

**REPORT OF THE TRIAL OF THE
STUDENTS ON THE CHARGE OF
MOBBING, RIOTING, AND
ASSAULT, AT THE COLLEGE, ON
JANUARY 11 & 12, 1838**

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Report of the Trial of the Students on the Charge of Mobbing, Rioting, and Assault, at the College, on January 11 & 12, 1838 by Various

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TRIAL OF THE STUDENTS
ON THE CHARGE OF
MOBBING, RIOTING, AND ASSAULT,
AT THE COLLEGE,
ON
JANUARY 11 & 12, 1838.

PUBLISHED UNDER THE DIRECTION OF THE STUDENTS' COMMITTEE.

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Charles William Eliot fund

NOTICE.

As prefatory to the following Report, it is proper to mention, that the Students (thirty-five in number) who were apprehended on Friday, the 12th January, were, on the following day, placed at the bar of the Police Court, but were remanded to a future day; and it was afterwards intimated to them that their trial would take place in the Magistrates' Court.

The general body of students, finding the trial of their comrades thus postponed, and that it was likely to assume a more serious aspect than they at first supposed—and being anxious to give the accused the benefit of legal advice—held a public meeting in the University, when, on the recommendation of one of the Professors, an Agent was appointed, and the following Gentlemen elected as a Committee, with full powers to retain counsel, and adopt any other measures which might appear to them advisable for having the whole affair properly elucidated.

MR FORBES	MR MACINTYRE
MR WOOD	MR MOULD
DR STOKES	MR G. J. BELL
MR ATKIN	MR T. B. BELL
MR BATTEN	MR FRASER
MR FALCONER	MR BREMNER
MR SINCLAIR	

MR FORBES, *Chairman.*

MR WOOD, *Secretary.*

MR G. J. BELL, *Treasurer.*

Under their superintendence the following Report of the Trial (which eventually took place before the Sheriff) has been prepared; and it may be mentioned that, in order to ensure completeness and accuracy, Mr S. M'GREGOR was employed to take the evidence and speeches in short-hand. The proofs of the latter have also been revised by the Sheriff and the Counsel on both sides, so that the fullest reliance may be placed on their correctness.

EDINBURGH, *February, 1838.*

LIBEL,

The PROCURATOR-FISCAL against CHARLES JOHN DALRYMPLE, and OTHERS.

EDINBURGH, *February 17, 1888.*

Unto the Sheriff of the County of Edinburgh, the Complaint of the
Procurator-Fiscal of Court for the public interest,

HUMBLY SHEWETH, — That Charles John Dalrymple, now or lately residing with Louisa Henniker or Stewart, a widow, in Lothian Street, in or near Edinburgh; Alfred Westmacott, now or lately residing with Henry Westmacott, sculptor, in Royal Terrace, in or near Edinburgh; John Aikenhead or Aitkenhead, now or lately residing with Robert Wilson, hatter, in Salisbury Street, in or near Edinburgh; Robert Scot Skirving, now or lately residing with Agnes Tibbets or Rymer, a widow, in Castle Street, Edinburgh; and Edward Kellet, now or lately residing with Thomas Robinson, lodging-house-keeper in Clerk Street, in or near Edinburgh; all now or lately students in the University of Edinburgh, have been all and each, or one or more of them, guilty of the crimes of mobbing and rioting, and assault, or one or other of them, actors or actor, or art and part: In so far as, on the eleventh day of January, eighteen hundred and thirty-eight, or about that time, a mob, or great number of disorderly and evil-disposed persons, did riotously and tumultuously assemble, and did, within the area and precincts of the College or University of Edinburgh, and on South Bridge Street, Edinburgh, opposite or near to the said College or University, conduct themselves in a riotous and outrageous manner, to the disturbance of the public peace, and to the terror and alarm of the lieges; and did violently attack and assault and threaten various persons, and did throw snow-balls or other missiles at them, and at several carts and carriages passing along or near to the said street, and at the windows, and other parts of the houses or shops, or other premises in the said street; and, in particular, the said mob, or great number of disorderly and evil-disposed persons, did then and there wickedly and feloniously attack and assault James Simpson, then and now or lately one of the Edinburgh police, and now or lately residing in Arthur Street, in or near Edinburgh; and James Wilmore, then and now or lately one of the Edinburgh police, and now or lately residing in Reid's Close, Canongate, in or near Edinburgh, while in the discharge of their duty as policemen; and did strike them, or one or other of them repeatedly, with sticks and snow-balls, or other missiles, on various parts of their persons; and the said Charles John Dalrymple, Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, did all and each, or one or more of them, form part of the said mob, or great number of disorderly

