

## **Re Broadcasting Complaint Ref: 311/07**

12/12/2007

I am not satisfied with the response from the RTÉ, and I wish to have my complaint considered by the Board.

**1.**

**An item in my complaint is that the programme had no designated Historical Consultant.** RTÉ's letter of response (Document II, attached) does not deny this claim, but includes the following phrase:

*"Mr Paul Rouse, the programme's researcher and historical consultant"*.

I spoke by telephone with Dr Rouse and asked him if he was Historical Consultant to the programme. He said his correct designation was researcher - as given in the programme's credits. In other words, he supplied information, could make observations, but had no power of veto or quality control over historical aspects of the broadcast.

In her letter to me dated 9 July 2007, the programme director said *"we have consulted a wide range of highly reputable professional historians (including Professor Terence Dooley, NUI and Professor Richard English, Queen's University)"*, but when she interviewed me on July 28, she said they had been *"interviewed, not consulted"*.

The other researcher named with Dr Rouse in the credits was Philip McConway. Paul Rouse is a Sports Historian, while Philip McConway's research specialism is the history of Co. Offaly in 1919-23. But Mr McConway was also an interviewee. I am aware that, following the Civil War documentary "The Madness from Within", RTÉ decided in 1998 that an interviewee/participant could not also be Historical Consultant.

**In any case Dr Rouse was not, contrary to RTE's belated and retrospective assertion, Historical Consultant to the programme.**

My complaint was about the way the programme presented motives and reasons for the killings at Coolacrease. Seven motives were alleged by the programme: 1) Land hunger; 2) Sectarianism; 3) Fraternising with the Crown Forces; 4) Suspected spies; 5) Alleged shooting by Pearsons; 6) Ethnic cleansing; 7) Sadistic purposes.

My complaint claimed that some of the programme's allegations were without substance, and that the documentary was unfair, not balanced, not objective, and not impartial.

**2.**

**In my letter of complaint I claimed that** (points (a) to (e) below):

*a) The documentary suppressed evidence, which would lead the viewer to a contrary view. I provided much of this evidence in the course of being interviewed on-camera for the documentary on July 28 in Kinnitty Castle, between 4.30 and 6.30 p.m.*

(For whatever reason my contribution was not used in the broadcast.)

RTÉ's response (Document II, attached) does not refute this particular claim (a), because:

(i) The RTÉ response does not refute, or even deny, that the documentary suppressed the medical evidence of the British Military Court of Enquiry, which contradicts the statements in the documentary, made without challenge, that the men were deliberately shot in the genitals. **The programme failed even to mention the existence of this crucial source of evidence - the British Military Courts of Enquiry file** (Document V, attached).

(ii) The RTÉ response does not succeed in refuting my claim that the documentary misrepresented the evidence in the report of the RIC statement that

*“the two Pearson boys a few days previously had seen two men felling a tree on their land adjoining the road. Had told the men concerned to go away, and when they refused had fetched two guns and fired and wounded two Sinn Feiners, one of whom it is believed died”* (in Document V, attached).

My claim is that the programme misrepresented this RIC statement by failing to report it as a factual statement by a professional police force. RTE broadcast its view of it as an allegation or rumour, without providing any evidence to support this view, and without granting any opportunity to rebut this view. **This is the single most significant breach of fairness, objectivity and impartiality in the programme.**

(iii) RTÉ's response does not refute, or even deny, that the programme failed to acknowledge the standing of the evidence in the Report of the Irish Military Court of Enquiry (Thomas Burke Report – Document IV, attached) as evidence having the status and the authority of an official investigation of the legitimate, elected Irish government. The narrator in fact made the false statement that *“there was no official investigation”*. By suppressing any mention of the democratic, elected authority, the programme suppressed the necessary information that establishes the true standing and weight of this evidence. **If RTÉ does not accept that legitimate or “official” authority comes from the ballot box, then where does it suppose it comes from?**

*b) In cases where contrary evidence was submitted there were instant rebuttals, while assertions supporting the documentary's themes were not contradicted.*

RTÉ's response does not disprove this claim (b). For example, Paddy Heaney's statement *“Those men who were there that night, and I spoke to most of them, they all maintain that the Pearsons deliberately shot at Mick Heaney and Tom Donnelly that night.”* (page 23 of Transcript, Doc III), is rubbished immediately by the narrator, in a highly contentious statement that goes uncontended, and by W. Murphy's remarks that attribute the consequences of the Pearson attack to some form of irrational mental disturbance. There is a further list (not exhaustive) of such instances in my annotations to RTÉ's letter of response (Document II, attached). See also my annotations to the programme transcript (Document III, attached), where many more examples can be observed.

*c) Misrepresented the views of contributors, when these contradicted the documentary's main themes.*

For instance, in full knowledge of the well-publicised position of Paddy Heaney on the land grab theory, the programme published an edited version of his contribution, which, in effect, has him supporting the land grab hypothesis. RTÉ's response to my complaint now claims that it has evidence (not presented in the documentary) in support of this hypothesis. But RTÉ's response does not refute, or even deny, this claim (c) that the programme misrepresented the views of Paddy Heaney.

*d) Made assertions with no factual basis.*

For example, the second contribution of Professor Richard English: "*it was seen as an alien incursion. It was small scale, it was only the family, but in the sense that they were seen as aliens, people that didn't genuinely belong, weren't genuinely integrated into the community, and indeed were taking land from the rightful possession of the community, as locals would have seen it.*" (page 7 of Programme Transcript, Doc. III, attached). I gave several such instances in my complaint. RTÉ's response does not refute any of them. This particular instance by English is dissected in my Comment 7 (III, page 7). There are numerous other such examples analysed by my in my numbered Comments in the attached Programme Transcript.

