

## The Old Bailey conviction of Peter Hain

by Francis Bennion

Peter Hain is wily, ambitious and intelligent. He means to get to the top in our country, and is well on the way to succeeding. He seeks, out of overweening ambition, to rule the British - yet is unfit to do so. The British need to wake up to this. Hain is gathering influential supporters. The noted political commentator Anthony Howard said: 'I grow increasingly impressed by Peter Hain, Minister of State for Europe . . . Hain has matured remarkably well'.<sup>1</sup> Howard went on to mention that Hain, following his leadership of illegal direct action interference with 1970s sporting tours against South African teams, had faced a trumped-up charge of bank robbery, and was 'triumphantly acquitted, becoming something of a national celebrity'. Howard failed to remind his readers that in the meantime Hain had been convicted at the Old Bailey, after a ten-day trial, of criminal conspiracy in relation to his direct action campaigns against South African teams touring Britain.

Hain's direct action campaigns were conducted in Britain on the pretext that minority rights were threatened. In an enlightened democracy such as Britain, where justice and tolerance flourish, there can be few genuine instances of the oppression of a minority. Disagreement must never be mistaken for oppression; for disagreement is a distinguishing feature of free human societies. Where in a democracy the majority does seek to oppress a minority the latter are morally, if not legally, entitled to resist. However to be in conflict with the established order is not necessarily to be an agent of enlightenment. I am not oppressed because I say I am oppressed; nor even because I think I am oppressed. In a democracy, a minority is not entitled to use illegal force where no force is used against it. To use such force in the promotion of a private opinion related to affairs in a distant country is tyrannous. The fact that the opinion is altruistic compounds the tyranny by making it plausible to the unthinking.

The *illegality* of direct action marks it as undemocratic; for the rule of law is the hallmark of democracy. As José Martí said, the dagger plunged in the name of Freedom is plunged into the breast of Freedom. Ballots, said Abraham Lincoln, are the rightful and peaceful successors to bullets. Where ballots flourish, there can be no place for bullets. The armalite does not belong alongside the ballot-box: they are in different worlds. Freedom under democratic law is inviolate. Unlawful force deployed to advance an opinion is to be rejected. The place to advance an opinion is the assembly.

My own prime direct action target was in fact this very Peter Hain, a South African immigrant to Britain who showed little respect for the historic *mores* of the home country that so kindly welcomed him. In the early 1970s I prosecuted Mr Hain for organising unlawful direct action in Britain as part of his campaign against apartheid in South Africa. I was personally opposed to the South African system of racial segregation. Indeed I am perhaps the only person to have addressed Boer or Afrikaner audiences at public meetings in South Africa and been cheered after telling them of my opposition to their philosophy. Nevertheless I was sympathetic to what faced the whites after the Communist Nelson Mandela achieved power.

Your report (26 January 1990) that 'Comrade' Nelson Mandela insists on retaining links with Communists and nationalising the key sectors of the South African economy was an eye-opener to those of us who have long supported majority rule. How can we

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<sup>1</sup> *The Times*, 8 January 2002.

expect the whites to relinquish power when that is the alternative staring them in the face?<sup>2</sup>

Of the official ending of apartheid with the ascent to power of the black African Nelson Mandela, the acutest comment I know is this: 'In ten years' time life for all races in South Africa will be worse than under apartheid'.<sup>3</sup> That prophecy has been amply borne out by events.

The story of my private prosecution of Peter Hain is too complex to be unravelled here.<sup>4</sup> The best thing I can do is reproduce my widely-circulated leaflet *Why I am prosecuting Peter Hain*. What follows is the full text of this.

### **The Facts**

In the March 1970 issue of *Challenge*, the Young Communist magazine, Peter Hain wrote-

The campaign against the all-white South African Rugby team provided us with a perfect springboard upon which to mount a sustained and militant campaign to stop the cricket tour this summer . . . Local groups and activists have been mobilised throughout the country in preparation for the 'Seventy Tour'. In addition, it cannot be over-emphasised that *we have stopped over half the tour* - this in itself is a pretty staggering achievement . . . an important part of our build-up strategy will be to mobilise the trade union movement in support of the campaign. This will be an area where we shall need the active support of young workers and particularly Young Communists . . . In the final analysis, though, this campaign will be won on the strength of our commitment to direct action. STST's basic organising tactic has always been to stop the games. We have not been prepared to continue with the tactics of patient petitioning and polite protesting . . .

