

# BLOODY SUNDAY INQUIRY

WEEK 3

10 - 13 APRIL 2000



Mr Clarke spent the third week of his opening statement continuing with sector one, events prior to the entry of the Paratroopers into the Bogside.

## 5.6 THE PROGRESS OF THE MARCH continued

### 5.6.2 Observation Posts

The following observation posts (OPs) were being used by the Army during the march:

- OP Echo was at the Embassy Building in Waterloo Place
- OP Charlie was to the north-east of the Walker monument
- OP Kilo was at the south west end of the Grand Parade

### 5.6.3 Transcripts and timing of Army radio messages

The BSI will use transcripts of the radio messages passed between the Army on Bloody Sunday to help find out what was actually happening and also to see what information those in positions of responsibility were basing their decisions on.

BIRW have provided a transcript of radio transmissions recorded by Mr Porter on the day. The BSI checked this transcript against the tapes and is confident that it is accurate. The transcript divides each separate radio message, shows who made and received the message and gives the content.

The Brigade log is a different account of the same radio messages. It is a hand-written summary of radio messages compiled by staff in the operations room of 8<sup>th</sup> Infantry Brigade at Ebrington Barracks. One or two Duty Officers would compile the log as messages came in from soldiers on the ground and in the helicopter flying over Derry. Other staff in the operations room would add things into the log as well. Mr Clarke said that the log is a brief summary of the radio messages and it is not complete and not always in the precise sequence.

The BSI team have added the serial numbers and timings shown in the Brigade log to the transcript provided by BIRW to give the most complete account of Army radio messages that day.

### 5.6.4 The route of the march

Mr Clarke returned to the progress of the march. The photographic evidence is particularly helpful as many of the photographs show the time on the Guildhall clock.

When the lorry at the head of the march reached the top of Rossville Street it turned right towards Free Derry Corner. Some people broke from the main body of the

march and ran further down towards the eastern end of William Street to barrier 14. Photographs showed stewards attempting to move people back from the barricade and back into Rossville Street. Father Mulvey who was watching the march from the gates of St Eugene's Cathedral said that it was 3:30pm when he saw the lorry turn into Rossville Street.

### **5.6.5 Barrier 14**

Barrier 14 was manned by A company of the Second Battalion of the Royal Green Jackets, with C Company of 1 Para waiting behind them.

At 3:30pm Barrier 14 is photographed with nobody but soldiers around it. By 3:35pm the first arrivals are seen approaching the barrier. By 3:36pm a sizeable group had reached the barrier.

Stewards can be seen at the front facing the crowd. One of the stewards seen at this barrier, trying to get people to move away from the barrier, was John Young who was killed later that day.

At 3:38pm an entry on the Brigade log records that stones were being thrown from the crowd towards the barrier. Television footage shows one man try to pull the barrier back.

Evidence from the soldiers manning Barrier 14 is conflicting. Some soldiers say they heard nailbombs and petrolbombs exploding. Another said he heard only petrolbombs. Whilst another soldier did not hear any explosions. He just saw stones and bottles being thrown.

### **5.6.6 Barrier 12**

Rioting also took place at Barrier 12, which was on Little James Street. Photographs were shown of a number of people trying to pick up a corrugated iron shield.

A gunner in the 11<sup>th</sup> battery of the 22<sup>nd</sup> Light Air Defence Regiment said that bricks, nailbombs and petrol bombs were thrown at the barrier. Another gunner from the same Regiment said that nailbombs and petrol bombs were thrown and that soldiers retaliated by firing plastic bullets, tear gas canisters and smoke into the crowd.

### **5.6.7 Intensity of the rioting**

Opinions differ on the intensity of the rioting. Mr Clarke said that the assault on the troops at Barriers 12 and 14 has been described as 'intense,' 'violent' and 'sustained.' It has also been described as nothing particularly extraordinary in the Bogside at that time. James Donal Deeney, a seasoned rioter, said that there were too many people for him to be able to riot properly. He was at the corner of William Street.

'At the time it just seemed like a preliminary skirmish. I was waiting for the rioting to really start happening. I expected that we would retreat back into the Bogside and try to draw the Army in after us. At no time was anything 'heavy' thrown by which I mean, no nailbombs or petrol bombs were thrown at the Army.'

### **5.6.8 The troops response**

The troops responded with water cannon, rubber bullets and, at least one barrier, with CS gas.

