

BLOODY SUNDAY INQUIRY

WEEK 69

21 – 24 OCTOBER 2002



EVIDENCE HEARD

This week, **O27** completed his evidence, begun in Week 68. The Tribunal also heard from **Basil Hall** and **John Heritage**, who were respectively Solicitor and legal assistant to the Widgery Inquiry.

A full transcript of the proceedings is available at <http://www.bloody-sunday-inquiry.org.uk>.

1. **O27'S EVIDENCE**

Private 027 was 19 on Bloody Sunday and was a radio operator in the Anti-Tank Platoon of Support Company, having joined the 1st Battalion of the Parachute Regiment in 1971. He has written various accounts, both official and non-official, of his experiences on Bloody Sunday which contain some of the most damning allegations concerning Bloody Sunday and the actions of 1 Para, including the allegations that soldiers opened fire on the crowd without justification and that his evidence to Lord Widgery was suppressed.

1.1 **'Unofficial' accounts of the events of Bloody Sunday**

1.1.1 1975 'memoir'

This document was written by a 22-year old 027 following a chance meeting with an individual (Sean Patrick McShane), claiming to be a freelance journalist writing a book about Northern Ireland, and covers 027's experiences in Northern Ireland in 1972, including his recollection of Bloody Sunday. The document formed a key part of the dossier presented by the Irish Government to the British Government in 1997 which was influential in persuading Tony Blair to set up the current Inquiry. 027 said that he had forgotten about the document until alerted to its re-emergence by Lena Ferguson during his interview with Channel 4.

Whilst 027 could not recall in any detail a substantial number of the events recounted in the document and whilst he acknowledged that it

did contain exaggerations and that some of it appeared "quite extraordinary", he disagreed with Alan Green QC's description of the memoir as a "pile of badly written tosh" (although these were in fact words he himself had used to describe the document on a previous occasion). Furthermore, given that the memoir was almost certainly typed up by Mr McShane, there was some suggestion that the latter might have been responsible for some of the exaggerations and florid expressions contained within the transcript.

He denied suggestions made by Counsel for the soldiers that he was a "fantasy merchant" or a "shit head".

1.1.2 Other sources

027 is no longer in possession of any contemporary documents relating to Bloody Sunday, having destroyed his field notebook in a 'fit of panic' in 1997, following his discovery of the existence of his 1975 memoir, and having been robbed of his diary. He denied the suggestion made that he had deliberately destroyed the field notebook as it did not support his 1975 account (in fact he had not seen the 1975 memoir at the time of destroying the field book), saying that, on the contrary, he believed that it would have supported a lot of his current testimony. Indeed, his contacts with the media, *i.e.*, his anonymous letter to a Belfast Newspaper in 1997, his radio interview with the BBC and his interview with Channel 4 would appear to have been based on entries in his field notebook, made a few days after the events of Bloody Sunday.

1.2 'Official' accounts of the events of Bloody Sunday

027's official accounts of Bloody Sunday, namely his statement to the Special Investigations Branch (SIB) of the Royal Military Police (RMP) and his statement to the Widgery Inquiry, stand in marked contrast to his 'unofficial' versions of events, in that they essentially support the official Army account of the day's events. It was 027's evidence that both statements recorded untruths and that he had deliberately falsified his account of the day in order to protect his colleagues and the Army, for example, claiming untruthfully that he had heard IRA fire and seen people armed with guns and nail bombs.

1.2.1 RMP statement

In relation to the RMP statement, 027 said that he assumed that he had been "influenced to say what was least detrimental to the men in [his] section", and recalled a subsequent incident during which he had sat in with a soldier giving a statement to the SIB when "suggestions were made to him [the soldier in question] and words were put into his mouth, with fairly little input from the person signing the statement".

Although 027 could not recall his own interview with the SIB and whether such a procedure had been adopted in relation to the SIB statements taken after Bloody Sunday, he said that it was “something to consider”.

1.2.2 Widgery statement

A more concrete allegation was made by 027 in relation to his Widgery statement. It is his recollection that, when giving evidence to the Widgery team, he had begun to feel disquiet about the occurrences of the day, and had decided to attempt to merely omit things from his evidence that could have been unfavourable to the army, rather than deliberately making up occurrences. He said that when he described the Paras’ shooting towards the rubble barricade, the lawyer had expressed surprise and said something to the effect of “we cannot have that, can we Private? That makes it sound as if shots were being fired into the crowd”. 027 said that the man then left the room, returning some time later with a statement for him to sign which did not accord with his testimony.

