

Mike from “Solidarity with G8 defendants – July 2005 Solidarity Group” wrote this detailed witness account about what happened in court:

G8 TRIAL – DEFENDANT FOUND GUILTY AGAINST ALL EVIDENCE

A demonstrator has been found guilty of Breach of the Peace at Edinburgh’s anti G8 Carnival for Full Enjoyment – despite a police witness identifying someone else entirely as the alleged offender. When asked if he saw the person who had committed the offences PC Timothy Fawcett of West Yorks police pointed straight at a spectator in Edinburgh Sheriff Court’s public gallery and confidently declared : “That’s him, there!”

Despite this misidentification, and despite a complete lack of video or any other credible evidence, Sheriff Poole ruled that the defendant did swear at the police and that, astonishingly, he did “threaten to urinate and defecate on police officers.” She then shocked even the Procurator Fiscal by calling for a social enquiry report, meaning that she was considering a jail sentence. Finally, on 19th September, over a year of stress for the defendant ended with the sheriff admonishing him, meaning he was convicted but received no penalty apart from a reprimand.

The defendant said “ I wish to pursue any legal avenue open to me to overturn this unfair conviction, including up to the European Court. I cannot understand precisely how I exceeded my human right of freedom of expression. There was no concrete evidence to prove my guilt beyond reasonable doubt, merely malicious & false allegations.”

The trial saw many bizarre occurrences, none more so than when PC Fawcett took the stand:

Procurator Fiscal : Do you see in court today the person who committed the offences?

PC Fawcett : Yes.

PF Please point him out.

PC There he is (points straight at spectator in the public gallery). The shocked Procurator Fiscal rephrased the question, doing his best to indicate he wanted a different answer. Once more PC Fawcett completely ignored the defendant in the dock in front of him, and instead identified the amazed member of the public as the offender.

It was only after the Procurator Fiscal laboriously showed the PC video footage of the defendant, and repeatedly prompted him, that the constable was eventually able to identify the defendant as the alleged offender.

DEFECATING ON THE POLICE?

The alleged offences occurred in Edinburgh's Canning Street on 4th July 2005, where a section of the crowd participating in the anti G8 Carnival for Full Enjoyment were trapped by police cordons for nearly four hours. Police video teams were operating, filming constantly.

Police witness PC Carl Hoodless of West Yorks police alleged the defendant swore and threatened to urinate and defecate on the police "between six and twelve times", over a period of "one to two hours". He alleged this occurred in an "empty no mans land", in front of the police lines. However the video evidence produced by the prosecution failed to show the defendant committing any of these offences whatsoever.

A legal observer from the July 2005 Solidarity Group told Indymedia : " The crowd were penned in for hours. The police had plenty of time to film absolutely everything that happened. It is completely inconceivable that the defendant could have, on between 6 and 12 occasions, committed these alleged offences in an empty space right in front of the police lines, without it being captured on police video."

FRANKLY ABSURD

The defendant was found guilty of threatening to 'defecate & urinate police officers'. He told Indymedia : “ I denied threatening to defecate & urinate on the police, pointing out the physical impossibility of doing so 'on' a row of 6 foot-something riot police. I suggested that it was an extremely unlikely scenario and quite frankly absurd.

The less sensational truth of the matter was that I had quietly & politely asked to be released from the cordon as I needed to go to toilet.”

A legal observer from July 2005 Solidarity Group told Indymedia: “The defendant in this case has had charges hanging over him for well over a year, causing him a lot of stress. Eventually, after several hearings, he was found guilty – despite overwhelming evidence of his innocence – of a very minor charge and admonished. Many other G8 defendants have been found not guilty.

“The continued pursuit of G8 defendants is unjust and an absurd waste of public resources. More G8 defendants are due in court in Edinburgh next month – but we call on all G8 charges to be dropped.

“The July 2005 Solidarity Group is pledged to support all arrested or facing charges in connection with the G8 demonstrations. We can supply legal help, and moral and practical support. G8 Legal Support have many witness statements which can help defendants. If you face charges or have been convicted do contact us.”

PROTESTORS “HEROIC”

A July 2005 Solidarity Group spokesperson told Indymedia: “We totally oppose the criminalisation of protest that these trials involve. The Carnival for Full Enjoyment was organised against the G8 and in opposition to wage slavery, benefits slavery, the slavery of debt and the slavery of poor people being forced into the armed forces.