BBC cameraman, Peter Beggen, was standing at Barrier 14. He described how stewards were trying to get young stone throwers to move back from the barrier. The troops took no action at this stage and simply sheltered behind two armoured personnel carriers (APCs). The stewards managed to get most of the marchers to move back. Some youngsters remained and 'a period of very intense stoning followed.' The troops fired the first volley of baton rounds. The youngsters moved back and then returned still throwing stones.

At 3:44pm, the troops brought a water cannon up to the barricade and fired dyed water. Mr Beggen said that at that point there were not many people, except the stone throwers in the immediate vicinity of the barricade. Two canisters of CS gas were thrown from the crowd. The stoning was resumed. The troops fired several more volleys of baton rounds.

At 4:09, the stone throwers started to use corrugated iron sheets as shields. Members of the crowd in the High Street threw stones from over the tops of houses. The water cannon was used again and cleared the area in front of the barricade. More rubber bullets were fired at stone throwing stragglers.

The Brigade log shows that CS gas was used by the troops at Barriers 12 and 13. One witness saw members of the crowd pick up the CS gas canisters, which the troops had thrown and throw them back at the soldiers.

CS gas also appeared in the area of Barrier 14. The Brigade log said that the CS gas came from the crowd rather than the troops.

The crowd in front of Barrier 14 thinned out. Some people went west up William Street and then either down Rossville Street or further west up William Street. A core rioting element remained at Barrier 14. At the top of Rossville Street, the march had stagnated as people hung around in clusters with only some going down to Free Derry Corner.

By 4:00pm only a hooligan fringe remained in front of Barrier 14. The water cannon had more or less cleared William Street when it was used. A body of evidence describes a crowd rushing away from the barriers when the troops came through the Barrier. Mr Clarke suggested that the crowd had appeared from behind a wall on Chamberlain Street, which is where they had been sheltering from the water cannon.

### **5.6.9 An important communication**

Brigadier MacLellan said that he asked Colonel Welsh for confirmation that the tail of the march had passed the Rossville Flats at 4:04pm. However this communication does not appear on the Brigade Log or on the transcript of Mr Porter's tape recordings. It is important because it would be a deciding factor in the decision to send the troops through Barriers 11,12 and 14.

### **5.6.10 Film footage of the Barriers**

Two videos were shown of footage recorded by journalists at the barriers. The videos show four APCs going through Barrier 14. The Widgery Inquiry proceeded on the basis that all soldiers had gone through this barrier on foot.

A noise like the breaking of glass can be heard on both videos. Mr Clarke queried whether this was what some people referred to as a petrol bomb. He noted that there is no footage of a petrol bomb actually igniting.

## 5.7 OPENING SHOTS

There is a large amount of confusing evidence as to the source, direction and timing of various shots alleged to have been fired on Bloody Sunday. ISVR Consultancy Services were commissioned by the BSI to find out whether it is possible for witnesses hearing gunfire to decide whether they were being fired at or whether the fire was aimed away from them. The research has not been able to show whether a witness can tell which direction a shot is coming from.

The BSI has recently received a list of shooting incidents for the 30<sup>th</sup> January 1972. It was attached to the statement of the Commanding Officer of the Royal Anglian Regiment.

The first incident it records is timed at 3:50pm, two shots fired at the 15<sup>th</sup> Battery in the Brandywell from Kildrum Gardens. No fire was returned. This is some distance from the areas of main concern in sector one.

### 5.7.1 A question over a shot at the drainpipe

Military evidence said that at 3:55pm a high velocity round, fired from the Rossville Flats, struck a drainpipe on the east side of the Presbyterian church above the heads of a wire cutting party of the Mortar Platoon.

In his account, a Corporal in B Company with the Composite Platoon recalls hearing the shot and giving a contact report over the radio. He then asked for a sniper to be sent. A sniper arrived who could not see a target. The soldier said that this was also reported on the radio.

The shooting incident is also logged in Major Loden's diary of operations. He said that after the shot struck the drainpipe, a soldier saw a man about to ignite a nailbomb. Orders were given to shoot at the man. Major Loden recorded that the soldiers fired, the man fell and was dragged away by his comrades.