1.3. 1 Para’s ethos and behaviour in Belfast

1.3.1 Ethos of 1 Para

027 said that his overall impression of 1 Para on the streets was one of “remarkable self-control and self-restraint” and that he had been incredibly impressed with the way the Parachute Regiment conducted itself as a general rule in Northern Ireland. However, he said that he and his colleagues had to a certain extent enjoyed the violence of the situation and had been “brutalised” to varying degrees by it. He described the casual brutality of 1Para towards civilians who crossed their path, saying that beatings, stealing money from civilians and ‘going ape’ were all commonplace at the time, and that he himself had been sucked into this mentality and had done things of which he was now ashamed. He also said that pride in and loyalty to one’s unit was a cardinal influence within 1 Para.

1.3.2 Incident at the Divis Flats in Belfast

In his 1975 memoir, 027 recounts an incident at which he had been present four days after Bloody Sunday, during which members of Anti-Tank Platoon who had been involved on Bloody Sunday, including F, G and H, had abducted two Belfast Catholics, Raymond Muldoon and Francis Creagh from the Divis Flats area, beaten them and dumped them outside a loyalist bar on the Shankill Road, having identified them to those inside the bar as Catholics, thereby making them a target for loyalist paramilitaries (most notably the Shankill Butchers who were

active at this time). This, according to the 1975 document, took place in the presence and with the knowledge of Lieutenant 119, who was in charge of the platoon on Bloody Sunday.

He could not recall ever having been questioned by the RMP or any other investigative agency about the incident.

1.3.3 Other allegations

The 1975 document also records a number of other incidences of alleged brutality or wrongdoing perpetrated by 1 Para, including the shooting of a Chinese waiter in a Belfast restaurant following a dispute over the bill by Corporal 036 (who was present on Bloody Sunday), which was subsequently covered up by G and F; the blinding of Emma Groves by a rubber bullet fired by a member of Anti-Tank Platoon and the fatal shooting of two Protestant men on the Shankill Road in September 1972, again involving 1 Para and in which incident 027 claims, in his 1975 account, to have been directly implicated. Lord Saville ruled out evidence pertaining to the latter allegations, arguing that exploring these incidents would produce “inquiry within an inquiry”.

1.4 Key allegations made relating to Bloody Sunday

1.4.1 Briefing prior to Bloody Sunday

027 told the Inquiry that on the evening before Bloody Sunday, Lieutenant 119 had conducted an informal briefing with Anti-Tank Platoon, informing them that there was to be a civil rights march in Derry and that, if any problems arose, their task would be to go into the area and arrest people. He said that, to his platoon, the march was deemed to be “a gathering of IRA supporters, the enemy in a no-go area”. He said that there then ensued a general conversation about the situation in Derry, the fact that soldiers had been killed and the IRA left unchallenged, during which remarks were made concerning the possibility of “getting kills” on the day.

Although his 1975 account records Lieutenant 119 as saying “let us teach these buggers a lesson—we want some kills tomorrow” (an allegation that 119 denies), 027 could no longer recall who had spoken these words first. However, he said that he had a clear recollection of the comment being repeated by Soldier F, as if the soldier had made his mind up, explaining that this had remained with him as F had been the first person he had seen firing a shot on Bloody Sunday.

027 said that he had no way of knowing whether his 1975 statement that “to the mentality of the blokes to whom he was speaking, this was

tantamount to an order, *i.e.*, an exoneration of all responsibility" was an exaggeration and that he believed that it was an accurate reflection of his impression at the time.

He said that he had come away from the briefing with the understanding that his platoon's task for the day was to stop the march and "clear the area". He had also understood that they would be confronted with gunmen, as they would be going into the Bogside, perceived as the IRA's stronghold and "for once they [the IRA] would have to come out and face" the Army.

027 said that he had no recollection of the formal briefing described by Major Loden to the Widgery Tribunal as having taken place after 10:00 on the eve of Bloody Sunday.

1.4.2 Paras' fire unjustified

It was 027's evidence that, despite what he had told the RMP and the Widgery team at the time, he had neither seen nor heard bombs or shots fired at the Paras (with the exception of what he presumes was a shot fired in the vicinity of the Presbyterian Church early in the day, prior to the Paras' entry into the Bogside) and there was no justification for a single shot which he saw fired on the day.

