

RTÉ References: BCC 2007/987, 988, 989, 990, 992, 995, 1000

BCC References: 307/07, 311/07, 312/07, 313/07, 313/07, 316/07, 319/07, 320/07

Anne O'Brien
Broadcasting Complaints Commission
2-5 Warrington Place
Dublin 2

27 November 2007

Re: Complaints concerning the programme *Hidden History: The Killings at Coolacree* broadcast on RTÉ One Television on 23 October 2007.

Dear Ms O'Brien

This submission refers to 7 complaints forwarded by the BCC to RTÉ regarding the programme *Hidden History: The Killings at Coolacree*. As there appears to be a high degree of coordination between most of the complainants and most of the complaints are very similar please regard this response as RTÉ's submission to all the complaints.

The programme looked at a historic event that took place in County Offaly in 1921. Two Protestant brothers, the Pearsons, were killed by the IRA shortly before the cease fire which ended the war of Independence. Essentially the programme examined two theses. The first of these was that the killings were justified as the brothers had been assisting the Crown forces in their war with the IRA. The second thesis was that the motivation behind the killings was sectarian and that there was a desire to obtain the land the Pearson family owned. The complainants raise certain issues, for example, did the female members of the Pearson family witness the killings and were the Pearson brothers deliberately shot in their groin areas possibly as a symbolic act. But the central complaint about the programme revolves around the claim that the programme "sided" with the thesis that the killings were sectarian and/or motivated by land hunger and not a legitimate part of the War of Independence. It is RTÉ's view that the programme did not take sides with either thesis, that it presented both sides and allowed viewers to make up their own minds. It is fair to say that the programme also reflected and acknowledged the human tragedy and loss inherent in the incident, whatever factors may have contributed to it.

If the Commission decides, which RTÉ does not believe it will, that the programme "favoured" one thesis over the other, this is not a reason to uphold the complaints. Programme-makers are perfectly entitled to come to their own reasonable conclusions.

The complainants have submitted lengthy arguments in favour of their "preferred" understanding, that the killings were legitimate. In effect the complainants are asking the Commission to adjudicate on what happened 86 years ago. With respect this is not the function of the BCC. The Commission's function is to read the complaints, read the broadcaster's submission and view the programmes. Commission members must decide

if the programme fulfilled statutory obligations. It is not within the remit, or indeed the competence of BCC members, to decide on the motivation behind the killings. What Commission members must do is decide if the programme as broadcast was impartial and objective.

Some of the complainants also raise matters concerning negotiations that took place during the production of the programme and include in their submission copies of correspondence with the producer. It is RTÉ's view that this material cannot form part of the complaint's process. The task of the Commission members is straightforward, did the programme fulfil its statutory obligations? This adjudication must be based on what was broadcast on the night of 23 October, not on anything that happened prior to the transmission in regard to the research, planning and production of the programme.

All the complaints made against this programme claim that the programme breached the requirement to be objective and impartial. This requirement is found in section 3 of the 1976 Broadcasting Act. This states:

3. (1)(b) the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial matter and without any expression of (RTÉ's) own views.

The killing of the Pearson brothers took place in 1921. It is simply not plausible to describe events around these deaths as *a matter of public controversy or the subject of current public debate*. There was no debate about these killings until after the programme was broadcast. The current debate which has taken place on the airwaves, in newspapers and on blog sites was generated by a number of complainants who did not like the programme. The public are not exercised by either the events of 1921 or the reaction to the programme, any debate that there is has been generated by a small number of complainants who all take the view that the killings were a legitimate part of the War of Independence. RTÉ questions therefore if section 3(1)(b) is even applicable in this instance.

The events described in the *Hidden History* programme happened during the War of Independence over 85 years ago. Therefore any analysis of those events has to be regarded as part of an understanding of historical events. Historiography tells us that each generation rewrites its history in the light of contemporary experience. The relevance of this in regard to the *Hidden History* complaint is that the notion of impartiality and objectivity cannot be understood as an immutable understanding of events, but rather as an interpretation over 85 years later and that this interpretation changes over time. It is RTÉ's view that the Commission must bring a different understanding of what constitutes objectivity and impartiality to a programme on a historical topic to the understanding the Commission would bring to a programme on current issues. Indeed there is an argument to be considered that the obligation to be impartial and objective does not apply in the same way to programming on historical topics as it does to programmes on current issues. An example would be if there was a programme on Eamon De Valera's role in the

Civil War. Two interpretations could be put forward, that he contributed directly to the outbreak of the civil War or that his actions played no part in the outbreak. Both these interpretations of events are possible to argue and both have some validity. Either interpretation could be judged to be impartial and objective, yet the two interpretations are contradictory. This is the nature of historical understanding. The Commission needs to take this consideration into account in their adjudication of these complaints about *Hidden History*.