Mr Clarke said that in spite of this large body of military evidence there is a serious question about whether the shot was actually fired and if it was ever fired, whether it was before or after the shooting of Damien Donaghy and John Johnston. There are two problems with the military evidence about this shot:

- There is no report of the shot in any of the Army logs or radio transcripts. Even though the Corporal in B Company claims to have reported the shot over the radio.
- Even though there were many people in the area of William Street and Columbcille Court, there is no evidence from civilian and journalists which supports the Army's claim that a shot was fired at the Presbyterian Church before the shooting of Damien Donaghy and John Johnston.

Mr Capper of BBC radio was at the corner of Rossville Street and William Street, carrying a tape-recorder to record a commentary whilst the march was taking place. He was watching some youths stoning troops at Little James Street. He could see the Army responding with rubber bullets and gas. He then heard two much louder reports among the sound of the rubber bullets. After five minutes a man approached him and asked him to come and see two men (Damien Donaghy and John Johnston) who had been shot by the Army. He followed the man to some maisonettes but could not get in to see the men. He then saw a short man wearing a brown overcoat fire one round from a pistol towards some soldiers in a derelict building by the Presbyterian Church.

The tape recording that Mr Capper made during the day was played. It is not a continuous recording and it has a number of stops and starts. During the recording, Mr Capper refers to a loud shot, which he said did not appear to be coming from what he believed to be the Army positions. He will be asked about this when he gives oral evidence to the BSI.

### **5.7.2 Effect of the news of the drainpipe shot on the soldiers**

News of the shooting which was believed to have come from the Rossville Flats reached at least some soldiers. Evidence exists which shows the soldiers' perception of that shot to have fundamentally changed the atmosphere. Soldier O, who was in the Mortar Platoon of 1 Para said,

'That one shot was so important to us. It was a contributory factor to what followed. If there had not been a shot at the soldier then what happened later would not have occurred. It meant to us that there was a sniper or snipers in the area and they could be firing at us from a number of positions. As far as we were concerned this was now a gun battle and not just a riot.'

### **5.7.3 The only Army casualty of the day**

The only soldier known to have been injured with gunshot wounds on Bloody Sunday was a gunner in the 42<sup>nd</sup> Battery of the 22<sup>nd</sup> Light Air Defence Regiment. He was in a position in a derelict shop between Sackville Street, Strand Road and Prince Arthur Street. He accidentally fired a live round from his SLR into his foot whilst playing with the safety catch.

It has been suggested that the shot, which the soldiers say was fired at the Presbyterian Church, may have been this accidental shot. The soldier's statement gives no time for the incident. It is logged in the Brigade Log at 5:07pm, which is an hour after the shot to the Presbyterian Church. Mr Clarke suggested that it might be possible to rule this theory out because of the difference in location and time.

## **5.8 THE SHOOTING OF DAMIEN DONAGHY AND JOHN JOHNSTON**

The circumstances which Damien Donaghy aged 15 and John Johnston aged 59 were shot are controversial.

### **5.8.1 Evidence of Corporal A**

Soldier A was a Corporal in the Machine Gun Platoon and gave evidence that he was at a position in the middle floor of a derelict building at the window nearest to William Street. The building is also known as the Abbey Taxis building.

He said that the soldiers on the ground floor were spotted by some youths who started to throw bottles, stones and rubbish at the house. The men on the ground floor fired rubber bullets at the youths. Corporal A said that he saw two smoking objects thrown across his line of sight which he heard explode to his left.

He said that after he heard the explosions he looked out of the window and 50 metres away on the other side of the road by an open space he could see a man look around a building and dart back again. The man came round and exposed his full body and brought his right hand from behind his back. He had an object in his hand. The man then struck a fuse type match against a wall with his left hand. He then brought his two hands together. Corporal A said that he thought the man was about to ignite a nailbomb so he fired once. That round missed so he fired a second round. He aimed at the centre of the man's body. It hit the man who fell down on to

the corner. Other people came out from the side of the building and dragged him away.

Corporal A said that the telescopic lens of his rifle gave him 'tunnel vision.' He accepted that there could have been other people around but he could only see one man through his lens. He said,

'The second shot hit the guy. His body went up and back with his arms flung up in the air. Without sounding flippant it was something like they do on the movies and is due to the force of the 7.62 round which really does send shock waves...I aimed for the centre of his body mass, not at his head. My intention was to kill him, but you are trained to go for the biggest target area so that you are more likely to hit and stop what he was doing.'