On 22 May 1970 Mr Hain's 'Stop the Seventy Tour' Campaign achieved the other half of its stated object, and the remainder of the proposed tour of South African cricketers was called off completely. The cost to the MCC and cricket counties has been authoritatively estimated at £140,000. In cancelling the tour the Cricket Council were obeying a formal request by the British Government. The Council deplored 'the activities of those who, by intimidation of individual cricketers and threats of violent disruption have inflamed the whole issue'. The grounds for the Government's request were stated by the Home Secretary, Mr. Callaghan, as being the possible impact of the tour on race relations, its divisive effect on the British people, and the diversion of police resources. Mr Hain's campaign having done its work, these factors had reached the danger mark.

The invitation to the South African cricketers was lawfully extended by the MCC four years ago. Arrangements were made for them to play twenty-eight matches in a stay of four months. Many thousands of people would have attended these matches; millions would have watched them on television. All these activities were entirely and undoubtedly within the law of this land. They were prevented from taking place by the unlawful activities of Mr Hain and his associates.

### **How do I stand on Apartheid?**

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<sup>2</sup>*The Independent*, 29 January 1990.

<sup>3</sup>Philip Skelsey, in a competition for 'what everyone thinks but nobody says': *The Spectator*, 6/23 December 1995.

<sup>4</sup>It is told in Derek Humphry, *The Cricket Conspiracy* (National Council for Civil Liberties, 1975).

How I stand on Apartheid is totally irrelevant, because Apartheid itself is totally irrelevant to the issue on which my prosecution of Peter Hain is based. In fact (to be irrelevant for a moment) I am opposed to Apartheid, and all other racialist doctrines. I have worked with coloured people in many countries and have a lot of friends among them. Some years ago, when (on secondment from Whitehall) I was working in West Africa, I met a man who was my intellectual superior in every way. He was a classical scholar, the first black African to be elected a Fellow of All Souls - that pinnacle of English intellectual achievement. He was a walking demonstration of the folly of judging people by the colour of their skin. But not all demonstrations are equally agreeable.

### **Am I opposed to demonstrations?**

Britain has taught the world what liberty means. We are the most tolerant nation on earth, and this is reflected in our laws and constitution. In many leading cases in our courts the right to demonstrate has been established. So too has the right to hold public meetings in the street, to organise processions, to use loudspeaker vans, to distribute broadsheets, to put up posters. Any methods of persuasion are lawful, and rightly so, provided they do not go *beyond* persuasion, provided they do not defame the innocent or inflame the gullible. So it follows that I am not against demonstrations - not even when they are carried out by youngsters with long hair and exotic dress.

### **Am I against the young?**

A stupid question. One might as well be against life itself. Most of our young people are admirable, and where they are not there is usually some good reason for it. The idealism of the young, and their hatred of injustice, oppression and prejudice is a most valuable quality in our society. Young people sacrifice comfort, leisure, money - even, in rare cases, liberty and life itself to further causes they believe to be right. They constantly remind those who are older of the need to re-examine settled institutions, to assert principles and to defy tyrannies. They see with clear eyes, take nothing for granted, and demand proof of all our ingrained assumptions. This is healthy. From their elders in return the young need discipline, and instruction in the old, abiding values.

### **Am I a 'Monday Club reactionary'?**

I am not a member of the Monday Club or any similar group. Some might think me reactionary, but this is because I fervently believe that a new doctrine is not necessarily right just because writers in the liberal press feel in their bones, and altogether agree, that it is right. This generation suffers from a peculiar form of arrogance, which is that the truth is what liberal intellectuals feel intuitively in 1970 is true. The fact that sincere, intelligent people believed in the recent past that quite different things were true is dismissed or not even thought of. The eternal verities are not to be discarded so easily. Courage, unselfishness, sympathy, tolerance, truth and justice remain what they always were - the basis of civilised society.

### **Should the Tour have gone on?**

I was disappointed when the tour was cancelled because I agree with the Cricket Council's view that cricket is a wonderful improver of racial harmony and the South Africans would have benefited from playing multi-racial teams here. All cricketers know (and I am proud to be a cricketer myself, even though one of the rabbits) that this a game which really does build the qualities that make character - courage, judgment and the ability to mix. A man's real nature shows pretty quickly on the cricket field, and cricketers are accustomed not to care about a player's social class or the colour of his skin. It's his skill as a cricketer and his qualities as a man that count every time - and that's why cricket is important in improving

race relations, and why the coloured cricketers in England are bewildered and unhappy at the recent intimidation they have suffered. But this is something else that's irrelevant, because my case against Peter Hain does not depend on whether or not it was right, in the circumstances of May, 1970, to cancel the tour.

