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TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921

PUBLIC INQUIRY INTO THE EVENTS ON SUNDAY, 30 JANUARY, 1972, WHICH LED TO LOSS OF LIFE IN LONDONDERRY ON THAT DAY

PROCEEDINGS

at

the PRELIMINARY HEARING

held on

MONDAY, 14TH FEBRUARY, 1972

before:

THE RT HON LORD WIDGERY

MR W J SMITH
(Secretary)

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TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921

LONDONDERRY INQUIRY

County Hall, Coleraine

Monday, 14th February, 1972

Before:

The Rt. Hon. Lord Widgery

PROCEEDINGS

at

PRELIMINARY HEARING

(Transcript of the Shorthand Notes of Walsh & Sons, 34, Essex Street, Strand, London, W.C.2.)

LORD WIDGERY: I want to open this Inquiry with a word or two about procedure. This Inquiry is constituted by Order of the United Kingdom Government at Westminster, and also the Government of Northern Ireland, to inquire into a definite matter of urgent public importance, that is to say, the events on Sunday, January 30, which led to loss of life in connection with the procession in Londonderry on that day.

This is a Judicial Inquiry. The Tribunal has the independence of a Judge, and the proceedings will be conducted on the instructions of the Tribunal alone. This is essentially a fact-finding exercise, by which I mean that the purpose of the Inquiry is to reconstruct with as much detail as is necessary the precise events which led up to the shooting of a number of people in the streets of Londonderry on the afternoon of Sunday the 30th January last. The Tribunal is not concerned with making moral judgments; its concern is to try and form an objective view of the precise events and the sequence in which they occurred, so that those who are concerned to form judgments will have a firm basis on which to reach their conclusions.

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The primary concern of the Tribunal, therefore, is to listen to witnesses who were present on the occasion and who can assist in reconstructing the events from evidence of what they saw with their own eyes or heard with their own ears. It is well known that a number of versions of these events have been circulated, and I much wish to hear evidence from those who support each and every one of those different versions. The Tribunal hopes to have the advantage of hearing such witnesses, of listening to them whilst they are under cross-examination, and thus arriving at a conclusion as to the true version of the facts in question. This is a normal function of a Judge; indeed, it is a function which Judges exercise all over the world all the time.

I wish to emphasize the narrowness of the confines of the Inquiry which I am required to undertake. These must be borne in mind because the value of the Inquiry will largely depend on its being conducted and concluded expeditiously, and if considerations not directly relevant to the matters under review are allowed to take up time, the ultimate production of the Tribunal's Report will be delayed. The limits of the Inquiry in space are the streets of Londonderry in which the disturbances and the ultimate shooting took place, an area perhaps of one mile radius. The time within which the Inquiry is concerned to make investigation can be expressed as a period beginning with the moment when the march taking place in Londonderry upon that day first became involved in violence of one kind or another, and ending with the conclusion of the affair and the deaths of the deceased.

The assistance which the Inquiry requires from witnesses is assistance in reconstructing the events which occurred in that very limited time and very limited space.

This is an Inquiry and not a trial. The responsibility for placing the evidence before the Tribunal rests primarily upon Counsel to the Tribunal, Mr. John Stocker, Q.C. It will be his duty, and that of the other lawyers who support him, and always acting under my instruction, to marshal the available evidence and present it in an appropriate order. He, or one of his deputies, will be available to examine any witness, and another member of the team will conduct cross-examination as required. The normal practice in these Inquiries is to grant separate representation to individual parties if the circumstances are such that there may be a reflection cast upon them in the course of the proceedings. The Army, I have no doubt, will ask for representation on this footing, and I will hear requests from any other parties who consider themselves liable to the same kind of reflection. Applications for representation can be made today at the close of this statement, or from time to time as events develop, but I would stress the desirability of early application by those who already intend to apply for representation.

The normal protection granted by the law to any witness will apply in this Tribunal, namely, that a witness need not answer any question put to him which in the opinion of the Tribunal tends to incriminate him of an offence.

