

UK Supreme Court – prorogation decision was unlawful – Cherry comments

The unanimous decision of the UK Supreme Court was handed down at 10.30am this morning.

This Court has already concluded that the Prime Minister's advice to Her Majesty was unlawful, void and of no effect. This means that the Order in Council to which it led was also unlawful, void and of no effect and should be quashed. This means that when the Royal Commissioners walked into the House of Lords it was as if they walked in with a blank sheet of paper. The prorogation was also void and of no effect. Parliament has not been prorogued. This is the unanimous judgment of all 11 Justices.

Lady Hale President of the UK Supreme Court London 24 September 2019

Joanna Cherry QC MP the lead petitioner in the Scottish case (and who widely said she was cautiously confident of success in this action) gives us her immediate thoughts :

“I am delighted that the UK Supreme Court has followed the lead of Scotland's Supreme Court and ruled that Boris Johnson's shut down of parliament was unlawful. The effect of the ruling is that Parliament should never have been prorogued in the early hours of the morning of Tuesday 10 September 2019. Therefore, parliament is technically still sitting and it could resume immediately and get on with the job of holding this minority Tory Government to account.

“The Scottish constitutional tradition, dating back to the Declaration of Arbroath and the Claim of Right, is that neither the Monarch nor the Government is above the law. This is in line with the modern principles of Constitutional democracy and I am glad that the UK Supreme court agrees.

“Some will no doubt persist in the fallacy that by making this ruling the UK Supreme Court has strayed into the field of politics. In the Scottish court, Lord Drummond Young had the perfect riposte to this nonsense when he said:

“The courts cannot subject the actings of the executive to political scrutiny, but they can and should ensure that the body charged with performing that task, Parliament, is able to do so.”

“The UK Supreme Court has made the ruling necessary to restore democracy and the rule of law. Now politicians must make sure that ruling is respected.

“Boris Johnson’s behaviour is wholly lacking in integrity. It is pretty clear he lied to MPs about the reasons for the prorogation and misled the Queen. He was forced to give documents to the Scottish court, which showed disdain for parliamentary democracy and a desire to lay a false trail as to the real reasons for the prorogation. No doubt that is why he refused to swear a written statement on oath in support of his position and why no other minister was prepared to do so either. It also explains the Government’s refusal to release the further documentation ordered by Parliament as it would probably give the game away completely.

“MPs must now return so we can scrutinise what this Government is up to and if necessary, hold the Prime Minister and his ministers in contempt of Parliament. I along with my colleagues across Parliament will be tabling Urgent Questions to try to force Ministers to come to the despatch box to answer.”