to  
John.

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-v-

**John, Jack and Mary**

**Directions for jury**

**Roles of judge and jury**

At the start of this case I explained that you and I have different parts to play in this trial. I am responsible for legal matters and will tell you about the law which applies to this case. You must accept and apply what I tell you about the law.

You are responsible for weighing up the evidence and deciding the facts of the case. It is entirely up to you to decide what evidence is reliable and what evidence is not.

You do not have to decide every disputed point that has been raised in the trial – only those that are necessary for you to reach your verdicts.

You must decide how reliable, honest and accurate each witness is. When doing this you must apply the same fair standards to all witnesses, whether they were called for the prosecution or for the defence.

You may draw sensible conclusions from the evidence you have heard, but you must not guess or speculate about anything that was not covered by the evidence.

It is for you to decide whether any point or points made by the advocates in their speeches are persuasive or not and also for you to decide how important the various pieces of evidence are. For this reason if, when I review the evidence, I do not mention something please do not think you should ignore it. And if I do mention something please do not think it must be an important point. Also, if you think that I am expressing any view about any piece of evidence, or about the case, you are free to agree or to disagree because it is your view, and yours alone, which counts.

I will give you my directions of law in writing, so that you do not have to rely only on your memory of them when you are considering your verdict

I will also give you a written list of questions to follow when you are considering your verdicts.

These are part of my written directions to you.

If you answer these questions in order, you will reach verdicts which correctly take into account both the law and your conclusions about the evidence.

How should you approach your task?

Cases like this sometimes give rise to emotions or sympathy. Your task is to reach a conclusion on the facts and you must not let such feelings influence you when you are considering your verdicts.

### **Burden and standard of proof**

It is for the prosecution to prove that a defendant is guilty.

A defendant does not have to prove anything to you: he does not have to prove that he is innocent.

In order to prove that a defendant is guilty, the prosecution must make you sure of his guilt.

You may have heard reference to the phrase 'beyond reasonable doubt'. This means the same as being sure.

### **Separate consideration of defendants**

There are three defendants in this case, and five counts on the indictment.

You should consider the evidence for and against each defendant, on each count separately.

You will in due course be asked to return a separate verdict on each of the counts on which they are charged and on each defendant charged in that count: it follows that those verdicts may be the same or they may be different.

I am going to explain to you the law in relation to each of the defendants and each of the counts on the indictment.

**What must the prosecution prove?**

The indictment covers the events of the evening of 26.3.21.

You know there were two incidents about which you heard: first, the events in the car park when Bill sustained an injury to his neck, and secondly, the events at the traffic lights when Olivia was killed and John was injured.

Counts 1, 2 and 3 deal with the events in the car park when Bill sustained an injury to his neck.

Those three counts concern John and Mary, and they are alternative counts. I will explain to you in a moment how you should approach those alternatives

You should consider the case for and against John first.

## John

### Count 1

The prosecution say that John is guilty of attempting to murder Bill.

In order to prove attempted murder against John, the prosecution must prove:

- a. That John deliberately struck Bill.
- b. That when he did so he was not acting in lawful self-defence.
- c. That what he did was more than merely preparatory to killing Bill.
- d. And that when John deliberately and unlawfully struck Bill he intended to kill him.

#### **Question 1: Are we sure that John deliberately struck Bill?**

The prosecution says that that the evidence shows John was deliberately attacking Bill with the screwdriver.

#### **Question 2: Are we sure that John was not acting in lawful self-defence?**

The defence do not suggest that John could have had any lawful reason to kill Bill: self-defence is not an issue in this case because there is no evidence that John believed that he was under attack or was about to be attacked. It will be for you as the judges of the facts to decide if you are sure that John was acting unlawfully. The defence do not claim that what John did was lawful.

#### **Question 3: Are we sure that when John deliberately and unlawfully struck Bill that was an act more than merely preparatory to killing him?**

A person may prepare to commit an offence by for example, equipping themselves with a weapon or going to the place where their intended victim is: such acts are merely preparatory. However if the person then goes further by trying to commit the offence or starting to commit the offence, so that their acts are more than mere preparation, then they are guilty of attempting to commit the offence.