I wish to make this Inquiry as open to the public and to the press as is possible, in the circumstances prevailing. My hope and intention is that all sittings of the Tribunal will be public in the sense that this one is public, that is to say, that the press will be admitted and that any accommodation available for general spectators will be open to them, subject to any security safeguards which I think necessary. But I think I must reserve the right, if occasion arises from time to time, to make any other arrangements for the protection of any witness whose safety might be prejudiced by giving evidence in the full glare of publicity. I cannot anticipate what these circumstances may be, but I will deal with them if and when they arise.

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The Inquiry will begin its hearings proper on Monday next the 21st February. These will consist initially of an opening statement by Counsel for the Tribunal, whose duty it will be to set the scene and describe in general the nature of the evidence which by that time he knows will be available to be presented. Brief opening statements may then be invited from other interested parties, after which Counsel for the Tribunal will proceed to call the evidence. The Tribunal will normally sit at half past 10 and rise at half past 4. It will sit each working day from Monday to Friday until the hearing of evidence is completed. If, as matters progress, it becomes apparent that any evidence can more conveniently be taken elsewhere than here in Coleraine, I shall make such decision as seems appropriate at the time. In general, however, it may be taken that a public hearing in this present location is what is to be expected.

As to the costs and expenses of other parties, while the Tribunal does not itself have power to make an order for expenses or legal costs, I am able to tell you that arrangements have been made under which the expenses incurred by witnesses in coming to give evidence (including their lost earnings) will be refunded to them, and where the Tribunal authorise legal representation of private individuals at its sittings, their reasonable legal costs will be paid, subject to any recommendation the Tribunal may make.

As to transportation, I recognise that it will not be possible for all witnesses to travel to the Tribunal in order to give evidence and to return home the same day by public transport, and in view of this my staff are making arrangements for the provision of transport where anyone finds himself in a difficulty of this kind.

Finally, as to the taking of statements, a press announcement has already been made asking those who consider that they can give evidence to communicate with the Tribunal staff either at the Tribunal offices at The Law Courts Building, Chichester Street, Belfast, or to The Treasury Solicitor in London, if that is more convenient. The procedure to be adopted is that where the Tribunal legal staff consider that a person has evidence which would be helpful to the Tribunal, they will take statements from him. He may, of course, have his own Solicitor present, if he wishes, when the statement is taken. Where legal representation of a person at the Tribunal has been authorised, the normal procedure will be for his legal representative to prepare the statement and forward it to the Tribunal's legal staff, who may ask for an interview with the potential witness in order to clear up any matters of doubt, and, if necessary, to take a supplementary statement.

Now I wonder if I might next enquire if there are any Counsel or Solicitors here today representing interested parties who wish to ask for representation in the course of the hearing.

Mr. E. BRIAN GIBBENS: My Lord, would your Lordship grant leave for myself and my learned friend Mr. Michael Underhill to appear on behalf of the Ministry of Defence, representing chiefly, of course, the interests of the Army.

LORD WIDGERY: On the footing that anyone whose conduct may come under criticism ought to be represented the answer is certainly Yes in your case.

Is there anyone else, any professional representative here who wishes to ask for representation?

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Mr. R. CHARLES HILL: If it please your Lordship, I appear, instructed by Mr. Christopher Napier, on behalf of the next of kin of Jack Duddy, deceased; Patrick Doherty, deceased; William McKinney, deceased; Kevin McElhinney, deceased; Michael Kelly, deceased; Gerald Donaghy, deceased; John Young, deceased; William Nash, deceased; Bernard McGuigan, deceased; Hugh Gilmour, deceased; Michael McDaid, deceased; and Gerald McKinney, deceased: twelve of the thirteen deceased.