and evil-disposed persons, and were present at, aiding and abetting, and actively engaged with the said mob, or great number of disorderly and evil-disposed persons, in the unlawful acts of mobbing, and rioting, and assault, above libelled, or part thereof. Likeas, (2) on the twelfth day of January, eighteen hundred and thirty-eight, or about that time, a mob, or great number of disorderly and evil-disposed persons, armed with sticks or bludgeons, or other weapons, did riotously and tumultuously assemble, and did, within the area and precincts of the said College or University, and on South Bridge Street, aforesaid, opposite or near to the said College or University, conduct themselves in a riotous and outrageous manner, to the disturbance of the public peace, and to the terror and alarm of the lieges; and did violently attack and assault, and threaten various persons, and did throw snow-balls, or other missiles, at them, and at several carts and carriages passing along or near to the said street, and at the windows, and other parts of the houses or shops, or other premises in the said street, whereby several windows were broken; and a number of the Edinburgh policemen having been brought to the place or places above libelled, for the purpose of quelling the said riotous proceedings, the said mob, or great number of disorderly and evil-disposed persons, did then and there wickedly and feloniously attack and assault the said policemen, and others who were endeavouring to assist the said policemen, in the performance of their said duty, and did strike them with bludgeons or sticks, or other weapons, and did throw snow-balls and stones, or other missiles, at them; and in particular, the said mob, or great number of disorderly and evil-disposed persons, did then and there wickedly and feloniously attack and assault William Kerr, then and now or lately lieutenant of the said Police, Edward Pond, then and now or lately lieutenant of the said Police, Donald Macpherson, then and now or lately sergeant of the said Police, George Borthwick, then and now or lately policeman, and now or lately residing in Dunbar's Close, Canon-gate, in or near Edinburgh, Henry Ross, then and now or lately policeman, and now or lately residing in Little Jack's Close, Canon-gate aforesaid, Alexander Gunn, then and now or lately policeman, and now or lately residing in Scotland Street, in or near Edinburgh, and the aforesaid James Simpson, or one or more of them, and did strike them with bludgeons and sticks, or other weapons, on their heads and other parts of their persons, and did knock them, or attempt to knock them, to the ground, and did throw stones and snow-balls or other missiles at them, by all which they were injured on various parts of their persons; and the said Charles John Dalrymple, Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, did all and each, or one or more of them, form part of the said mob, or great number of disorderly and evil-disposed persons, and were present at, aiding and abetting, and actively engaged with the said mob, or great number of disorderly and evil-disposed persons, in the unlawful acts of mobbing and rioting and assault last above libelled, or part thereof: And the said Charles John Dalrymple having been apprehended and taken before Peter Crooks, Esquire, one of the Magistrates of Edinburgh, and Sheriff-depute thereof, did, in his presence, at Edinburgh, on the fifteenth day of January, eighteen hundred and thirty-eight, emit and subscribe a declaration — and the said Charles John Dalrymple having been thereafter taken before George Tait, Esquire, Sheriff-substitute of Edinburghshire, did in his presence, at Edinburgh, on the tenth day of February, eighteen hundred and thirty-eight, emit and subscribe another

declaration; and the said Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, having been apprehended and taken before the said George Tait, did each of them respectively, in his presence, at Edinburgh, on the tenth day of February, eighteen hundred and thirty-eight, emit and subscribe a declaration,—which declarations will be used in evidence against each of them, by whom the same were respectively emitted, at their trial; and three or thereby bludgeons or sticks will also be used in evidence against the said Charles John Dalrymple, Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, at their trial.