*e) Failed to provide accurately the political context of the time.*

As my complaint makes clear, the political context I was referring to was the overwhelming electoral mandate received by the independence movement and the Irish Government in three successive elections. RTÉ's response to this is the statement: "***The Pearsons' story is set against rising political and social tensions in the country.***" This response does not refute, or even deny, my claim that the programme suppressed all mention of the electoral mandate of the democratically elected Irish government.

*f) Dismissed participants with a contrary view as being effectively 'in denial' or having an unworthy motive for their opinions.*

One of many examples is the statement by Jenny Tunnidge: "*I believe that there's a lot of stories going around to make people feel better about their part in the actions. They really want to have another reason to make themselves feel better. They don't want to face the truth of the past*" (page 10 of Programme Transcript, Doc. III, attached). If the Pearsons brothers were guilty of the attack they were executed for, their family may have had such sentiments of denial themselves in their lifetime. In fact, Alan Stanley's book indicates strongly that this was the case. So Ms Tunnidge's statement should have been balanced by a comment to this effect. RTÉ's response to my claim argues that the programme gave equal say and equal standing to both sides of the debate. In my annotations to the RTÉ letter of response (II, attached), and to the Programme Transcript (III, attached) I show how shallow and empty this claim is, with examples of unfair use of narrator and editorial 'pre-buttal' and rebuttal, and unfair relegation of perfectly honest, reasonable and justifiable statements into the category of paranoid fantasy

g) *Misrepresented the Cooneyite religion, manifested by the Pearsons, as pacifist (comparing it to Amish religion).*

RTÉ's response does not attempt to defend the programme on this point.

h) *Posited false or secondary reasons for the killings and then dismissed them as having no basis in reality, in order to "prove" that the real reasons were a sectarian land grab.*

RTÉ's response not only fails to refute this claim, but actually confirms it, and repeats the original offence, by arguing yet again that the issue was whether or not the Pearsons were spies/informers, when the actual issue in their execution was whether or not they were armed combatants (an entirely different category). This is an issue about which there can be no realistic doubt, in the light of the Irish Military Court of Enquiry, the reported RIC statement, and the account given in Alan Stanley's book *I met Murder on the way*. (On careful reading, the latter inadvertently demonstrates, beyond reasonable doubt, that the Pearson brothers were unofficial armed combatants on the side of the unelected power. Stanley says that, in the company of his father, expelled from Co. Laois for loyalist paramilitarism, the Pearson brothers deliberately fired at the roadblock, but "aimed high". So how did three people manage to suffer serious gunshot injuries?)

### 3.

#### **RTÉ on the role of the Broadcasting Complaints Commission:**

RTÉ's letter of response says that "*the complainants are asking the Commission to adjudicate on what happened 86 years ago*". I understand from your Letter References that there are seven complaints. I can only speak for my own complaint, which at no point asks the Commission to adjudicate on what happened 86 years ago. My own stand on what happened 86 years ago is quite obvious. But as to my actual complaint, the only adjudication I requested of the Commission is about what was broadcast by RTÉ between 10.25 and 11.25 p.m. on the night of October 23 2007.

My complaint is about the methods of the documentary and nothing else. In contrast, the RTÉ letter is about all sorts of things: the obligations of the Commission; what historiography consists of; whether or not there is a public controversy; and actual fresh argument on one side of the issue of what happened 86 years ago. For example, the statement in the RTÉ response: "*In fact, according to the Land Commission ex IRA men received parcels of land in the FIRST division ...*" – information which, if it is actually correct, would surely have been presented in the programme. **The actual evidence (Land Records, which I have checked) shows that this statement is false, and confirms the account given by Paddy Heaney which was suppressed and misrepresented in the programme. The Land Records are a further instance of suppression of evidence by the programme, an instance which has now been brought to light by RTÉ's own letter of reply to my complaint.**

4.

**The key issue:**

This programme made sensational headline impact due to its allegation of sadistic sexual mutilation and murder of two Amish-type brothers. The only part of this that is true is that the men were brothers. The programme presented no opposing argument to the assertion that there was deliberate injury to the genitals, evidence that should have been presented to balance the unchallenged assertion of Eoghan Harris that “*they shot them in the groin, the sexual parts*”. In full knowledge of the evidence, the programme suppressed evidence that no such injuries were inflicted deliberately or otherwise. It presented no opposing argument that early twentieth century Cooneyism, and the Pearsons, were in stark contrast to the Amish religion in respect of any quality of peaceful quietism, and it failed to present the clear historical evidence on this matter. If the programme makers knew the historical facts about Cooneyism, they suppressed this information. If they did not know, then they were incompetent.

**The key issue in my complaint is whether or not the programme was fair and balanced in its treatment of the official reason for the execution of the Pearsons – the attack on the roadblock.** Despite RTÉ’s claim that it employed a Historical Consultant, the actual programme credits are accurate, and no professional historian exercised overall authority or quality control over the treatment by the programme of this (or any other) historical issue.

Accordingly, I request that the BCC adjudicate on my complaint.

Yours sincerely  
Pat Muldowney

*P.S.:*

*My original complaint, RTÉ’s reply, and my response above, make reference to certain documents. For ease of reference, I am attaching or enclosing a number of these documents. They are:*

- II RTÉ’s reply (with itemised comments or annotations by me which amplify the points raised in my letter above);
- III The transcript of the Hidden History programme (with itemised comments or annotations by me which amplify the points raised in my letter above);
- IV The Report of the Irish Military Court of Enquiry (Thomas Burke Report);
- V The file of the British Military Courts of Enquiry in Lieu of Inquests;
- VI The application of Sidney Pearson to the Irish Grants Committee;
- VII The application of William Pearson to the Irish Grants Committee.