His interpretation of events was that, in the heat of the moment, a few "hot heads" had opened fired without justification, and that this had set off further shooting from the Paras, almost as a knee-jerk reaction. He said that, immediately after debussing, Soldier F had run to the low wall by Kells walk, had adopted the firing position and raised his rifle and "without pause or hesitation, commenced firing towards the centre of the crowd" at the rubble barricade. He said that he had been immediately behind Soldier F and had been unable to discern any possible target. One or two soldiers immediately joined in the shooting, and two people on the barricade fell within the first few seconds. 027's 1975 account identifies G and INQ635 as having opened fire and, although he no longer had any specific recollection of their shooting, he did recall them having been at the wall and believed that his 1975 account would have reflected what he believed to have happened.

The firing increased in intensity as more and more soldiers from Anti-Tank Platoon and Guinness Force joined in the shooting, throughout which time 027 remained unable to identify a target. He recalled in particular one corporal from Guinness Force running up to the wall and pushing his way between two other soldiers so that he could get in on the action, indicating to 027 that he thought that what was happening was great. 027 said that the firing in Rossville Street remained vivid in his

mind as he had a "clear memory of consciously thinking 'what are they firing at?' and feeling some inadequacy". It was his belief that only the soldiers at the immediate front were in a position to assess the situation and that those joining in from the rear probably thought that they were engaged in a firefight with gunmen.

1.4.3 Order to cease fire

027 then described receiving a ceasefire order over the radio from Major Loden who was in an armoured vehicle somewhere to the rear of the shooting soldiers. He said that his memory of receiving and relaying the order was vivid in his mind, as he had shouted the order several times and had tapped a number of fellow soldiers on the shoulders, shouting out the order.

The order had its effect and the shooting stopped.

1.4.4 Shootings in Glenfada Park and the execution of James Wray

However, despite the ceasefire order, which 027 was sure the soldiers concerned would have heard, and almost immediately after the cessation of fire, Soldiers F and G turned and ran into Glenfada Park, closely followed by Soldiers E and H. 027 said he had no recollection of Lieutenant 119 having been present and ordering soldiers to go into Glenfada Park to apprehend somebody who had been firing at soldiers from the barricade (as was 119's evidence before Lord Widgery).

The following events relating to the shooting in Glenfada Park represent perhaps the most controversial area of 027's evidence, due to the fact that he no longer has any memory of the graphic account given in 1975 nor indeed having seen any soldier shooting in the area, leading him to posit that he might not have seen any of the shooting but merely heard it and been informed of what had occurred after the events. It was also suggested that 027 would only have arrived on the scene after the shooting had ceased, given that his only clear memory in relation to the events is of hearing 10 to 15 Army shots being fired in a burst of rapid shots.

Soldier 027 said that, despite his lack of memory, he had no reason to doubt that the description of events reflected what he believed to have occurred at the time and thought that it would have been taken from his field notebook. He said that, although he could no longer state with conviction how much of the account was first-hand experience and how much was anecdotal, it did reflect what he believed had happened.

The 1975 account reads: "A group of some 40 civilians were there [in Glenfada Park], running in an effort to get away. H fired from the hip at a range of 20 yards. The bullet passed through one man and into another and they both fell, one dead and one wounded. He then moved forward and fired again, killing the wounded man... E shot another man... A fourth man was killed by F". It went on to describe that the crowd was facing the soldiers, with their hands in the air, when they were shot.

Alan Green QC submitted that no reliance could be placed on 027's 1975 account of the events in Glenfada Park as it conflicted with all of his other accounts of the day's events and the inaccuracies within it meant it was totally worthless. He took 027 through the passage, step by step, demonstrating that the account was entirely refutable on the basis of forensic, pathological, photographic and civilian evidence. For example, Mr Green said that the fact that those shot in the area had been hit in either the side or the back was proof that 027's account of civilians being shot whilst facing the troops was inaccurate. It was also Mr Green's contention that had he in fact seen a colleague execute a man, it would be "seared on [his] memory for the rest of [his] days".

1.4.5 Shooting at the Rossville Flats

Some time later in the afternoon, after the incidents in Glenfada Park, 027's next clear memory is of seeing Soldier G leaning over the angled bonnet of a Saracen and firing a shot at the fourth or fifth storey of Block 1 of the Rossville Flats. 027 was standing in the open at the time, near Colonel Wilford and Major 202, and there was no incoming fire. He said that Major 202 had turned to Soldier G and had said, with a note of agitation, 'That is enough, that is enough'.

