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Peter Hain gets encouragement from anti-apartheid supporters as he arrives at court.

# The battle of two crusaders.

**JOHN STEVENS, in London, reports on the court clash between Francis Bennion, champion of law and order, and Peter Ham, anti-apartheid leader.**

For all its build-up, the case of Bennion versus Hain proved a mildly futile exercise.

Peter Hain was waiting at London Airport to board a plane for Australia in June last year when he was served with the summons that led to his conspiracy trial.

He was on his way to join in demonstrations against the South African rugby union players, who were to be harried during their Australian tour as they had been by Hain and his supporters in England.

Mr. Hain, then 21, the son of South African parents who had once been imprisoned without trial for their anti-racist activities, was at the height of his success as a campaigner against apartheid.

As chairman of the Stop the Seventies Tour movement, he led the public outcry which caused the abandonment of the South African cricket tour of England.

Threats were made to dazzle batsmen with mirrors and to squat on pitches, as had been done with an earlier, privately sponsored party of tourists from South Africa. Weed-killer was poured on a Test wicket.

The Stop the Seventies Tour-campaign was joined by thousands of students, bishops, priests and MPs and, possibly because of this width of participation, neither the police nor the Director of Public Prosecutions felt it necessary to prosecute Mr. Hain.

But emotional issues were at stake. Many saw the result of his campaign as a yielding of rights to a minority of bullies.

One such man was Mr. Francis Bennion, a property developer and former barrister, educated at Harrow and Oxford, where he was a law don.

Now Mr. Bennion is neither a reactionary nor a square. At 49 he is a trendy figure. His hair, for example, is much longer than Mr. Hain's. He does, in fact, oppose apartheid.

Nevertheless, Mr. Hain's activities were an affront to Mr. Bennion. "Agitators," he said, "must not be allowed, however good or bad their cause, to stop the lawful activities of others."

At considerable financial sacrifice, Mr. Bennion decided to take on Mr. Hain, launching a private prosecution on four counts of conspiracy to disrupt or cause to be cancelled by unlawful activities sporting events with South Africans in Britain.

Mr. Bennion is said to have put \$30,000 into the prosecution of Mr. Hain. He is also reported to have raised \$14,000 in South Africa for the cause.

He sold his home in Surrey to raise funds and moved to a smaller one. He also lost a \$20,000-a-year brief from the Jamaican Government, which objected to his action against anti-apartheid sympathisers. But nothing daunted Mr. Bennion, every bit as much a crusader as Mr. Hain.

Late last month, two-and-a-half years after the events it concerned, the trial which Mr. Bennion hoped would prove a landmark in the preservation of law and order began.

"If this case," said his counsel, "highlights the limits to which protesters may go in demonstrations without committing a criminal offence, it will have served a valuable service."

But the trial proved nothing and changed nothing. When it ended on Monday after 21 sitting days there was no clear winner and no new guides had emerged to clarify the bounds of rightful protest.

The jury found Hain guilty of only one offence, that concerning a Davis Cup tennis match against South Africa in 1969 and said to be the least important of the charges.

After retiring for seven hours the jury could not agree on the other three charges. On them, in the absence of further action from Mr. Bennion, the judge directed the jury to return "not guilty" findings.

Much evidence was heard of pitch squatting, tack-spreading and alleged police brutality. But the issues determining guilt or innocence became too legalistic for the case to serve as a future reference for demonstrators' rights.

Hain steadfastly maintained he was never a party to conspiracy and, as spokesman for the Stop the Seventies Tour campaign, had consistently advocated non-violence.

The judge praised his sincerity, condemned his judgment and fined him \$410.

The Right-wing Daily Telegraph hailed the case as a notable action in defence of common liberties, but Mr. Hain's supporters were not downcast.

"I am relieved at the result, such as it is," he said.

Mr. Bennion can take no comfort, either, from the fact that liberal-minded people are now using the case as an argument for the reform of the conspiracy laws.

One criticism is that the onus is too great on the defendant to prove his innocence. Another is that private prosecutions for conspiracy should be taken over by the Director of Public Prosecutions to decide whether a case should proceed.

But the heaviest blow of all may be yet to fall. Judge Gillies adjourned an application by Mr. Bennion for the cost of the trial to be met from public funds. If he refuses the application, the \$2000-a-day trial may cost Mr. Bennion a total of \$40,000.

Whatever the outcome, Mr. Bennion says he intends to prosecute other protesters, like sit-in students and hunting saboteurs.

Neither will Mr. Hain desist from demonstrating. As for Hain's fine, it will be paid from the royalties of his book, Don't Play With Apartheid.

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*Note by FB* The above is reproduced as published by the *Melbourne Age* and is not warranted by me as correct in its statements. One misstatement is that I was a property developer. Another is that I am a 'former' barrister. Once a barrister always a barrister (unless disbarred). Judge Gillis granted my application for the costs of the prosecution to be paid out of public funds, but this still left me considerably out of pocket. The prosecution was supported by my organisation Freedom Under Law, which went on to pursue hunt saboteurs and other direct action agitators.

Website: [www.francisbennion.com](http://www.francisbennion.com)

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For full version of abbreviations click 'Abbreviations' on FB's website.