Here the screwdriver wielded by John actually penetrated Bill's neck, though he did not die as a result.

It is a matter of fact for you to resolve whether you are sure that what John did went beyond mere preparation.

**Question 4: Are we sure that when John deliberately and unlawfully struck Bill, John intended to kill Bill?**

In deciding whether you are sure that John intended to kill Bill, you need to consider what he said and did before, at the time of, and after the incident, and then draw conclusions from your findings about these things.

So first consider what John did.

You have heard evidence that he stabbed Bill once in the neck, causing damage to an artery.

You should also consider what John did and said before that.

The prosecution witnesses told you that he wrenched the screwdriver from Bill's hand and shouted "I'm gonna kill you, you bastard".

They described John stabbing the screwdriver towards Bill's chest and stomach but missing then when Bill slipped and fell, the witnesses told you that John D. stabbed him to the neck while he was on the ground.

You heard evidence that John was under the influence of alcohol at the time: the alcohol level in his blood at the time of the incident was twice the legal limit.

It is possible for a person to be so drunk that he is incapable of forming an intention: however it is not suggested in this case that John was incapable of forming an intention.

A person may form an intention when drunk, which he would not have formed when sober, but that is not a defence: a drunken intent is still an intent.

The prosecution must make you sure that at the time of attacking Bill, John intended to kill him.

If you are sure, John is Guilty to count 1 and there is no need to consider counts 2 and 3.

If you are not sure, John is Not Guilty to count 1 and you should go on to consider count 2, the alternative count of wounding with intent.

## **Count 2**

This is a count of wounding with intent and is a lesser alternative to count 1 attempted murder.

In order to prove wounding with intent the prosecution must prove:

- a. That John deliberately struck Bill.
- b. That the blow caused a wound [not in dispute in this case].
- c. That when he did so he was not acting in lawful self-defence.
- d. And that when he did so he intended to cause Bill really serious harm.

**Question 5: Are we sure that when John deliberately and unlawfully struck Bill, John intended to do Bill really serious harm?**

In considering this question please apply the law about intention as explained it to you on page 5 above.

The count on your indictment says, “grievous bodily harm”, which means really serious harm.

If you are sure that John unlawfully wounded Bill intending to do him really serious harm then he is Guilty of count 2 and you need not consider count 3

If you are not sure that he intended to do Bill really serious harm then John is Not Guilty of count 2 and you should go to count 3

## **Count 3**

Count 3 is a count of unlawful wounding, which is a lesser alternative to Count 2 wounding with intent.

The prosecution must prove:

- a. That John deliberately struck Bill
- b. That the blow caused a wound [not in dispute in this case]



- c. That when he did so he was not acting in lawful self defence
- d. And that when he did so he realised he might cause Bill some injury

Count 3 on your indictment says, “maliciously”. That means the prosecution has to prove either an intention to cause an injury or that John realised that striking W with the screwdriver might cause some injury. This does not have to be serious; realising that he might cause any injury, e.g. a bruise or minor cut would be sufficient.

For this offence the amount John had to drink is irrelevant. The question is whether you are sure that either John acted maliciously in the sense that I have just described, or would have been aware that his actions might cause injury if he had been sober.

**Question 6: Are we sure that, when John unlawfully wounded Bill, he realised he might cause him some injury, or would have realised that if he had been sober?**

If yes then John is Guilty of count 3.  
If no, then he is Not Guilty.

## **Route to Verdict: John**

1. Are we sure that John deliberately struck Bill?

If no, John is Not Guilty of count 1, count 2 and count 3.

If yes, go to question 2

2. Are we sure that John was not acting in lawful self-defence?

If no, he is Not Guilty of count 1, count 2 and count 3

If yes, go to question 3

3. Are we sure that when John deliberately and unlawfully struck Bill, that was an act more than merely preparatory to killing him?

