A Reply To Senator Martin Mansergh

On The Case Of (President) Mary McAleese Vs. Brendan Clifford

by
Brendan Clifford

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A Reply To Senator Martin Mansergh On The Case Of (President) Mary McAleese vs B. Clifford

"Employments fall into a hierarchical gradation of reputability. Those which have to do immediately with ownership on a large scale are the most reputable… Next to these in good repute come those employments that are immediately subservient to ownership and financiering—such as banking and law. Banking employments also carry a suggestion of large ownership… The profession of the law does not imply large ownership; but since no taint of usefulness, for other than competitive purpose, attaches to the lawyer's trade, it grades high in the conventional scheme. The lawyer is exclusively occupied with details of predatory fraud, either in achieving or in checkmating chicane, and success in the profession is therefore accepted as marking a large endowment of that barbarian astuteness which has always commanded men's respect and fear."

(Veblin: The Theory Of The Leisure Class).

1. Introduction.

Senator Martin Mansergh wrote as follows in a letter to the Belfast *Irish News*, which was published on 25th September 2006:

"Clifford implies that he was always strongly anti-Trimble, notwithstanding the inspiration provided to him by the two-nations theory. If so, it is difficult to explain why in a Belfast magazine in 1987 he strongly criticised the integrity of Mary McAleese's appointment to the post of director of the Institute of Legal Studies at Queens, where the only other candidate was David Trimble; and why he joined and supported the Unionist hullabaloo over it.

"How did he respond to the threat of legal action by Mary McAleese supported by Queen's? Clifford definitely has form."

On 28th of September I sent a letter to the Irish News in which I replied as follows on this point:

"He gives the wrong title to the Institute of which Mary McAleese was appointed Director, and it makes all the difference. She had no "professional" experience of legal practice. The appointment was made in breach of Fair Employment rules. Though she had not made the appointment, she started a libel action against me over it and did not merely issue a "threat" of it. I had to conduct my own defence against her solicitors and barristers for lack of funds. A week before trial she settled without a penny in costs or damages. My criticism of her appointment was not on the grounds that Trimble should have got the job. I did not know his application had been solicited. The appointment of either would have been in breach of Fair Employment rules."

If that paragraph had been published, I would have considered the matter closed—unless McAleese, or somebody on her behalf, disputed my statement of the facts, which would have been unlikely as the facts were easily ascertainable. While the paragraph did not explain the significance of the facts stated in it, I would have let the matter rest if the bare facts which it states were published. But they were not published.

The Editor of the *Irish News*, Noel Doran, having published Senator Mansergh's false assertions did not publish my rebuttal. By failing to publish my reply, he associated himself and his paper with the Senator's allegations.

Senator Mansergh's assertion was made in a letter of about 720 words, in which many other assertions were made as well. I replied to what I took to be the most important assertions with a letter of about 900 words. My letter was cut down to about 430 words by the Editor of the *Irish News* without consulting me. By far the most important

cut was my reply to the Senator's statement about the President's libel action.

The Editor of the *Irish News* was under no obligation that I know of to publish the Senator's allegation. The Senator does not have a controlling interest in the paper. But, once the Senator's allegation was published, an impartial Editor would have felt under obligation to publish the reply to it.

Doran chose to publish the Senator's allegation. And then he chose not to publish my reply. But he published a butchered letter of mine replying to lesser points in the Senator's letter, without any indication of Editorial cuts, thus giving his readers to understand that I had been given a right of reply and that, since I had not disputed what the Senator said about the President's libel action, I accepted it as being in accordance with the facts of the matter.

It was imprudent of Mr. Doran to have raked up the President's pettish libel action against me by publishing the Senator's paragraphs. And it was stupid of him not to have closed the matter by publishing my paragraph in reply.

I learned long ago that in modern times it is a waste of time and energy to try to make honest men out of newspaper editors by force of reason. If I was wealthy and was litigiously-inclined, I might compel the *Irish News*, by libel action, to make the minimal concession to the truth of the matter that I asked for, and to pay for not having done so in the first instance. Since I am neither, I meet its libel by publishing details of the President's libel action, and giving them what circulation I can by my own resources.

I cannot see how this will be more to the President's advantage than a paragraph in a daily newspaper that would have had a butterfly existence—here today, gone tomorrow. But Senator Mansergh and Mr. Doran have determined that it must be so. It is not an option to allow oneself to be blackguarded by them.

I should explain the circumstances which led to Senator Mansergh writing rambling, ill-informed letters against me to the *Irish News*.

He has been in long-term dispute in the Letters' Column of the Irish News with Liam O Comain, a Northern Republican who is critical of the Good Friday Agreement. It seemed that the Senator set out to crush intellectual dissent from the Agreement and somehow got the idea that I was behind his failure to do so. I did not try to take part in the argument. I was blackballed by the Nationalist press back in 1970 because of the unpopular stance I took then, and I accepted that exclusion as a condition under which I would have to function. But I reported the Mansergh/O Comain argument for the *Irish Political Review*. Mansergh must have inferred from this that I was connected with O Comain, and eventually he brought me into the argument and accused O Comain of being *"inspired"* by me.