### **5.8.2 Evidence of Private B**

Soldier B was a private in the same platoon and was on the ground floor of the same building. He said that he was with the Platoon Commander and three other members of the Machine Gun Platoon on this floor. He said that he heard two nailbombs explode to his left in the wasteground behind the house. He did not actually see them being thrown because he was putting his gas mask on at the time but he heard them explode.

He said that he saw a group of people on the wasteground opposite. They were throwing stones and bottles. He noticed one man at the edge of the house on William Street. The man had a black cylindrical object, which looked like a nailbomb in his right hand. He struck a match on the wall with his left hand. Then he brought both hands together. Private B said he thought the man was about to light the nailbomb so he fired one shot at the man's chest. He missed and so he fired two more shots. The man fell back and was dragged away by two of his comrades.

### **5.8.3 Potential Discrepancies in Soldiers A and B's evidence**

Mr Grierson of the BSI team has produced two reports on the soldiers' evidence. He has analysed discrepancies and inconsistencies between the original accounts given by the soldiers and their later evidence.

Mr Clarke said that there can be entirely innocent reasons for later evidence to differ from earlier versions. It will be the task of the BSI to decide whether the changes have a sinister significance.

### **5.8.4 The most significant potential discrepancies**

Mr Clarke gave an overview of the most significant changes made by Soldiers A and B to their original accounts:

- Soldier A changed the position of the nailbomber from the north east corner to the north west corner of the wasteground.
- Originally Soldier A said the nailbomber held a match in his right hand. He later changed this to the nailbomber's left hand.
- Soldier B said the nailbomber was wearing a dark coloured windcheater but later said that it was light coloured.
- Soldier B said that he knew another soldier had fired live rounds when he was still in the Abbey Taxis building. He said later that he only discovered another soldier had fired once he was in the APC.

If both soldiers were firing at the same target, then the consistencies between both their accounts only exist because of the changes made in Soldier A's account.

In any case inconsistencies between their accounts still exist. Soldier A said the target was on his own. Soldier B said the target was at the front of a group of eight people. Soldier A said that he fired on the orders of the Platoon Commander. Private B was in the same room as the Platoon Commander and he said that this order was not given.

If the soldiers were firing at different targets in the same location the question to ask is why neither soldier saw anyone apart from their own target fall.

### **5.8.5 Evidence of John Johnston**

Mr Johnston died five months after the shooting from an inoperable cerebral tumour. In his evidence to Lord Widgery, he said that he was walking down William Street to visit an elderly man who lived in Glenfada Park when he decided to cross over the wasteground at the back of Columbcille Court.

He saw four or five soldiers in a derelict house with guns pointed out of the window. He then heard a shot and said there was a little boy, ten feet behind him, lying on the ground. Two seconds after that he was shot in his right leg and left shoulder. He also had a ricochet wound to his hand.

Mr Johnston's injuries suggest that his back was not wholly turned to the soldiers when he was shot.

### **5.8.6 Evidence of Damien Donaghy**

Damien Donaghy spent six months in hospital after being shot. He was not called to give evidence at the Widgery Tribunal although his relatives specifically asked that his evidence be heard.

Mr Donaghy has given accounts of the shooting in a statements to the Widgery Tribunal, the BSI, the Sunday Times, a Channel 4 documentary, 'Secret History: Bloody Sunday' and a BBC programme, 'Inside Story: Remember Bloody Sunday.'

His numerous accounts have differed in very minor details. He has consistently said that he was doing nothing aggressive at the time he was shot. He had thrown stones on other occasions but was not throwing them on Bloody Sunday. In one account, he said that he ran to pick up a rubber bullet, as he wanted to sell it as a souvenir and was then shot. Another account said that he simply turned around when he heard the bullet and was then shot. A third account says that he had taken three steps towards the bullet and was then shot.

Medical evidence shows that the entrance wound was on the front of his right thigh, which suggest he must have been facing the direction of the Abbey Taxis building when he was shot.

### **5.8.7 Civilian Evidence of the Shootings**

The gist of civilian evidence is that Mr Donaghy was near a group of youths that were throwing stones towards the Abbey Taxis building. He was hit by a shot, which either came from the Abbey Taxis building, the Presbyterian Church or the GPO sorting office. Shortly afterwards Mr Johnston was hit by a shot from the same source.