If no, John is Not Guilty of count 1 attempted murder and you should go to question 5

If yes, go to question 4

4. Are we sure that when John deliberately and unlawfully struck Bill, John intended to kill Bill?

If yes, John is Guilty of count 1 attempted murder and you need not consider counts 2 and 3 so far as he is concerned

If no go to question 5

5. Are we sure that when John deliberately and unlawfully struck Bill, John intended to do Bill really serious harm?

If yes then John is Guilty of count 2 wounding with intent and you need not consider count 3

If not then John is Not Guilty of count 2 and you should go to question 6

6. Are we sure that when John deliberately and unlawfully struck Bill, John realised he might cause Bill some injury?

If yes, then John is Guilty of count 3

If no, then he is Not Guilty

## Mary

### Counts 1-3

In law, it is possible for a person to be guilty of a crime even if it is actually carried out by somebody else, if she intends that the crime should be committed, and participates by assisting or encouraging the commission of that crime.

The prosecution say that Mary intended that John should deliberately and unlawfully strike Bill, intending to kill him, and that she assisted and encouraged John by pushing Bill, shouting at him and then holding Bill down while John stabbed him.

Mary told you that she did not intend that John should commit any offence, and that when she pushed Bill she was trying to break the fight up, and that when she had her hands to Bill's neck she was trying to staunch the bleeding from his injury.

It is your task to consider all the evidence and decide the facts of which you can be sure.

Mary is charged on counts 1, 2 and 3 on the indictment, which are alternative counts, and the Route to Verdict questions with which I will provide you will explain how you should approach those counts.

### **Route to Verdict: Mary**

1. Is John Guilty of the attempted murder of Bill?

If yes, go to question 2

If no, then Mary is Not Guilty of attempted murder: and go to question 3

2. Are you sure that Mary intentionally assisted or encouraged John to deliberately and unlawfully strike Bill with the intention of killing Bill?

If yes, Mary is Guilty of count 1 attempted murder and you will not be asked to consider counts 2 and 3

If no, go to question 3

3. Is John Guilty of wounding Bill with intent [count 2]?

If yes, go to question 4

If no, then Mary is Not Guilty of wounding Bill with intent and go on to consider count 3, question 5

4. Are you sure that Mary intentionally assisted or encouraged John to deliberately and unlawfully strike Bill and wound him, with the intention of causing him really serious harm?

If yes, Guilty of count 2 wounding with intent

If no, Not Guilty of count 2 and go on to consider count 3, question 5

5. Is John Guilty of unlawful wounding [count 3]?

If no, then Mary is Not Guilty of count 3

If yes then go to question 6

6. Are you sure that Mary intentionally assisted or encouraged John to deliberately and unlawfully strike Bill and wound him, realising that might cause Bill some injury?

If no, then Mary is Not Guilty of count 3

If yes, then Mary is Guilty of count 3

## Jack

Counts 4 and 5 concern Jack and the events at the traffic lights when Olivia was killed and John was injured.

### Count 4

In order to prove count 4, causing death by dangerous driving, the prosecution must prove:

- a. That Jack was driving the Jaguar XK8, registration R606 FLJ
- b. That he did so dangerously
- c. And that his driving caused Olivia's death

### Count 5

In order to prove count 5, causing serious injury by dangerous driving, the prosecution must prove:

- a. That Jack was driving the Jaguar XK8, registration R606 FLJ
- b. That he did so dangerously
- c. And that his driving caused serious injury to John

In this case Jack agrees that he was driving a Jaguar XK8, registration R606 FLJ on Athol Road.

The prosecution must prove that he was driving dangerously.

A person drives dangerously if the manner of their driving falls far below that which is expected of a competent and careful driver.

The evidence shows that he drove erratically at an excessive speed, disregarding red traffic lights, until he drove through a red light where Olivia was crossing the road.

The evidence was that the car struck Olivia and killed her instantly.

Jack then lost control of the car, which hit a lamp post, and that impact caused John to sustain fractures of the skull, neck, arms and ribs.