I had no connection whatever with O Comain and, if one of us had an influence on the other, it was O Comain who had an influence on me by his dogged probing of the implications of Mansergh's views—which amounted to a re-writing of the history of Fianna Fail in the Treatyite interest.

When Mansergh brought me into his argument with O Comain I sent in a reply, and I was surprised when it was published, and wondered if the leopard had changed its spots. Mansergh responded with further allegations, and my reply was published.

Mansergh then put in a third set of wild allegations, beginning *"I wish this letter to close my side of a distasteful correspondence"*—a correspondence that would never have happened if he had not provoked it—which included his allegation about McAleese's libel action. And the *Irish News* demonstrated, by censoring my reply, that it had not changed its spots.

In that censored reply I pointed out that Mansergh used the wrong title of McAleese's position. She was appointed to be Director of the Institute Of *Professional* Legal Studies. He omitted the word *"Professional"*.

Legal studies are conducted by law lecturers, of which there is a plentiful supply. The meaning of *"Professional"* in the title indicated that this was a job that should be held by a solicitor or barrister who had made a successful career in the actual practice of law in the Courts. I will explain the significance of this provision in the commentary which follows the documents.

The point about the Northern Ireland *Fair Employment* rules

(which will also be explained later) is that they prohibit employers from soliciting job applications from individuals. The rules say that jobs should be advertised in very specific terms, that only applications in response to advertisements should be considered, and that complex procedures laid down should be followed in making an appointment.

In this case, *nobody* with the specified qualifications for the job applied for it. The employer (who was a combination of Queen's University, the Government, and the legal profession, including the Judges), decided to give the job to a law lecturer, but they did not advertise the altered job specification. Law lecturers had not applied for it when it was advertised, because they understood that only successful practising lawyers qualified for it, and when the job specification was changed, they could not apply for it because it was not re-advertised in the altered terms—and in fact it was not re-advertised at all, as far as I could discover.

What Queen's and the legal profession did was the thing which was being made a crime when private employers did it. They solicited applications from people they thought would be most suitable. One was a law lecturer in another jurisdiction (the Republic of Ireland), and another was a law lecturer, not only within the Northern Ireland jurisdiction but within the Institute.

The lecturer from outside the jurisdiction was given the job. But she did no lecturing in the first year of her appointment.

The article I published was written by a trainee solicitor who attended the Institute during that first year when McAleese made no didactic appearance before the budding lawyers who were expecting her to transmit practical experience to them. The writer was not a member of the Unionist Party and was not in sympathy with the Unionist outlook.

The Institute for Professional Legal Studies was a strange body, set up to deal with a strange situation. A Northern Ireland jurisdiction was concocted in the 1920s to accompany the Partition Act (the Government of Ireland Act). But Northern Ireland was a relatively crime-free area. The region was locked into a political antagonism—a stalemate antagonism which absorbed energy while making movement impossible—and the fierce concentration on the static political conflict of the two communities seemed to have the effect of marginalising crime.

There was, of course, the IRA, whose existence was criminal. But the IRA did very little, other than exist, for close on half-a-century, and its mere existence, punctuated by a few spectacular escapades, provided little in the way of routine business for the legal profession. (Republicanism was kept in check by intimate Protestant policing of the Catholic community, rather than by prosecutions at law. That mode of policing is described in an article published in the *Capuchin Annual* in 1943 and reprinted as No. 16 of this magazine. It was both containing and aggravating. It restricted the growth of Republicanism by intimidation, while ensuring that some of the more spirited souls would respond to intimidation by becoming Republicans.)

That routine of life was broken in 1969, when the security apparatus of the local state (formal and informal) launched a wanton attack on Catholic areas of Belfast and Derry, and those areas defended themselves. This led to the formation of a new Republican Army during the Winter of 1969-70, and the declaration of war on Britain in 1970 by this Army, which was very much more representative of the Catholic community than the old, "*Official*", IRA had ever been.

The authorities decided to treat this war as a massive outbreak of criminal activity, and to prosecute it as ordinary crime. And all of a sudden there was a drastic shortage of lawyers—and a problem about increasing the supply.

Lawyers were traditionally produced by apprenticeship rather than by University courses. Law was a kind of trade that was learned by doing it under the supervision of an experienced master craftsman. But there were not enough master craftsmen to produce the great flock of new lawyers required by the phenomenal expansion of *'crime'*. (Rory McShane, a famous figure in the agitation of 1969-9 became a solicitor by the apprenticeship system and immediately set up in business very successfully, which would scarcely have been possible later.)

On the other hand, any number of people might be pushed through a University law course in a couple of years.

What it was decided to do was to attach an experienced and successful solicitor or barrister to a post-graduate academic law course with a view to somehow transmitting experience in the classroom and producing lawyers on a mass scale.

It seemed to me to be an absurd scheme—one of the many absurdities produced by *'the Northern Ireland state'*—and in the end it proved to be unworkable.