1.4.6 Brutality towards arrestees

027 said that he had witnessed unwarranted brutality and acts of violence inflicted on those arrested by the Paras, and recalled in particular one man being hit while he had his hands on his head and blood running down his cheek. In his 1975 memoir, he recalled seeing Major Loden leaning out of his APC and "smacking" a detainee who was being marched past his vehicle "on top of the head with a baton". He no longer has any recollection of the incident, and Counsel for the soldiers suggested that this was yet another example of his having grossly over-exaggerated an occurrence, given the fact that Major Loden has acknowledged hitting a man over the head, but insists that this happened during the course of an arrest rather than randomly.

1.4.7 Use of unofficial ammunition

027 said that private stocks of ammunition and the use of dum dum bullets (modified for more lethal effect) were commonplace at the time of Bloody Sunday, and that he himself usually carried a number of unofficial rounds whilst patrolling the streets of Belfast.

He told the Tribunal that he had a clear recollection of dum dum bullets with a deep cross filed into the tip being passed around the Pig as the Paras waited to deploy, despite never having mentioned this in any previous account of the day. However, his 1975 statement does record the allegation that a number of soldiers had fired dum dum bullets, and that INQ635 had personally fired 10 such bullets into the crowd.

1.4.8 Sorting out stories

027 said that as 1 Para left Derry, "there was already a recognition that there was a problem that had to be explained away", and that the soldiers set about discussing alibis and ammunition, including who had fired what, what number of rounds fired would be acceptable and justifiable and how to account for the rounds fired. Although this does not feature in his 1975 memoir, 027 was adamant that it had occurred.

He had no recollection of any official attempt to piece together the day's events in the immediate aftermath of the shooting, and could not explain how the Army had come to put out an official account of the number of rounds expended and the number of gunmen / nail bombers shot so soon after the shooting. However, he added that this could merely have slipped his memory.

1.5 Lasting opinion of Bloody Sunday

It was 027's belief that the decision to deploy his unit on Bloody Sunday was unwise and that the blame for the day's events lay partly with those responsible for planning the operation.

It was 027's belief that the events of Bloody Sunday had been precipitated by Soldiers F and G, who appeared to have a preconceived idea that they would be able to fire their weapons on the day and were determined to exploit that opportunity.

He said that he had a vague but distinct memory of Major 202 and Colonel Wilford talking about soldiers F and G, saying that they "had better be packed off to the SAS". He disagreed with the sentiment behind Lieutenant 119's statement that he had been reassured by the fact that F had been involved in Glenfada Park as that "was likely to mean that any shooting had been justified". He confirmed that he had

derived no reassurance from their presence and refuted Counsel for the soldiers' suggestion that he had merely made the incident up in order to 'spice up' the draft of a book he had been planning to write.

1.6 Motivation in coming forward

027 strongly denied allegations made by Edwin Glasgow QC that his main motivation in speaking out about Bloody Sunday had been pecuniary gain. He said that the offers of payment made by Mr McShane and Channel 4 had been unsolicited, and that he had in actual fact received no money in the former case and in the latter had received only the £100 usually paid by Channel 4 to interviewees. He acknowledged that he had received an advance payment of £4,500 from a publishing house after he entered into a contractual relationship to produce a book concerning his experiences as a Paratrooper in Northern Ireland. However, he explained that this project had been scrapped due to his participation in the current Inquiry.

He also refuted suggestions made by Counsel that he had engaged in brinkmanship with the Inquiry and the Northern Ireland Office (NIO), demanding large sums of money in return for his testimony. He said that financial negotiations with the NIO were for the purpose of ensuring the safety of his family, a sentiment he expressed repeatedly throughout the course of his evidence. His fears had been further fuelled following an incident when men mentioning Bloody Sunday had threatened him and beaten up his landlord, effectively forcing him to go into hiding and increasing his concerns for the safety of his family.

He said that his motivation in speaking out about what he had witnessed was a desire to right some of the wrongs committed on the day, but added that he had always felt torn between his desire to tell the truth and his loyalty towards his former colleagues. He said that he regarded the Parachute Regiment as a magnificent regiment, composed of many fine individuals with exceptional qualities, and that testifying against his former colleagues and his regiment was in no way a joking matter for him.

2. BASIL HALL'S EVIDENCE

Mr Hall (now Sir Basil) was Solicitor to the Widgery Inquiry, having been appointed Deputy Treasury Solicitor and Head of Litigation for the litigation services of the Treasury Solicitor's Department in early 1972. He had previously worked for part of the Treasury Solicitor's group responsible for giving advice to the Service Department and the MoD. He was aided in this task by two professional officers from the Treasury

Solicitor's Department, Roger Monrow (who was subsequently replaced in Belfast by John Heritage) and Chris Leonard.

His evidence centred primarily on his role in taking statements from military personnel and on allegations made by a number of soldiers that the statements compiled by the Widgery team were not an accurate representation of what they had said.