Hidden History: The Killings at Coolacrease was the result of over a year's methodical research on the subject of the Pearson family and the Offaly IRA during the War of Independence.

There were two theses presented in the programme:

- 1) that the Pearson sons were spies who fired on members of the IRA, thereby ensuring that the local IRA had no choice but to execute them;
- 2) that the Pearsons were not guilty of spying and did not fire on the IRA, but instead were victims of a land grab and/or the sectarian agenda of the local IRA.

SPYING CLAIMS

The documentary carefully presented both sides of this argument. Local historians Paddy Heaney and Philip McConway (both complainants), as well as interviewees from the local Cadamstown area, were allowed to present their views that the Pearsons were spies. However it was the duty of the documentary makers to examine these claims. All available documentation (including RIC papers, IRA witness statements, Richard Mulcahy Papers, Dublin Castle files) from the time was made available to two respected professional historians with differing perspectives on this period of history: Professor Richard English of Queen's University, and Dr Will Murphy of the Mater Dei Institute of Education. Neither could find any evidence that the Pearsons were spies. Furthermore, Professor English believed the claims lacked any credibility. In any case, in the programme Paddy Heaney and Philip McConway were allowed to answer Professor English with arguments countering his views.

TREE FELLING INCIDENT

On the subject of the tree felling incident, and the allegation that the Pearsons fired on members of the IRA, again both sides of this argument were carefully presented. One complainant Dr Pat Muldowney accuses the programme of omitting an 'authoritative RIC statement'. In fact it was British army correspondence which collated all the rumours surrounding the deaths of the Pearson brothers (including rumours that it was a land grab). This correspondence was not presented to the Court of Inquiry into the deaths of the Pearsons, but was simply added to the file at a later date.

Again the IRA report which Dr Muldowney accuses the documentary of ignoring was featured prominently in the programme at the beginning of Part Two. Most of the text of this brief statement by IRA commanding officer Tom Burke was read out on the programme. In this sequence, both interpretations were given as to why the IRA had

decided to execute the Pearsons – on one hand by historians Paddy Heaney and Philip McConway, and on the other hand by Professor Richard English and Alan Stanley.

WILLIAM PEARSON AND LOYALIST CLAIMS

The programme did contain the information that William Pearson had claimed to be ‘an ardent loyalist’ in order to qualify for compensation, which is followed by an explanation by historian Will Murphy. The programme makers were satisfied that this was the correct explanation of William Pearson’s statement, having consulted widely on the subject of compensation claims in this period (the definitive text is ‘Crisis and Decline: the Fate of the Southern Unionists’, by the renowned Trinity College Dublin historian R B McDowell). The Irish Grants Committee paid compensation to applicants who had lost out during the revolutionary period because of their loyalty to the crown. Years earlier, William Pearson’s son Sidney was turned down for compensation because he failed to prove his loyalty. William Pearson’s own statement was examined in this light.

LAND GRAB THESIS

The theory that the Pearson killings were the result of a land grab was also examined by the programme makers.

Documentation from the Land Registry office and the Land Commission was made available to Dr Terence Dooley, a highly respected historian and author of ‘The Land for the People’. Dr Dooley used the contents of these files as the basis for his comments.

Some years later, William Pearson made a statement that his troubles began over land – that Sinn Fein members had trampled crops on his land, planted under the compulsory tillage order. This evidence was also presented in the programme.

Dr Pat Muldowney is incorrect in stating that ‘it was only after these people (British army officers) had given up that ex IRA men received parcels of the Pearsons’ land’. In fact, according to the Land Commission ex IRA men received parcels of land in the FIRST division of the Pearsons’ land in 1923. Paddy Heaney’s comment was a true representation of the evidence contained in these files, and therefore not a ‘misrepresentation of the true situation’.

SECTARIANISM

It is not true to say, as Dr Muldowney claims, that ‘other Protestants with land holdings were left completely unmolested’. There is extensive evidence that other Protestants in Offaly did suffer at the hands of the IRA during this period. One Protestant family was receiving RIC protection, and house burnings were common. Just days after the Pearson brothers were shot a group of twenty to thirty IRA men raided Derrylahan Park in Birr, County Offaly, the home of Colonel Charles Head, who was away at the time. The(y) forced his wife and children from the hoise before burning it to the ground (King’s County Chronicle, July 7th 1921).

Dr Muldowney argues that the documentary failed to provide any political context. Again, this is not the case. The Pearsons' story is set against rising political and social tensions in the country.

Both views – as to whether or not sectarianism played a part in the Pearson killings – were presented in the programme.

SADISTIC KILLING

The medical evidence to the Court of Inquiry states that the fatal shot to Richard Pearson was to the groin. Furthermore, the medical evidence is that many of the shots to both Pearson brothers were to the groin/abdomen/buttock areas.

