

**Partial verbatim transcript of HMA v John Coutts and Others. High Court November 6 & 7 1845**

Present,

The Lord Justice-Clerk,

Lords Mackenzie and Medwyn

Her Majesty's Advocate-Lord Advocate McNeill-Milne A. D.

-Inglis A. D.

AGAINST

John Coutts and Others-Craufurd-B. R. Bell.

Mobbing and Rioting-Assault-Conviction-Sentence-Three pannels convicted on charges of Mobbing and Rioting; as also Assault with aggravations-Sentenced to seven years transportation, twelve months imprisonment in the General Prison of Perth, and twelve months imprisonment in the Prison of Cupar, respectively.

**John Coutts, John Gibson, and William Smith, weavers, were charged with Mobbing and Rioting; as also Assault, especially when committed to the injury of the person, and to the effusion of blood; as also Wilful Fire-Raising; or one or more of these crimes:.....**

[INDICTMENT IN DETAIL]

**The pannels pleaded Not Guilty, and a proof was led.**

**The Lord Advocate, for the prosecution, who restricted the pains of law to an arbitrary punishment, and Craufurd, for the pannels addressed the Jury.**

**The Lord Justice-Clerk having summed up the evidence, the Jury retired to an adjoining room to make up their verdict.**

**Thereafter the Lord Justice-Clerk and Lord Mackenzie left the Court, while Lord Medwyn remained to receive the verdict of the Jury, in terms of the act 9<sup>th</sup> Geo. IV. c. 29. & 15.**

**The Jury having returned into Court, and all answered to their names, gave the following verdict:-**

The Jury unanimously find the pannels John Coutts and William Smith guilty of Mobbing and Rioting, as libelled in the first and second charges of the indictment; unanimously find the pannel John Gibson guilty of the Mobbing and Rioting and Assault, as libelled in the said first and second charges; and find the remainder of the libel not proven.

In respect of which verdict, Lord Medwyn continued the diet against the pannels, and the Court accordingly adjourned till this day, when the case was again called in the presence of the Lord Justice-Clerk, Lords Mackenzie and Medwyn.

The verdict, formerly returned, and recorded against the pannels having been read over,--

In respect thereof, the Court decerned and adjudged the said John Gibson to be transported beyond the seas for a period of seven years; and said John Coutts to be imprisoned in the prison of Cupar for the period of twelve calendar months; and the said William Smith to be imprisoned in the General Prison at Perth for the like period of twelve calendar months, provided always that the said William Smith can be received into the said General Prison in terms of the regulations applicable to the same, and in case he cannot be so received, then to be imprisoned in the said prison of Cupar for the said period.

Present,

Nov. 6. & 7.  
1845.

THE LORD JUSTICE-CLERK,

LORDS MACKENZIE AND MEDWYN.

HER MAJESTY'S ADVOCATE—*Lord Advocate M'Neill—Milne A.D.*  
—*Inglis A.D.*

AGAINST

JOHN COUTTS AND OTHERS—*Craufurd—B. R. Bell.*

MOBBING AND RIOTING—ASSAULT—CONVICTION—SENTENCE.—Three pannels convicted on charges of Mobbing and Rioting; as also Assault, with aggravations—Sentenced to seven years transportation, twelve months imprisonment in the General Prison of Perth, and twelve months imprisonment in the Prison of Cupar, respectively.

No. 98.  
John Coutts  
and Others.High Court.  
Nov. 6. & 7.  
1845.Mobbing &  
Rioting.

JOHN COUTTS, JOHN GIBSON, and WILLIAM SMITH, weavers, were charged with Mobbing and Rioting; as also Assault, especially when committed to the injury of the person, and to the effusion of blood; as also Wilful Fire-Raising; or one or or more of these crimes:

IN SO FAR AS, on the 13th day of August 1845, or on one or other of the days of that month, or of July immediately preceding, or of September immediately following, a mob or great number of riotous and evil-disposed persons did, wickedly and feloniously, assemble, in a riotous and tumultuous manner, in or near the Burgh of Dumfermline, for the illegal purpose of assaulting the persons, and invading, destroying, injuring, burning, or setting fire to, the dwelling-houses and ware-houses, and other property, of James Alexander and Thomas Alexander, or of one or other of them, manufacturers in Dumfermline, situated in and near Dumfermline aforesaid, and also at or near Balmule after mentioned; and the said mob, or great number of riotous and evil-disposed persons, being assembled for the illegal purposes above libelled, or for one or other of them, or for some other illegal purpose to the prosecutor unknown, did, acting in concert together, and in a riotous, violent, and tumultuous manner, and in breach of the public peace, time above libelled, in different places in and near the said Burgh of Dunfermline, and also at or near Balmule as after mentioned,