People taking action against injustice and exploitation were attacked by police wielding batons and charging into the crowd on horseback. Protestors heroically maintained their demonstration in the face of extreme police violence. “

On the Anniversary of the event thousands of copies of a leaflet “The Carnival’s not over” were circulated in Edinburgh, stating: “One year on, the Carnival’s call to fight back is just as relevant. Together we have the power to disrupt the daily grind of the institutions that plunge us into overwork, poverty and debt.

When we claim Job Seekers Allowance we’re told to actively seek work. We actively seek the end of this system based on profit, and we work towards a global community based on freedom, co-operation and sharing the planet’s resources.”

Solidarity with G8 defendants – July 2005 Solidarity Group

COURT REPORT IN DETAIL

The charge against the defendant at the start of the trial, was that “Whilst acting with a disorderly crowd you did cover your face, conduct yourself in a disorderly manner, shout, swear, threaten to urinate and defecate on police officers, place the lieges in a state of fear and alarm and commit a breach of the peace.

The sections about covering his face and placing the lieges in a state of fear and alarm were deleted in the course of the trial, leaving the final charge as:

“Whilst acting with a disorderly crowd you did conduct yourself in a disorderly manner, shout, swear, threaten to urinate and defecate on police officers, and commit a breach of the peace. Sheriff Pool found him guilty of this reduced charge.

THE VIDEO EVIDENCE

The Procurator Fiscal produced video footage shot by police cameramen on the day. The defendant described this footage to Indymedia :

“The video lasts 6 minutes 47 seconds (out of approx. 3½ hours in Canning Street). It consists of 12 edited clips, one of which is repeated twice. Many of the clips are irrelevant to the charges. I used the word 'bloody' ('your bloody helicopters burning carbon') ONCE. The clip was repeated twice. That was the 'worst' swear word I used.

(The video shows another person repeatedly using the word 'fucking' to me. I do not reciprocate but walk away peacefully. The other person was NOT arrested for swearing.)

(Also, incidentally, the prosecutor audibly used the phrase 'bloody thing' in the courtroom earlier in some pre-trial banter.)

In the video, the senior officer present is shown making a loud-hailer announcement that under Section 14 of Public Order Act 1986 he is Imposing a cordon. An edited-in voiceover gives the time as 12.54.

I am heard to remonstrate: 'Lies, lies. Police State.' Once only, lasting a few seconds.

In fact, the officer WAS misrepresenting the truth. Not only does Section 14 POA not authorize cordons, it does not even apply to processions. Therefore the officer was applying the law incorrectly. In the video I also clearly state "I believe in peace & am completely non-violent."

The video showed the defendant on one occasion denouncing a “police state” (without swearing at the police) This was greatly concerned the Procurator Fiscal, who stated in court :

“The video shows the accused was getting highly excited about what he conceived of as a police state. This is a man who is

hopelessly deluded about what a police state actually is. The police were merely putting into effect laws passed by parliament. All the accused did was froth on about a police state, he was clearly excited in that clip. My submission is that clearly he was very agitated. Both police witnesses made it clear that he did behave in that way.

... Behaviour has to be considered in context. This was clearly a situation in Edinburgh that day that it required the deployment of large numbers of police. For the accused to be shouting about a police state and to accompany this by oaths, then that would be genuinely alarming to any person. It could have provoked violence. This was a breach of the peace, even if members of the public were not there because they had been kept back (by the police).

The July 2005 Solidarity Group told Indymedia: "Incredibly, the Fiscal appeared to argue that it is an offence to denounce the system as a police state in an emotional manner. Perhaps he might consider that this rather adds weight to contentions that we ARE in a police state...."

The defendant told Indymedia:

"The Procurator Fiscal was much outraged by my use of the phrase 'police state' to describe what I experienced. I told him that I was merely echoing the driver of an Edinburgh Omnibus ("it looks like a police state out there") and also more tellingly George Churchill-Coleman, who headed Scotland Yard's anti-terrorist squad as they worked to counter the IRA during their mainland attacks in the late 1980s and early 1990s.

Churchill-Coleman said in an interview with the Guardian 28th January 2005, ' I have a horrible feeling that we are sinking into a police state and that's not good for anybody. We live in a democracy and we should police on those standards."