2.1 'Altered' statements

2.1.1 INQ104

Mr Hall denied the allegation made in INQ104's statement to the Inquiry that "he [Mr Hall] did not ask me to lie, he pressured me to change my mind by proving to me that I must have made a mistake", in relation to INQ104's first sighting of the bombs in Gerald Donaghy's pockets. He said he would not have advised soldiers to resolve any discrepancies between their account of events and that of their colleagues, and would not even have drawn the discrepancy to the attention of the soldiers concerned. "The last thing one wanted to do", he said, "was to correct it in advance, as discrepancies would have been of interest to Counsel who could have put the discrepancies to the soldiers under cross-examination."

2.1.2 Soldier 027

Although Mr Hall did not interview 027, he was asked how it had come to pass that the portion of the soldier's statement dealing with the shooting in Glenfada Park had merely been 'lifted' from his previous RMP statement, rather than having been further pursued by the Inquiry team. He did not see anything sinister in the occurrence and suggested that the matter would be better pursued with John Heritage who took the statement.

2.1.3 Soldier L

A section of Soldier L's statement also alleges that he had been "encouraged to leave out matters which [he] had told the [Widgery] officials about". The Tribunal will deal with this allegation in more detail once the final version of the soldier's statement is made available to them.

2.2 Process for taking statements from military personnel

Mr Hall said that the process of taking statements from military personnel had not been borne out of a sense that the SIB statements were inherently unreliable (due to the unlikelihood of the RMP allowing

a soldier to incriminate himself or the Army as a whole), but that it had been part of his duties as Solicitor to the Inquiry to ensure that proofs of evidence were taken from the key actors and witnesses involved. In the case of military witnesses, the Inquiry solicitors would have taken a handwritten version of the soldier's account which would have been typed up, sent to the Army Legal Services (ALS) to be signed by the soldier concerned and returned to the Inquiry team. It was his belief that solicitors for the Inquiry would only have known the soldiers' ciphers rather than their names.

It was his recollection that a solicitor from the ALS, representing the Army at the proceedings, had been present for all interviews conducted with soldiers from 1 Para, but he could not recall their presence during the interviews he conducted with General Ford, Colonel Steele, Colonel Tugwell or Brigadier MacLellan.

A report by him to the Treasury Solicitor, Mr Ware, indicates that a "regimental officer" had also been present during at least two soldier interviews, but that this had "proved a complete failure. The soldiers were quite unable to speak freely and the officer interrupted for quite the wrong reason". He explained that he had no first hand experience of this and that he had merely penned a comment made to him by either Mr Heritage or Mr Leonard, and as such could shed no light on which soldiers had in fact been interviewed in the presence of an officer (the Inquiry is only aware of this having happened in the case of Soldier H).

2.3 Discrepancies in soldiers' various accounts of events

A number of individual soldiers appear to have given conflicting versions of events in their various accounts of their actions on the day, a fact that was not brought to light at the Widgery Tribunal nor disclosed to Counsel for the families at the time.

2.3.1 Soldier V

In his first interview with the Tribunal solicitors in 1972, Soldier V admitted to John Heritage that he had shot an unarmed man, responding to the solicitor's question as to whether the man had anything in his hand when shot: "No sir, I cannot honestly say that he did", an admission tantamount to one of murder. However, in his formal statement to the Widgery Inquiry the sequence of events was altered by V and the incident presented without any suggestion of wrongdoing. This retraction was not put to V under examination by John Stocker QC, Senior Counsel for the Widgery Tribunal, nor by the Army representatives, and was not brought to the attention of those representing the dead and injured.

Mr Hall said that he did not perceive the differences between the two accounts as relevant, as the purpose of proofs of evidence at that time was merely to get an idea of what the individual would say on the stand. He said that, had there been any doubts concerning a particular soldier's version of events, they would have been passed on to Counsel, but he could not recall discussing the discrepancies in V's account with Mr Stocker. He agreed that, in the hypothetical situation of a civilian having retracted an admission of having seen a gunman or bomber, it would have been raised with the witness by Counsel, but said that he could shed no further light on why this had not happened in V's case, as the issue of what questions to put to a witness was one for Counsel and not for him as solicitor.

He agreed that he would have been aware at the time that the family representatives had not been provided with the conflicting statements, but denied the suggestion that this would have increased the burden of responsibility on Mr Stocker to draw the discrepancy to the attention of the Tribunal, reiterating his belief that the two accounts did not amount to conflicting evidence. He also dismissed as "rubbish" Barry Macdonald QC's inference of a conspiracy on the matter between the Inquiry team and Counsel for the Army and his suggestion that the issue had not been raised in order to protect the army.