The programme presented two views on this. Senator Eoghan Harris expressed the opinion that the shooting of the Pearsons in the genitals was a symbolic act. John Joe Dillon expressed the contrary view that the shootings were botched because the local IRA members were poor marksmen, simply too inexperienced to conduct the executions in a humane manner.

WITNESSING THE KILLINGS

The contemporaneous evidence overwhelmingly points to the view that the Pearson women did witness the executions. The programme makers gave more weight to the contemporaneous evidence contained in the Court of Inquiry files – taken two days after the killings at Coolacree – than to the witness statement of IRA member Michael Cordial, which was made 36 years after the incident.

Ethel Pearson, in a sworn statement to the Court of Inquiry, said 'I saw the raiders search my brothers, and place them against the wall of the barn and shoot them.' Tilly Pearson states: 'They placed my brothers shortly afterwards against the wall of the barn and shot them. When they fell they shot them again.' Furthermore, in interviews the daughters of Ethel Pearson and Kitty Pratt (a cousin who was there that day), both said their mothers were present at the executions.

CONTRIBUTOR'S HONOUR OR REPUTATION

One complainant (Mr Philip McConway) claims that the broadcast breached Section 24(2)(f) of the Broadcasting Act 2001. This section states that the BCC may investigate a complaint

By a person that in a broadcast by a broadcaster which is specified in the complaint an assertion was made of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation.

Mr McConway was a contributor to the programme. Part of an interview he recorded for the programme was broadcast. Mr McConway subsequently to the recording of the interview has revised his views on whether or not the female members of the Pearson family witnessed the shooting of the two boys.

From an early stage in the research process Philip McConway presented himself as a professional historian who had already conducted an exhaustive study of the Coolacrease incident. He provided the production with a copy of a chapter from his MPhil thesis, titled 'Spies, Informers and Militant Loyalists: the Pearsons of Coolacrease'. Before handing over his research, and on the basis of his own claims to be an expert on the subject, this production agreed to pay him a fee of E1,000 for access to his writings and research materials. He provided the production with part of the Court of Inquiry files, which included the witness statements of Ethel and Tilly Pearson and the key quote from Ethel 'I saw the raiders search my brothers, and place them against the wall of the barn and shoot them.' It was on this basis that an interview was conducted with Philip McConway on May 16th in Tullamore. It was clearly a judgement call by Mr McConway at the time that he was then in a position to give, in his own words, a full and 'serious academic critique' of the Pearson story.

Furthermore, prior to the interview Mr McConway knew of the Michael Cordial witness statement (which states the women were removed from the scene). It is worth noting that no credible evidence emerged subsequently to cast doubt on the statements of Ethel and Tilly Pearson.

On September 25th, over for months after the recording of the interview, Mr McConway wrote to this production. **At no point in his covering letter, or in the attached 6 page document, did he ask for his contribution on the issue of the Pearson women witnessing the executions, to be removed or corrected.**

An email from Mr McConway followed on October 9. Once again he accused the production team of giving too much credence to the land grab thesis (a claim he made without speaking to the producer/director of the programme, or having viewed an advance copy of the documentary). Once again, he did not request that the portion of his interview dealing with the witnessing of the executions be removed or edited.

Furthermore, there was no broadcast of any facts or information that related to Mr McConway in the programme. The contention is about facts or information about the witnessing of a killing 86 years ago, not anything about Mr McConway. There was nothing broadcast in the programme which attacked Mr McConway's honour or reputation. In fact, on the advice of Mr Paul Rouse, the programme's researcher and historical consultant, an excerpt from Mr McConway's interview (where he commented 'Absolutely, they did deserve what they got') was removed from the programme on the basis that it would harm his reputation.

CONCLUSION

It is RTÉ's view that the programme *Hidden History: The Killings at Coolacrease* fulfilled all statutory obligations and that these complaints should not be upheld. All complainants hold in common the view that the killings were legitimate and were not sectarian. Indeed the principle (sic) complainant, Dr Muldowney, has been given the opportunity to present his views on the RTÉ Radio programme *Liveline* since the broadcast of the documentary on RTÉ television. RTÉ is not going to be drawn on

expressing a view on which thesis is correct. This is not our function, or indeed, with respect, the function of the Commission. We believe that both theses were presented in the programme in an impartial manner and that the complainants are incorrect when they complain that vital information or records were withheld. There is always a selection process in the editing of any programme. The producer is entitled to decide what is the most pertinent and relevant information to supply viewers. Some complainants believe the selection of what to include in the programme is evidence of bias by the production team. RTÉ believes on the contrary that the selection of material to include was at all times scrupulously fair and that the selection, ordering and presentation of evidence was at all times carried out in an objective and impartial manner. Concluding that one thesis has more weight than another is not evidence of bias. It simply reflects the reasonable judgement of the production team having assessed all the evidence available.

Yours sincerely

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