The prosecutor was visibly annoyed by my remarks. He reprimanded me that I had to obey the laws that the police imposed."

POLICE WITNESS

FIRST CROWN WITNESS PC CARL HOODLESS W. YORKS POLICE

PC : I arrived in Canning St early - mid afternoon, having been moved there from another location. There was a large crowd on Canning St with police at either end.

Shortly afterwards the PC said he couldn't remember if there police at the other end of Canning St

PC Hoodless (PC) was interviewed by the Procurator Fiscal (PF)
PF - Could the people (demonstrators) have retreated away (from Canning St)?

PC - Yes I think they could

PF- The police asked them to move away, but they didn't do so?

PC - Yes that's right

(INDYMEDIA NOTE: this is completely inaccurate, there were police cordons at either end preventing people leaving - this seemed to be accepted later by the PF)

PC : Throughout the time I was on the front line the defendant appeared intent on antagonising the police officers, this went on for 1-2 hours. On a number of occasions he came out of the crowd, he went into a no-mans land , an empty area between the crowd and the police line. He did this between 6-12 times. His purpose appeared to be insulting police officers and whipping up the fervour of the crowd.

We were told to hold the line.

The defendant called the police "fascists" and "animals". He threatened to urinate and defecate on the police. He said this loudly and with feeling. He tried to whip up the crowd, the crowd reacted to his antagonistic manner. He did that sort of thing every time (he came out of the crowd).

PF what effect did that have on you?

PC I felt insulted, what he said was offensive.

PF Did this make you upset?

PC This would have upset members of the public

(INDYMEDIA NOTE the part of the charge relating to causing fear and alarm to the lieges was eventually deleted, as it appeared to be recognised that very few if any members of the public who were not demonstrators were present)

PC The defendant was arrested by PC Fawcett, along with others

PF Did he make any reply(when he was charged)?

PC He said "help! Help! I'm being arrested"

(INDYMEDIA NOTE

The police video showed the defendant being arrested. He was completely calm and said no such thing.)

PC Carl Hoodless was cross-examined by defence solicitor Clare Ryan (CR)

CR Was the cordon at the other end of Canning St too?

PC I'm not v sure

There followed a series of questions by Clare Ryan to establish that in fact there were cordons at both ends of Canning St , that section 14 of the Public Order Act had been invoked, and that it was impossible for people to leave.

PC Our line stretched from one end of the street to the other, a couple of officers deep, 30-40 officers across the street approximately. I was between the middle and the right hand side.

CR Can you recall who was next to you?

PC No

CR Was it PC Fawcett?

PC He would have been close but I can't remember if he was next to me.

CR Did you ever leave the police line?

PC I can't remember

CR Would it be true to say your memory of the events is relatively hazy?

PC (mumbles, inaudible)

CR Did the defendant sometimes approach the police line and just make political points, not shouting and swearing?

PC He may have done

CR But earlier in your evidence you said he was abusive each time he approached the police line. So sometimes was he not abusive?

PC He could have been

PC The defendant called the police "fucking fascists" "fucking animals" "arseholes". He said he would urinate and defecate on the police.

But under questioning the PC said he could not remember the words actually used by the defendant.

CR So you don't know whether the defendant said "piss and shit" or "urinate and defecate"?

PC No I can't remember.

CR Is it not the case that the defendant simply asked to go to the toilet, and the reason that you cant remember the words actually spoken is because it didn't happen?

Was it not the case that the defendant was voicing his opinions and this irritated the police, and this is why he was arrested?

CR you have seen on the video that the defendant had a political discussion with the police, even if they didn't respond. The reason that there is on video footage of the defendant doing anything else is that he didn't do it. You have seen on the video that he was not swearing at the police. The defendant irritated the police and that is why they arrested him.

CR Do you recall the police video team filming there (at Canning St) all the time?

PC I assume they were.

CR But they didn't catch these alleged events on video because they didn't happen

THE DEFENDANT'S EVIDENCE

The defendant relates what he told the court:

"I explained that my visit to Edinburgh was my first break away from home for 5 years. I attended a talk by the Green MEP Caroline Lucas at the Usher Hall on Sunday night, 3rd July. I spoke to the owner of a bookstall there. He said he had a bookshop at St John's Church at the West End of Princes Street.

