

Transcript of programme about

FB's prosecution of Peter Hain in 1972

(Broadcast on Radio 4 in the 'Politically Charged' series)

Crowd: Apartheid, Apartheid, Apartheid.

Peter Hain: I am proud I took part in those events. Perhaps one of the most significant things I did in my political career, in stopping those sports tours because, as Nelson Mandela told me when he got out of prison, they were decisive blows against apartheid. He thought perhaps the most decisive.

Crowd:

Francis Bennion: The way a civilized society conducts itself is by reasoned debate and decision on whether to change the law, and until the law is changed in that way you do not allow crude force to have its effect. That is a defeat for democracy.

Clive Anderson: Nowadays the Right Honorable Peter Hain MP is one of the smoothest operators in the new Labour government. But in 1969 he was a stropky young Liberal who had come to Britain from South Africa, a determined opponent of apartheid. He, and many like him, were bent on stopping all-white South African rugby, cricket and tennis teams from playing in Britain. By hook or by crook tour matches were to be disrupted and disturbed until the tours were cancelled. Francis Bennion was a barrister and parliamentary draftsman offended by the prospect of something approaching mob rule. He took the unusual and expensive step of bringing a private criminal prosecution against Peter Hain. Like Hain, Bennion also claimed wide support among the public.

Francis Bennion: The people who supported my prosecution – and I had hundreds of letters – were very indignant about this interference with the right of the individual to carry out perfectly lawful activities.

Clive Anderson: Peter Hain was just 19 when he became chairman of the 'Stop the 70s Tour' campaign. He had come to Britain as his parents were forced to leave South Africa because of their opposition to apartheid and he felt he knew what made South Africans tick.

Peter Hain: I understood the psychological importance of sport to white South Africans and their *desperate* need to be in international sport, and I

was just fed up with the refusal of the sports authorities to take a moral position and realized the only way we could do that is stop the matches, and of course they were uniquely vulnerable.

Clive Anderson: So, he had strong moral and political grounds for opposing the tour but playing sport was a lawful activity. Was Hain prepared to act unsportingly, unlawfully or even violently to stop the games taking place?

Peter Hain: I was always committed to non-violent direct action. For example, running on tennis courts, as we did in 1969 in Bristol, or running on cricket pitches, sitting down and then being carried off, or we did some imaginative things like people ran on to Twickenham and chained themselves to the goal posts, the rugby posts, and had to be cut free, or an activist booked herself into the Springbok hotel, near Hyde Park, and gummed up the door locks of the Springboks' bedrooms so they had to break out in order to get to the match on time. So we did that kind of thing and, yes, it did shade over into potentially illegal activity though not on the scale which I subsequently found myself in at the Old Bailey.

Clive Anderson: But the protesters did many things that were wholly unacceptable and some certainly illegal, according to Bennion.

Francis Bennion: Shining mirrors in the batsmen's eyes, digging up pitches, scattering tin tacks on rugby pitches; that was the sort of activity.

Clive Anderson: Whatever the effects on the government in South Africa, these tactics had an immediate impact on the South African players. David de Villiers, the captain of the Springbok rugby team was a witness in the trial.

David de Villiers: We couldn't believe our eyes. The whole thing is the interruption, the psychological disturbances. We were mesmerized.

Clive Anderson: The protests were 24/7. The players were unable to relax on or off the pitch.

David de Villiers: Someone got into the bus and chained himself to the steering wheel and took off. We got through but it was never a pleasant experience because you were harassed all the time. You were a prisoner in the hotel, you couldn't walk the streets in most towns. It was adding to the frustration.

Clive Anderson: Peter Hain found himself in the dock at the Old Bailey charged with four counts of conspiracy. Under the ancient law which then applied,

even relatively minor offences taken together could lead to a substantial prison sentence. Francis Bennion.

Francis Bennion: What I say about conspiracy is that the real impact comes from the conspiracy, the agreement – it only means an agreement – to agree together and plan a wide-ranging series of disruptive acts is really what is important.

Clive Anderson: As the leader of the campaign, Hain appeared to be liable for anything done by anyone involved.