But that is what the scheme was. And law students were entitled to expect during their year at the Institute that they would be under the directorship of one of the masters of the craft. But the students who went there in the year following McAleese's appointment were fobbed off with a mere law lecturer—a lecturer in the law of another jurisdiction—who did not even show herself to them.

The situation seemed to me to warrant the critical article about McAleese's appointment written by one of those students, who went on to become a successful solicitor.

The article will be found within McAleese's Statement Of Claim, reproduced below.

The main documents in the case are McAleese's Statement Of Claim and my Reply.

These are given below. And then there is an account of how the case proceeded, which tells a lot about what Northern Ireland is.

The action went on from January 1989 to May 1990, and involved half a dozen Court appearances. Then, about a fortnight before the trial, McAleese, having incurred heavy legal expenses in keeping the action going for a year and a quarter, settled without costs or damages. And, judging by the attitude of her legal team, she was glad to get out of it on those terms.

McAleese employed the most expensive firm of solicitors in Belfast to represent her, along with two barristers about whose costs I know nothing. I could not afford to buy any legal representation and had to appear for myself.

McAleese was one of the chiefs of the legal profession in the Northern Ireland jurisdiction. I was, as I have always been, an unskilled labourer, and was on an annual income that was certainly less than her legal costs for the year 1989.

I told her lawyers, right at the start, that I did not want to win against her, but that I was not willing to let her have her way just because she could purchase law and I couldn't. She could have her trial if she wanted it, because the facts I published were true and I would stand by them, but I thought what she was doing was absurd and would damage herself rather than me.

I might have made a counter-claim against her for bringing a frivolous libel action against me. If I had nothing better to do with my life, or had been litigiously inclined, or had been drawn into the egoism of libel law, I might have had an entertaining time exploiting the advantageous position in which she had placed me against her. She had placed me in a position where I might do her damage with impunity. I had nothing to lose but my time, which was of no commercial value, and my sense of the meaningful use of language, which is not something held in high esteem nowadays.

The terms of the settlement were a tacit acknowledgment that her action was absurd and frivolous.

I did not try to get the proceedings reported in the Belfast press at the time, and she was clearly anxious that they should not be reported. And I did not subsequently put the incident on public record so that anybody who cared to might make use of it. I would have thought she would be happy to let the matter lapse into the obscurity it deserved—and it appears that she was in the first instance.

A short time after the action ended there was a passing reference in the Andersonstown News to her legal triumph against me. I drafted a reply saying that I wished all such plaintiffs should enjoy such victories, but I did not send it in. By breaking the nationalist consensus in 1969 I had given many respectable but politically ineffectual people reason to hate me — the less respectable people disagreed with me but did not hate me — and I thought I would let them take what pleasure they could from an uninformed belief that McAleese had gained some kind of victory over me and done me some damage. Respectable West Belfast was a sad place in those days, when it was trying to hold out against Sinn Fein, and it needed illusions, so I let it have this insignificant delusion.

A long silence followed, that was not broken until McAleese went South, became President of the Republic, and had biographies written about her in Dublin. Her 'victory' over

me in the High Court in Belfast began to be listed amongst her achievements—and finally Senator Martin Mansergh, adviser to Taoiseachs, joined in.

2. Statement Of Claim

Served this 10th day of February 1989 by Messrs. L'Estrange & Brett of 7 & 9 Chichester Street, Belfast Solicitors for the Plaintiff

Writ Of Summons Issued 26th January, 1989

1. The plaintiff herein is a Barrister-at-Law and the Director of the Institute of Professional Legal Studies at Queen's University, Belfast.

2. The first named defendant was at all times material to this action the Editor and Publisher of *"a Belfast Magazine"*.

…

4. In August and September 1988 the defendants and each of them falsely and maliciously wrote, printed, distributed and published, or caused to be written, printed, distributed and published in Volume 3 No. 3 of *"A Belfast Magazine"* for August and September, 1988, of and concerning the plaintiff and of and concerning the plaintiff in her professional capacity as a Barrister-at-Law and Teacher of Law, an article entitled *"The Knitting Professor"* on pages 12 and 13 of the said publication. The text of the said article was as follows:-

"The Knitting Professor

Mary McAleese has recently been appointed Director of the Institute of Professional legal Studies at Queen's. A Special Correspondent takes a look at her previous political activities.

…Observers in Dublin claim that McAleese committed political suicide in 1987…

Last September, considerable interest was aroused in legal circles in Northern Ireland with the appointment of Mary McAleese as the Director of the Institute of Professional Legal Studies at Queen's University, Belfast.

The Institute is the body which attempts to prepare students for their careers in the legal profession, and as such the Directorship is an influential position which also carries a substantial salary.

Controversy arose over McAleese's appointment because it emerged that the Professors's experience of the Northern Ireland legal system was almost non-existent, and that she had formerly been an academic at Trinity College, Dublin. However, it was the Professors' active membership of the Fianna Fail which prompted most concern and a suggestion arose that McAleese's appointment was a political move generated by the Anglo-Irish process. What might have prompted McAleese for the Directorship and can any credence might be given to the claim that the appointment was, in any way, political?