All the civilian evidence from eyewitnesses becomes confusing when looked at in detail. Mr Clarke has examined it under the following categories:

- Where Damien Donaghy was when he was shot
- Was anything being thrown at soldiers, and if so, what?

- The number of shots that were fired by soldiers
- The order in which Damien Donaghy and John Johnston were shot
- What Damien Donaghy was doing when he was shot
- Where John Johnston was when he was shot
- What John Johnston was doing when he was shot

- **Where Damien Donaghy was when he was shot**

Damien Donaghy was known locally by his nickname, 'Bubbles.' The civilian witnesses differ on the location where he was shot. The majority of witnesses agree that Mr Donaghy was shot in the laundry wasteground in William Street. A number of witnesses place him in the north west corner of the laundry wasteground, which is where Soldiers A and B said they fired.

Some witnesses put the shooting in a completely different wasteground. A body of evidence exists saying that Mr Donaghy, or someone matching his description, was shot in the wasteground just to the east of Abbey Street. Mr Clarke noted that this location would mean the shot had probably not come from the Abbey Taxis building because a building blocked the line of fire. It is possible that a shot could have come from the GPO sorting office and perhaps from the Presbyterian Church.

Derek McFeeley said that he was stood next to Mr Donaghy when he was shot. He describes himself as standing on the north side of the Abbey Street wasteground, 'As the jeering of the soldiers in the derelict buildings continued (there was no stone throwing as far as I was aware) a single shot rang out from the north side of William Street behind me. Bubbles Donaghy, to whom I was not talking at the time, fell forwards as everybody else panicked and scattered in various directions.'

- **Was anything thrown at the soldiers?**

A lot of evidence suggests that youths had been throwing stones and bottles at the soldiers in the Abbey Taxis building.

Sean O'Neill describes himself as one of the hard core rioters. He was stood by Stephenson's bakery in William Street when he saw two soldiers in the Abbey Taxis building. He crawled along the eastern wall of the bakery with an empty lemonade bottle,

'I was ready to throw the bottle at him when a gun came out of the window and fired. It was damn loud. I thought he might have seen my head and fired when he saw me. Within a second of hearing that shot, I threw the bottle at the soldier and it hit him in the chest. I then raced back down William Street. The soldier did not chase me.'

There is no civilian evidence that supports the soldier's evidence that nail bombs were thrown.

- **The number of shots fired by soldiers**

Soldiers A and B said they fired five shots between them. The shots must have been practically simultaneous which could account for the different number of shots heard by civilian witnesses.

A number of witnesses, including Father Carolan and Daniel McGuinness said they heard two shots. Dr McClean said he heard three or four shots in quick succession.

Charles McDaid said that he heard two shots in rapid succession and turned to see John Johnston in a gap between derelict buildings on the south side of William Street, 'I shouted to him, 'Get down, they are firing live rounds.' As I uttered these words I heard another shot, a sharp crack, again from a northerly direction, and Johnston went down.'

- **Where the shots were fired from**

Soldiers A and B and others from the Machine Gun Platoon were in the Abbey Taxis building on William Street. The civilian witnesses do not agree on the direction of the shots. Only two civilian witnesses claim to have seen the firing of the shots.

Many witnesses recall hearing a shot and turning to see a soldier with a rifle and then assumed that he fired the shot they had just heard. However there were lots of soldiers standing around with rifles who appeared to be aiming. Mr Clarke warned that just because a soldier is seen holding a rifle in the firing position immediately after a shot is heard does not mean that he has actually fired that shot.

Some civilian evidence puts the first shots as being fired from the Presbyterian Church or the GPO sorting office. There are also a number of witnesses who say the shots came from the Abbey Taxis building.

Charles Meenan is one of the two witnesses who said that he actually saw the shot being fired. He was opposite the remains of Ritchie's Shirt Factory when he looked across Great James Street and saw movement in the two windows of the Abbey Taxis building. He could see two Paratroopers crouched in the sniping position pointing their rifles in his direction. Mr Meenan pulled his friend into the wasteground to get out of that exposed position,

'...and as I did so, still looking at the soldier, he fired one shot and hit a youth who had moved into our position.'

- **The order in which Damien Donaghy and John Johnston were shot**

The civilian evidence all suggests that Damien Donaghy was shot first and John Johnston was shot next.

- **What Damien Donaghy was doing when he was shot**

None of the civilian witnesses say that Mr Donaghy had anything in his hands either immediately before or at the time he was shot.