Peter Hain: It was Orwellian. I was charged with literally thousands of things that I couldn't possibly have done, as effectively the front man for the campaign, and in one case we had to call a teacher from Bristol who I had never met in my life before, who'd himself spontaneously had run on to a rugby pitch in Bristol and scattered tin tacks. Something for which I still get blamed by the way, and I have never believed in that sort of action. I had to call him as a witness to deny that we'd ever met, that it was his own idea and that was the oppressive nature and the political trial character of badging it as a conspiracy.

Clive Anderson: And when he says he called the teacher he means it literally. Halfway through the trial Hain sacked his legal team and presented the case himself. He was by then just 21 and not even a law student. Madness? Well, no, there was method in it, as Bennion recognizes.

Francis Bennion: That was a very clever ploy. He dismissed them and appeared as the sole pathetic youth all alone before the jury and appealed to the jury's sympathy.

Clive Anderson: One of the lawyers Hain decided he could do better without was a very youthful Geoffrey Robertson, later to become the eminent QC. He appreciated that without benefit of Counsel, Hain would have greater freedom to argue his case.

Geoffrey Robertson: The other advantage of Peter defending himself was that he wouldn't have to go into the witness box and be cross-examined.

Clive Anderson: That was particularly cunning, wasn't it?

Geoffrey Robertson: It was very cunning. Well, it was very carefully thought out because Peter was incredibly decent, very earnest but slightly boring. After four weeks of listening to Mr Hain make his case at extremely plodding length, I just breathed a sigh of relief. I didn't hold it against him at all.

- Clive Anderson: And as he didn't go into the witness box he couldn't be cross-examined. As it happens the prosecution had had its own forensic problems. Their key witness was Gordon Winter who they thought was a regular photo-journalist. He was to testify as to what he saw and photographed of the demonstrators in action.
- Francis Bennion: He started out saying what was in his brief and then began to markedly depart from it.
- Clive Anderson: To Bennion's increasing amazement, Winter downplayed Hain's involvement and chose instead to criticize the heavy-handed behaviour of the police.
- Francis Bennion: He built up in court an atmosphere of horror really . . . the terrible things he said the police were doing. I was very upset by it, of course.
- Clive Anderson: Apparently, unbeknown to Bennion, Winter was not an ordinary journalist at all, but a South African agent working under cover for the Bureau of State Security known as BOSS. For reasons of their own, Winter's bosses in BOSS ordered him to do the dirty on this prosecution. Hain could hardly believe his luck.
- Peter Hain: We were very startled, frankly, and it was only subsequently he admitted that he had actually been given instructions from Pretoria to keep his position as a sort of journalist, and agent underneath that, to keep it alive to fight for another day.
- Clive Anderson: So he could go on to set up Jeremy Thorpe apparently. That's his version of events.
- Peter Hain: Indeed, and also to other things.
- Clive Anderson: Hain's witnesses were not a straightforward bunch either. Geoffrey Robertson.
- Geoffrey Robertson: We had bishops galore, bishops and Liberals. I far preferred the bishops to the Liberals. I still remember – I'm haunted all my forensic life by a certain Liberal MP. My role was to rehearse them in their evidence and I'd take them to the coffee shop opposite the Strand and they'd say 'Oh yes, I believed in direct action.' 'Direct action for me', meant running on the pitch. Then I'd take them across the road into the witness box. First question: 'Were you really going to break the law and run on the pitch. Is that what you meant

by direct action?' 'Oh no, no, I just meant jumping up and down on the sidelines'.

Clive Anderson: I am not sure of your tactics here.

Geoffrey Robertson: The bishops were very good. I wasn't coaching, I was asking them what they would say. What they said they would say to me in the coffee shop was very different to what they said.

Clive Anderson: The bishops stood firm.

Geoffrey Robertson: The bishops stood firm. In fact, one bishop, stood there resplendent in velvet with his silver cross swinging, and said that, yes, he had conspired to trespass and Peter said, 'Well, who did you conspire with?' 'I conspired with God.'

Clive Anderson: Well, God wasn't on trial. Hain was, and he was eventually convicted of the least serious charge which related to a Davis Cup tennis match. As for the rugby and the cricket the jury could not agree. Had this been a public prosecution there would have been a second trial, but Bennion had neither the energy nor the resources for a re-match. Hain saw the result as a victory.