Mary McAleese, a native of the Ardoyne, graduated from Queen's in the mid-seventies and chose to go to the bar in Dublin. However contemporaries of McAleese at Queens, as well as in Dublin, suggest that her experience as a practising barrister seems to have been limited in the extreme. She soon turned in preference to an academic career and eventually became a criminal law lecturer at Trinity College. However, McAleese's interests in Dublin were not confined merely to the study of criminology. She was, and is, a passionate supporter of what can only be described as reactionary Catholic theology, devoting herself to the preservation of Ireland as a pure and untainted Catholic state.

She regularly contributes articles and book reviews on various aspects of the Church to religious publications as well as to the Irish Times. Given the role of the Catholic Church in the Irish state, it was unsurprising that she should find herself a position on the political scene. As a member of Fianna Fail, she was generally regarded as an individual whose rise would be worth watching. Her journalistic skills were expanded further when she became a presenter on RTE. Thus McAleese seemed to have guaranteed herself a high profile on several fronts in

the Republic, particularly Dublin.

However, sadly for McAleese, things started to take a turn for the worse. Her fellow journalists at RTE—angered by her blatant support of for Fianna Fail and the Catholic Church, moved against her. The trade unions at RTE passed resolutions ensuring that any member holding down a job and another full-time position would lose their union membership, thus being unable to work at RTE.

Ostensibly this move was to ensure that no union members would be deprived of the opportunity to work at RTE. However, the prime target was McAleese, who was lecturing full-time at Trinity College. As a result she was soon shunted out of RTE. Nevertheless, she still had her political career, until she herself demolished these aspirations too.

Observers in Dublin claim that McAleese committed political suicide in April 1987. She and other lawyers became concerned over what they saw as fundamental rights under the Irish Constitution being threatened by the ratification of the Single European Act. McAleese's prime concern was that the abortion laws would be liberalised. She argued that under the Supreme Court's decision in the Crotty case, the EEC would not be limited solely to influencing economic matters and that abortion, for example, would be forced on the Irish to bring them into line with their fellow European Community members. So, at a press conference, she questioned whether a united Europe was desirable if Ireland was not to retain its illiberal traditions, while reaping the economic benefits of membership.However, her claims were treated to what she herself termed as "howls of derision" from leading politicians including Alan Dukes and Des O'Malley, who both claimed that the EEC only had jurisdiction over purely economic matters. More interesting was the reaction from her fellow Fianna Fail members, who were not happy about her attempted sabotage of the Single European Act. It was alleged that after the press conference, Charles Haughey, on leaving the Dail, was asked what he thought about Mary McAleese's views. His response was "Mary who?".

If this anecdote is accurate, this was a surprising response from the Taoiseach to the views of one of his party's rising stars. If it is not, it still serves to illustrate the isolated position that McAleese found herself in. Perhaps it is not surprising that McAleese decided to move on to other things, but why she chose the QUB Legal Institute is not clear.

When the vacancy at the Institute arose, it was advertised as being suitable for someone who had good practical experience of working in either branch of the profession. it was further suggested that the position might suit someone who had recently retired. The terms of this advertisement certainly fitted the previous director, James Russell, and other staff at the Institute, who are all experienced legal practitioners. Unusually, the position was not filled at the first time, and the vacancy had to be re-advertised.

By September it became clear that McAleese had been appointed. Protests immediately arose from Unionist quarters. Cecil Walker, Clifford Forsythe and Roy Beggs attempted to get the matter debated in the House of Commons, arguing that as McAleese had no practical experience of the Northern Ireland legal system, the only reasons for her appointment must have been a political. The only response to this accusation came from professor Gordon Beveridge, the Vice-Chancellor of Queens, who rather weakly stated that McAleese was the most suitable applicant for the job. Either Beveridge had not read the job description or he had no conception of what exactly the Directorship of the Institute involved.

The other parties involved in the running of the Institute were silent about the appointment. These other parties include the Law Society, the Bar Council and the

Department of Education; the latter effectively having the whip hand, because it provides all the financing for the Institute. It was this department which last year effectively prevented the Law Society from setting up its own form of training for solicitors, as the Department would have been faced with a massive bill for their efforts. It is therefore apparent that it is the Department of Education which has the ultimate say, whether directly or indirectly, on the running of the Institute. This may well explain why McAleese, an unlikely candidate, succeeded in receiving the Directorship and the salary which accompanied it.

McAleese eventually chose to grace the Institute with her presence in January, some three months after the start of the academic year. The reason for this was that her contract with Trinity College would not expire until then. However, students at the Institute report that they have not noticed McAleese's presence anymore now than they did in October. She is said to emerge occasionally when visiting VIPs arrive at the Institute. Given that the former Director ran several courses as well as attempting to ensure that all the students leaving the Institute had employers, McAleese's attitude to her job is unusual.

Perhaps she was not being flippant when she informed the Irish Times "that all she would be taking up in Belfast would be knitting!".

