

An Chartlann Náisiúnta
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Visit to Derry on Bloody Sunday Inquiry

28 January 1998 to 1 February 1998

Wednesday - Briefing on Government's Assessment

1. On our arrival in Derry on Wednesday night, Eamon McKee and myself brought the relatives of the deceased and the representatives of the wounded through the structure of the Government's Assessment. We emphasised its purpose from the outset - to establish a *prima facie* case for a new independent Inquiry. Within that context, the Report of Lord Widgery's Tribunal is demolished paragraph by paragraph and line by line. The reaction from the families could be described as apprehensive if not bordering on the subdued. One of the relatives focused on Ted Heath's comments on Channel Four regarding former Taoiseach, Mr. Jack Lynch. We made a very strong defence of the Government of the day, urging the families not to be deflected by smokescreens. The focus must remain on the establishment of the truth through testing the veracity in law of the various blocks of evidentiary material. Surprisingly, only a few of those present actually started to read the Assessment on hand-over. It seemed as if the years of not being heard had taken their toll - almost as if that grievance was a powerful unifying force within the group.

2. Eamon and I left the relatives and Don Mullan on their own for an hour and on our return, the questioning focused virtually exclusively on the likely response of the British Government. The relatives were critical of the absence of communication from Mo Mowlam's Office. In that regard, Eamon referred to Parliamentary privilege, adding that such concerns can only be addressed by the British Government.

Thursday - Day of British Government's Response

3. We put in place the necessary arrangements for the distribution of the Assessment - bookshops, libraries, the Guildhall, at the Seamus Deane lecture, the SDLP Offices and so on. In addition, copies were delivered personally to Bishop Edward Daly, Bishop Seamus Hegarty, Mayor Martin Bradley, Martin McGuinness and Mitchel McLaughlin. John Hume was in Westminster and Bishop J. Mehaffy was unavailable (he goes to Ghana at this time every year). Furthermore, we briefed the Derry Journal, the Irish News, Eamon Mallie, Channel Four and a number of other media concerns on the Assessment.

4. The Rath Mór Centre in the Creggan, where the relatives had all gathered around mid morning, was a surreal place to be. TV channels were monitored with military-like precision lest any crumbs of information would escape notice. Tea, coffee, sandwiches and cigarettes were consumed to the sound of nervous paces. Everyone trying to act normal in a most abnormal situation. Bishop Hegarty arrived shortly before the British Prime Minister's statement to offer whatever words of comfort he could. He, like his predecessor, would speak positively of the Assessment and if the rumours surrounding the Prime Minister's statement proved correct, then words of endorsement must follow.

5. For our part, Eamon and I sought to reassure at appropriate moments but we largely melted into the background so that each relative could deal with personal apprehensions in his or her own way. At one point, I was pressed unexpectedly by

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one of the legal representatives in front of the relatives on the Irish Government's future role in the process. Would we, for example, participate in a Forum of some kind to determine future strategy? My response was general - naturally, the Government will be supportive as appropriate, full cross-party support for the Assessment exists in the Dáil, and the issue will be followed closely.

6. As the time approached, the mood was expectant but tinged with something beyond adequate description - a fear to hope perhaps. All watched intently while the British Prime Minister read his statement. When delivered, there were no visible signs of enthusiasm - just shellshock it appeared. It seemed after all that one could dare to hope.

7. When the cameras had departed, Don Mullan sought reaction. I moved to the front beside Charlie McGuigan who lost his father on the day and is a life-long admirer of John Hume. Concern was expressed by Liam Wray about questions of immunity. If the Inquiry from the outset was going to give immunity to the paratrooper who shot dead in the back his clearly injured brother, then he could have no part in it. Joe Friel, representing the injured, agreed. Reservations were expressed by a number of people about the absence of an Irish or US judge on the panel and that the two supporting members would likely be from the Commonwealth. Other concerns were raised about such matters as individual Counsel, terms of reference, compellibility of witnesses, discovery of documents and duration of the Inquiry. A Widgery Mark II would not be acceptable.

