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Politics

Chequered history over privilege use in Commons

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A licence to speak or slander? After Paul Quinn's suspected killers are named in Parliament Chris Thornton looks at the double edge of Parliamentary privilege

Wednesday, November 14, 2007

The dogs in street sometimes find a voice. Those pieces of information that "everybody" knows but no one can say, at least not without risking a writ for slander, are prime material for Members of Parliament to exercise their lungs and the legal protection known as parliamentary privilege.

Ulster Unionist peer Lord Laird of Artigarvan is the latest to use this device; on Monday night he rose in the House of Lords to name eight south Armagh men he claimed had plotted and planned last month's murder of 21-year-old Paul Quinn just over the border.

The named men, some of them well known republicans, have no legal recourse against the peer, or the media outlets that reported his speech. They could sue if Lord Laird repeated the allegations outside the House, but otherwise their options are extremely limited.

They could make a public denial - as of last night none of them had - but that would expose themselves to further publicity.

They might also persuade another peer to make a complaint that Lord Laird has abused his privilege; a difficult thing to prove and an unusual road for south Armagh republicans to travel.

Parliamentary privilege - known in legal circles as a form of absolute privilege - is therefore clearly a powerful weapon for MPs, Lords and Stormont's Assembly members.

The reason for privilege is simply free speech. Unburdened by fears of legal action, MPs, peers and MLAs can speak freely about important topics.

According to Westminster's own guide, it "enables them to raise in the House questions affecting the public good which might be difficult to raise outside owing to the possibility of being sued".

Lord Laird said he considers the Quinn murder just such a topic. "Parliamentary privilege exists for a particular reason," he says. "People like myself have got to have the ability to bring things to the public attention and the Government's attention, when there are exceptional circumstances.

"You have to check out your information because it's unfair to drop anyone in it who is innocent. You also have to be careful that you're not going to prejudice any court case.

"In this case, I am confident the facts are right and that these exceptional circumstances need exceptional measures."

Critics say it is open to abuse because it can elevate gossip to uncontested fact. Reputations can be damaged without proof, possibly without foundation.

Certainly the facts can be right. Finance Minister Peter Robinson used privilege in Westminster and at the Assembly a few years ago to name top IRA figures.

In spite of Sinn Fein's protests, his list appears to have been entirely accurate - and some of those he named turned up at Stormont in May to watch Sinn Fein sworn into government.

But the facts presented by a parliamentarian may also be wrong. In 1999, DUP leader Ian Paisley used Parliamentary privilege to name Armagh man Eugene Reavey as one of the planners of the Kingsmill massacre, which saw 10 Protestant workmen murdered in 1976.

Mr Reavey, whose three brothers had been shot by loyalists the day before the attack, denied the

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allegation. He was joined by Alan Black, the only survivor of the attack, and the then Chief Constable Sir Ronnie Flanagan, who said the RUC had "absolutely no evidence whatsoever" linking Mr Reavey to the attack.

The episode hasn't ended there. Mr Reavey has gone down the long road of testing privilege in the European Court of Human Rights. He wants the court to decide which is worse: stopping politicians from speaking their minds or allowing them to run at the mouth.

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