In respect of count 4, the prosecution must prove that Jack's dangerous driving caused Olivia's death. The defence do not suggest there was any other cause for her death.

In respect of count 5, the prosecution must prove that Jack's dangerous driving caused serious injury to John.

It is not disputed that the injuries which John sustained were serious

The prosecution does not have to prove that Jack's dangerous driving was the sole cause of injury: it is sufficient if Jack's dangerous driving contributed to that result in a way that was more than negligible or minimal. In this case, the fact that John was not wearing a seatbelt will undoubtedly have contributed to his injuries. The question for you is whether Jack's dangerous driving was also a more than negligible or more than minimal cause of the injuries.

## **Route to Verdict: Jack**

1. Are you sure that Jack was driving the Jaguar XK8, registration R606 FLJ?

If no, he is Not Guilty of counts 4 and 5

If yes go to question 2

2. Are you sure that Jack was driving dangerously?

If no he is Not Guilty of counts 4 and 5

If yes go to question 3

3. Are you sure that Jack's dangerous driving caused Olivia's death?

If No he is Not Guilty of count 4

If yes he is Guilty of count 4

Go to question 4

4. Are you sure that Jack's dangerous driving was more than a negligible or minimal cause of John's serious injuries?

If No he is Not Guilty of count 5

If yes he is Guilty of count 5

## Directions on the evidence

### Character

#### **1. You have been told that neither Mary nor Jack has any previous convictions or cautions.**

Good character is not a defence to criminal charges but it is relevant in two ways.

First, both Mary and Jack have given evidence.

In each case their good character is a positive feature which you should take into account in their favour when considering whether you accept what they told you.

Secondly, the fact that a defendant has not offended in the past may make it less likely that they acted as the prosecution alleges.

What importance you attach to Mary's good character, and to Jack's good character, and the extent to which it assists on the facts of this particular case are for you to decide.

In making those assessments you may take account of everything you have heard about Mary, and about Jack

#### **2. You have heard that John has two previous convictions for theft.**

Evidence of those convictions was put before you by the defence, so that the point could be made of John's behalf that he has no previous convictions for violence.

The convictions have no other relevance in the case.

### John: silence at trial

John chose not to give evidence.

That is his right but it has these consequences:



1. John has not given evidence in the trial to contradict or undermine the evidence of the prosecution witnesses about his behaviour in the car park towards Bill.
2. You will remember that when I asked John's advocate whether John was going to give evidence he told us that John understood that if he failed to do so, you would be entitled to draw inferences from that failure; in other words that you would be entitled to conclude that John did not feel he had an answer to the prosecution case that would stand up to cross-examination.

You must decide whether or not John's failure to give evidence should count against him.

First you must be sure that the prosecution case is so strong that it calls for an answer.

Second you must be sure that the true reason for not giving evidence is that John did not have an answer that he believed would stand up to questioning.

You must remember it is for the prosecution to prove the guilt of the defendant and while John's failure to give evidence can provide support for the case you cannot convict John wholly or mainly because of that failure.

### **Unanimity**

Finally, it is important that you try to reach verdicts that are unanimous in respect of each count and each defendant. That means verdicts on which all of you agree. You may take as long as you need. You are not under any pressure of time at all.

You may have heard of majority verdicts – please put this from your minds. Should the time come when I can accept a majority verdict, that will be a process begun by me, and you will be brought back into court and provided with further directions.

How you organise your discussions and carry out your deliberations is entirely a matter for you, but you may find it helpful to choose someone among you to chair your discussions. You will in any event have to select one of your number

to speak on your behalf when you come back into court to deliver your verdicts. Whether or not you decide to select a person to chair your discussions, every juror should be able to express their views, no one should feel pressured into reaching a particular decision, and you should stay focussed on the legal questions I have outlined for you. When you begin your discussions, a number of different views may be expressed on particular topics or pieces of evidence. But if you each listen to the views of others, in almost all cases juries are able to reach verdicts upon which all jurors agree.