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Local & National

Nothing personal, Mr Hain, but it's unlawful

Friday, December 22, 2006

By Chris Thornton

Peter Hain didn't just have another bad day in court yesterday. Chris Thornton reports on how the latest ruling against him may have consequences for a controversial law

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In this season of good will, it must be of some comfort to Peter Hain to learn that the judiciary don't have it in for him.

While adding to the tally of bad days in court for Mr Hain yesterday, Mr Justice Deeny made a point of letting the Secretary of State know that the latest ruling against him was nothing personal.

The High Court decision against Mr Hain's handling of the Billy Wright Inquiry "does not involve a personal criticism of the decision maker," the judge said. "There was no question of bad faith here."

The fact that the judge felt it necessary to point that out may be a reflection of Mr Hain's bad run in court recently.

The High Court has ruled that he acted illegally in appointing the Victims Commissioner.

Then the Attorney General was forced to institute a review to find out if Mr Hain and his officials conspired to pervert the course of justice in that case - a charge he denies.

And the House of Lords recently decided to look again at his decision to put Orangemen onto the Parades Commission.

In the latest case, Mr Justice Deeny ruled that Mr Hain had illegally changed the legal basis of the inquiry into the murder of LVF leader Billy Wright (which is itself proving to be an additional legal embarrassment

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While the judge was careful about his criticism, saying Mr Hain had been badly advised, his judgment could create more headaches for the Secretary of State than some of the other black marks against him.

The ruling has returned focus to the Inquiries Act, one of the most controversial laws of recent years - and incidentally one that Radio 4 listeners were considering this morning as one of the laws they would most like to repeal, as part of the Today programme's Christmas Repeal feature.

It is also central to the stand-off between the Government and the family of Pat Finucane over the public inquiry into the solicitor's murder.

The Inquiries Act was rushed through Parliament last year, just before the general election.

The Government says it gives inquiries greater powers and makes it easier for Ministers to prevent a repeat of the Bloody Sunday inquiry's massive bill.

Critics say it gives the Government greater secrecy powers, including over the content of an inquiry's final report, and hampers the independence of an inquiry. Senior judges on three continents have joined those raising doubts about the law.

It was notable that at the time the law was passed, the Government had set up three of its four promised collusion inquiries; the inquiry in Mr Finucane's murder was deliberately held back until the law could be passed.

Since its passage, the Finucane family has refused to cooperate with the proposed inquiry, and the Government has been unable to find a chairman.

The Billy Wright inquiry was originally set up under the Prisons Act, since the loyalist leader had been murdered in the Maze Prison. But earlier this year, inquiry chairman Lord MacLean asked for the legal basis to be converted to the Inquiries Act.

Mr Hain agreed, but David Wright, the LVF leader's father, objected. He said he believed the Government was trying to use his son's case to make the law seem more acceptable for the Finucane inquiry.

In upholding David Wright's case yesterday, Mr Justice Deeny said Mr Hain hadn't taken account of a new power he was handing himself when he brought the Inquiries Act into the Wright case.

Section 14 of the new law gives the Secretary of State the power to stop the inquiry at a time of his choosing - and the judge noted that there is very little anyone, including the courts, could do about it.

He said that power was unprecedented in the law. In the meantime, the Billy Wright Inquiry is up in the air. Mr Justice Deeny hasn't yet ruled on a remedy, so it's not clear what the legal basis for the inquiry will be.

The judge can't repeal the Act any more than today's radio poll. But by highlighting the notion that the Secretary of State can stop an inquiry if he doesn't like where it's heading, he's handed the Finucane family an advantage in their dispute with the Government. Mr Hain may not be finished in the courts yet.

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