individuals, as well as invade, destroy, or injure, and burn or set fire to, the dwelling and warehouses, and other property or part thereof, of the said James Alexander and Thomas Alexander, all as hereinafter more particularly set forth; and you the said John Coutts, John Gibson, and William Smith, were, all and each, or one or more of you, present at, aiding and abetting, and actively engaged with, the said mob, or great number of riotous and evil-disposed persons, for the above illegal purposes, in the manner above and hereinafter explained: **AND IN PARTICULAR** (1.), time above libelled, a mob, or great number of riotous and evil-disposed persons, having, wickedly and feloniously, assembled, in a riotous and tumultuous manner, for the purpose or purposes above libelled, or one or more of them, in or near Baldrigeburn, or other place in or near the Burgh of Dunfermline to the prosecutor unknown, and having procured a drum, wherewith to congregate a greater number of evil-disposed persons by beating the said drum, and having armed themselves with sticks, stones, paling-stobs, and other offensive weapons, did, in a violent and riotous manner, and in breach of the public peace, proceed through several streets in or near the said burgh, acting together in concert, and creating much alarm to the lieges; and the said mob or great number of riotous and evil-disposed persons thus assembled and congregated having, in prosecution of their said illegal purposes, reached the street called the New row, or the street called Bothwell haugh, both in or near the said burgh, and James Smith Ronaldson, writer, then and now or lately Provost of said burgh, and residing in or near Abbey Park place, in or near Dunfermline, and David Birrell, commission-agent, then and now or lately one of the Bailies of said Burgh, and residing in or near Bridge street, in or near Dunfermline, having then and there interposed to quell and repress the said riotous proceedings, the said mob or great number of riotous and evil-disposed persons, did, then and there, wickedly and feloniously, with sticks, stones, or other offensive weapons to the prosecutor unknown, strike the said James Smith Ronaldson a severe blow or blows on or near the back part of his head, and also strike the said David Birrell one or more severe blows upon the arm, and other parts of his body; by all which the said James Smith Ronaldson was severely injured in his person, and to the effusion of his blood, and the said David Birrell was severely injured in his person: **LIKEAS** (2.), time above libelled, the said mob, or great number of riotous and evil-disposed persons, having thereafter, in concert, and for the purposes aforesaid, proceeded to Abbey Park place, in or near the said Burgh of Dunfermline aforesaid, did, wickedly, feloniously, and maliciously, and in breach of the public peace, invade and attack the dwelling-house situated in or near Abbey Park place aforesaid, then and now or lately belonging to, and occupied by, the said Thomas Alexander, then and now or lately residing there, and did, with sticks, stobs, stones, and other missiles, break and destroy or injure the

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1845.

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windows of said dwelling-house, or part thereof, and did, moreover, wickedly, feloniously, and maliciously, attack and invade the warehouses situated in or near Canmore street, in or near said Burgh of Dunfermline, then and now or lately belonging to the said Thomas Alexander, and then and now or lately occupied by the said James Alexander and Thomas Alexander, or by one or other of them, and did, with sticks, stobs, stones and other missiles, break and destroy or injure the windows of the said warehouses, or part thereof; by all which the said Thomas Alexander and the other members of his family were thrown into a state of great alarm: LIKEAS (3.), the said mob, or great number of riotous and evil-disposed persons, or part thereof, having, in concert, and for the purposes aforesaid, thereafter proceeded from the said Burgh of Dunfermline to Balmule House, situated in the parish of Dunfermline, and shire of Fife, then and now or lately belonging to, and occupied by, the said James Alexander, now or lately residing in George square, in or near Edinburgh, did, time above libelled, wickedly, feloniously, and maliciously, invade and attack the said house, and did, with sticks, stones, and other missiles, break and destroy the windows and outer doors of the said house, or part thereof, and having, in a forcible and masterful manner, entered said house, did, wickedly and maliciously, break and destroy or injure a quantity of crockery, some furniture, and other articles in the said house; and farther, did, wilfully, wickedly, feloniously, and maliciously, set fire to the said house itself, with intent to burn and destroy the same; and this they did by applying lighted paper, or other combustible materials to the prosecutor unknown, to the furniture, shutters, clothes, and other inflammable articles to the prosecutor unknown, which were in the kitchen and other parts of said house; and the said fire so applied having taken effect, did burn and destroy part of the shutters and wooden lining, cornices and skirting, forming part of the wall of the kitchen of said house, and also a quantity of clothes and articles of furniture, the property, or in the lawful possession, of the said James Alexander, or of some of the members of his family at Balmule aforesaid; by all which, the said James Alexander, and the other members of his family, were thrown into a state of great alarm: And you the said John Coutts, John Gibson, and William Smith, were, all and each, or one or more of you, present at, and actively engaged in, the said mob of riotous and evil-disposed persons, and did excite, encourage, assist, aid, and abet, them in their said illegal, riotous, and tumultuous proceedings, and did yourselves take an active part in the said proceedings, and more particularly in the said acts of mobbing and rioting, and in the assaults committed as aforesaid on the said James Smith Ronaldson and David Birrell, and in the invasion, destruction, or injury, of the said houses and buildings, and in the said wilful fire-raising, and setting fire to, breaking, destroying, and injuring, the dwelling-