The next day (4th July 2005), I went there. I saw there was a Carnival Procession gathering in the vicinity. I had half an hour spare before going to a talk on Climate Change at Teviot Row. As I've enjoyed Carnivals since I was a kid and am interested in both the history and contemporary manifestations of Carnival, I decided to follow the Samba Band and other colourfully dressed street theatre characters for approx. half an hour before the talk.

I saw that the police allowed the procession to begin, so assumed it was legal. Within minutes and without warning, the entirely peaceful and orderly carnival had been penned into Canning Street. We were not allowed to leave. I knew no-one else in the procession. I did not consider myself part of a 'disorderly crowd'.

I refuted accusations of what I said to the police.

For instance, having been vegetarian for the best part of 40 years, and loving and respecting animals, I do not use the word 'animals' as term of abuse. I did not call the police 'animals'. It would be fairer to say that they are all too human, especially in their mistaken recollection of events.

I said I did not use vulgar Americanisms like "A***holes" and that whoever had scripted this had watched too many Hollywood movies. I don't speak that way, it is simply not my style.

I denied threatening to 'defecate & urinate on' the police, pointing out the physical impossibility of doing so 'on' a row of 6 foot something riot police. I suggested that it was an extremely unlikely scenario & quite frankly absurd. The less sensational truth of the matter was that I had quietly & politely asked to be released from the cordon as I needed to go to toilet. "

SUMMING UP SPEECHES

For the prosecution

The Procurator Fiscal's summing up speech mainly concentrated on his extraordinary attack on the defendant for announcing that we live in a police state (see above). He said little or nothing about the defendant's alleged threat to urinate and defecate on police, and only mentioned in passing the allegation that the defendant swore at the police. Rather he concentrated on condemning the actions by the defendant actually seen in the video – despite the fact that the video did not show the defendant committing any of the offences he was charged with!

For the defence

Clare Ryan said:

For a conviction you have to be convinced beyond reasonable doubt. The police recollections were very vague, eg on whether or not there was a cordon which prevented the demonstrators from leaving the area.

The first police witness could not recall the actual words used in the alleged threat to urinate etc on police, this is very strange, that is something you would think would stick in the memory.

The second police witness twice identified someone in the public gallery as the accused. This greatly affects his reliability, it casts great doubt on his reliability.

We saw the video. The police were irritated by the defendant and that is why they arrested him, but he did not cross the line in his behaviour and commit a breach of the peace. He did not swear at the officers. In the altercation with another protestor, shown on the video, he did not swear, despite provocation. My submission is the police were irritated by him and that's why they arrested him. There

has to be reasonable doubt about the police evidence concerning what the defendant said.

(INDYMEDIA COURT REPORTER NOTE: I was very surprised that in her summing up the defence solicitor did not refer to the lack of video evidence against the defendant (see above). The absence of this evidence, which she had referred to in her cross-examination of the first police witness, seemed to me to be an extremely strong argument to back up the defence case)

THE VERDICT

Sheriff Isobel Poole found the defendant guilty of a reduced charge, commenting on the significance of the reductions especially concerning the deletion to the reference to covering his face.

She said she accepted the police evidence (as reliable) and she quoted a ruling about what a breach of the peace was.

THE SENTENCING

In summing up prior to sentencing the defence solicitor pointed out that the defendant had been detained for 29 hours after his arrest and that the original charge had been on petition (here she was making the point that he had already been penalised by the detention, and that he had been put under stress and worry by the original serious charge)

In her remarks prior to sentencing the sheriff made a comment about on the one hand the defendant being a first offender and she took into account the way he gave evidence (this seemed to indicate she had a favourable impression of him from the way he gave evidence); while on the other hand she had to bear in mind the public interest, and the fact that originally this matter had been on petition.(this seemed to indicate that the case originally being on petition made the conviction more serious in her eyes)

She then announced that the sentencing would be deferred for a social enquiry report. This meant the sheriff was considering a

custodial sentence, an incredible consideration for such a minor offence.

At the deferred sentencing on 19th September, the Sheriff declared that, having considered the social enquiry report and other relevant matters, she had decided to admonish the defendant. This means that although the conviction stands, there is no penalty beyond a reprimand.

*Report by Mike of "Solidarity with G8 defendants – July 2005
Solidarity Group"*

*Thanks to "Indymedia Scotland" who originally published
this.*

Please see davyking.com/trial.html for full background & further commentary.