Counsel also suggested that Lord Widgery (who would have had copies of the soldier's differing accounts) and Counsel to the Inquiry had turned a blind eye to the inconsistent statements, effectively giving the soldiers' representatives a licence to alter accounts and iron out discrepancies when they considered it appropriate. Mr Hall did not believe the allegation and added that, since Mr Stocker and Brian Gibbens QC (Counsel for the Army) stayed in different hotels, the opportunities for them to have discussed the matter would have been few and far between.

2.3.2 Soldier F

Mr Hall was reminded that Soldier F had rearranged the sequence of events and altered the number of rounds fired when he came to give his statement to Colin Overbury (ALS), and had also, significantly, admitted to two additional shootings, namely that of Michael Kelly at the rubble barricade and one in Joseph Place. He acknowledged that he would have been aware of the discrepancies between the account given by F to the SIB and that given to Colin Overbury, but did not know whether he would have examined them in any detail. Soldier F was not questioned about the shooting at the rubble barricade under cross-examination by Counsel to the Widgery Inquiry.

2.4 Partiality of Widgery Inquiry legal team

Barry Macdonald QC contended that the Widgery Tribunal staff had been favourable towards the soldiers and that the Army team knew that the Tribunal was on 'their side', that Lord Widgery was a good choice and would be willing to go to extraordinary lengths to protect the soldiers' identities (Lord Widgery initially suggested that the soldiers should give their evidence in a separate room to Counsel for the families, although this did not actually transpire).

In support of this contention, Mr Hall was shown two documents, the first of which was a report written by Colonel Dalzell-Payne of the MoD on 16th March 1972, which read: "Mr Gibbens considered that Lord Widgery was very unlikely to criticise the Army heavily and that he was well aware of the effects his judgment would have on future operations and on the morale of the Security Services". He responded that it was highly unlikely that Lord Widgery would have shared his views on the matter with the Army legal team, and that Mr Gibbens' impression would have been derived from the proceedings rather than from any 'inside information'.

He was also shown a document written by the Deputy Under Secretary for the Army, reporting on a meeting between the Attorney General, the Director of ALS, the Treasury Solicitor and Counsel for the Army, stating: "Our Counsel is Brian Gibbens... Counsel for the Tribunal is Mr John Stocker. The Attorney-General observed that he thought that we could take it that, given the personalities involved, the proceedings for the Tribunal should not be abrasive so far as the Army is concerned". Again, Mr Hall did not think that this supported Counsel's contention that Mr Stocker had been handpicked by the Attorney General in the knowledge that he would be favourable to the Army, arguing that this was not the meaning of the term 'abrasive'.

2.5 Army photographs taken on Bloody Sunday

Colin Overbury, solicitor for the Army at the Widgery Tribunal, has given evidence to the effect that in excess of 1,000 photographs were taken by the Army on Bloody Sunday, none of which have been located by the Saville Inquiry. Mr Hall said that he had no recollection of seeing the photographs and doubted whether they had ever existed or had been presented to Lord Widgery. It was also his belief, having recently read the operational order dealing with the deployment of army photographers on the day, that the photographs would not have been of any significance as they would only have dealt with the march.

It was also Colin Overbury's evidence that none of the 1,000 plus photographs depicted civilians with guns, nail bombs or any other form

of explosive. Mr Macdonald suggested that the photographs might in fact have been damaging to the Army's case, perhaps depicting soldiers acting in an improper manner. He said that, had Mr Hall seen the operational order, it would have been his duty to locate the photographs, and insinuated that the fact that Mr Stocker did not refer to them during his cross-examination of witnesses could be perceived as further evidence of Counsel for the Inquiry deliberately not raising issues that could be damaging to the Army's case. Mr Hall responded that he had no recollection of having seen the operational order and that, even if he had, it would not have struck him as an important document, given that it had been written by a junior staff officer.

2.6 James Porter's recordings of security force transmissions

Mr Hall said that he had no recollection of James Porter having brought his recordings of Army and RUC communications on Bloody Sunday to the Inquiry buildings in Coleraine. He also did not believe that the incident as described by Mr Porter ever took place *i.e.* that Mr Porter had been essentially threatened by members of the Inquiry team during a meeting attended by Mr Stocker and Lord Widgery (for further information, see James Porter's evidence in Week 48).

