

DSEi court case thrown out

Jon Emmett

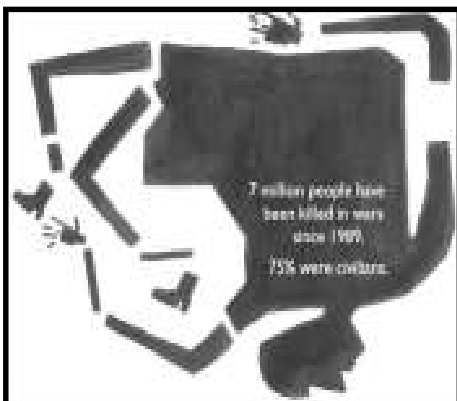
The court case against an anti-arms trade protester was thrown out last month when magistrates ruled she had NO CASE TO ANSWER. She had been arrested in September this year, where the ExCel Centre in East London host DSEi, the world's biggest arms fair, and was charged with trespassing on a railway.

Background

Gwyn Gwyntopher entered Custom House DLR Station in East London, intending to go through it to get to the ExCel Centre. The station is sign-posted as a public route to ExCel, and was being used as such by arms dealers throughout the day, to get to the pub on the other side of the railway in order to unwind after a stressful day of torture and murder.

In previous arms fairs, and even on the previous day, Gwyn had been allowed by ExCel bigwigs onto ExCel property to hand out leaflets. She approached the guards on the boundary of ExCel's property, hoping to be allowed through. CCTV played in court showed that after a conversation lasting about three seconds, she was approached by British Transport Police.

No arms dealers doing the same thing as her were accosted by police. But then, they weren't wearing signs on their backs saying "Remember the victims of the arms trade." In court, the three officers accepted that she had not behaved unlawfully before they approached her. She hadn't distributed leaflets, shouted or been abusive - she had even stood in a corner to avoid obstructing people walking past. It was absolutely clear from the evidence that she was targeted for expressing a political opinion, though the prosecution sought to deny this, and skirt around the issue (to the extraordinary extent that in her opening speech, the prosecutor specifically said "This is not a political case.")



The police asked her to leave, and she offered to do so - via the ExCel exit. Police decided this was impossible, as ExCel guards weren't letting people through without DSEi passes. But why was it any business of the British Transport Police that she didn't have a pass to get into ExCel? Because going through ExCel exit might upset the sensitive souls of the merchants of death she would be walking past. The police solution was three burly men handcuffing the 66-year-old, dragging her across concrete to the lift and then into a waiting van.

In court

The prosecution case relied on a piece of beautifully circular logic. They said that Gwyn was not trespassing when she entered the station. She became a trespasser when police asked her to leave - because of the very fact that she refused their request for her to leave. A kind of self-fulfilling crime. The offence of trespassing on a railway is committed when someone refuses a request by an "Agent or officer" of the railway to leave. There are several points in answer to this charge, the main ones being:

1) Gwyn did not refuse to leave. She said repeatedly to police at the scene, and in interview, that she was happy to leave, but only via the ExCel exit - which would take her sign nearer to the arms dealers. It became clear that the police's interest was not in removing her from DLR property, as they claimed, but in avoiding the consciences of arms dealers being pricked. The prosecution said that officers were entitled to impose any conditions on her exit that they wanted, and that she was not allowed to have any say in the route of her departure. The defence said the opposite, as there is nothing to give these powers to police in the Act under which Gwyn was charged.

2) She was not committing an offence at the point officers approached her. Trespass is a civil matter, and



Gwyn Gwyntopher

therefore one which police are not allowed to intervene in; trespass on a railway is a criminal offence. Trespass is entering onto, or remaining on, someone's property without their permission. In the case of a railway station, you are invited as a member of the public to enter it. You therefore have to do a specific thing for the railway company to revoke their permission for you to be there. Like busking, or fighting. The prosecution accepted she had not done anything like that.

