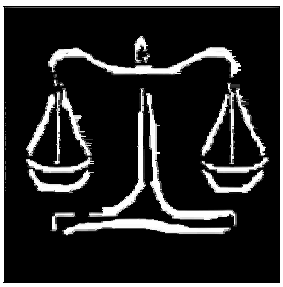
Libertarian Alliance

DOES THE JURY SYSTEM REALLY WORK? REFLECTIONS ON TWO DISPARATE TRIALS HELD AT CROYDON CROWN COURT

Charles Earl



Charles Earl in an independent researcher and author.

Legal Notes No. 48
ISBN 1 85637 600 1
ISSN 0267-7083

Libertarian Alliance

For Life, Liberty, and Property

Suite 35
2 Lansdowne Row
Mayfair
London
W1J 6HL

Telephone: 0870 242 1712
Email: admin@libertarian.co.uk
Website: www.libertarian.co.uk

DOES THE JURY SYSTEM REALLY WORK? REFLECTIONS ON TWO DISPARATE TRIALS HELD AT CROYDON CROWN COURT

Charles Earl

A Fair System?

In the summer of 2003 I spent some time at Croydon Crown Court following a lengthy fraud trial. During frequent adjournments for legal argument I flitted between the various courtrooms giving other cases the once over, partly for my own amusement and partly to kill time. The outcome of the major trial astounded me, and that, together with the outcome of a much briefer trial, might well have dented my belief in the jury system at a time when the forces of darkness are trying once again to restrict and perhaps eventually to abolish this honoured ancient institution in order to replace it entirely with trial by the state.

Anyone who has ever had the dubious pleasure to appear in a magistrate's court will understand what I mean. There is first and foremost a presumption of guilt. The testimony of the police is taken more or less as gospel, and any defendant who accuses police officers of dishonesty is likely to be treated not only as guilty but as mentally ill. Dishonest police officers and misleading prosecutors are simply not on the menu.

The First Trial: Innocent?

That being said, some of the verdicts returned by juries beggar belief, none more so than the two cases to be revealed here. First and foremost, Miss X. I will not allude to her by her real name, as this would serve no point. Miss X stood trial at Croydon in July. Her trial lasted two days, and she was indicted for two (alternative) extremely serious offences.

The facts of the case as presented by the prosecution—and with the exception of the charges more or less agreed by the defence—were as follows.

Miss X was a single mother. She had attended a party at a neighbour's house with her five-year-old daughter and four-year-old son. The party did not go well for Miss X; she had been drinking heavily, and when her daughter came up to her and told her that the man of the house had pushed her over, she flew off the handle. There was no suggestion of any sexual impropriety here although the context of this alleged minor assault was not made clear (at least not to me).[1] It may have been just rough and tumble, or it may have been that he was enforcing discipline amongst a group of high-spirited kids. It is possible that the incident may not have happened. Whatever, Miss X had other ideas. She had also had five half litre cans of strong lager, and she waded into this guy. Under cross-examination it was put to her that she had assaulted him ferociously, and that she was ejected from the house. It was not disputed that her father had collected her, and that when they got home he sent her to her room. This was a woman of nearly thirty, be it noted.

Under other circumstances, the incident might have ended there, but Miss X was hell bent on revenge. After midnight, she climbed out of her bedroom window in her pyjamas and socks, and broke into the house by the back door. She was in the process of stealing a jewellery box and the husband's wallet when she was disturbed by the lady of the house. She had also placed two kitchen towels on the gas stove and was clearly trying to torch the place. She fought with the occupant before fleeing over the back fence.

An hour and more later she phoned the police and told them she had been falsely accused of attempted arson.

In court she said that the lady of the house had phoned her and invited her back to the house where she had shown her the jewellery box. Phone records did not support this claim. There was some suggestion that Miss X had removed this box from the bedroom earlier in the evening. In court she claimed that in the kitchen after midnight, the lady of the house had gone through her husband's wallet but Miss X had thrown this on the floor saying she wouldn't go through it herself because it was personal. It was put to her under cross-examination that she had made up this story because she knew her fingerprints would be on it.