2.7 Opinion of Bloody Sunday events

A file note written by Mr Hall on 15th February 1972 records a meeting between him and Colin Overbury and says: "it appeared to me [Mr Hall] there was evidence to support the following allegations", namely "1) that the troops fired in the crowd in Rossville Street before running away. 2) That the troops in Rossville Street opened fire without warning when they were not being fired on. 3) That an arrest (or possibly two arrests) in Rossville Street was effected with unnecessary force, a youth being clubbed who was not resisting. 4) That two men killed at the old barricade in Rossville Street were not apparently carrying weapons. 5) That two men were shot in the gap between Joseph Place and the Rossville Flats who did not appear to be carrying weapons. 6) That two men who had been recently shot in Glenfada Park were not in possession of weapons when seen by a witness. 7) That two unarmed men near Joseph Place were fired at by a soldier...".

Mr Hall told the Inquiry that he had meant to say "there is a case to answer in relation to these matters" rather than "there was evidence to support" the allegations.

3. JOHN HERITAGE'S EVIDENCE

Mr Heritage was one of the two senior legal assistants on the Widgery team whose key function was to take statements from civilian and military witnesses. He was a senior legal assistant at the Treasury Solicitor's Department at the time, and had previously worked on the Scarman Tribunal and the Compton Inquiry into allegations of brutality towards internees.

His evidence also centred primarily on the military-statement taking process.

3.1 Soldier 027

3.1.1 Interview process

Mr Heritage was responsible for taking 027's statement, although he said that he no longer had any recollection of the interview or of the process he adopted. Although it was the adopted practice of the Widgery team to take a fresh statement from the soldiers interviewed, the process was not followed in 027's case or that of three other soldiers interviewed on the same day. Rather, it was Mr Heritage's belief that he had merely taken 027 through his RMP statements, inserting any amendments or additional information provided by him. This process would have resulted in an annotated version of 027's RMP statement (which has not come to the attention of the Tribunal), the supplementary statement dated 8th March (comprising some but not all of the changes which appear in the 'composite statement') and the 'composite statement' (including both the soldier's account to the RMP and the changes made during the Inquiry interview). He was unable to explain why he had adopted a different process in relation to the soldiers concerned.

Similarly, it would appear that, contrary to usual practice, 027's supplementary statement was actually typed in the room as he gave his evidence, rather than a manuscript note being taken and typed up subsequently.

3.1.2 Contents of the 'composite statement'

Mr Heritage said that the additions to and modifications of the RMP statement present in the composite statement would have come from 027, but acknowledged that he would have made some changes on his own initiative for the benefit of clarity.

Despite the fact that the demonstrable purpose behind the interview with 027 was to garner further evidence relating to the shootings in Glenfada Park and although Mr Heritage was aware at the time that these shootings were particularly controversial, in marked contrast to

the first part of the composite statement, the section relating to these incidents has merely been lifted verbatim from his RMP statement, with no expansion or amendment, save one typographical correction. Mr Heritage presumed that 027 had had nothing to add relating to this particular incident and denied the suggestion made that he had deliberately decided not to put questions on the matter to the witness.

3.1.3 Allegations made by 027

As described in Paragraph 1, 027 has alleged that pressure was brought to bear on him during the Inquiry interview to alter his account and that he was told to sign a statement which did not record his version of the events of the day.

In relation to the first allegation, it appears from 027's supplementary statement that he told Mr Heritage that soldiers had opened fire on a crowd of people without justification. Mr Heritage agreed that he would almost certainly have commented on this and attempted to probe it further, perhaps by suggesting to 027 that other soldiers had given a different account of events, but would not have sought to persuade him to change his account. However, he acknowledged that such an interjection would have a marked impact on a soldier who, unbeknownst to him, had lied to the RMP about subsequently seeing a man with a weapon and was grappling with his conscience. He also agreed that Mr MacMahon (a member of the Treasury Solicitor's Department assigned to act for the Army), who was present at 027's interview, could have fitted the bill of a "doddering old gentleman" in the eyes of the 19-year old soldier.

Regarding the second allegation, he did not agree with Counsel for the Inquiry's suggestion that, due to his youth and inexperience, 027 might have been confused by the composite statement and not recognised it as his own, thereby leading him to form the impression that it was an entirely different statement to the supplementary statement typed during the course of the interview. He also denied Lord Gifford's surmise that the first part of the 'composite statement' was in fact a complete reworking and rewording of 027's evidence.