Some witnesses have said that Mr Donaghy had been throwing stones before he was shot. One witness said that he saw Mr Donaghy going to pick up a stone. In his evidence Mr Donaghy said that he was picking up a rubber bullet which he collected to sell as souvenirs.

Mr Curran was interviewed for the Secret History programme. He said that he saw a group of boys throwing stones but they had then walked across the road away from the soldiers. He said that Mr Donaghy was walking behind the rest of the group when he was shot.

Mr Donaghy's entry wound to his thigh was at the front suggesting that he must have broadly been facing the direction of the firer.

- **Where John Johnston was when he was shot**

Most accounts place John Johnston, like Damien Donaghy, on or in the area of the laundry wasteground. No entirely clear picture emerges as to the precise point at which he fell. Some witnesses place him as falling halfway down the wasteground from William Street. Others place him at the north west corner and others at the north east corner. It is possible that people saw him at different stages as he continued to walk after first being shot.

Michael McGuinness describes walking along William Street in a westward direction. He reached a piece of wasteground where he saw Damien Donaghy being looked after,

'...I turned and saw John Johnston coming from around the north western corner of the building...He was holding his shoulder and was very unsteady. He was leaning against the wall and looked dazed. I am sure that he had been shot, but I do not know how I reached that conclusion.'

A number of witnesses say that Mr Johnston was shot somewhere other than the laundry wasteground. Their accounts differ widely from Aggro Corner, to the Abbey Street wasteground to Kells Walk or to the north of William Street.

- **What John Johnston was doing when he was shot**

None of the evidence suggests that John Johnston was or ever had been a stone thrower. Queries have been raised as to whether he was going to help Mr Donaghy when he was shot. Mr Johnston never said that that was what he was doing. It is possible that those who saw Mr Johnston moving before he was shot may have jumped to the conclusion that he was going to help Mr Donaghy.

### **5.8.8 Medical help**

Both men were carried to Mrs Shields' house to the north of Columbcille Court. Members of the Knights of Malta Ambulance Corps attended to the men. Dr McClean examined the men inside the house and described hearing several bursts of gunfire outside. These shots came 15 to 20 minutes after the first shots.

Father Carolan went to the Creggan to collect his white Volkswagon car that he converted into a makeshift ambulance. When he left Mrs Shields' house he had to hide behind cars because there was still shooting going on.

When he returned to the house with the car, Mr Johnston was carried into it. Father Carolan drove him to Altnagelvin Hospital and then returned for Mr Donaghy.

## **5.9 MILITARY EVIDENCE OF NON-ARMY FIRING BEFORE THE ENTRY OF THE TROOPS INTO THE BOGSIDE**

Civilian evidence examined in the second week of the BSI opening statement suggests that shots were fired after, perhaps in response to, the shooting of Mr Johnston and Mr Donaghy. Some military evidence exists of non-Army firing before the entry of the troops to the Bogside.

An intelligence officer of 1 Para said that he was located to the north of Barrier 12 when he heard a crack which he believed to be a shot from the direction of Rossville Street. He said that he heard this noise two minutes before the Paras moved in.

A soldier who was part of the 11<sup>th</sup> Battery of the 22<sup>nd</sup> Light Air Defence Regiment was also located at Barrier 12. He said that he heard a single shot fired at the Paras by

what he believed to be a gunman in the area around Kells Walk or in a position somewhere on Rossville Street.

A soldier manning Barrier 9 in Francis Street said he heard one or two low velocity shots, more than one blast bomb and a Thompson gun being fired. He said that he heard either some or all of these before the Paras entered the Bogside.

A soldier in the 1<sup>st</sup> Battalion of the Coldstream Guards was based on a hill overlooking the Bogside. He said that he heard shots from the direction of the Rossville Flats before the troops moved in.

## **5.10 SHOTS FIRED OTHER THAN THOSE FIRED BY SOLDIERS A AND B**

Wilfred White was working in the GPO sorting office on Bloody Sunday. The GPO compound was just below Barrier 12 and it had a derelict house within its compound. Mr White described seeing a soldier with a rifle getting into a position in the first floor window of that building at 8:40am. It was possible to see the north end of Rossville Street, along William Street, Rossville Flats and the wasteground to the west of Rossville Street from the soldier's position.