As to the attempted arson, she denied this emphatically. Instead she said that her (former!) friend had been responsible, and that she told Miss X that she was doing "an insurance job". (It had been established earlier that the house was not insured). Miss X was of course horrified at this, especially as there were two children asleep upstairs. She stuck to this absurd story under cross-examination.

Other commitments kept me away from the courtroom after she had given evidence, but I had seen enough. Among other things she had told clearly provable lies

which were exposed in court, and the prosecuting barrister drew this to the attention of the judge in the absence of the jury. Although he exposed her lies he was careful not to "over-prosecute". Miss X was the only defence witness, and there was no re-examination. Hers was the most absurd defence I had ever heard, and I expected her to be summarily convicted. To my surprise—and horror—I was informed later by the court usher that the jury had found her not guilty after three-quarters of an hour's deliberation.

The Second Trial: Guilty?

Events in the other courtroom took an entirely different turn, but first some background. Roger Eden, Geoffrey Brailey, and John Abrahamson had pleaded not guilty at a pleas and directions hearing at Kingston Crown Court. The trial had subsequently been moved to Croydon where it opened on June 30 and dragged on into mid-September, finishing ahead of schedule!

The three men had been on the board of Corporate Services Group. Abrahamson was an accountant, Brailey had been the finance director, and Eden the Chief Executive. Abrahamson faced one charge, and Eden and Brailey two charges. Defence Counsels for the three defendants had tried to have the case thrown out at Kingston. The case against Abrahamson had looked particularly weak. The judge had heard lengthy submissions and summarily dismissed all three applications.

The case was on the face of it an extremely complicated fraud trial. There was no suggestion that any of the defendants had put their hands in the till, rather they were said to have misrepresented the financial worth of the company in order to dupe investors and potential investors—who had then seen the share price tumble. There had certainly been some fraud at a lower level, indeed this had been perpetrated by at least one prosecution witness who quite blatantly admitted that she had fabricated invoices on the instructions of another prosecution witness using the names of relatives and old school friends. Neither of these women nor the company's founder were in the dock, even though he had been named in the indictments as a co-conspirator. Other prosecution witnesses sounded more like defence witnesses; the case against the three accused was incredibly weak, and it seemed most unlikely that the prosecution would be able to make a silk purse out of a sow's ear.

The star witness was an accountant named David Lake who had recently joined the firm. Whilst I do not for one moment question Mr Lake's integrity, the entire case against the three defendants—such as it was—seemed to be based on his paranoia. He had found or been shown some *dodgy* invoices, and had panicked when the other people at the top of the tree didn't react with the same horror he did.

My own view of what happened is as follows:

CSG was involved in contracting labour and in training people in the computer field. The company had received grants from the government for each person it trained and who qualified, and this had led to widespread fraud at a lower level. This is well-documented, indeed a while back there had been a national scandal when it was revealed that the Individual Learning Accounts (ILAs) the government had set up to widen computer literacy amongst the workforce and general population had been milked by sundry training organisations.

Because of lack of controls, and the autonomy of individual branches, this sort of fraud had been rampant at CSG. The people at the top had become aware of this to some extent, and Eden and Brailey in particular had tried to cover it up in order to protect the company. Although this may technically be fraud it seemed to me to be a sensible thing to do, and again I must stress that neither of the three defendants ripped off the company.

The person who commissioned me to cover the trial was of a different opinion. He had developed a conspiracy theory—which involved a peer of the realm—and Brailey. They had set up Eden as the fall guy while they had plundered the company; furthermore they had done this sort of thing before. Although I am myself an ardent believer in conspiracy theories,[2] I thought this was rather fanciful. It may be that investors had lost money but personally I have neither time nor sympathy for people who play the stock market—which is more akin to gambling than investing. If they are prepared to reap the rewards of speculating they must also be prepared to pay the price when lucrative but high-risk investments go belly up.

At the end of the prosecution case, Counsel for Abrahamson appears to have made a successful submission of no case to answer. Whatever, the accountant was not present when I looked in later after Eden had given evidence in his own defence. It was with some considerable shock that I learned later that both the remaining defendants had been convicted and were given quite heavy sentences.

How Can This Happen?

How could the juries in these two case have got the verdicts so wrong?