houses and warehouses, and property therein, respectively above libelled, or in one or more of them.

No. 98,  
John Coutts  
and Others.

The pannels pleaded Not Guilty, and a proof was led.

High Court  
Nov. 6, & 7,  
1845,

The LORD ADVOCATE, for the prosecution, who restricted the pains of law to an arbitrary punishment, and CRAUFURD, for the pannels, addressed the Jury.

Mobbing &  
Rioting.

The LORD JUSTICE-CLERK having summed up the evidence, the Jury retired to an adjoining room to make up their verdict.

Thereafter the LORD JUSTICE-CLERK and LORD MACKENZIE left the Court, while LORD MEDWYN remained to receive the verdict of the Jury, in terms of the act 9th Geo. IV. c. 29, § 15.

The Jury having returned into Court, and all answered to their names, gave in the following verdict:—

The Jury unanimously find the pannels John Coutts and William Smith guilty of Mobbing and Rioting, as libelled in the first and second charges of the indictment; unanimously find the pannel John Gibson guilty of the Mobbing and Rioting and Assault, as libelled in the said first and second charges; and find the remainder of the libel not proven.

In respect of which verdict, LORD MEDWYN continued the diet against the pannels, and the Court accordingly adjourned till this day, when the case was again called, in presence of the LORD JUSTICE-CLERK, LORDS MACKENZIE and MEDWYN.

Nov. 7,  
1845.

The verdict, formerly returned, and recorded against the pannels, having been read over,—

In respect thereof, the COURT decerned and adjudged the said John Gibson to be transported beyond seas for the period of seven years; the said John Coutts to be imprisoned in the prison of Cupar for the period of twelve calendar months; and the said William Smith to be imprisoned in the General Prison at Perth for the like period of twelve calendar months, provided always that the said William Smith can be received into the said

General Prison in terms of the regulations applicable to the same, and in case he cannot be so received, then to be imprisoned in the said prison of Cupar for the said period.

Nov. 24.  
1845.

Present,

THE LORD JUSTICE-GENERAL,

THE LORD JUSTICE-CLERK,

LORDS MACKENZIE, MONCREIFF, MEDWYN, COCKBURN, AND WOOD.

HER MAJESTY' ADVOCATE—*Lord Advocate M'Neill—Milne A.D.*  
—*Inglis A.D.*

AGAINST

JEAN STEWART AND JOHN WALLACE JUNIOR—*P. Fraser.*

- INCEST—INDICTMENT—CONVICTION—SENTENCE.—1. An objection to the relevancy of a charge of Incest against parties related to each other as uncle and niece, repelled.
2. Two pannels, who pleaded guilty to an indictment, which charged both of them with Incest, and the female pannel, with having Exposed and Deserted her offspring,—Sentenced, on certification to the High Court, to fourteen years transportation respectively.

No. 99.  
Jean  
Stewart &  
John Wal-  
lace junior.  
High Court.  
Nov. 24.  
1845.

JEAN STEWART and JOHN WALLACE junior, were indicted and accused before the Circuit Court, held at Perth, by the Lord Justice-Clerk and Lord Wood, Autumn, 1845 :

INCEST. THAT ALBEIT, by the laws of this and of every other well-governed realm, Incest; As also, the wickedly and feloniously Exposing and Deserting an Infant Child, are crimes of an heinous nature and severely punishable: AND ALBEIT, by an Act passed in the First Parliament of the reign of James the Sixth, chapter fourteen, entitled 'Anent them that committes Incest,' it is statute and ordained, 'That quhatsumever person or persones that committes the said abhominable cryme of Incest, That is to say, that quhatsumever person or persones, they be that abuse their bedis with sike persones in de-