May it therefore please your Lordship to grant warrant to officers of Court to cite the said Charles John Dalrymple, Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, to appear before you to answer to this libel, and thereafter to fine and amerciate each of them in any sum not exceeding £10 sterling, payable to the complainer; or to imprison them in the Tolbooth of Edinburgh for any period not exceeding sixty days; and in either case, to ordain each of them to find caution for good behaviour, or to keep the peace for any period not exceeding six months, under a penalty not exceeding £20 sterling; and farther, to find them liable in the expenses of this prosecution.

According to justice.

ARCHD. SCOTT, P. F.

Edinburgh, 17th February, 1838.

The Sheriff-substitute having considered this libel, — grants warrant to officers of court to cite the before designed Charles John Dalrymple, Alfred Westmacott, John Aikenhead or Aitkenhead, Robert Scot Skirving, and Edward Kellet, to appear to answer the same within the ordinary Sheriff-Court House at Edinburgh, upon the 21st day of February current, at 10 o'clock forenoon, and to cite witnesses for both parties.

ADAM URQUHART.

EVIDENCE.

Wednesday, 11th February.

BAILIE GRIEVE, examined by Mr Innes, Advocate-Depute.—You are one of the Magistrates of the city? Yes.

Your place of business is almost next door to the College? Yes, at the corner of Adam Square.

Was your attention attracted to the College on the morning of Thursday, 11th of January? Yes.

What attracted your attention? A crowd, and a report that there was a riot.

About what o'clock was this? Somewhere about one o'clock.

Was it in the street? Yes, in the street exactly in front of the College, and in the College.

You went to the College then? I did.

When you got there, tell us in what state you found the crowd outside the College? The street was pretty crowded; there were students on the stair, and a great many inside; and snow-balls were throwing. The students were assembled on the stairs of the College, and in the College Yard.

Which way were the snow-balls mostly thrown? Both ways, but most of them came from the College Yard, or from the porch.

Did you hear of any effects produced by these snow-balls? A good deal of panes of glass were broke on the opposite side of the street, and the shutters were put on.

Did you hear or see any of the panes broken? I did not observe any broken when I went there, because the shutters were put on.

Did you, on this occasion, remonstrate with the students on the impropriety of their conduct? I did.

The students were throwing the snow-balls? Yes.

In consequence of your remonstrance, did they cease throwing? No.

Did you say you were a Magistrate? No; I had no occasion to say I was a Magistrate, because they must have seen that I was so from my chain or badge of office.

There were some policemen there when you first went? Yes.

Was the force of the police afterwards increased when you were there? Not on the Thursday, that I am aware of.

Did you see some students apprehended by them? Yes, a few.

They were taken to the Police Office? Yes.

You went to the Police Office? I did, soon after they were taken into custody.

Do you remember a number of lads having the appearance of students coming to the square of the Police Office?

Mr Whigham,—Do not answer that question.

Mr Innes,—This is merely a matter of narrative that leads to the second charge. We are entitled to shew that the acts of the different individuals were the acts of the crowd, and acting in concert with the crowd; and we propose to shew that they were acting thus on Thursday and Friday.

Mr Robertson,—This is characteristic of this wretched and contemptible prosecution. I never heard any thing so outrageous as this attempt. My learned friend says, that the first charge is mainly narrative of the second; and the proposal now made is, with a view of establishing something of the nature of a conspiracy, to prove proceedings that took place in the College Yard by something that took place in the Police Office.