8. When I was invited to respond by Don Mullan, Charlie McGuigan whispered that I should take my cue from the silence of the majority. I described the British Prime Minister's announcement as a hugely significant result - unprecedented in legal history. One Government had undertaken an assessment of another Government's legal Inquiry. Not only were the findings of that Inquiry binned but the Assessment brought into existence a replacement Inquiry that would be independent, would be judicial and would have an international dimension - to a word what the Campaign has always sought. To secure that result required a huge effort by everyone in the room and an enormous investment of energy on the part of the Taoiseach and the Minister for Foreign Affairs. Furthermore, the British Prime Minister and the Secretary of State personalised this matter by wrestling it from the Establishment. There is no way that they now want a Widgery Mark II. We must take on trust the substance and tone of what the Prime Minister said. This is the last and only time that the good reputations of the deceased, so callously besmirched by Lord Widgery, can be restored in law. Before handing over to Peter Madden of Madden and Finucane Solicitors, I said that the words on immunity could, it seemed to me, be interpreted as no blanket immunity will apply from the outset. When pressed on whether the Government will urge the appointment of an Irish judge, I said that the matter lies outside my area of experience but I could not concur with any implied suggestion that Canadians and South Africans for example would be unacceptable. This opportunity cannot be missed. Focus on the evidence - not on the personalities.

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9. Meanwhile, Eamon was working on the Press Release and all of his amendments were taken on board, including extraction of a paragraph on negative Unionist reaction. The final version was read by Tony Doherty to the families and no dissenting voices were raised. On leaving, some of the women present hugged us and shed some tears. Yes, their chance for truth and clearing the names of their loved ones had arrived - at long last!

Thursday Night - Launch of Campaign's Response

10. The Guildhall was relatively empty - certainly more journalists than members of the public. I handed a copy of the Government's Assessment to Martin McGuinness on his arrival. He was beaming from ear to ear. Indeed, I was told on numerous occasions subsequently and without any encouragement on my part that enormous pressure had been lifted from his shoulders. I also learned that he contacted Downing Street to express his deep appreciation to the Prime Minister - this was conveyed through 'some senior official'. In any event, the agreed Statement was read out by John Kelly, Chairman of the Bloody Sunday Justice Campaign. The front row presence of Peter Madden and the back row seating of Don Mullan was deliberately intended to send a signal of the transition from pressure group politics to legal inquiry. Afterwards, John Kelly informed us of his deep appreciation for the phone calls from the Taoiseach and the Minister for Foreign Affairs.

11. Back at the hotel, Channel Four gave a drinks reception. The Taoiseach's interview was warmly praised by relatives and Channel Four personnel alike. Eamon Mallie said that, from his contacts, the legal profession in Northern Ireland was stunned by the result.

12. The few sceptics at the Rath Mór Centre now went out of their way 'to give the Irish Government credit when credit is due'. They thanked us quietly but sincerely and were congratulated openly by people like Dr. McClean and Eamon Mallie. Kay Duddle, whose brother is immortalised in the scene with former Bishop, Edward Daly, showed Eamon and myself the famous handkerchief. She carries it on her person all the time. Joe Friel related for the first time in 26 years what he saw on the day. Amid tears and a quivering voice, he described to me the death of his best friend James Wray and how he himself was seriously injured seconds later by a bullet crossing millimetres above his heart. It was a miracle he survived, he said. All he wants now is peace. He has been South a few times but 'ye neither understand or care in either Dublin or Cork.' I tried to reassure him and his departing words were: 'After today, I might well change my mind!'

13. Eamon and I discreetly advised some individuals, like Charlie McGuigan, of the enormity of the task that lay ahead and the changed landscape which now faces everybody involved. We focused little on that point. The families needed space to come to terms in a private way with the implications of Prime Minister Blair's announcement. We therefore returned to Dublin early the following morning.

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Sunday - The March

14. Throughout our visit, Eamon and I had been asked on numerous occasions if we would be at the march. I personally was undecided but when Dr. McClean told me of Tony Doherty's call for an apology from the Queen for the decoration of Lt. Col. Derek Wilford, I decided to return to Derry. The purpose would be to symbolise that the Government remained with the families, to judge overall reaction for myself and, above all, to impress upon the main players the fundamentally changed and legal nature of the environment in which the families are now operating.

15. I observed from a discreet distance (in the company of Dr. McClean) the faces of the families as the march was about to get under way. They were certainly very happy - full reality had finally dawned. Some relatives came over to me and spoke very positively of the Assessment and the overall role of the Government. I talked to John Kelly minutes earlier and said that only positive things about the Inquiry should be said by any speaker from the platform. No more rubbish about apologies and prosecutions. The focus from now on must be on the opportunity now available to establish the full truth and to set aside in law the character assassinations of Lord Widgery's Tribunal. He undertook that my comments would be taken on board but the point would be made that a Widgery Mark II would not be acceptable. Speakers would be expected to say that until all outstanding points of detail were clarified. I indicated understanding. Separately, Don Mullan told me that Tony Doherty's comments on an apology were uttered on a wave of emotion and that he accepted the inappropriateness of them afterwards. Mitchel McLaughlin, in his address at Free Derry Corner, described the British Prime Minister's statement as 'very brave and courageous' but added something to the effect that if the British Government cannot now deliver fully on Bloody Sunday, it cannot deliver on the peace process. John Kelly spoke about the huge number of smiling faces and praised the Irish Government's efforts.