I appreciate your Lordship's opening comments that it is desirable for applications for representation to be made as soon as possible. As yet my clients have not had a full opportunity to consider your Lordship's terms of reference and your Lordship's explanation of those terms of reference. It was not immediately apparent from reading the insertions in the newspapers as to whether or not a synopsis of the terms of reference had been included in the newspapers or whether those were your Lordship's full terms of reference. As a matter of courtesy then might I inform your Lordship at this stage that my clients will consider whether or not they wish to claim representation and they will make their decision at the earliest possible moment and my solicitor will communicate with the Tribunal at the earliest possible time.

LORD WIDGERY: I am very much obliged to you for what you have said. I would very much welcome a situation in which there was, as it were, a legal team representative of the interests in Londonderry critical of the Army, because I should feel very much happier conducting this Inquiry if those who seek to criticise the Army were represented on an equal level with the Army itself. It may be that your clients, although they have a special interest as relatives of the deceased, might at the same time be the nucleus, as it were, of the views of the citizens of Londonderry. Is that, do you think, an unduly optimistic hope?

Mr. HILL: I do not think it is unduly optimistic, but my clients wish to consider the terms of reference with close and scrupulous attention in order to ascertain whether or not your Lordship's terms of reference include all the matters about which they feel strongly.

LORD WIDGERY: If and so far as I can help you any further this afternoon I will be delighted to do it. It is sometimes easier to talk about these things face to face, as it were, rather than do it in the form of letters. You will know if there is any other information which I could usefully give you about the conduct of the Inquiry or my attitude to your application. As I say, it is a favourable one at the moment.

Mr. HILL: If your Lordship would grant us time to consider this we will communicate with you.

LORD WIDGERY: There is no time limit in this; obviously the sooner the better. If you are coming forward I would certainly say that the costs of your 12 groups of clients, if represented by one legal team, would certainly be paid under the instructions which I have just mentioned. But I think you would probably agree, Mr. Hill, although you must not commit yourself to it if you do not want to, that there would be no need for the representatives of individual deceased to be represented separately one from the other. It seems to me that collectively they might give me a very useful view about the attitude of the people of Derry. Individually we might break up into a degree of detail which perhaps time will not allow.

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Mr. HILL: I think they have in fact anticipated your Lordship's view on that and that probably explains why I represent at this stage the next of kin of 12 deceased.

LORD WIDGERY: When your clients' decision is known you will please let the Tribunal know and we will do anything that is necessary.

Are there any other applications?

Mr. JAMES WRAY: I represent myself. May I have permission to address you?

LORD WIDGERY: You can ask me any questions you want to. I do not want to hear about the merits of this yet.

Mr. WRAY: I crave indulgence because I must make a statement. I am not legally represented. I lost my son James Joseph Wray on that Sunday. My son was killed by British soldiers in the streets of Derry. I favour an inquiry. I want the statements of the relatives and the statements of the Army, I want them brought to the front and a judgment passed on them. It has been said that not only must justice be done but it must be seen to be done. But to my mind the British Government has prejudged this issue: they have named some of these people as gunmen, nail bombers and petrol bombers. The British Army, through policy laid down by the British Government, is responsible for the situation. I would say that the British Government should be under investigation equally with the British Army at this Tribunal.

LORD WIDGERY: May I say this: I am going to start right at the very beginning; I am not going to be prejudiced by anything I read in the papers or by anything anybody else has said. I think I will have enough to enquire into without enquiring into the British Government as well.

Mr. WRAY: I am in favour of an Inquiry. With all due respect to you and to the legal profession, you are a Major or an ex-Major or Brigadier in the British Army. I am telling you what I feel and there is no malice and no disrespect in this, but no-one can convince me that a Brigadier of the British Army would be a suitable person to investigate the conduct of the British Army. I state now that I would not willingly take any interest in this Inquiry. I have told you my reasons for it. I am in favour of an independent impartial Inquiry. I do not favour this Inquiry and I have given my reasons for it. I would say the British Government has some reason for not having an impartial Inquiry.

LORD WIDGERY: I cannot go into that. I respect your opinion and you are perfectly entitled to have it. All I can say is that I shall do my best to conduct this Inquiry impartially, as I think I can, because I have had many years as a judge since the days when I was occupied as a soldier.