3) The police are not "officers or agents" of the railway landowners, a company called Serco. They are patrolling as police, and the land they patrol on happens to belong to Serco. They are therefore not entitled to act as enforcers of Serco's property rights. In approaching her before she had broken any other law, they had assumed delegated responsibility for the point at which Serco decided they withdrew permission for Gwyn to be in the station. They had no authority to do this.

At the end of the prosecution case, Gwyn's lawyer made a submission to the magistrates that she had no case to answer - i.e. that the prosecution case could not only be argued against, but that the court had NO EVIDENCE at all from the prosecution which it could convict her with. The magistrates agreed with this submission, and the court dismissed the case.

For the defendant not to have to say a single word to defend herself is as good as the court saying that the case shouldn't have been brought in the first place. A proud day for freedom of expression, and a poke in the eye for police powers being used to protect arms companies!

Making MPs accountable

Mark Thomas

First... Buy a badge if you can from www.markthomasinfo.com.
Second, get snapping...

This is your chance to make MPs live with the consequences of laws they pass. All you have to do is snap a photo of an MP when they are doing TV or radio interviews on College Green opposite Parliament and send it in to gotcha@shopanmp.com. We will then try and get them investigated by the Director of Public Prosecutions. Here is why and how...

In August 2005 it became illegal to demonstrate in and around Parliament Square without prior police permission under the Serious Organised Crime and Police Act (SOCPA). So far Maya Evans has been prosecuted and found guilty of an offence under this law for reading out the names of the British and Iraqi war dead by the Cenotaph in Whitehall.

People have been threatened with arrest for wearing T-shirts with political slogans on them and for having cakes with the word PEACE iced upon them on display in Parliament Square. Mark Thomas had to get permission to wear a red nose on Red Nose Day or run the risk of arrest. He even had to get permission to stand by himself with a banner saying "Support the Poppy Appeal". The law is stupid.

According to SOCPA, one person can constitute a demonstration; other than that there is little definition in law as to what a demonstration is. But if

a person breaks the law by reading the names of the war dead and the Oxford English Dictionary lists a definition of a demonstration as *an expression of opinion*, then surely each time an MP gives a TV or radio interview about politics or politicians on College Green then they are demonstrating – and if they are demonstrating without permission, that is illegal.

Mark Thomas, with lawyers Leigh Day and Co (advised by Tim Owen QC of Matrix Chambers and Tom de la Mare of Blackstones Chambers), delivered a letter to the Director of Public Prosecutions on Wednesday 12 December calling for an urgent investigation into allegations that MPs had broken the law – including the Prime Minister Gordon Brown. Any new evidence of MPs giving interviews on College Green will be forwarded to the Director of Public Prosecutions.

Here is how you can help. If you live, work or are visiting London and walk past College Green (opposite the House of Lords entrance) and you see an MP giving an interview then:

- (1) Photograph them with your phone (make sure we can identify them).
- (2) Send your photo in to us with details of time and date.
- (3) If you hear any of the interview then send us the details.

We will follow up the interview and shop them to the DPP.

Spotter

It has come to our attention that our own Wrexham MP Ian Lucas may have been in breach of SOCPA sections 132-138 when he stood in Parliament Square holding a picture to illustrate his opinion that the Union Flag should be updated. In a debate in the Commons on 26 November, Lucas said: *The flag that I would like to see would represent all four parts of the United Kingdom, with the cross of St. George, the saltires of St. Andrew and St. Patrick and the red dragon of Wales.* The story was reported in both local and national media.



Artist's impression of Ian Lucas demonstrating with his flag

Spotter has studied the Commons votes on these sections of SOCPA. In Feb. 2005, Ian Lucas voted in favour of the clauses in the Bill that made it a criminal offence to demonstrate without prior authorisation – even by yourself – within a designated area around Parliament, that specified exactly how authorisation must be sought, and that set the penalties for failure to get authorisation. From this, it seems clear that Lucas is fully aware of SOCPA and in favour of these draconian restrictions on our – and his – freedom of expression.

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