16. Dr. McClean and I discussed at length the upcoming Inquiry and agreed that the full medical records, including x-rays, of the deceased and wounded, relative to eyewitness accounts, should be cornerstones in building the case. I urged that all the medical records must be obtained without any undue delay, though it seemed to me that this might now have to be done through the Inquiry. We exchanged preliminary views on the future role of the Irish Government. I said that, to my knowledge, opinions on this matter had not yet crystallised but no doubt options were being considered. He suggested that one particularly appropriate and important role would be one of support. For example, he personally would like to meet Dr. John Harbison in order to reach a pathology judgement on the precise nature of the wound inflicted on Bernard McGuigan. He wondered if such a meeting could be facilitated. I undertook that his request would be put into the system.

17. Furthermore, Dr. McClean wondered if the Government would be prepared to provide directly, or at least help facilitate, the provision of other technical assistance in such areas as ballistics, forensics and sonar. I assured them that all such matters would be considered. I expressed a personal judgement that assistance of that kind would seem appropriate but it would be a matter for higher authority to decide upon. The terms of reference and so on would need to be known first. *(Note: Ballistics*

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and forensics assistance was offered by the Irish Government in 1972 but I could not find anything in our files to indicate that it was availed of). I asked Dr. McClean to continue impressing upon all relevant people the need for a professional approach from now. A major legal project lies ahead - research, strategy, timing and tactics are what it is all about.

18. Later that night, I called to John Kelly at his home. I emphasised that the over-riding objective must be to keep the focus on the desired result. The key ingredient is discipline. The days of pressure politics are over and the families from now on must actively avoid the media. No interviews, especially by those wounded on the day. (Peter Madden of Madden and Finucane Solicitors, I understand, has now instructed the families accordingly). I suggested to John that a legal management structure should be set in place. Individual Counsels should act in a choreographed manner under that structure, reporting to and through it. Basically, the task ahead requires the over-arching legal structure to gather, for each individual case, the strongest portions of the various blocks of evidentiary material. John undertook to speak in such terms at the next meeting with the families.

19. Later on, I met Don Mullan. I spoke in similar terms but cautioned against pushing publicly for an Irish judge. In my opinion, that is something which the British Government will not deliver upon but he might usefully touch base with Mr. Walter Kirwan. Although the evidence in favour of the deceased and wounded is overwhelming, many points of detail need to be clarified. Don responded that he intends to have a detailed discussion with Peter Madden to discuss future strategy, including his own role in the process. I expressed the view that he certainly has the total confidence of everyone involved and that he should continue to play a very constructive role - perhaps now switching to full analysis of eyewitness statements, particularly securing clarification on certain points of detail.

20. On the following morning, I spoke at length to Charlie McGuigan - again along the lines of the foregoing. He indicated an intention to speak forcefully at the next meeting of the families and, in particular, that all public comments would be restricted to just one or two people, including the head of the legal team. He envisages that he himself will now play a middle management role along with Don Mullan. The emphasis from now on will be on organisational structure and co-ordinated research. As John Hume had said to him on the previous day: 'The world is now in the families' corner, don't lose that'. Charlie made the point that at least one member of the Campaign should be allowed to observe all the proceedings of the Inquiry, especially those taking place in Britain. I replied that his point would be noted and the entire issue of observers will be considered carefully. A separate point was made to me later by a solicitor that reconstructions of some of the killings would be desirable.

21. I should add that Don Mullan, Dr. Ray McClean and Charlie McGuigan asked if informal channels of communication to the Government could continue. I replied along the lines that if assistance on strategy was sought, naturally we would be happy to help in whatever way we could. If, however, a deeper involvement over the course of the Inquiry is envisaged, then that is quite a different matter. I expressed

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the personal view that the Government will likely stand behind some white line as yet undefined. However, when the terms of reference become clear, everyone will be in a better position to come to definite decisions, particularly with regard to the assignment and/or facilitation of appropriate back-up resources.

22. Before leaving Derry, I met a number of Don Mullan's personal friends, including Richard Moore who was blinded by a plastic bullet when a child. What a character! Everyone should be obliged to meet such a person at least once in a lifetime. Anyhow, the reaction of these 'ordinary people of Derry', to use their own words, was one of high praise for the Irish Government. They never thought that a such a result was ever remotely possible.

Mary Coughlan

4 February 1997

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