At 4:00pm, Mr White returned to the compound to inspect a GPO vehicle. He was reversing on to a ramp at the east side of the sorting office building when he heard a loud crack. He looked up at the derelict building and saw the soldier in the window, 'His rifle was at his shoulder in the fire position and there was a wee bit of smoke coming from it. The rifle was pointing southwards, but I cannot say whether it was towards the Bog or towards William Street. The soldier was about 25 to 30 yards away from me.'

Mr White then heard another shot. He looked up and saw a soldier on the Presbyterian Church, behind a parapet. He said that the soldier had his rifle in the firing position but he could not say that he had definitely fired.

Mr White heard a third shot which he believed came from the Hogg & Mitchell Factory to the north of Sackville Street.

BBC cameraman, Cyril Cave, also gave evidence that he heard firing from the GPO. When he was returning from Mrs Shields' house he said that a shot fired towards him from the vicinity of the GPO buildings.

'The shot came from an elevated position and struck a garden wall behind us. I am not sure precisely where, but splinters of concrete hit my clothing.'

## **5.11 A SUMMARY OF ISSUES IN SECTOR ONE**

Mr Clarke summarised the issues in Sector 1 as follows:

### **5.11.1 Whether any shots were fired at soldiers near the Presbyterian Church either before or after the shooting of Mr Donaghy and Mr Johnston**

The evidence from the military says that a shot hit the drainpipe of the Church from the direction of the Rossville Flats before Mr Donaghy and Mr Johnston were shot. This conflicts with evidence from civilians, priests and journalists. IRA sources say that a shot was fired from the Bogside but only after the two civilians were shot.

### **5.11.2 Whether any nailbombs were thrown**

No civilian evidence supports the military's view that nailbombs were being thrown in this area. The BSI will have to decide whether the sound of a nailbomb could be distinguished from other sounds, such as rubber bullets and stones being thrown.

### **5.11.3 Whether Soldiers A and B believed they saw a nailbomber**

There are similarities and potentially significant differences between the two soldiers' accounts.

### **5.11.4 Whether Mr Donaghy and Mr Johnston were shot by Soldiers A and B or by somebody else**

At present Mr Donaghy and Mr Johnston are the only people known to have been wounded by gunshot wounds at this time. There is no evidence from the military, other than Soldiers A and B, of soldiers firing live bullets in that area.

### **5.11.5 Whether either of the two wounded were trying to light or throw a nailbomb or any other missile**

Mr Clarke said there seems no reason to doubt that Mr Johnston was doing anything other than visiting an elderly friend in Glenfada Park. Mr Donaghy was a 15-year-old boy and both Soldiers A and B described the person they shot as a man.

Some civilian evidence suggests that Mr Donaghy may have been throwing stones. His evidence says that he was picking up a rubber bullet. There is no civilian evidence to suggest that he was a nailbomber.

### **5.11.6 Whether the soldiers were justified in firing**

This will depend on whether nailbombs were thrown or whether Soldiers A and B believed they saw somebody throwing a nailbomb.

## **5.12 ANNOUNCEMENTS BY THE TRIBUNAL**

### **5.12.1 Toby Harnden of the Daily Telegraph is in contempt of the Tribunal**

In February 2000, the BSI asked Mr Harnden of the Daily Telegraph to identify Soldier X and to tell them what the soldier had said to him during an interview he conducted about Bloody Sunday.

Mr Harnden refused because he sees that as breaching the confidentiality he believes exists between a journalist and his or her source. Lord Saville announced that Mr Harnden was now in contempt of the Tribunal. The BSI has referred the matter to the High Court in Belfast who will decide what to do next.

### **5.12.2 Submissions on venue at which soldiers give evidence**

The soldiers want to give their evidence somewhere in Great Britain rather than in Derry. The BSI has not made a decision on where the soldiers should give evidence yet.

The BSI are waiting for security threat assessments which will help them decide on the level of risk posed to the soldiers if they were to give evidence in Derry.

Mr Mansfield QC, acting for Daniel Gillespie and the McGuigan and Nash families, said that security assessments, compiled by the Security Services and the RUC are unacceptable because both bodies have a vested interest in the decision on venue. He asked for an independent security assessment to be carried out.

The BSI has provisionally fixed 22<sup>nd</sup> May as a date on which they will hear oral arguments from counsel from all the interested parties on venue.

The BSI will return after the Easter break on Monday 8 May 2000.