### **What is my case?**

My case will be presented to the court, and I mustn't anticipate that here. But I can say why I decided to bring it. There's only one point, and it's quite simple. Agitators must not be allowed, however good or bad their cause may be, to stop the lawful activities of others. I don't care whether it is Peter Hain stopping lawful cricket matches (and all the other innocent activities associated with a sporting tour), or a handful of extremists shouting down the Foreign Secretary in the Oxford Union, or a gang of students occupying the administrative buildings at Southampton University, or - most heinous of all perhaps - Welsh language militants bringing the work of the High Court itself to a standstill. It is quite irrelevant what the reason is. No cause can justify the lawless disruption of a lawful activity. Freedom under the law is the proud boast of the British Constitution. The law, and nothing else, must determine what activities are forbidden.

### **What is the answer?**

Our young people must be taught the meaning and importance of the Rule of Law. If it is thought to be wrong to invite South African cricketers to play in Britain, the answer is to persuade Parliament to pass a law making it illegal to do so. We are a democracy. We elect our representatives by an elaborately fair process. It is for them to decide whether to outlaw a particular activity - after full consideration and debate. Unless and until they do so it is a dangerous impertinence for the Hains of this world to take the law into their own hands. What a nerve they have - what colossal cheek! Someone must, for the sake of us all, take the initiative in checking the spread of such presumption.

That is why I am prosecuting Peter Hain.<sup>5</sup>

The above is the text of my 1970 leaflet, given in full. The precise explanation given in it did not save me from misreporting. Before going on to deal with that I should expand a little on something I said in the leaflet, namely that a new doctrine is not necessarily right just because current liberals think it is, and that it may be a mistake to dismiss a quite opposite thing that sincere, intelligent people recently believed in. The ensuing quarter century, with the rise of so-called political correctness, has convinced me of the truth of this. I am not alone. For example Martin Amis criticised Andrew Motion's biography of Philip Larkin as a policeman-in-the-head kind of book in which Larkin is dutifully rapped over the knuckles 'every time he oversteps current *bien-pensant* feeling about all the sensitive topics'.<sup>6</sup>

After a ten-day trial at the Old Bailey the prosecution against Peter Hain, brought in the name of my voluntary organisation *Freedom Under Law*, was successful in securing a conviction on one count. On the others the jury disagreed. Hain's supporters naturally sought to whitewash his activities. Naturally I riposted.

Lord Avebury's statement (Letters, 31 August 1975) that the Hain campaign was not illegal is untrue. Having been actively involved in Mr Hain's defence to my prosecution, Lord Avebury must know that Mr Hain's 'acquittal' on which he relies, was a technical one. The jury did not acquit Mr Hain. On three of the four counts they could not agree and had to be discharged. On the fourth they convicted. If the

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<sup>5</sup>The leaflet is dated 27 May 1970.

<sup>6</sup>*The Times*, 8 March 1996.

prosecution had been a public one, Mr Hain would, as a matter of course, have been retried. Having already spent £40,000 on the prosecution, I could not afford this and so he escaped. Lord Avebury wants his statement that 'Mr Hain dealt a mighty blow against apartheid' to pass into folklore. In fact what Mr Hain (and his supporters) dealt a mighty blow against was the rule of law and the idea that grievances should be dealt with by orderly democratic procedures rather than mob violence.<sup>7</sup>

On 24 July 1964 the African Resistance Movement told the Johannesburg Railway Police that a bomb had been planted in Johannesburg Railway Station. This bomb later exploded, injuring 23 people. John Frederick Harris, a school teacher, was charged with the offence, convicted and hanged. At his cremation the young Peter Hain, whose family had been friendly with Harris, stood up and recited a passage from Ecclesiastes chapter 3: 'A time to kill and a time to heal; a time to break down and a time to build up . . .'<sup>8</sup> Hain obviously sympathised with Harris. He thought terrorism could be justified by the motives of the terrorist. In other words, he held the flawed philosophy that the end justifies the means. This philosophy he put into practice in stopping South African sporting tours. His conviction of criminal conspiracy shows the law disagreed.

In the passage mentioned above Anthony Howard says that next time there is a vacancy in the office of Secretary of State for Foreign Affairs the Prime Minister of our country is likely to appoint Peter Hain to that high office.<sup>9</sup> What would that terrible betrayal say to the World about the British Government's sincerity in the fight against terrorism? It must not happen.

January 2002.

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<sup>7</sup> *Sunday Times*, 22 September 1975.

<sup>8</sup> The incident is reported in Gordon Winter, *Inside Boss* (Penguin Books, 1981) at page 100.

<sup>9</sup> *Times* 2, 8 January 2002.