5. By the said words in their natural and ordinary meaning the defendants meant and were understood to mean—

(a) That the plaintiff was unfit for her present appointment as Director of the Institute of Professional Legal Studies at Queen's University Belfast.

(b) That the plaintiff was wholly ignorant of the Northern Ireland legal system.

(c) That the plaintiff was appointed as Director not on her merits but due to political intrigues.

(d) That the plaintiff was held in low esteem by the staff and students of the Institute.

(e) That the plaintiff's religious views made her unfit for her present appointment.

(f) That the plaintiff was a bigot.

(g) That the plaintiff was a religious extremist possessed of views alien to the people of Northern Ireland.

(h) That the plaintiff was a cynical careerist.

(i) That the plaintiff only applied for her present appointment because her political career in the Republic of Ireland had foundered.

(j) That the plaintiff had and has no true interest in the teaching of law.

(k) That the plaintiff had and has no true interest in her profession as a Barrister-at-Law and Teacher of Law.

(l) That the plaintiff was late in taking up her present appointment.

(m) That the plaintiff was in breach of her contract regarding her present appointment.

(n) That the plaintiff was negligent in the performance of her duties as Director.

(o) That the plaintiff held the Institute of Professional Legal Studies in contempt.

(p) That the plaintiff was idle and lazy in the performance of her duties as Director.

(q) That the plaintiff was improperly holding two appointments simultaneously.

(r) That the plaintiff was rarely present at the Institute of which she was Director.

(s) That the plaintiff was not a fit person to be Director of the Institute of Professional Legal Studies.

(t) That the plaintiff was not a fit person to be a Barrister-at-Law.

6. By reason of the publication of the said article the plaintiff has been greatly injured in her credit, character and reputation and in the way of her chosen profession and in her standing in public life and has been brought into hatred, ridicule, odium, public scandal and contempt.

And the plaintiff claims damages.

Donnell J. Deeny.

3. A Defence In Reply To The Statement of Claim

Served this 27th day of May, 1989

by the First-named Defendant, Brendan Clifford,

acting in person.

1. The First Defendant admits and avers that the Plaintiff was called to the Bar of Northern Ireland in 1974 and to the Bar of the Republic in 1978. The Plaintiff was from 1975 until 1979 and from 1981

until 1987 the Reid Professor of Criminal Law, Criminology and Penology at Trinity College in Dublin. Between 1979 and 1981 the Plaintiff was employed by Eire Television as a journalist reporting on current and political affairs. She has been Director of the Institute of Professional Legal Studies at Queen's University, Belfast since October 1987.

2. Paragraph 2 of the Statement of Claim is admitted.

3. Paragraph 3 of the Statement of Claim cannot be confirmed by the First-Named Defendant.

4. It is admitted that the First Defendant published the words set out in paragraph 4 of the Statement of Claim under the heading *"The Knitting Professor"* in the issue of the magazine *"A Belfast Magazine"* Volume 3 Number 3 August/ September 1988. The said words formed an article, the full context of which will be relied upon by the First Defendant at trial, but paragraph 4 is otherwise denied.

5. It is denied that the said words were understood to bear any meaning defamatory of the Plaintiff whether as alleged in paragraph 5 of the Statement of Claim or at all.

6. Further or alternatively, insofar as the words complained of mean that there was reason to doubt whether the Plaintiff, by reason of her limited experience in practice at the Northern Ireland Bar and by reason of her controversial political and religious views, was an appropriate choice for appointment as Director of the Institute of Professional Legal Studies at Queen's University Belfast, the words are true in substance and in fact.

PARTICULARS

(a). The Plaintiff in or about October 1987 was appointed Director of the Institute of Professional Legal Studies at Queen's University Belfast. The Institute of Professional Legal Studies has the function of filling the gap between academic qualification in knowledge of law and experience in the practice of law. The new Northern Ireland jurisdiction established in 1920 was deficient in this area. This deficiency was analysed by the Armitage Committee, which reported to the Government of Northern Ireland in 1973, and the Institute was established on the basis of the Armitage Report in 1976. And the Armitage Committee set out guidelines for the appointment of the Director of the Institute in accordance with the function of the Institute.

The deficiency in the Northern Ireland legal system, which the Institute was designed to remedy, was described in the Armitage Report as

"23. the almost complete lack of any satisfactory form of direct professional training…"

"27. The breakdown of the pupillage system is the major dissatisfaction expressed in the evidence relating to the training of barristers. There is no Chambers System in Northern Ireland. Each newly called barrister is allocated a seat in the Bar Library and may accept briefs and mark fees immediately after Call. No rule of pupillage exists but the newly called barrister normally attaches himself to an experienced junior for a period of six months… This system worked reasonably well when the newly called barrister had very little, if any, work of his own, but the greatly increased amount of work available to the very junior barrister… has led to the pupil being unable to spend sufficient time with the Master or working on his Master's papers…"

Problems peculiar to training as a solicitor were described as follows:

"31. The main problem facing the prospective apprentice is to find a suitable Master with a practice sufficiently wide and varied to provide him with the necessary experience, who has the time to devote to his apprentice's instruction."