Peter Hain: I felt completely vindicated because I came away from it with a £200 fine for sitting on a tennis court in Bristol at a Davis Cup tennis match for a couple of minutes, but I was acquitted of the other charges which could have despatched me to prison had I been convicted. But I'd seen it as not just a political trial but an attempt by the apartheid state who were behind the prosecution whatever Francis Bennion's original honourable motives might or might not have been; some very dodgy right wing people were part of it. I was acquitted and therefore I saw that as an attempt in effect to take me out of political action and anti-apartheid activity, which it did to a large extent. I mean, these things are exhausting.

Clive Anderson: Hain was not the only one exhausted by the end of the trial. Francis Bennion had separated from his wife and sold his house, partly thanks to the emotional and financial stresses of this case.

Francis Bennion: I was reduced to a very poor state by all this. I was not in a very good shape.

Clive Anderson: Although Bennion raised money in South Africa to fund the prosecution, he maintains he was bringing the case to uphold the rule of English law, not to offer support for the South African government.

Francis Bennion: I tried to steer a proper course. I went to South Africa to gather evidence and I was invited to speak to various audiences, mainly Afrikaaner audiences. I always made a point of saying that I condemned apartheid.

Clive Anderson: So, what was the longer term impact of the affair? David de Villiers, the South African captain, started a career in politics rising, in due course, to be a Cabinet minister and South African ambassador to London. He downplays the political effect.

David de Villiers: Well, after the experience, certainly no one could just shut it out of his life. It made South Africans in general also ask questions, but after many years in public life myself after it I don't think the sporting effect was as big as people thought it would be.

Clive Anderson: To be on trial for organizing anti-apartheid demonstrations is one thing but three years later, Peter Hain was back in the dock at the Old Bailey, this time charged with a bank robbery in Putney. He was acquitted. A simple case of mistaken identity, or was it the hidden hand of BOSS in action?

Peter Hain: I think it was more likely to have been the latter and indeed BOSS agents have subsequently confessed that that was what the plot was. It was of an altogether different kind to the conspiracy case and it was a really Orwellian, or Kafkaesque, situation: to suddenly have the police at your front door saying we are taking you down to the station and arresting you for a bank theft you didn't even know had happened.

Clive Anderson: Either way, Peter Hain as a young man had been given a unique insight into legal processes at the sharp end, and his disruption of South African sport had been considered at the highest levels of British government.

Peter Hain: Interestingly, it subsequently emerged that Jim Callaghan, as Home Secretary, had mused within Cabinet at the time, and there was discussion in the Cabinet as to whether to prosecute me for conspiracy. This is a Labour Cabinet considering prosecuting someone who, thirty years later, would be a member of the Cabinet. But that is by the way.

Clive Anderson: At the time you were a dangerous young Liberal.

Peter Hain: Indeed.

Clive Anderson: And now a member of the new Labour Cabinet.

Peter Hain: Well, thank you very much.

Clive Anderson: So, what does a staid member of the Cabinet these days think of English cricket tours to Zimbabwe, which the government seems unwilling, or unable, to prevent.

Peter Hain: I do not think these tours should happen. I don't think the English cricket team should have gone to Zimbabwe. Mugabe is an oppressive tyrant and if I were thirty years younger, and not playing the role that I am now, I would probably be organizing similar direct action protests to the one that I did all those years ago.

Clive Anderson: And in hindsight, how does he regard Francis Bennion who strove to put him behind bars.

Peter Hain: I just look back at it and I think he was absolutely wrong. I think that when you look back at what happened, and the miracle of South Africa's transformation, he was on the wrong side of the argument, and without being arrogant about it, I was on the right side of the argument and history has been the judge of that.

Clive Anderson: And without being arrogant, what does Bennion think?

Francis Bennion: It seemed right to me at the time. Now it seems an act of folly, but I can't say I regret it because I still think it was right. I still have very strong views about the rule of law and direct action.

Clive Anderson: May be you helped Peter Hain's career because it put his name on the map. Do you think you may have assisted his career?

Francis Bennion: I wouldn't like to leave this interesting conversation with you having that thought in my mind.