The left never cease telling us how biased (read *racist*) is the criminal justice system and everyone associated with it. This alleged bias is based primarily on the wil-

ful misrepresentation of often bogus statistics, usually relating to the number of black men stopped and searched by the police in areas such as Brixton. My own experience of the criminal justice system paints a far more depressing picture. While the police most definitely have a pecking order, and blacks may well be at or near the bottom, injustice like justice is truly colour blind. Injustice afflicts all regardless of race, religion or status. It doesn't matter if you're black or white, Catholic, Protestant, Moslem, Jew or non-believer. Sometimes it doesn't even matter how much money you've got.[3] Indeed, in the CSG case the defendants were—in my humble opinion—convicted primarily because they were wealthy.

David Lake, the aforementioned star prosecution witness, told the court that his starting salary had been £175,000, which was, in his words "slightly on the low side". Another—and far more charismatic—prosecution witness, was on an even higher salary.[4] Ordinary working people who are forced to sit through months of testimony from and legal argument on behalf of such privileged soporific bores might consider their time wasted if they return verdicts of not guilty. They might also feel more than a little alienated, and perhaps even vengeful. All the same, it is difficult to see how any jury could have convicted on such nonsense. It is even more difficult to see how a jury could have acquitted in the other case.

I thought Miss X had been on bail, because she had been allowed out of the dock and indeed out of the courtroom during the proceedings, but the usher told me she had previously been in custody. She also told me that her daughter and son had been sired by different fathers, which together with the stupid grin on her face was an accurate barometer of her intelligence. The usher and I agreed that the jury must have felt sorry for her. It is simply not possible that even the most credulous or stupid of jurors could have believed her absurd defence. I would have had no hesitation in convicting her because but for the grace of God she could have killed four people, two of them kids, which makes her potentially more dangerous than Ian Huntley.[5] But, the fact that she was thirty years old, a single mother, and of previous good character evidently convinced the jurors that this was a one-off and that she would never again do anything as stupid or as evil as long as she lived. I hope they are right.

But It's Still Worth Keeping

Having seen two juries return such perverse verdicts, the reader might ask why I am such a staunch defender of the jury system. It is not that I am in love with it, it is simply that the alternative is far, far worse. While a judge sitting alone or a panel of judges would certainly have rightly convicted Miss X, it is by no means clear that they would have acquitted Eden and Brailey, or Abrahamson for that matter. Bear in mind that it was the state (through the Serious Fraud Office) that brought this prosecution, and at a pre-trial hearing the judge had summarily dismissed a submission of no case to answer by all three defendants. I have also had the misfortune of facing a criminal trial myself.

After spending six months on remand fitted up by a bent copper, having heard all manner of lies and innuendo spread about me, and then hearing an outrageously biased summing-up by a judge who was equally determined to destroy me for no better reason than he had that power, I was cleared of all charges and walked free a sadder and wiser man. A juryless court would have convicted me, and I wouldn't be sitting here now.

It is a pity that Eden and Brailey were convicted, Eden certainly didn't deserve it, and Brailey might not have either, but as I said, it is by no means certain that they would have walked free had their fates been in the hands of *professionals* (read paid servants of the state). And in the case of Miss X, it is, as the saying goes, better for ten felons to walk free than one guilty woman hang.[6] Leaving aside the fact that this one was as innocent as O.J. Simpson!

Notes and References

(1) As stated, I was flitting between courtrooms; my commitment was to covering the fraud trial—for which I was paid.

(2) But not all of them, I'm one of those weird people who believes that basically the US Government told the truth about the Kennedy assassination and that Oswald was a lone nut.

(3) Convicting a millionaire is often no more difficult than convicting a pauper, but try getting a bent copper in the dock!

(4) Like most of the prosecution witnesses, she sounded more like a defence witness.

(5) For the benefit of overseas readers and future generations, Ian Huntley is the monster who murdered ten-year-olds Holly Wells and Jessica Chapman in August 2002. His trial the following year provoked saturation coverage of the British media for weeks.

(6) The full and correct quote and citation is as follows: "...all presumptive evidence of felony should be admitted cautiously: for the law holds, that it is better that ten guilty persons escape, than that one innocent suffer." William Blackstone Esq. Solicitor General To Her Majesty, *Commentaries On The Laws Of England. Book The Fourth,* Oxford, The Clarendon Press, 1764, p. 352.