The Armitage Report concluded

"39. It was clear to us from the evidence submitted that the successful completion of existing courses of professional training provides no guarantee as to the competence or the quality — beyond academic quality — of a candidate for either branch of the Profession. We are satisfied that the case for change is overwhelming."

The Armitage Report recommended that the deficiencies in the practical training of Solicitors and Barristers should be made good through an Institute of Professional Legal Studies which would be established

at Queen's University, and would, in close association with the legal profession, give one year vocational courses to law graduates.

Consonant with its recommendations for the Institute of Professional Legal Studies, the Armitage Report said, concerning the Director of the Institute:

> *"101. We expect the Director to be a person with wide experience in successful practice. Such person could expect to command a salary as a practitioner above the maximum Professorial Salary paid by Queen's University. We therefore recommend that the salary should be fixed at the maximum Professorial Salary of the University and we would expect this amount to be supplemented by limited private practice or other outside sources."*

The Bromley Committee, which reported to the Government of Northern Ireland in 1985, reviewed the work of the Institute, and stressed the need to strengthen its links with the legal profession. It expressed one marked difference with the Armitage Report: *"Experience has shown that training at an institute cannot replace training at the job"*. It therefore recommended that intending solicitors should serve a two-year apprenticeship, one year of which should be in a solicitor's office, sandwiched between two parts of a year at the Institute, and that a comparable arrangement be made for intending barristers.

The Bromley Committee was *"left in no doubt that for a large section of the practising profession the Institute is regarded as part of the University and therefore remote from practice"*. It considered this view to be *"profoundly misconceived"*, and recommended that it be broken down by a more active involvement of the profession in *"all aspects of the Institute's work["]*.

The Bromley Committee considered the advantage of direct control of the Institute by the profession, but did not recommend this because *"It was made clear to us that Government funding of the Institute would cease if it were to become independent; the profession left us in no doubt that it could not find the resources; consequently an independent institute would have to be funded entirely by students' fees."*

The Bromley Committee described the Institute as *"a bridge between academic study and practice and the aim is to teach intending barristers and solicitors the skills and techniques which they will require especially in the early years of practice. Unfortunately we have received evidence of a regrettable gap between the Institute and the profession for which both must share responsibility… It is therefore essential, in our opinion, that both sides should find ways of working more closely together"* (3.8).

The Bromley Committee reported the difficulty, pointed out to them by the then Director of the Institute, of attracting staff of the requisite quality from the profession to the Institute, and it agreed that salary was an inhibiting factor. It expressed the hope that this difficulty would be removed; and *"3.16. We would hope that those who teach at the Institute would continue to have experience in practice and recommend that the full-time staff of the Institute should maintain as close a contact with private practice as is practicable."*

(b). The first Director of the Institute of Professional Legal Studies was James Elliott, of the firm, Elliott, Duffy, Garrett, who was also City Coroner and a leading Solicitor. He kept up his professional practice, while teaching several courses at the Institute. The second Director, James Russell, had extensive experience as a Solicitor in a firm of Solicitors, J.W. Russell & Sons, in which he was a partner for over twenty years. He taught four courses at the Institute, as well as using his professional connections to place students with practitioners of law upon the conclusion of their course. On the retirement of James Russell, Max Feeny, a leading figure in the judiciary of many years standing, filled the post on a temporary basis. The Plaintiff, who abandoned the practice of law soon after qualifying for the Bar, could not continue in private practice, because she had no private practice. And since she was not a practising member of the legal profession, she could not transmit the practical experience of the profession to the law graduates at the Institute.

(c). The post of Director of the Institute of Professional Legal Studies was advertised in the *Belfast Telegraph* of April 9th, 1987, in the terms set out in the Official Reports described above. The text of the advertisement read:

"The Queen's University of Belfast

DIRECTOR OF INSTITUTE OF PROFESSIONAL LEGAL STUDIES

"The Institute of Professional Legal Studies was established in 1976 by the University (in co-operation with the Inn of Court and Incorporated Law Society of Northern Ireland) to provide a full-time vocational year course of professional legal training for law graduates intending to practise as solicitors or barristers in Northern Ireland. Under the guidance of the Council of Legal Education (Northern Ireland), The Director of the Institute is responsible for the planning of vocational and other courses, and for the administration of the Institute.

"Applicants for the Directorship, which will be held for a period of five years in the first instance, subject to renewal by mutual agreement, should preferably be barristers or solicitors, with experience in professional practice, but not necessarily holding qualifications to practise in Northern Ireland. Experience in law teaching would be desirable, but not essential. The salary of the Director is negotiable and will be comparable to that applicable to posts in the public service outside private practice.

"Further particulars may be obtained from the Personnel Officer, The Queen's University of Belfast, BT7 1NN, Northern Ireland. closing date: May 7, 1987 (Please quote Ref. 87/ BT).
N 130651".