3.2 Soldier V

3.2.1 Soldier V's retraction of admission

Mr Heritage had a clear recollection of his preliminary interview with V and of the soldier admitting to having shot an unarmed man (c.f. paragraph 2.3.1), as he said that it was the only time in his career that he had felt the need to warn a witness that he might incriminate himself. It was his evidence that he had not taken the formal

statement from V, although he agreed that it would have been unusual for the person conducting the preliminary interview not to follow the process through. He did not think that he would have necessarily maintained an interest in the issue during the course of the proceedings and could not recall having raised the issue of the retraction of the admission with Counsel for the Inquiry. He also denied knowledge of any deal done with the ALS to enable V to change his statement with impunity, stating that it would have been his expectation that the note of the preliminary interview containing the admission would have gone on the record and would have been shown to the person responsible for conducting the final interview with the soldier.

3.2.2 Warning given to Soldier V

The record of the preliminary interview with Soldier V records Major Bailey (legal representative of the Army and the MoD) intervening to ask the soldier a question relating to his evidence. It was Mr Heritage's evidence that the role of those representing the Army / MoD at the interview was to intervene if he behaved improperly in the manner in which he dealt with the witnesses and that this interjection on Major Bailey's part was a one-off occurrence, although not in any way surprising.

It was his recollection that, once V made the admission of having shot a man without justification, Major Bailey had signalled that he wanted a word with him. He had then told Major Bailey, out of the earshot of Soldier V, that he intended to give the soldier a warning against self-incrimination, and that the Major had asked to discuss the position with Colin Overbury, upon which decision, the preliminary interview was terminated.

3.3 Partiality of the Widgery Inquiry legal team

3.3.1 Pressure on Lord Widgery to support the Army's case

It was Mr Heritage's initial evidence that he was not aware of any occasion on which the Army or British Government attempted to influence the conduct of proceedings to assist the army. However, he was shown a letter written by him to Mr Hall on 9th February which records that the "PM [Prime Minister] had suggested Army go on first, to counteract bad impression of days of hostile evidence before their 'defence'", and that the Attorney General had supported the suggestion, made by the Prime Minister's office and communicated to Lord Widgery through the Secretary of State for Defence and the Treasury Solicitor, Mr Ware. Mr Heritage accepted that this was an

incidence of the Government and the Army seeking to influence, in a covert manner, the way in which the Inquiry should be run.

The letter also goes on to record that Lord Widgery had been influenced to prevent representatives for the families from making any opening submissions at the Inquiry, although it adds that he “would keep his options open”. It also indicates that Lord Widgery was prepared to accept the Army’s word regarding intelligence received prior to Bloody Sunday that trouble was anticipated for the day, recording the Lord Chief Justice’s sentiment that “it was enough to know what was in the mind of the planner of the operation”.

Mr Heritage was unable to explain further his comment made in the letter that “Stocker responsible for keeping in step with Gibbens”.

3.3.2 Army’s awareness of Tribunal’s favourable attitude towards them

Mr Heritage, like Mr Hall before him, dismissed Mr Macdonald’s suggestion that the Army knew that the Widgery Tribunal would be favourable towards them and that they had a licence to alter and fabricate soldiers’ accounts of Bloody Sunday with impunity. Having initially concurred with Mr Hall that Mr Gibbens would not have met Lord Widgery or Mr Stocker outside the ambit of the Tribunal and would not have had the opportunity to discuss such an issue, he was confronted with the same letter, which reads: “LCJ [Lord Chief Justice] had said he would discuss matters [presumably those referred to above in 3.3.1] with Stocker and Ware on the plane on the flight over” and records that Mr Gibbens and others would also be on the same six-seater plane.

This would appear to indicate that there was at least one occasion on which Senior Counsel for the Army would not only have been afforded the opportunity to discuss matters pertaining to the Inquiry with Lord Widgery and Mr Stocker but would also have been privy to the Inquiry team’s own discussions concerning Inquiry proceedings. However, Mr Heritage said that he was unable to shed any light on what may or may not have been discussed on the aeroplane and that such joint flights were not a regular occurrence.

3.3.3 Tribunal’s perception of the representatives for the family

Mr Heritage agreed that the Inquiry regarded the families of the victims and the wounded as ‘the opposition’. However, he denied the suggestion that there was a feeling that the Tribunal and the Army were ‘in this together against the families’, thereby leading them to deal with evidence in a manner favourable to the Army.

SUMMARY OF PROCEEDINGS

Paragraph 1: summary of information given by Soldier 027 over the course of Wednesday 16th, Thursday 17th (Week 68), Monday 21st and Tuesday 22nd

Paragraph 2: Wednesday 23rd

Paragraph 3: Thursday 24th