Mr. WRAY: Well, I have given you my statement.

LORD WIDGERY: Thank you very much for it. Are there any other applications for representation? Is there anything else useful that anyone wishes to say?

Mr. AGNEW: If your Lordship pleases, I am a practising solicitor here in County Derry. I represent at the moment the Northern Resistance Movement. I do not at the moment make application for representation at this Inquiry. I rise principally this afternoon to voice my disapproval of the conduct of the RUC at this Inquiry. This is a public inquiry, advertisement notified to the public in the press inviting people to come here. I arrived a few minutes before your Lordship took your seat, accompanied by my secretary. I was

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thoroughly searched by a constable despite my protest, but I had to suffer and endure that in order to get into this room. He went through my pockets and put his hands up my back and up round the shoulders. My secretary was taken by a female police officer down the corridor downstairs and thoroughly searched and her handbag thoroughly searched.

If this is a public inquiry and if this is the sort of intimidation and police exercise to which we, the citizens of Northern Ireland, are going to be subjected during the course of this Inquiry, well then personally I see no great success coming from this, because I am committed in the Northern Resistance Movement. I represented the Civil Rights Association of Northern Ireland for 30 days in Derry at Mr. Justice Scarman's Inquiry. I think it is an insult to me as a solicitor and as a member of the public to be subjected to this treatment at the hands of the Royal Ulster Constabulary downstairs. This is not a political issue with me today. I will have ample opportunity to say publicly what I am saying here in the privacy of this room but in the presence of the press. As a citizen I object to this humiliating treatment.

Your Lordship did say that the Inquiry would be a public inquiry subject to such security arrangements as you yourself thought fit. I would like to know. I have told the Inspector in charge of the police constable who searched me downstairs that I would make my protest here publicly, because I consider it my right and my duty to make it publicly. I hope my protest will be noted by my friends in the press and on the television. Because if there is anything good to come from this Inquiry it must be seen that we have passed the stage when people from Derry City, ordinary witnesses on the street who saw what happened on Bloody Sunday, have to come in here with all this intimidation by British soldiers with their SLR rifles at the ready out in the grounds and by the RUC.

Now I do not want to get involved any further. I do not want personally to say anything which might be disrespectful to you, Sir, but in conclusion I wish to make it public on behalf of many thousands of Northern citizens that I protest in their name at the indignity put on me as I came in the door this afternoon. I would like to know from you whether or not you approve these arrangements by the police that females coming in are to be searched, their handbags searched, their pockets searched, their letters taken out and examined by a policewoman, and that members of the public and the legal profession are also to be subjected to this sort of treatment at the hands of the Royal Ulster Constabulary. I would like to know if this is what we are going to have at this Tribunal.

LORD WIDGERY: I have to take advice about security. Those who advise me say it is necessary and I confirm the advice I am given. I want to say publicly that I must support what was done and I cannot say otherwise. I have given you a straight answer.

Mr. AGNEW: Therefore we may take it that every citizen coming here, whether he or she be a witness or a member of the public, must be prepared to suffer the indignity of having a policeman or policewoman go through their pockets and private effects before they are allowed into this room.

LORD WIDGERY: I gave a straight answer and I do not think I need say it again.

Mr. AGNEW: I am sorry, I hope I am not disrespectful ---

LORD WIDGERY: Not at all.

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Mr. AGNEW: —— if I have certain views on a certain circumstance and I protest against it.

LORD WIDGERY: In no sense disrespectful.

Are there any other applications for representation? .... In that case, Mr. Stocker, is there anything you think I can usefully do this afternoon?

Mr. STOCKER: I do not think so this afternoon.

LORD WIDGERY: Mr. Gibbens, have you any suggestions?

Mr. GIBBENS: No, my Lord.

LORD WIDGERY: I am grateful for your attendance and we shall sit here at half past 10 next Monday.

(Adjourned to Monday, 21st February, 1972, at 10.30 a.m.)

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