The Plaintiff met the inessential requirement of experience in law teaching, but did not meet the definite requirement of "experience in professional practice".

(d). An Interview Board was set up by the Council For Legal Education, a body representative of the profession, the judiciary and of Queen's University, Belfast, to interview candidates for the position. The candidates who applied in response to the advertisement were considered unsuitable. After the advertised closing date, members of the Interview Board privately canvassed for applications from people, some of whom were not in professional law practice. This altered the job description in substance without advertising the fact, and constituted word of mouth recruitment not in accordance with fair employment procedures which all employers in Northern Ireland are publicly exhorted to observe. Three applications for the post of Director were elicited: a Solicitor in a successful private practice in Northern Ireland; an academic with long experience in the teaching of law in Northern Ireland; and the Plaintiff.

(e). The appointment of the Plaintiff caused considerable public concern, and was raised in Parliament by four Members of Parliament, representing 246,603 members of the Northern Ireland electorate, who pointed out that the Plaintiff was brought in from a foreign jurisdiction and was appointed without having the requisite experience. The House of Commons Motion they tabled read as follows:

"That this House, believing in the principles of merit, equal opportunity and fair employment, shares the concern among members of the legal profession and others regarding the appointment of Mary McAleese as Director of the Institute of Professional Legal Studies at Queen's University, Belfast; and calls for an early debate, to establish, if the post was advertised for a semi-retired or retired practitioner of several years standing, if Mary McAleese has practical legal experience, if on graduating from Queen's University, Belfast, she went to live and work in another jurisdiction, namely the Republic of Ireland, if she has ever practised in the jurisdiction of the United Kingdom, if she now spends two days per week on average in Belfast and still lectures in Dublin, the level of salary afforded to the Director of the Institute of Professional Legal Studies at Queen's University, Belfast, the number of lectures given by Mary McAleese since her appointment at Queen's University, Belfast, to date, whether there is validity in the speculation that Mary McAleese was nominated by the Premier of the Republic of Ireland, Charles Haughey, and appointed for political

reasons rather than merit, and the number of applications made for the position of the Director of the Institute of Professional and Legal Affairs at Queen's University, Belfast, and the qualifications of each applicant."

(Roy Beggs, Clifford Forsythe and A. Cecil Walker, 25th November 1987; Roy Beggs, Clifford Forsythe, A. Cecil Walker, John D. Taylor, 7th December 1987.)

(f). The Plaintiff was born in Belfast in 1951 and completed a Law Degree at Queen's University, Belfast in 1969-1973, at the age of 22. She was admitted to the Northern Ireland Bar in 1974. The Plaintiff's total experience at the Northern Ireland Bar was gained around the age of 23. The Plaintiff's name does not appear on the legal team of any cases described in the volumes for 1974 and 1975 of the officially issued *"Northern Ireland Reports"*. In 1978, while Reid Professor, the Plaintiff became a Barrister of the King's Inn, Dublin, but there is no record of her having practised in Eire. She concentrated on the academic and socio-political side of law.

(g). The Plaintiff found the Northern Ireland Bar and practical work at the Bar disappointing. She told Ces Cassidy of the *Irish Independent* in or about February 1984 that she had practised at the Bar for a short time, but found the experience disappointing. *"It was very old-fashioned and very much a man's world. There were only two women besides myself practising at the Bar then, and it was Belfast too."* She wanted out. The Plaintiff opposes traditions of Court practice. In an article published in the Sunday Tribune on 5th October 1988, the Plaintiff wrote: *"Whatever misguided notions about solemnity and formality ever lay behind the wearing of horsehair wigs and black gowns in far off days, today in 1986 they convey an element of theatrical farce, the net effect of which is the precise reverse of the effect intended. It is a ridiculous get-up at best, but worse still, it presents an image to the client and to the public of a profession steeped in obsolete etiquette, hostile to change and only grudgingly adjusting to the 20th century."* The Plaintiff left the practice of the law in Northern Ireland and took up academic law in the Republic of Eire.

(h). In 1975, at the age of 24, the Plaintiff took up the post of Reid Professor of Criminal Law, Criminology and Penology in Trinity College, Dublin. This is not a Professorship in the generally understood sense. It is a lecturing post, paid for partly from outside the University Budget by the Reid Trust. It is recruited at junior level, and does not carry a full professor's pay. The Plaintiff's professorial title derives solely from the Reid Professorship and therefore does not in itself indicate the mature experience of academic law and administration which would normally be the concomitant of the title, Professor.