Mr Innes,—We are entitled to shew, that they went to the Police Office, and there arranged farther proceedings on the Thursday.

Mr Robertson,—Is my learned friend entitled to shew, that a mob broke into a shop in Prince's Street, in order to prove a riot in the College Yard?

Mr Innes,—With all deference, I am entitled to lead evidence that this party were parties in that riot. I am entitled to prove, by their conduct elsewhere, that they were part of a mob; and this I am entitled to prove by their conduct any where, where I find them concerted.

Mr Whigham,—The major proposition is mobbing, rioting, and assault, within the quadrangle of the College, or in front thereof. Is my learned friend entitled to prove a separate and distinct crime at the Police Office? He says, I will prove the illegality of their acts elsewhere, in order to prove them guilty of the charge in this indictment. If he is entitled to do so, he was bound to give the prisoners notice of this by preferring a distinct charge.

Mr Robertson,—As my learned friend seems to be serious in regard to this case, I shall take the liberty of observing, that we shall now conduct this trial in a more grave and solemn manner than I had thought it would be necessary to do. I beg the witness to withdraw, in the meantime. (The witness

withdrew.) The present libel charges, in the major proposition, mobbing, rioting, and assault. It contains no charge of conspiracy of any description. The mobbing, rioting, and assault, are said to have taken place within the College Yard and on South Bridge Street on Thursday and Friday. Now, the question put is this, Whether certain young gentlemen, apparently students, did certain things at or near the Police Office, in concert with other students who had been apprehended. I must say, that if the public prosecutor is to make this a case of conspiracy, he ought to have given us notice of it. They have begun this foolish prosecution at the wrong end. They ought to have established the mobbing and rioting, then to have connected the prisoners with it. Then, perhaps, it might have been competent to have proved any act of any person seen in the company of the prisoners on that day. On the contrary, we are taken away at once to the Police Office.

The Sheriff.—I suppose you mean to prove that a number of the students had been warned at the yard of the Police Office of the consequences of their conduct. Now, you do not bring that home to any of the students at the bar. I must sustain the objection.

Witness was then recalled, and his examination continued by Mr Innes.

After you had been at the Police Office on Thursday, you returned to the College? Yes.

What did you find there when you returned? A great crowd of students seemingly.

About what time of the day was this? I cannot speak exactly as to the time, but it must have been, I should think, about three o'clock, or rather after it. I did not get the length of the College, but about the corner, when they passed me in a large body, seemingly marching in order.

By the Sheriff,—Did they appear to you to be trained? I do not say trained, but they were marching from the College Gate, and the front ranks of them were nearly opposite Adam Square, all going towards the North Bridge. They extended from the Lower College Gate down to Adam Square.

By Mr Innes.—How many might there be in a row? They were not quite so regular as that; there might be two, and three, and four, and five in a row.

Did you ask them what they were going to do? I told two or three of the well-disposed students to stop them till I came down—I should say, peaceably disposed.

Did you remonstrate with them? Yes.

Some time after this, did you see them return? They turned to go towards the College. I remonstrated with them, and they went back.

Did you see the same or a similar mob thereafter? Yes, they immediately returned. I was going direct up to the Police Office or Council Chamber, and before I got round the Tron Church they had turned again. I supposed they were going up the High Street, and I went by Hunter Square. They went towards the North Bridge.

They were the same mass of people? Yes.

United as for some purpose? Yes.

What class would you say they were of? Certainly students.

Let us come to the next day. Do you remember on Friday morning some police-officers being sent to the College? Orders were given to the policemen to be there on Friday morning before nine o'clock, to prevent the town's people annoying the students.

You did not observe any disturbance on the morning of Friday? Not in the morning.

About what time did you observe it? Some time between one and two o'clock; but I do not speak positively as to time; it might be near two o'clock.

Did you observe any thing in front of the College? Understanding there was a mob, I went up to the College. I found students in front of the