

Libel case focuses on collusion between security forces and Loyalist paramilitaries in northern Ireland

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A libel trial began this week that will focus attention on the issue of collusion between security forces and loyalist paramilitaries in northern Ireland.

The case, which is before the London High Court, has been brought by television documentary maker, Sean McPhilemy, against the *Sunday Times* newspaper. In 1991 McPhilemy produced a documentary, *The Committee*, for Channel 4 television's *Dispatches* series. Broadcast on October 2, 1991 it alleged that a committee of businessmen, members of the security forces and politicians met with loyalist paramilitaries to discuss the murder of Catholics. One of the victims mentioned was Belfast civil rights lawyer Pat Finucane whose murder is under investigation by the Stevens Inquiry.

The *Sunday Times* newspaper later denounced the programme as a hoax. McPhilemy is suing Times Newspapers Ltd, journalist Liam Clarke and the then editor of the *Sunday Times* Andrew Neil, for the paper's May 9, 1993 article headlined "Film on Ulster death squads a hoax". The article went on to claim that the documentary's makers "stand accused of producing little more than a collage of unsubstantiated rumours and fabrications".

The trial opened Tuesday January 25, with McPhilemy's counsel arguing that his client had been robbed of his livelihood by the *Sunday Times* allegations of deception. James Price QC said that the accusation "has meant that people who commission current affairs programmes no longer want anything to do with Mr McPhilemy."

The court heard that in early 1991, McPhilemy had discussions with a researcher named Ben Hamilton about the Brian Nelson case. Nelson was the chief

intelligence officer of the loyalist paramilitary Ulster Defence Association who was also found to be working for British Army Intelligence. Nelson's case is now well documented, having been discovered during an investigation into the murder of Pat Finucane. The results of the Finucane investigation, however, were never officially published and only came to light when they were published some years later in the *Daily Telegraph*.

Price said that Nelson's arrest at the time of Finucane's murder had revived widespread rumours of collusion between the army, the Royal Ulster Constabulary (RUC) and the Ulster Defence Regiment with loyalist terrorists.

"The question is whether it involved a few bad apples or was more widespread and institutionalised and reached into the higher ranks of the security forces," he said.

McPhilemy, who ran his own company called Box Productions, discussed the project with Channel 4 which agreed to give him funding for the programme. Hamilton contacted Martin O'Hagan, a journalist at the *Sunday World*, who suggested he talk to a Northern Ireland loyalist who was active in the campaign for an independent state of Ulster. This source, who was later identified as James Sands, claimed insider knowledge of collusion between loyalist paramilitaries and the RUC, right up to senior levels.

Appearing on the programme in silhouette with a voice-over, Sands alleged there was a group within the RUC called the "Inner Force". Ruled by an "Inner Circle" it had colluded with the committee in the murder of several Catholics, including Finucane. Asked in the programme, who had killed Pat Finucane, Sands

said they were people connected with the Ulster resistance with the help of the "Inner Force".

Price told the court that following the programme the Chief Constable of the RUC announced an inquiry into the allegations, saying they were without foundation. The RUC sought no further information but were given an order under the Prevention of Terrorism Act in the High Court in London, demanding that Box Productions and Channel 4 reveal their sources. When they refused they were fined £75,000. Sands was taken in for police questioning and retracted his allegations. The inquiry into the allegations of collusion found no evidence against police officers.

The *Sunday Times* article claimed that Sands said he was promised £5,000 by the documentary makers to recite a prepared script and that he did not know whether what he was saying was true or not. The *Times* also alleged that another participant was paid to recite a script.

Price said that McPhilemy was convinced that Sands was telling the truth and that he will give his reasons in the witness box. He continued: "Sands may have been telling the truth or he may not have been telling the truth. He might have succeeded in pulling the wool over the eyes of the programme makers. But that is a completely different question and is not what the libel trial is about.

"Did Sean McPhilemy and the other programme makers collude with Sands to produce a hoax, a charade, a fraud?" Price asked. The original film showed that there was no prompting of Sands and on the table in front of him was a magazine, not a script, Price told the jury.

Whatever the truth or otherwise of Sand's version of events, it is beyond question that the programme makers were justified in bringing the allegations to public attention. The fact that they were subject to a campaign of intimidation by the British state and their servants in the big business media illustrates the politically sensitive character of the issues they were highlighting.



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