(i). In 1979 the Plaintiff left Trinity College, Dublin for a change in career. At the age of 28 she became a full-time television journalist on current affairs topics. She worked as a political reporter on *Frontline* and *Today Tonight*, two programmes on Eire television, as well as on other programmes. After two years as a full-time television journalist, the Plaintiff returned to the Reid Professorship, while continuing to work part-time as a television journalist and presenter on various RTE programmes. She has stated that she left full-time television work because she found it difficult to take it seriously, but she also had some conflicts with her fellow-journalists. In or about February, 1984, the Plaintiff told Mary Raftery of the *Irish Times*, that *"I left RTE because I found it awfully hard to take television seriously."* In or about June, 1984, however, the Plaintiff told Caroline Walsh of the *Irish Times* that her involvement with RTE hadn't always been the most pleasant of experiences. Her year with the *"Today Tonight"* programme, for instance, she remembers as an awful time during which she felt that there was an abysmal ignorance on the programme about what was happening in the North: *"Joe Mulholland has admitted lately that probably during the H-Block hunger strike they were not aware of what was happening to the Catholic community in the North. I was a Northern voice and I spent a lot of time there. Every weekend I was with friends and relations trying to find out what was happening in the North but I was not listened to. Whenever I tried to explain that more and more people were being drawn into the H-Block cause because of the failure of the British Government to act they wouldn't listen to me because they felt that anyone who was bringing that message into the programme had to be a Provo supporter. It was literally pillorying the messenger for bringing the message."*

(j). The Plaintiff decided

that she was basically a lawyer and to her this was synonymous with academic life. In or about February 1984, she told Mary Raftery of the *Irish Times*: *"basically I was a lawyer, and I wanted to go back to academic life"*. The Plaintiff held the Reid Professorship at Trinity College, Dublin from 1981, until she obtained her present appointment in 1987. On her return to Trinity College, Dublin, the Plaintiff started research on a Doctoral thesis on women in prison in Ireland, and on a textbook on Irish criminal law. She also participated in a joint project, making a comparative study of child custody in Ireland, England, Scotland and Wales.

(k). The Plaintiff took a considerable interest in the practical shortcomings of the Criminal Justice system, and served on a Commission of Enquiry on the Irish Penal System, chaired by the late Sean McBride. The Plaintiff has not rebutted a statement which appeared publicly in a profile of her by Emily O'Reilly published in the *Sunday Tribune* on 8th April, 1984: *"Other people active in the area of prison reform say that her knowledge of the issues, though broad, is academic and patchy in several areas. She was reported to have been reduced to tears while listening to young men give their accounts of wasted lives spent in prison and reform schools."*

(l). Although the Plaintiff returned to academic life, she retained her connection with television journalism on a part-time basis, and developed her interest in politics. She also engaged in some newspaper journalism. In or about February, 1984, the Plaintiff told Mary Raftery of the *Irish Times* that broadcasting was her *"hobby"*. In February, 1984, also, the National Union of Journalists, in pursuance of union policy against *"double-jobbing"*, suspended the Plaintiff's union membership, thus ending her hobby of television journalism; and in February, 1986, the NUJ terminated her membership. The Plaintiff was reported, in the *Irish Times* of 10th February, 1986, as attributing the move to anti-Catholic prejudice: *"She was satisfied that anti-Catholic prejudice had influenced some members of the Dublin Broadcasting Branch of the National Union of Journalists when it decided that her membership of the union should be suspended. 'I have no doubt whatever about it…'"* The *Sunday Press*, on 9th February, 1986, reported: *"She says an element with the NUJ decided to move against her shortly after she appeared for the Irish bishops at the New Ireland Forum… she believes the union moved against her purely because of her Forum appearance."*

(m). In February 1984 the Plaintiff was invited by the Roman Catholic Bishops of Ireland to form part of their Delegation to the New Ireland Forum. The main message of the Bishops to the Forum was that Catholic moral policies on such matters as Divorce, should continue to form part of the constitutional law of the Republic. The Plaintiff told Ces Cassidy of the *Irish Independent* in or about February 1984, that she was briefed by the Bishops. She stated: *"I just heard what they had to say and found I could stand over everything they said. I share all the concerns they expressed."* The Bishops' Submission to the New Ireland Forum made it clear that they would not favour liberalisation of legal provisions on moral matters to facilitate the development of closer relations with Northern Ireland.

(n). After her return to academic life the Plaintiff became a more controversial figure in the public political life of the Republic of Eire. The Plaintiff became a member of the Fianna Fail Party in January 1985, with a view to standing for parliamentary election, and did in fact stand as a candidate in Dublin South-East in the February 1987 election. She failed to win nomination to the Fianna Fail election ticket from the local Party machine, but her name was added to the Fianna Fail ticket in this four-seat constituency by the National Executive of Fianna Fail in November 1986. It was reported in the *Irish Times* of 21st November, 1986, that *"The decision to run four candidates in the… constituency was a considerable surprise and it reflected the high regard that the Fianna Fail leader, Mr. Haughey, has for Ms McAleese, who has acted as party advisor on legislation in recent years."* The Plaintiff obtained only 2,243 first preferences on the first count (the quota was 7,655), despite her high media profile. She had been writing a regular newspaper column in the months before the election, outlining her views on political and social issues.

(o). The Plaintiff's political party, Fianna Fail, opposed the Single European Act when it was in Opposition, but supported the Act when it came into Government. When the Eire Supreme Court declared the Act unconstitutional, the Fianna Fail Government sought to legalise it by a constitutional Referendum. The Plaintiff did not campaign in support